

ASX Announcement – Australian Unity Office Fund

2 September 2019

AUIREL enters into SIA with Charter Hall and Abacus

Australian Unity Investment Real Estate Limited (**AUIREL**), as Responsible Entity of Australian Unity Office Fund (ASX: **AOF**), refers to its prior announcement on 15 August 2019 (and its 2019 full year results presentation announced on 26 August 2019) regarding the proposal from an entity associated with Abacus Property Group (ASX: **ABP**) and Charter Hall Group (ASX: **CHC**) (**Consortium**) to acquire all of the issued units in AOF that it does not already hold for \$3.04 cash per unit, reduced by any distribution announced or paid in respect of AOF other than the 3.95 cent per unit distribution announced on 21 June 2019 (**Proposal**).

AUIREL announces that it has now entered into a Scheme Implementation Agreement dated 2 September 2019 (**SIA**) with CHAB Office Pty Limited as trustee for the CHAB Office Trust (**CHAB**), the entity established by the Consortium, in relation to implementation of the Proposal by way of a trust scheme (**Scheme**).

A copy of the SIA is attached to this announcement.

The Scheme consideration of \$3.04 cash per unit represents a:

- 9.4% premium to AOF's closing price of \$2.78 on 3 June 2019 (the day prior to announcement of the Consortium's original proposal to acquire AOF);
- 11.8% premium to AOF's 30 day VWAP of \$2.72 up until 3 June 2019; and
- 9.0% premium to AOF's 30 June 2019 NTA per unit of \$2.79.

AUIREL may decide not to proceed with payment of the distribution for the quarter ending 30 September 2019 (or any subsequent quarter) given the consideration under the Scheme would be reduced by that amount.

AUIREL Independent Directors recommendation

The AUIREL Independent Directors (Mr Peter Day, Mr Don Marples and Ms Eve Crestani) unanimously recommend that AOF unitholders vote in favour of the Scheme, in the absence of a 'superior proposal'¹ and subject to the Independent Expert concluding that the Scheme is in the best interests of AOF unitholders.

Conditions of the Scheme

The Scheme is conditional upon a number of matters set out in the SIA including an Independent Expert concluding that the Scheme is in the best interests of AOF unitholders; approvals by the requisite majorities of AOF unitholders and the Court; no material adverse change, prescribed occurrence or breach of warranty; as well as

¹ As defined in the SIA.

ASX code:

AOF

Issuer:

Australian Unity Investment Real Estate Limited

ABN 86 606 414 368

AFSL 477434

Enquiries:

Australian Unity Office Fund Investor Services

1300 721 637 or

+61 2 8016 2890

(outside Australia)

Contact details:

271 Spring Street

Melbourne VIC 3000

Tel: 13 29 39

ASX Announcement – Australian Unity Office Fund

approval from the Foreign Investment Review Board². The SIA includes terms and conditions customary for a transaction of this nature, including exclusivity arrangements and provisions for payment of a break fee to CHAB of approximately \$4.9 million in certain circumstances.

Independent Expert

The independent board committee (**IBC**) established by AUIREL to consider the Proposal, has appointed Deloitte Corporate Finance Pty Limited to prepare an Independent Expert's Report to opine on whether the Scheme is fair and reasonable and in the best interests of AOF unitholders. The Independent Expert's Report will be included in an Explanatory Memorandum to be sent to AOF unitholders.

Development application lodged with Parramatta Council

On 29 August 2019, the development application for a ~28,000 sqm office building was lodged with the City of Parramatta Council. This is another key milestone relating to this project and will enable Council's assessment process to run in parallel with the site specific gazettal process.

Next steps

A meeting of AOF unitholders to consider the Scheme is expected to be held in early November 2019, with implementation of the Scheme scheduled to occur later in November 2019.

At this meeting, AOF unitholders will consider a special resolution to amend the AOF constitution (which to be passed requires approval by at least 75% of the votes cast by AOF unitholders entitled to vote on the resolution); and an ordinary resolution to approve the acquisition of the AOF units by CHAB (which to be passed requires approval by at least 50% of the votes cast by AOF unitholders entitled to vote on the resolution) in order for the Scheme to be implemented.

AOF unitholders will receive a Notice of Meeting and an Explanatory Memorandum in relation to the Scheme around mid-October. This material will include further details of the Scheme, including reasons for the AUIREL Independent Directors' recommendation and a copy of the Independent Expert's Report.

No action is required by AOF unitholders at this time.

The IBC is being advised by UBS AG, Australia Branch as financial adviser and Ashurst as legal adviser.

Contact information

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Fund Manager – AOF
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² The Consortium has obtained Foreign Investment Review Board approval to proceed with the acquisition of AOF.

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About AOF

AOF is an ASX-listed REIT that wholly owns a diversified portfolio of nine office properties located across Australian metropolitan and CBD markets in Sydney, Adelaide, Melbourne, Brisbane and Canberra.

This announcement is issued by Australian Unity Investment Real Estate Limited ABN 86 606 414 368 AFSL 477434 (AUIREL). AUIREL is a wholly owned subsidiary of Australian Unity Limited ABN 23 087 648 888.

Australian Unity is a health, wealth and living organisation providing products and services designed to help people thrive. More than one million Australians have created a bright future with us. Our businesses span operations providing healthcare, financial services, and retirement and living services, employing more than 7,500 people across Australia.

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Implementation Agreement

Australian Unity Investment Real Estate Limited as
responsible entity of Australian Unity Office Fund

and

CHAB Office Pty Limited as trustee for the CHAB Office
Trust

2 September 2019

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THIS AGREEMENT is made on

2 September

2019

BETWEEN:

- (1) **Australian Unity Investment Real Estate Limited** (ABN 86 606 414 368) in its capacity as responsible entity of **Australian Unity Office Fund** (ARSN 113 369 627) (**AUIREL**); and
- (2) **CHAB Office Pty Limited** (ACN 633 833 566) in its capacity as trustee for the CHAB Office Trust (ABN 57 232 539 578) (**CHAB**).

RECITALS:

- (A) CHAB proposes to acquire by way of the Scheme all of the issued units in AOF that it does not already own.
- (B) AUIREL has agreed to propose the Scheme and issue the Scheme Booklet at the request of CHAB and the parties have agreed to implement the Scheme on the terms and conditions of this document.

OPERATIVE PROVISIONS

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document:

Abacus Property Group means each of:

- (a) Abacus Group Holdings Limited (ACN 080 604 619);
- (b) Abacus Group Projects Limited (ACN 104 066 104);
- (c) Abacus Storage Operations Limited (ACN 112 457 075);
- (d) Abacus Funds Management Limited (ACN 007 415 590) as responsible entity of Abacus Trust (ARSN 096 572 128);
- (e) Abacus Funds Management Limited (ACN 007 415 590) as responsible entity of Abacus Income Trust (ARSN 104 934 287); and
- (f) Abacus Storage Funds Management Limited (ACN 109 324 834) as responsible entity of Abacus Storage Property Trust (ARSN 111 629 559).

Aggregate Scheme Consideration means the Transfer Price multiplied by the number of Scheme Units.

Agreed Announcements means the Announcements to be made by AUIREL to ASX announcing the Proposal in the forms agreed by the parties.

Announcement means a press release, announcement or other public statement.

AOF means Australian Unity Office Fund (ARSN 113 369 627).

AOF Constitution means the constitution establishing AOF, as amended from time to time.

AOF Group means AOF and each of its subsidiaries and **AOF Group Member** means any one of them.

AOF Information means all information in the Scheme Booklet or otherwise provided to AOF Unitholders in connection with the Scheme, other than the CHAB Group Information.

AOF Unit means an ordinary unit on issue in AOF.

AOF Unitholder means a person who is registered as the holder of an AOF Unit in the AOF Unit Register from time to time.

AOF Unit Register means the register of holders of AOF Units from time to time, as administered by the Registry.

ASIC means the Australian Securities and Investments Commission.

ASIC Modifications means:

- (a) a modification of item 7 of section 611 of the Corporations Act, to allow AOF Unitholders other than CHAB and its associates (unless the associate is a custodian, nominee, trustee, responsible entity or other fiduciary which has received a specific instruction from a third party beneficiary, who is not an associate of CHAB, directing the associate how to vote) to vote in favour of the Scheme for the purpose of item 7 of section 611 of the Corporations Act;
- (b) a modification or exemption from any requirement for CHAB to comply with Division 5A of Part 7.9 of the Corporations Act in relation to the proposed offer to purchase Scheme Units under the Scheme;
- (c) an exemption from the requirement to provide a financial services guide in relation to any general financial product advice by AUIREL contained in the Scheme Booklet; and
- (d) any other modification or exemption from the Corporations Act that AUIREL and CHAB agree is necessary to give effect to the Scheme or to avoid a breach of law.

ASX means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

AUIREL Board means the board of directors of AUIREL (in its capacity as responsible entity of AOF).

AUIREL Break Fee means \$4,884,958.56.

AUIREL Director means a director on the AUIREL Board.

AUIREL Warranties means the representations and warranties made by AUIREL set out in clause 14.2.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it; and

- (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in both Melbourne, Victoria and Sydney, New South Wales.

CHAB Board means the board of directors of CHAB (in its capacity as trustee of the CHAB Office Trust).

CHAB Group means CHAB, each Consortium Member and each of their respective related bodies corporate and **CHAB Group Member** means any one of them.

CHAB Group Information means all information provided by or on behalf of CHAB or any Consortium Member to AUIREL for inclusion in the Scheme Booklet, as is required by the Corporations Act, the Listing Rules, Guidance Note 15 and ASIC Regulatory Guide 74, including information as to the funding arrangements it has made to fund the Aggregate Scheme Consideration and information as to CHAB's or any Consortium Member's opinions, views, intentions, and decisions (as applicable) in relation to AOF.

Charter Hall Group means Charter Hall Limited (ACN 113 531 150) and Charter Hall Funds Management Limited (ACN 082 991 786) as responsible entity of Charter Hall Property Trust (ARSN 113 339 147).

Claim means, in relation to a person, any claim, allegation, cause of action, proceeding, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Competing Proposal means:

- (a) any proposal by a Third Party to internalise management of AOF, which may include the stapling to AOF Units of the shares of a company which (directly or indirectly) owns AUIREL (or a replacement responsible entity) or any transaction or arrangement that has an economically similar result; or
- (b) any proposal, agreement, arrangement or transaction which, if entered into or completed, would mean a Third Party (either alone or together with any associate) would:
- (i) directly or indirectly acquire a Relevant Interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the AOF Units;
 - (ii) acquire Control of AOF;
 - (iii) directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire, a legal, beneficial or economic interest in, or control of, all or substantially all of AOF's business or assets or the business or assets of AOF; or
 - (iv) otherwise directly or indirectly acquire or merge or be stapled with AOF.

Condition means a condition precedent in clause 3.2.

Condition Satisfaction Date means the date on which the last of the Conditions is satisfied or waived under clause 3.3.

Confidentiality Deed means the confidentiality deed between AUIREL as responsible entity of AOF, the Consortium Members and CHAB dated 17 July 2019, as amended from time to time.

Consortium means the consortium comprising Abacus Property Group and Charter Hall Group and **Consortium Member** means any or each of such persons.

Corporations Act means the *Corporations Act 2001* (Cth) as modified in respect of AOF or the Scheme.

Court means the Supreme Court of Victoria or such other court of competent jurisdiction as CHAB and AUIREL may agree in writing.

Deed Poll means a document substantially in the form of Schedule 2 under which CHAB covenants in favour of Scheme Participants to perform its obligations under this document and the Supplemental Deed.

Deeds of Retirement and Appointment means the deeds of retirement and appointment in respect of each sub-trust in the AOF Group pursuant to which Australian Unity Funds Management Limited (ABN 60 071 497 115) or Australian Unity Investment Management Administration Pty Limited (ABN 76 115 442 969) (as applicable) retire as trustees of the relevant trusts to be replaced by such entities as nominated by CHAB, such retirement and appointments to be effective on the Implementation Date.

Development Management Services Agreement means the development management services agreement between Australian Unity Investment Management Administration Pty Ltd (ABN 76 115 442 969) and Investa Office Development Pty Ltd (ABN 38 168 761 028) in respect of 10 Valentine Avenue, Parramatta, NSW, dated on or about February 2017.

Disclosure Material means:

- (a) the due diligence information disclosed by or on behalf of AOF to CHAB or any Consortium Member, via the electronic dataroom hosted by AUIREL or through electronic mail, at the request of CHAB and the Consortium Members or otherwise pursuant to the Confidentiality Deed (including responses to requests for information provided via the electronic data room hosted by AUIREL) prior to 12:00pm on 24 August 2019; and
- (b) information available on the Public Registers prior to the parties entering into this document.

Distribution Date has the same meaning as set out in the AOF Constitution.

Effective means the coming into effect of the Supplemental Deed pursuant to section 601GC(2) of the Corporations Act.

Effective Date means the date on which AUIREL lodges the Supplemental Deed with ASIC.

End Date means 16 December 2019, subject to any extension agreed by the parties in writing.

Excluded Unit means an AOF Unit on issue that is held by or on behalf of CHAB on the Record Date.

Exclusivity Period means the period from and including the date of this document to the earlier of:

- (a) the termination of this document in accordance with its terms;
- (b) the End Date; and
- (c) the Implementation Date.

Fairly Disclosed, in relation to a matter, means disclosed in sufficient detail and context so as to allow a reasonable and sophisticated recipient to identify the nature, scope, significance and import of the matter.

First Court Date means the first day of hearing for the First Judicial Advice, or if the hearing of that application is adjourned for any reason, means the first day of the adjourned hearing.

First Judicial Advice means confirmation from the Court under Order 54 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) that, among other things, AUIREL would be justified in convening the Scheme Meeting for the purposes of considering the Scheme Resolutions.

Framework Agreement means the Framework Agreement between CHAB, Charter Hall Holdings Pty Ltd (ACN 051 363 547) and Abacus Funds Management Limited (ACN 007 415 590) dated 4 June 2019.

Funds from Operations, in respect of AOF, means "funds from operations" calculated in a manner that is consistent with the methodology for the calculation of underlying and recurring "funds from operations" in the financial statements for AOF for the 12 months ending 30 June 2018. For the avoidance of doubt, in relation to AOF, "funds from operations" is calculated by reference to the Property Council of Australia's definition of "funds from operations" pursuant to which the statutory Australian Accounting Standards net profit is adjusted for non-cash changes in investment properties, non-cash impairment of goodwill, non-cash fair value adjustments to financial instruments, amortisation of incentives and leasing costs, rental straight-line adjustments and other unrealised or one-off items (including any costs incurred in connection with the Scheme).

Government Agency means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia or elsewhere, including ASIC and any self-regulatory organisation established under statute or by ASX.

GST means the same as in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guidance Note 15 means *Guidance Note 15: Trust Scheme Mergers* issued by the Takeovers Panel of Australia.

Implementation Date means the date which is 7 Business Days after the Record Date or such other date as the parties agree in writing.

Indemnified Parties means, with respect to a party, that party, its related bodies corporate and each of its respective employees, officers and directors (however, for the purposes of this definition, where that party is acting as trustee of a trust, it is only a party to the extent that it is acting in the capacity as trustee of the trust and a reference

to a related body corporate of it is taken to be a reference to a related body corporate of the trust).

Independent Directors means each of Mr Peter Day, Mr Don Marples and Ms Eve Crestani.

Independent Expert means Deloitte Corporate Finance Pty Limited (ABN 19 003 833 127).

Independent Expert's Report means the report prepared by the Independent Expert, including any update or supplementary report, stating whether or not, in his or her opinion, the Scheme is fair and reasonable to AOF Unitholders and/or in the best interests of AOF Unitholders.

Insolvency Event means, in relation to a person:

- (a) **(insolvency official)** the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person;
- (b) **(arrangements)**
 - (i) the entry by the person into a compromise or arrangement with its creditors generally or, if it is a trustee, the creditors of its trust generally; or
 - (ii) the person executes a deed of company arrangement;
- (c) **(winding up)**
 - (i) a court makes an order for the winding up of the person; or
 - (ii) the making of an application or order for the winding up or dissolution of the person, other than where the application or order (as the case may be) is set aside within 14 days;
- (d) **(statutory demand)** being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (e) **(suspends payments)** the person suspends or threatens to suspend payment of its debts or, if it is a trustee, the debts of the trust;
- (f) **(insolvency)** the person is or becomes unable to pay its debts or, if it is a trustee, the debts of its trust, as and when they fall due within the meaning of the Corporations Act or is (or if it is a trustee, its trust is) otherwise presumed to be insolvent under the Corporations Act; or
- (g) **(analogous event)** any analogous event occurring in relation to that person under the laws of another jurisdiction.

Investment Management Services Agreement means the Investment Management Services Agreement dated 20 May 2016 between AUIREL as responsible entity of AOF and Australian Unity Funds Management Limited (ABN 60 071 497 115).

Judicial Advice means the First Judicial Advice and Second Judicial Advice.

Listing Rules means the Listing Rules of ASX as waived or modified in respect of AOF or the Scheme.

Loss includes any loss, damage, liability, compensation, fine, penalty, charge, payment, cost or expense however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Material Adverse Change means any one or more events, occurrences, changes, circumstances or matters which occurs or is publicly announced or disclosed between the date of this document and 8.00am on the Second Court Date (**Specified Event**) which, whether individually or when aggregated with all such Specified Events of a like kind has, has had, or is reasonably likely to have:

- (a) the effect of a diminution in the value of the consolidated net tangible assets of AOF (taken as a whole) by at least A\$23 million against what it would reasonably be expected to have been but for that Specified Event; or
- (b) the effect of a diminution on recurring Funds from Operations of at least A\$1.4 million,

in each case, other than any event, occurrence, change, circumstance or matter:

- (c) occurring directly as a result of any matter, event or circumstance expressly required or permitted by this document, the Scheme or the transactions contemplated by this document or the Scheme;
- (d) done or not done at the written request or with the written acknowledgement and fully informed approval of CHAB (or any of its Representatives), including any consequences arising as a result of such matters;
- (e) resulting from changes in generally accepted accounting principles or the interpretation of them;
- (f) arising as a result of any change in law or governmental policy;
- (g) arising from changes in economic, political or business conditions, securities markets, taxation, interest rates or exchange rates in general (but excluding any event, occurrence, change, circumstance or matter which has a disproportionate adverse effect on AOF, taken as a whole, as compared to other participants in the industry in which AOF (acting through AUIREL) operates); or
- (h) that AUIREL has Fairly Disclosed in the Disclosure Material or any announcement by AUIREL to ASX in respect of AOF or document lodged with ASIC prior to the date of this document (or which ought reasonably have been expected to arise from a matter, event or circumstance which was so disclosed).

Meeting Date means the date on which the Scheme Meeting is held.

Notice of Meeting means the notice convening the Scheme Meeting together with the proxy form for the Scheme Meeting.

Prescribed Occurrence means:

- (a) AOF (acting through AUIREL as responsible entity of AOF) converts all or any of its securities into a larger or smaller number of securities;

- (b) AOF (acting through AUIREL as responsible entity of AOF) reduces or resolves to reduce its capital in any way or resolves to re-classify, combine, split, redeem or re-purchase directly or indirectly any of its units;
 - (c) AOF (acting through AUIREL as responsible entity of AOF):
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
 - (d) AOF (acting through AUIREL as responsible entity of AOF) or an AOF Group Member issues securities or grants an option over its securities, or agrees to make such an issue or grant such an option;
 - (e) AOF (acting through AUIREL as responsible entity of AOF) or an AOF Group Member issues, or agrees to issue, convertible notes or any other security or instrument convertible into securities;
 - (f) AOF (acting through AUIREL as responsible entity of AOF) resolves to pay or pays a distribution other than in accordance with clause 4.4;
 - (g) AOF (acting through AUIREL as responsible entity of AOF) or an AOF Group Member creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole or a substantial part of the business or property of AOF;
 - (h) AOF (acting through AUIREL as responsible entity of AOF) or an AOF Group Member disposes or agrees to dispose of the whole or a substantial part of its business or property;
 - (i) an Insolvency Event occurs in relation to any AOF Group Member; or
 - (j) the AOF Constitution is amended, replaced or repealed,
- but excluding any matter:
- (k) required to be done or procured by AUIREL under, or as contemplated by, this document or the Scheme;
 - (l) which has previously been disclosed to ASX prior to the date of this document or which was Fairly Disclosed in the Disclosure Material; or
 - (m) which has been agreed to in writing by CHAB (or any of its Representatives).

Property Management Services Agreement means the Property Management Services Agreement dated 20 May 2016 between AUIREL as responsible entity of AOF, Australian Unity Funds Management Limited (ABN 60 071 497 115) and Australian Unity Investment Management Administration Pty Limited (ACN 115 442 969) (each in their capacity of the various trusts identified in Schedule 1 of that agreement) and Australian Unity Property Management Pty Ltd (ABN 76 073 590 600).

Proposal means the Scheme proposal pursuant to which CHAB will acquire the Scheme Units.

Public Registers means the records made available for public inspection by ASIC and ASX.

Record Date means 7.00pm on the date that is two Business Days after the Effective Date or such other date as may be agreed by the parties in writing or as may be required by ASX.

Registry means Boardroom Pty Ltd (ACN 003 209 836).

Relevant Date means, in relation to a Condition, the date or time specified in this document for its fulfilment or such later date or time as the parties agree in writing.

Representative means, in relation to a person:

- (a) in relation to CHAB:
 - (i) a related body corporate;
 - (ii) an employee or officer of the person or any of the person's related bodies corporate; or
 - (iii) a debt or equity financier of, or a financial adviser, corporate adviser or legal adviser or other adviser or consultant who provides advisory services in a professional capacity to the market in general who has been engaged by, that person or any of that person's related bodies corporate; and
- (b) in relation to AUIREL:
 - (i) a director or employee of AUIREL;
 - (ii) Simon Beake, Giovanna Reale, Mark Lumby and Tim Kemp-Bishop; or
 - (iii) a debt or equity financier of, or a financial adviser, corporate adviser or legal adviser or other adviser or consultant who provides advisory services in a professional capacity to the market in general who has been engaged by AUIREL or any AOF Group Member,

however, for the purposes of this definition, where a person is acting as trustee of a trust, the relevant person is that person acting in the capacity as trustee of the trust and a reference to a related body corporate of the person is taken to be a reference to a related body corporate of the trust.

Responsibility Statement means the statement that is to be included in the Scheme Booklet in the form set out in Schedule 4.

Restructure Agreements means the agreements to be entered into between the relevant AOF Group Members and Australian Unity Strategic Holdings Pty Limited (ABN 39 006 803 050) to transfer the units held by Australian Unity Strategic Holdings Pty Limited in each of:

- (a) Pirie Street Trust (ABN 93 663 263 230);
- (b) Australian Unity Second Industrial Trust (ARSN 098 325 789); and
- (c) Australian Unity Fifth Commercial Trust to (ARSN 104 184 072),

to an AOF Group Member nominated by CHAB (such AOF Group Member to form part of the entities to be acquired by CHAB pursuant to the Scheme), to be effective immediately prior to the Implementation Date.

Scheme means the arrangement, in accordance with Guidance Note 15, under which CHAB will acquire all of the Scheme Units that is facilitated by amendments to the AOF Constitution as set out in the Supplemental Deed, subject to the Scheme Resolutions being approved by the requisite majorities of AOF Unitholders.

Scheme Booklet means the explanatory memorandum to be prepared by AUIREL in respect of the Scheme including the Independent Expert's Report, the Notice of Meeting, the Supplemental Deed and the Deed Poll.

Scheme Booklet Despatch Date means the date the Scheme Booklet is despatched to AOF Unitholders (which is contemplated to occur on the date specified in the Timetable set out in Schedule 3).

Scheme Meeting means the general meeting of AOF Unitholders to be held to consider and, if thought fit, to approve the Scheme Resolutions, and includes any adjournment of this meeting.

Scheme Participants means each person registered as the holder of a Scheme Unit on the Record Date.

Scheme Resolutions means resolutions of AOF Unitholders to approve the Scheme including:

- (a) an ordinary resolution approving for all purposes, including item 7 of section 611 of the Corporations Act, the steps required to implement the Scheme; and
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve the amendments to the AOF Constitution as set out in the Supplemental Deed and to authorise AUIREL to execute and lodge with ASIC the Supplemental Deed to give effect to those amendments.

Scheme Units means the AOF Units on issue on the Record Date other than any Excluded Unit.

Second Court Date means the first day of hearing of an application made to the Court by AUIREL for the Second Judicial Advice or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Second Judicial Advice means confirmation from the Court under Order 54 of the *Supreme Court (General Civil Procedure) Rules 2005 (Vic)* that, AOF Unitholders having approved the Scheme Resolutions by the requisite majorities, AUIREL would be justified in implementing the Scheme Resolutions, giving effect to the provisions of the Constitution (as amended by the Supplemental Deed) and in doing all things and taking all necessary steps to put the Scheme into effect.

Specified Third Party Consent means the consent to be obtained from The Brisbane Club in respect of the property at 241 Adelaide Street, Brisbane, Qld.

Superior Proposal means a bona fide written Competing Proposal that is publicly announced or received by AUIREL which the Independent Directors, acting in good faith and after obtaining written advice from their legal and financial advisers, determine:

- (a) is reasonably capable of being valued and completed; and
- (b) would, if completed substantially in accordance with its terms, be more favourable to AOF Unitholders than the Proposal,

taking into account all of the aspects of the Competing Proposal, including timing considerations, financing, conditions and any other matters relevant to the Competing Proposal being contemplated (including the identity, expertise, reputation, and financial condition of the person making such proposal and legal, regulatory, and financial matters).

Supplemental Deed means a deed poll pursuant to which AUIREL (in its capacity as responsible entity of AOF) will amend the AOF Constitution, the form of which is set out in Schedule 1, with any alterations or amendments approved in writing by AUIREL and CHAB.

TAA means the *Tax Administration Act 1953* (Cth).

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Third Party means any person other than a CHAB Group Member or a consortium, partnership, limited partnership, syndicate, trust, or other group in which no CHAB Group Member has agreed to be a participant.

Third Party Consents means:

- (a) the third party consents, transfers, and notifications which the parties agree in writing are "Third Party Consents" on or about the date of this agreement; and
- (b) any other consent in respect of an agreement to which AUIREL in its capacity as responsible entity of AOF or an AOF Group Member is a party or Authorisation issued to or for the benefit of AUIREL in its capacity as responsible entity of AOF or an AOF Group Member in respect of which a counterparty has rights that may be enlivened by implementation or proposed implementation of the Scheme that the parties may agree in writing to be a "Third Party Consent",

but excludes the Specified Third Party Consent.

Timetable means the indicative timetable in relation to the Scheme, as set out in Schedule 3, or such other indicative timetable as may be agreed in writing by the parties.

Transaction Document means:

- (a) this document;
- (b) the Deed Poll;
- (c) the Supplemental Deed; and
- (d) any other document that the parties may agree in writing to be a "Transaction Document".

Transfer Price means \$3.04 per Scheme Unit, subject to any reduction required under clause 4.4(b).

1.2 **Rules for interpreting this document**

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) A reference to **applicable law** includes any applicable law of a jurisdiction within or outside Australia, any applicable listing rule of the ASX or of any other stock exchange (whether or not within Australia) on which securities of the relevant party are quoted and any applicable judgment or order of a court of competent jurisdiction or other Government Agency.
- (g) The word **associate** has the meaning given in section 12 of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this document.
- (h) Each of the words **body, body corporate, Control, controller, officer and Relevant Interest** have the same meaning as in section 9 the Corporations Act, and the word **entity** has the meaning given in section 64A of the Corporations Act.
- (i) Each of the words **subsidiary, holding company** and **related body corporate** have the meaning given in the Corporations Act, but as if all references to "body corporate" and "body" were replaced with references to "entity" and, without limitation:
 - (i) a trust may be a subsidiary of an entity, for the purposes of which a unit or other beneficial interest will be regarded as a share;
 - (ii) an entity may be a subsidiary of a trust if it would have been a subsidiary if that trust were a body corporate;
 - (iii) where a trust is a subsidiary of an entity, the trustee of that trust (acting in that capacity) will also be a subsidiary of that entity; and

- (iv) where the relevant entity is a trust, a reference to controlling the composition of the entity's board is taken to be a reference to controlling the appointment of the trustee or responsible entity of the trust.
- (j) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- (k) A reference to **\$, dollar** or cent is to Australian currency.
- (l) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (m) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (n) Words defined in the GST Act have the same meaning in clauses concerning GST.
- (o) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled.
- (p) References to GST extend to any notional liability of any person for GST and to any amount which is treated as GST under the GST Act, and references to an input tax credit extend to any notional input tax credit to which any person is entitled.
- (q) A reference to time in this document is a reference to the time in Melbourne, Victoria.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

2. **SCHEME**

2.1 **Scheme**

AUIREL agrees to propose and implement the Scheme on and subject to the terms and conditions of this document, and to use best endeavours to do so in accordance with the Timetable and otherwise as soon as is reasonably practicable.

2.2 **CHAB to assist**

CHAB agrees to assist AUIREL in proposing and implementing the Scheme on and subject to the terms and conditions of this document, and to use best endeavours to do so in accordance with the Timetable and otherwise as soon as is reasonably practicable.

2.3 **Timetable**

- (a) It is the intention of the parties to conform with the Timetable.

- (b) The parties acknowledge that the circumstances of the parties may change and the parties will consult with each other regularly in relation to:
 - (i) performing their respective obligations within the framework established by the Timetable; and
 - (ii) any need to modify the Timetable.

3. **CONDITIONS**

3.1 **Obligations not binding until Conditions satisfied**

Subject to this clause 3, the obligations of the parties under clause 7 do not become binding unless and until the Conditions are satisfied or waived under clause 3.3.

3.2 **Conditions**

The Conditions are:

- (a) **(FIRB)** before 8.00am on the Second Court Date, the Treasurer of the Commonwealth of Australia (or his delegate):
 - (i) provides written notice that there are no objections under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**) to the proposed acquisition of the Scheme Units by CHAB (either unconditionally or with such conditions that are acceptable to CHAB acting reasonably); or
 - (ii) becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the acquisition of the Scheme Units by CHAB;
- (b) **(ASIC Modifications)** before 8.00am on the Second Court Date, ASIC has granted the ASIC Modifications (or, in respect of any ASIC Modification which has not been granted, has indicated in writing that such a modification is not required) and has not withdrawn or revoked any of the ASIC Modifications by that time;
- (c) **(other regulatory approvals)** before 8.00am on the Second Court Date, all other consents or approvals of a Government Agency which the parties agree are necessary or desirable to implement the Scheme are obtained and those consents or approvals have not been withdrawn or revoked;
- (d) **(Independent Expert's Report)** the Independent Expert's Report concludes that the Scheme is in the best interests of the AOF Unitholders and the Independent Expert does not change its conclusion or withdraw the Independent Expert's Report prior to the Scheme Meeting;
- (e) **(AOF Unitholder approval)** the Scheme Resolutions are approved at the Scheme Meeting by the requisite majorities of the AOF Unitholders under the Corporations Act and in accordance with Guidance Note 15;
- (f) **(Judicial Advice)** the Court provides the First Judicial Advice and the Second Judicial Advice;
- (g) **(no restraints)** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Government Agency of competent jurisdiction,

remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme or any Transaction Document;

- (h) **(no Prescribed Occurrence)** from the date of this document until 8.00am on the Second Court Date, there is no Prescribed Occurrence;
- (i) **(no Material Adverse Change)** from the date of this document until 8.00am on the Second Court Date, there is no Material Adverse Change;
- (j) **(AUIREL Warranties)** the AUIREL Warranties are true and correct in all material respects on the date of this agreement and as at 8:00am on the Second Court Date to the extent that they are given on those dates;
- (k) **(Specific Third Party Consent)** as at 8:00am on the Second Court Date, the Specified Third Party Consent has been obtained or been provided (as applicable) and has not been withdrawn, cancelled or revoked;
- (l) **(Restructure)** as at 8:00am on the Second Court Date, the Restructure Agreements have been executed in a form reasonably satisfactory to CHAB, and have not been withdrawn, cancelled or revoked; and
- (m) **(Trustees)** as at 8:00am on the Second Court Date, the Deeds of Retirement and Appointment have been executed in a form reasonably satisfactory to CHAB, and have not been withdrawn, cancelled or revoked.

3.3 Waiver of a Condition

- (a) The Conditions in clauses 3.2(a) and 3.2(e) cannot be waived.
- (b) The following Conditions are for the benefit of the following party or parties:

Condition	Party
3.2(b), 3.2(c) and 3.2(g)	AUIREL and CHAB
3.2(d) and 3.2(f)	AUIREL
3.2(h), 3.2(i), 3.2(j), 3.2(k), 3.2(l) and 3.2(m)	CHAB

- (c) If a Condition has been included for the benefit of one party only, only that party may, in its sole and absolute discretion, waive the breach or non-fulfilment of the Condition (except that a party must not waive a Condition if it would result in a breach of law).
- (d) If a Condition has been included for the benefit of more than one party, the breach or non-fulfilment of the Condition may be waived only by the consent of all those parties.
- (e) The breach or non-fulfilment of a Condition may only be waived in writing.
- (f) Waiver of the breach or non-fulfilment of a Condition does not:
 - (i) affect the party's right to bring a Claim against any other party for any breach of this document; or

- (ii) constitute a waiver of the breach or non-fulfilment of any other Condition.

3.4 **Fulfilment of each Condition**

Each party must:

- (a) use its reasonable endeavours (other than waiver) to ensure and procure that each Condition is satisfied as soon as practicable after the date of this document and in any event on or prior to any Relevant Date;
- (b) not take any action (except as required by law) that will or is likely to hinder or prevent, or is designed to prevent, the Conditions being satisfied without the prior consent of the other party;
- (c) keep the other party informed of any circumstances of which it becomes aware which may result in any of the Conditions not being satisfied in accordance with its terms; and
- (d) promptly notify the other party in writing of the satisfaction of a Condition or any failure to satisfy a Condition.

3.5 **Consultation on failure of Conditions**

- (a) If:
 - (i) there is a breach or non-fulfilment of a Condition (other than the Condition in clause 3.2(a)) which is not waived in accordance with this document by the Relevant Date;
 - (ii) there is an act, failure to act or occurrence which will, or which either party becomes aware will prevent a Condition (other than the Condition in clause 3.2(a)) being satisfied by the Relevant Date (and the breach or non-fulfilment which would otherwise occur has not already been waived in accordance with this agreement); or
 - (iii) the Scheme has not become Effective by the End Date (other than as a result of the non-fulfilment of the Condition in clause 3.2(a)),then either party may serve notice on the other party and the parties must consult, acting reasonably, with a view to determining whether:
 - (iv) the Scheme may proceed by way of alternative means or methods;
 - (v) to extend the Relevant Date for satisfaction of the Condition or to adjourn or change the date of an application to the Court; or
 - (vi) to extend the End Date.
- (b) Notwithstanding any other provision of this document, if the Condition in clause 3.2(a) has not been fulfilled by the Relevant Date for that Condition, or the Scheme has not become Effective by the End Date as a result of the non-fulfilment of the Condition in clause 3.2(a), AUIREL or CHAB may, by notice in writing to the other party, terminate this document without any liability to the other party by reason of that termination alone but without limiting any party's rights in respect of a breach of this document prior to its termination.

3.6 **Failure to agree**

If the parties are unable to reach agreement under clause 3.5 within 5 Business Days after the delivery of the notice under that clause (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) then, in each case before 8.00am on the Second Court Date, either party may terminate this document in writing to the other party, provided that:

- (a) the Condition to which the notice relates is for the benefit of that party (whether or not the condition is also for the benefit of the other party); and
- (b) there has not been a breach of this document by that party where that breach directly and materially contributed to the Condition to which the notice relates becoming incapable of satisfaction or a deliberate act or omission of that party for the purpose of frustrating satisfaction of the Condition.

3.7 **Certificates in relation to Conditions Precedent**

- (a) On the Second Court Date, each of AUIREL and CHAB must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8.00am on the Second Court Date the Conditions (other than the Condition in clause 3.2(f)) have been satisfied or waived in accordance with this document.
- (b) Each of AUIREL and CHAB must provide to the other party a draft of the certificate to be provided by it pursuant to clause 3.7(a) by 5.00pm on the day that is 2 Business Days prior to the Second Court Date, and must provide to the other party on the Second Court Date a copy of the final certificate or other evidence provided to the Court.

4. **CONDUCT OF BUSINESS BEFORE IMPLEMENTATION DATE**

4.1 **Conduct in the ordinary course**

Subject to clauses 4.3 and 4.4, from the date of this document up to and including the Implementation Date, AUIREL must procure that the business and operations of the AOF Group are conducted in the ordinary course and (subject to any applicable laws) substantially consistent with the manner in which it was previously conducted in the 12 month period prior to the date of this document and, to the extent consistent, use reasonable efforts to:

- (a) preserve intact its current business organisation;
- (b) preserve its relationship with all of its material lessees, suppliers, licensors, licensees, Government Agencies and others having material business dealings with it;
- (c) maintain its business and assets, including maintaining at least its current level of insurance; and
- (d) ensure it and each AOF Group Member complies in all material respects with all material contracts to which an AOF Group Member is a party.

4.2 Specific conduct

Subject to clauses 4.3 and 4.4, from the date of this document up to and including the Implementation Date, AUIREL must not, and must procure that each AOF Group Member does not:

- (a) enter into or agree to enter into any contract, arrangement or understanding that generates, or is expected to generate, annual revenue to an AOF Group Member of more than \$1,000,000 or pursuant to which an AOF Group Member will incur liability in excess of \$1,000,000, including with respect to any development activities;
- (b) terminate or seek to change the terms of the termination of any legally binding contract that generates, or is expected to generate, annual revenue to an AOF Group Member of more than \$1,000,000 or pursuant to which an AOF Group Member will incur liability in excess of \$1,000,000;
- (c) amend or seek to amend in a material respect the terms of any legally binding contract that generates, or is expected to generate, annual revenue to an AOF Group Member of more than \$1,000,000 or pursuant to which an AOF Group Member will incur liability in excess of \$1,000,000;
- (d) pay, discharge or satisfy any liability under a contract, arrangement or understanding to which an AOF Group Member is a party of more than \$1,000,000 other than in accordance with its terms;
- (e) waive any material claim or rights under, or waive the benefit of, any material provisions of any legally binding contract which generates annual revenue to an AOF Group Member of more than \$1,000,000;
- (f) commit to any capital expenditure in excess of \$1,500,000 (in aggregate);
- (g) enter into a new loan, advance, derivative arrangement or financing arrangement as lender or borrower other than where the counterparty to such loan, advance, derivative arrangement or financing arrangement is an AOF Group Member;
- (h) guarantee or indemnify the obligations of any other person other than an AOF Group Member;
- (i) commence, or threaten to commence, any material litigation in respect of the AOF Group pursuant to which an AOF Group Member will incur liability in excess of \$1,000,000;
- (j) amend (or waive any right under) any existing financing arrangements or derivative agreements or incur or increase any financial indebtedness by more than \$1,000,000 (excluding any drawing or redrawing on existing facilities or any movement in the mark to market valuations for the existing derivative agreements);
- (k) cease, or threaten to cease, to carry on business;
- (l) undertake any Prescribed Occurrence or do (or omit to do) anything that may reasonably give rise to a Prescribed Occurrence;
- (m) fail to comply in all material respects with all applicable laws, regulations and requirements of Government Agencies;

- (n) enter into any contract, arrangement or understanding in respect of or to give effect to the redevelopment of 10 Valentine Avenue, Parramatta (including the progressing of any new development phases under the Development Management Services Agreement); or
- (o) amend, approve or adopt any budget for the AOF Group or any of the properties owned or leased by an AOF Group Member.

4.3 **Exceptions to conduct of business provisions**

Nothing in clauses 4.1 or 4.1(d) shall prevent AUIREL or an AOF Group Member from taking any proposed course of action:

- (a) which is required or permitted by this document or the Scheme;
- (b) which has been consented to in writing by CHAB (or any of its Representatives) (such consent not to be unreasonably withheld or delayed having regard to the best interests of AOF Unitholders, AOF's past practices and the circumstances in which the consent of CHAB (or its Representatives) is sought). A consent will be treated as unreasonably delayed if it is not given within 3 Business Days of CHAB (or its Representatives) receiving written notice of such action;
- (c) the details of which have been Fairly Disclosed in the Disclosure Material (but excluding the progressing of any new development phases under the Development Management Services Agreement) or any announcement by AUIREL to ASX or document lodged with ASIC prior to the date of this document; or
- (d) required by, or to ensure compliance with, applicable law or an order of a court or Government Agency, including any workplace safety laws.

4.4 **Distributions**

- (a) Notwithstanding any other provision in this document, the parties acknowledge and agree that AOF may make interim distributions to AOF Unitholders in accordance with clause 18.11 of the AOF Constitution by specifying the following dates as Distribution Dates:
 - (i) 30 September 2019;
 - (ii) if the Scheme is not implemented by 31 December 2019, 31 December 2019; or
 - (iii) the Implementation Date.
- (b) However, if the Supplemental Deed becomes Effective and all of the Conditions are satisfied or waived under clause 3.3, the Transfer Price per Scheme Unit payable by CHAB will be reduced by the amount of any distribution declared or paid by AOF (acting through AUIREL) (on a per unit basis) on or after the date of this document.
- (c) Subject to clause 4.4(a), AUIREL must not take any action which would result in any income tax being payable by an AOF Unitholder on the AOF Unit Register on or prior to the Implementation Date if the relevant AOF Unitholder has not received any distributions for the relevant financial year.

5. UNDERTAKINGS

5.1 General obligations

AUIREL and CHAB must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers); and
- (b) procure that its Representatives work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing information),

to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable.

5.2 AUIREL's obligations

AUIREL must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this document and otherwise substantially in accordance with the Timetable and in particular AUIREL must:

- (a) **(ASIC modification)** as soon as reasonably practicable after the date of this document, apply to ASIC for the ASIC Modifications;
- (b) **(commission Independent Expert's Report)** commission the preparation of the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (c) **(provide Independent Expert's Report)** once it has received a draft of the Independent Expert's Report incorporating its comments, provide CHAB with a copy of that draft to enable CHAB to comment on the factual accuracy of any CHAB Group Information included in the Independent Expert's Report and (acting reasonably and in good faith) promptly give the Independent Expert any comments that CHAB provides AUIREL in relation to factual matters regarding CHAB, or any of its related bodies corporate;
- (d) **(prepare Scheme Booklet)** prepare the Scheme Booklet in accordance with clause 6;
- (e) **(liaison with ASIC)** provide an advanced draft of the Scheme Booklet to ASIC for its review and approval and keep CHAB informed of any matter raised by ASIC in relation to the draft Scheme Booklet (and of any resolution of those matters);
- (f) **(ASX confirmation)** seek confirmation from ASX under Listing Rule 15.1 that it does not object to the proposed amendments to the AOF Constitution as set out in the Supplemental Deed and keep CHAB informed of any matter raised by ASX in relation to the Supplemental Deed (and of any resolution of those matters);
- (g) **(Court documents)** prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme in accordance with all applicable laws, and provide CHAB with copies of those documents;

- (h) **(First Judicial Advice)** lodge all documents with the Court and take all other reasonable steps so that an application is heard by the Court for the First Judicial Advice;
- (i) **(approval of Scheme Booklet)** procure that a meeting of the AUIREL Directors is convened to approve the Scheme Booklet for despatch to AOF Unitholders;
- (j) **(Scheme Meeting)** subject to the Court providing the First Judicial Advice, convene the Scheme Meeting to be held on the date specified in the Timetable, despatch the Scheme Booklet to AOF Unitholders on the Scheme Booklet Despatch Date specified in the Timetable, hold the Scheme Meeting and put the Scheme Resolutions to AOF Unitholders at the Scheme Meeting, in each case taking all reasonable steps necessary to comply with the orders of the Court, Guidance Note 15, the AOF Constitution, the Corporations Act and the Listing Rules (as applicable);
- (k) **(ASX listing)** not do anything to cause AOF to cease to be admitted to the official list of ASX or the AOF Units to cease to be quoted on ASX prior to the Implementation Date;
- (l) **(Second Judicial Advice)** if AOF Unitholders approve the Scheme Resolutions by the requisite majorities, lodge all documents with the Court and take all other reasonable steps so that an application is heard by the Court for the Second Judicial Advice;
- (m) **(Information)** instruct the Registry to deliver to CHAB promptly at CHAB's reasonable request, any information held by the Registry required for CHAB to provide the Transfer Price to each Scheme Participant in accordance with the terms of this document, the Deed Poll and the Supplemental Deed; and
- (n) **(Other things)** promptly do all other things contemplated by or necessary to give effect to the Scheme and, if the Court grants the Second Judicial Advice, the orders of the Court approving the Scheme.

5.3 CHAB 's obligations

CHAB must:

- (a) **(assist in the preparation of the Independent Expert's Report)** as expeditiously as practicable, provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (b) **(preparation of Scheme Booklet)** provide all assistance with the preparation and verification of the Scheme Booklet in accordance with clause 6;
- (c) **(ASIC modification)** provide all reasonable assistance to AUIREL to assist AUIREL in applying to ASIC for the ASIC Modifications and provide any necessary consents in relation to such applications;
- (d) **(liaison with ASIC)** provide reasonable assistance to AUIREL to assist AUIREL to resolve any matter raised by ASIC regarding the Scheme Booklet or the Scheme during its review of the Scheme Booklet;
- (e) **(Court documents and representation)** provide reasonable assistance to AUIREL with the preparation of documents necessary for the Court proceedings and, if requested by AUIREL, ensure that it is represented by counsel at the Court

hearings convened for the purposes of the Judicial Advice in relation to the Scheme, at which, through its counsel and if requested by the Court, CHAB will undertake to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this document and the Scheme;

- (f) **(approval of Scheme Booklet)** procure that a meeting of the directors of CHAB is convened to approve:
- (i) those sections of the Scheme Booklet that comprise CHAB Group Information as being in a form appropriate for inclusion in the Scheme Booklet and despatch to AOF Unitholders; and
 - (ii) consenting in writing to the inclusion of the CHAB Group Information in the Scheme Booklet in the form and context in which that information appears, and to the despatch of that information in that form to AOF Unitholders;

and provide AUIREL with a copy of an extract of the applicable resolutions from the applicable minutes of meeting, as soon as practicable after those minutes have been prepared and signed; and

- (g) **(Deed Poll)** before 8.00am on the First Court Date, enter into the Deed Poll.

6. **PREPARATION OF SCHEME BOOKLET**

6.1 **AUIREL to prepare Scheme Booklet**

Subject to CHAB complying with its obligations under clause 6.4, AUIREL must prepare the Scheme Booklet as soon as is reasonably practicable after the date of this document and otherwise having regard to the Timetable.

6.2 **Compliance requirements**

AUIREL must ensure that the Scheme Booklet complies with all applicable laws and regulatory guidance, in particular the requirements of the Corporations Act, the Listing Rules, Guidance Note 15 and all applicable ASIC Regulatory Guides, except that its obligation to do so in respect of the CHAB Group Information is subject to CHAB complying with its obligations under clause 6.4.

6.3 **Responsibility Statement**

Without limiting clause 6.2, the Scheme Booklet must include the Responsibility Statement. For the avoidance of doubt, each party accepts no responsibility for, and no liability in relation to, the content of any sections of the Scheme Booklet for which it was not responsible (as set out in the Responsibility Statement).

6.4 **CHAB Group Information**

- (a) CHAB must provide the CHAB Group Information to AUIREL as soon as is reasonably practicable after the date of this document and otherwise having regard to the Timetable, in a form that includes all information regarding the CHAB Group that is required by all applicable laws and regulatory guidance including the Corporations Act, the Listing Rules, Guidance Note 15 and all relevant ASIC Regulatory Guides.
- (b) CHAB must (acting reasonably and in good faith) consider and take into account any comments made by AUIREL or its Representatives in relation to any

information provided to AUIREL under clause 6.4(a) and must provide to AUIREL such assistance as AUIREL may reasonably require in order to adapt such information for inclusion in the Scheme Booklet.

6.5 Review by CHAB

AUIREL must make available to CHAB drafts of the Scheme Booklet, consult with CHAB in relation to the content of those drafts (including the inclusion of any CHAB Group Information and any information solely derived from, or prepared solely in reliance on, the CHAB Group Information), and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from CHAB and its Representatives on those drafts.

6.6 Dispute as to Scheme Booklet

If, after a reasonable period of consultation and compliance by AUIREL with its obligations under clause 6.5, CHAB and AUIREL, acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:

- (a) if the disagreement relates to the form or content of the CHAB Group Information (or any information solely derived from, or prepared solely in reliance on, the CHAB Group Information), AUIREL will, acting in good faith and acting reasonably, make such amendments to that information in the Scheme Booklet as CHAB may reasonably require; and
- (b) if the disagreement relates to the form or content of the AOF Information, AUIREL will, acting in good faith, decide the final form of that information in the Scheme Booklet.

6.7 Consent of CHAB

Without limiting clause 6.6, CHAB must provide (and procure that each Consortium Member provides) written consent to AUIREL in relation to the form and context in which any CHAB Group Information (and any information solely derived from, or prepared solely in reliance on, the CHAB Group Information) is included in the Scheme Booklet.

6.8 Verification

AUIREL must undertake appropriate verification processes in relation to the AOF Information included in the Scheme Booklet, and CHAB must undertake appropriate verification processes in relation to the CHAB Group Information in the Scheme Booklet.

6.9 Updating Scheme Booklet

Each party must ensure that those parts of the Scheme Booklet for which the party is responsible are updated with any information of which the party becomes aware between the Scheme Booklet Despatch Date and the Meeting Date that is necessary to ensure that the Scheme Booklet is not misleading or deceptive or likely to mislead or deceive in any material respect and complies with all applicable laws, court directions, ASIC policy, Takeovers Panel guidance notes and the Listing Rules.

7. IMPLEMENTATION OF SCHEME

7.1 AUIREL's obligations

If the Scheme Resolutions are passed by their requisite majorities at the Scheme Meeting, AUIREL must:

- (a) if the Court grants the Second Judicial Advice, as soon as practicable after, and in any event by no later than 4.00pm on the first Business Day after the later of the Second Court Date and the date on which all of the Conditions are satisfied or waived in accordance with this document:
 - (i) execute the Supplemental Deed;
 - (ii) lodge the executed Supplemental Deed with ASIC; and
 - (iii) if requested by ASIC under section 601GC(3) of the Corporations Act, lodge with ASIC a consolidated copy of the AOF Constitution (as amended by the Supplemental Deed);
- (b) lodge all other notices and forms required by law or the Listing Rules to be lodged with ASIC or the ASX in relation to the Scheme Resolutions;
- (c) if the Court grants the Second Judicial Advice, close the AOF Unit Register as at the Record Date and subject to clause 7.2, determine the identity of Scheme Participants and their entitlements under clause 7.1(e) to the Transfer Price per Scheme Unit;
- (d) provide all necessary information, and procure that the AOF Registry provides all necessary information, in each case as reasonably requested by CHAB, about the Scheme and AOF Unitholders to CHAB;
- (e) as soon as practicable after the Record Date and in any event before the Implementation Date, give to CHAB details of the names, registered addresses and holdings of Scheme Units of every Scheme Participant;
- (f) provided CHAB has complied with its obligations under clause 7.2(a)(i) and the Deed Poll, on the Implementation Date, pay (or procure the payment of) each Scheme Participant the Transfer Price per Scheme Unit held by that Scheme Participant at the Record Date (less any amounts required to be withheld and remitted to the Australian Taxation Office (**ATO**) in accordance with clause 7.2(b)) either:
 - (i) where a Scheme Participant has, before the Record Date, complied with the requirements of the Registry for nominating a bank account to receive distribution payments that is denominated in Australian currency, by electronic funds transfer to an account nominated by the Scheme Participant; or
 - (ii) otherwise, by cheque sent by pre-paid post:
 - (A) in the case of Scheme Participants who are registered as holding the Scheme Units jointly – the address recorded in the AOF Unit Register on the Record Date of the person whose name appears first in the AOF Unit Register in respect of the joint holding; and
 - (B) otherwise – to the Scheme Participant's address recorded in the AOF Unit Register on the Record Date.
- (g) provided CHAB has complied with its obligations under clause 7.2(a)(i) and the Deed Poll, and subject to AUIREL having paid each Scheme Participant the amounts owing to it under clause 7.1(f), on the Implementation Date, promptly execute and deliver to CHAB proper instruments of transfer of, and register all transfers of, the Scheme Units to CHAB in accordance with the Supplemental Deed; and

- (h) if the Court grants the Second Judicial Advice, promptly do all other things contemplated by or necessary to give effect to the foregoing matters in this clause 7.1 to effect the transfer of the Scheme Units to CHAB.

7.2 Obligations of CHAB

- (a) If the Supplemental Deed becomes Effective and all of the Conditions are satisfied or waived under clause 3.3, CHAB must:
 - (i) by no later than 10.00am on the date that is one Business Day before the Implementation Date, satisfy its obligations under the Deed Poll to pay each Scheme Participant the Transfer Price in respect of each Scheme Unit registered in the name of that Scheme Participant at the Record Date by depositing in cleared funds an amount equal to the Aggregate Scheme Consideration (less any amounts required to be withheld and remitted to the ATO under clause 7.2(b)) into an account nominated by AUIREL in accordance with this document, the Deed Poll and the Supplemental Deed; and
 - (ii) on the Implementation Date, accept the transfer of the Scheme Units under the Scheme for the Aggregate Scheme Consideration (less any amounts required to be withheld and remitted to the ATO under clause 7.2(b)).
- (b) Notwithstanding any other provision of this document, if CHAB determines (acting reasonably) that an amount is required to be withheld under Subdivision 14-D of Schedule 1 of the TAA (**Subdivision 14-D**) from the Transfer Price payable to a Scheme Participant, CHAB:
 - (i) may approach the ATO to obtain clarification as to the application of Subdivision 14-D to the Scheme and AUIREL will provide such information and assistance that CHAB reasonably requires in making that approach, provided that CHAB:
 - (A) provides AUIREL a reasonable opportunity to review the form and content of all materials to be provided to the ATO; and
 - (B) takes into account AUIREL's comments on those documents and more generally in relation to CHAB's engagement with the ATO;
 - (ii) may withhold and remit to the ATO such amounts of the Transfer Price payable to that Scheme Participant that it is required to withhold and remit to the ATO under Subdivision 14-D (or as otherwise expressly approved by the Commissioner of Taxation in writing) (**CGT Withholding Amount**); and
 - (iii) is taken to have paid the CGT Withholding Amount to the Scheme Participant for the purposes of this document and the Scheme, provided that:
 - (A) CHAB has given AUIREL, no later than 1 Business Day after the Record Date, information which is to AUIREL's satisfaction (acting reasonably), which identifies the reasons as to why a liability arises under Subdivision 14-D, and the basis of the calculation of the CGT Withholding Amount;
 - (B) AUIREL has not, at least 2 Business Days prior to the Implementation Date, given information to CHAB which demonstrates that the CGT Withholding Amount should be nil; and

- (C) CHAB has provided each relevant Scheme Participant with the payment confirmation received from the ATO in respect of the amount withheld and remitted.

7.3 **Delisting**

- (a) If the Court grants the Second Judicial Advice, the parties must use reasonable endeavours to ensure that the ASX suspends trading in the AOF Units no later than the close of trading on the Effective Date.
- (b) AUIREL must use its reasonable endeavours to maintain the listing of AOF on ASX and the quotation of all of the AOF Units on ASX until the Implementation Date and must not request that ASX delist AOF or cause any of the AOF Units to cease to be quoted on ASX until after the Scheme Units are all registered in the name of CHAB, as the case may be.

8. **ACCESS**

8.1 **AUIREL to give access to information**

From the date of this document and up to and including the Implementation Date, AUIREL must:

- (a) give CHAB reasonable access to AOF's records and personnel, and reasonable co-operation for the purpose of:
 - (i) the implementation of the Scheme. This obligation does not require AUIREL to provide information to CHAB concerning its directors' and management's consideration of the Scheme;
 - (ii) CHAB's reasonable understanding of the operations of AOF's business in order to allow and facilitate the smooth implementation of the plans of CHAB for that business following the Implementation Date;
 - (iii) providing CHAB with all reasonable assistance with respect to its financing in connection with the Scheme; and
 - (iv) any other purpose which is agreed in writing between the parties;
- (b) engage in reasonable consultation with CHAB in relation to the proposed redevelopment of 10 Valentine Avenue, Parramatta; and
- (c) keep CHAB reasonably informed of all material developments relating to the business and operations of AOF (taken as a whole) (including any material developments relating to the proposed redevelopment of 10 Valentine Avenue, Parramatta) and the Scheme (including the proxy position in respect of the Scheme Resolutions),

however nothing in this clause 8.1 shall require AUIREL or any of its Representatives to:

- (d) do anything which may interfere with, or is inconsistent with, the proper performance by the directors or officers of AUIREL or any AOF Group Member of their fiduciary or statutory duties;
- (e) do anything which may cause any AOF Group Member to be in breach of any existing confidentiality obligations owed to any Third Party or any applicable privacy laws;

- (f) do anything which would affect the ability of an AOF Group Member to allocate resources towards, or otherwise cause undue disruption to, the operation of its business in the ordinary course; or
- (g) provide CHAB with any information which AUIREL considers (acting reasonably) that it cannot or should not provide to CHAB having regard to applicable laws (including any applicable competition or anti-trust laws) or the requirements of any Government Agency.

8.2 **AUIREL to arrange access to properties**

- (a) From the date of this document and up to and including the Implementation Date, and subject to clause 8.2(b) and CHAB providing at least 5 Business Days' written notice of each proposed inspection, AUIREL must provide CHAB and its Representatives with reasonable access within ordinary business hours to the properties owned by the AOF Group for the purposes of CHAB's reasonable understanding of the operations of AOF's business in order to allow and facilitate the smooth implementation of the plans of CHAB for that business following the Implementation Date.
- (b) Nothing in this clause 8.2 shall require AUIREL or any of its Representatives to do anything which may cause undue disruption to a tenant of a property owned by the AOF Group or otherwise affect the ability of an AOF Group Member to allocate resources towards, or otherwise cause undue disruption to, the operation of its business in the ordinary course.

8.3 **Third Party Consents**

- (a) From the date of this document and up to and including the Implementation Date, AUIREL and CHAB must co-operate and consult with a view to agreeing the approach to seeking all Third Party Consents and use reasonable endeavours to seek such Third Party Consents.
- (b) The parties acknowledge and agree that any failure to obtain a Third Party Consent, or the obtaining of any Third Party Consent which is subject to any condition (whether or not acceptable to CHAB) prior to the Implementation Date does not in any way constitute:
 - (i) a breach of this document by AUIREL or otherwise give rise to any right for CHAB to terminate any Transaction Document;
 - (ii) a Material Adverse Change; or
 - (iii) any liability on behalf of AUIREL or any of its Indemnified Parties to, or for the benefit of, a CHAB Group Member.

8.4 **Information provided subject to confidentiality obligation**

All information provided under this document is subject to the terms of the Confidentiality Deed.

9. **BOARD RECOMMENDATIONS**

9.1 **Agreed Announcements**

The Agreed Announcements must be issued by AUIREL following the execution of this document and must state (on the basis of written statements or resolutions made by the

Independent Directors) that the Independent Directors unanimously recommend that AOF Unitholders approve the Scheme Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of the AOF Unitholders.

9.2 **Independent Directors**

AUIREL must use its best endeavours to procure that the Independent Directors:

- (a) do not change, modify or withdraw their recommendations set out in the Agreed Announcements;
- (b) state in the Scheme Booklet that the Independent Directors unanimously recommend the Scheme and that Unitholders approve the Scheme Resolutions, in the absence of a Superior Proposal, and do not change, modify or withdraw those recommendations once made; and
- (c) do not make any public statement to the effect, or take any other action that suggests, that the Scheme is no longer so recommended,

unless:

- (d) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of the AOF Unitholders (or, if the Independent Expert concludes in the Independent Expert's Report that the Scheme is in the best interests of the AOF Unitholders, the Independent Expert subsequently changes that conclusion or withdraws its Independent Expert's Report); or
- (e) there is a Superior Proposal.

9.3 **Independent Director intentions**

The Scheme Booklet despatched to AOF Unitholders must state that each Independent Director who holds AOF Units, or who has control over voting rights attaching to AOF Units, intends to vote those AOF Units in favour of the Scheme or procure that the AOF Units the voting rights of which the Independent Director has control over are voted in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of the AOF Unitholders.

9.4 **Independent Director voting**

AUIREL must use its best endeavours to ensure that each Independent Director who holds AOF Units, or who has control over voting rights attaching to AOF Units:

- (a) intends to:
 - (i) vote those AOF Units in favour of the Scheme Resolutions; or
 - (ii) procure that the AOF Units the voting rights of which the director of AUIREL has control over are voted in favour of the Scheme Resolutions; and
- (b) does not change that voting intention,

unless the Independent Directors change, modify or withdraw their recommendations as permitted under clause 9.2.

9.5 **Independent Directors**

AUIREL represents and warrants to CHAB that it has been advised by each Independent Director at the date of this document that it will make and maintain the recommendation and independent director intention statements in accordance with clause 9.2, 9.3 and 9.4.

9.6 **Notification obligation**

If AUIREL becomes aware of one or more of the Independent Directors changing, withdrawing or modifying his/her recommendation in favour of the Scheme for any reason (other than such circumstances as provided for in clauses 11.5 or 11.6 which will be regulated by those clauses), AUIREL must promptly notify CHAB of this fact.

10. **ANNOUNCEMENT**

10.1 **No Announcement**

No party may make an Announcement relating to the subject matter of this document or its termination or make public this document (or any of its terms) unless the Announcement or publication:

- (a) is required by this document;
- (b) has the prior approval in writing of the other party; or
- (c) is required to be made by any applicable law, the Listing Rules or any other applicable stock exchange regulation.

For the avoidance of doubt, nothing in this clause prevents AUIREL from making any announcement in the ordinary course in relation to the business of AUIREL or AOF generally.

10.2 **Notice of Announcement**

If a party is required to make an Announcement under clause 10.1(c) or make any disclosure relating to the subject matter of this document, it must, to the extent practicable without that party breaking any applicable law, give to the other party:

- (a) such notice as is reasonable in the circumstances of its intention to make the Announcement or disclosure; and
- (b) a draft of the Announcement and an opportunity, which is reasonable in the circumstances, to comment on the contents of the draft Announcement or disclosure.

11. **EXCLUSIVITY**

11.1 **No shop**

During the Exclusivity Period, AUIREL must not, and must ensure that its Representatives do not, except with the prior written consent of CHAB, solicit, encourage, initiate or invite any Competing Proposal or initiate any discussions or negotiations with any Third Party which may reasonably be expected to lead to any Competing Proposal.

11.2 **No talk**

Subject to clauses 11.4 and 11.5, during the Exclusivity Period, AUIREL must not, and must ensure that its Representatives do not, except with the prior written consent of

CHAB, directly or indirectly participate in any negotiations or discussions with a Third Party in relation to a Competing Proposal or any agreement, understanding or arrangement that may reasonably be expected to lead to a Competing Proposal even if that person's Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by AUIREL or any of its Representatives or the person has publicly announced the Competing Proposal.

11.3 **No due diligence**

Subject to clauses 11.4 and 11.5, during the Exclusivity Period, AUIREL must not, and must ensure that its Representatives do not, except with the prior written consent of CHAB, make available to any Third Party, or permit any Third Party to receive, any non-public information relating to AOF, or any part of it, in connection with the formulation, development or finalisation of a Competing Proposal (including by way of providing information and access to perform due diligence on AOF or any part of it).

11.4 **Fiduciary exception**

AUIREL, its related bodies corporate and any of their respective Representatives (including, for the avoidance of doubt, any AUIREL Director) may take or refuse to take any action that would otherwise be prohibited by clauses 11.2, 11.3 and 11.6 in relation to a potential or proposed Competing Proposal (which was not solicited, invited, encouraged or initiated by AUIREL in contravention of clause 11.1) where the Independent Directors have determined that:

- (a) after consultation with their financial advisers, such a Competing Proposal is, or could reasonably be considered to become, a Superior Proposal; and
- (b) after receiving legal advice from their external legal advisers, that taking or refusing to take the action (as applicable) would be likely to constitute a breach of the fiduciary or statutory duties owed by any Independent Director.

11.5 **Further exceptions**

Nothing in this document prevents AUIREL or any of its Representatives from:

- (a) continuing to make normal presentations to, and to respond to enquiries from, brokers, AOF Unitholders and analysts in the ordinary course in relation to the Proposal or the business of any AOF Group Member generally;
- (b) fulfilling its continuous disclosure requirements or otherwise providing information to ASX, ASIC or any other Government Agency; and
- (c) providing information to its auditors, advisors, customers and suppliers in the ordinary course of business.

11.6 **Notification of approaches**

Subject to clause 11.4, and subject to any confidentiality obligations owed to any Third Party, during the Exclusivity Period, AUIREL must promptly notify CHAB (and in any event within two Business Days of becoming aware) if:

- (a) it (or any of its Representatives) receives a bona fide Competing Proposal by any person, including details of the party making the proposal, the material terms of the proposal and any material updates to the proposal; or

- (b) it or its Representatives provide any non-public information concerning the business or operations of AOF to any person in connection with the formulation, development or finalisation of a Competing Proposal.

11.7 **Matching right**

Without limiting clauses 11.1 and 11.2, during the Exclusivity Period, AUIREL:

- (a) must not enter into any legally binding agreement, arrangement or understanding pursuant to which a Third Party, AUIREL or both proposes or propose to undertake or give effect to a Competing Proposal; and
- (b) must use its best endeavours to procure that none of the Independent Directors change their recommendation in favour of the Proposal to publicly recommend an actual, proposed or potential Competing Proposal (or recommend against the Scheme or either of them),

unless:

- (c) the Competing Proposal is a Superior Proposal (or may reasonably be expected to become a Superior Proposal), provided that the Competing Proposal was not directly or indirectly brought about by, or facilitated by, a breach of this clause 11;
- (d) AUIREL has provided CHAB with the material terms and conditions of the Competing Proposal in accordance with clause 11.6(a);
- (e) AUIREL has given CHAB at least five Business Days after the date of the provision of the information referred to in clause 11.7(d) to provide a matching or superior proposal to the terms of the Competing Proposal; and
- (f) CHAB has not announced or otherwise formally proposed to AUIREL a matching or superior proposal to the terms of the Competing Proposal by the expiry of the five Business Day period referred to in clause 11.7(e).

Any modification to any Competing Proposal notified to CHAB under clause 11.7(d) (which will include any modification relating to the price or value of any Competing Proposal) will be taken to make that proposal a new Competing Proposal in respect of which AUIREL must comply with its obligations under this clause 11.7 again.

11.8 **Provision of information**

- (a) Without prejudice to AUIREL's exclusivity obligations under this clause 11 and subject to clause 11.8(b), during the Exclusivity Period, AUIREL must, as soon as reasonably practicable, provide CHAB with:
 - (i) in the case of written materials, a copy of; and
 - (ii) in any other case, a written statement of,

any non-public information about the business or affairs of AOF disclosed or otherwise provided to any Third Party during the Exclusivity Period in connection with a Competing Proposal that has not previously been provided to CHAB or its Representatives, provided that such information is material in the context of the AOF Group (taken as a whole).

- (b) Nothing in this clause 11.8 shall require AUIREL or any of its Representatives to:
 - (i) do anything which may cause any AOF Group Member to be in breach of any existing confidentiality obligations owed to any Third Party or any applicable privacy laws; or
 - (ii) provide CHAB with any information which AUIREL considers (acting reasonably) that it cannot or should not provide to CHAB having regard to applicable laws (including any applicable competition or anti-trust laws) or the requirements of any Government Agency.

11.9 **Legal advice**

AUIREL acknowledges that it has received legal advice on this agreement and the operation of this clause 11 from advisers experienced in transactions of this nature.

12. **AUIREL BREAK FEE**

12.1 **Background**

This clause has been agreed in circumstances where:

- (a) AUIREL believes that the Proposal will provide significant benefits to AOF Unitholders, and AUIREL acknowledges that it is appropriate for AUIREL to agree to the payments referred to in this clause 12 in order to secure for AOF Unitholders the opportunity to vote on the Scheme;
- (b) CHAB has requested that provision be made for the AUIREL Break Fee, without which CHAB would not have entered into this document;
- (c) both the AUIREL Board and the CHAB Board believe that it is appropriate for both parties to agree to the payment referred to in this clause 12 to secure CHAB's entry into this document and participation in the Scheme; and
- (d) the parties have received legal advice on this document and the operation of this clause 12.

12.2 **Payment by AUIREL to CHAB**

AUIREL agrees to pay the AUIREL Break Fee to CHAB if the Scheme does not proceed because:

- (a) **(Competing Proposal)** during the Exclusivity Period, a Competing Proposal is publicly announced or received by AUIREL which is completed in accordance with its terms within 12 months of the date of this document (which includes completion of any Competing Proposal by an associate of a Third Party who made such a Competing Proposal);
- (b) **(termination)** CHAB validly terminates this document in accordance with clause 13.1(b), other than in circumstances in which, at the time of such termination, AUIREL has the right to terminate this document pursuant to clauses 13.1(b) or 13.3(a); or
- (c) **(change of recommendation)** any of the Independent Directors fail to recommend that AOF Unitholders approve the Scheme Resolutions or, having made such recommendation, withdraw or adversely change their recommendation, except where:

- (i) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of the AOF Unitholders or, if the Independent Expert concludes in the Independent Expert's Report that the Scheme is in the best interests of the AOF Unitholders, it subsequently changes that conclusion or withdraws its Independent Expert's Report (other than where that conclusion or the change to that conclusion (as applicable) is due wholly or in a material respect to a Competing Proposal);
- (ii) AUIREL has validly terminated, or has the right to terminate, this document pursuant to clauses 13.1(b) or 13.3(a); or
- (iii) there has been a breach or non-fulfilment of a Condition other than as a result of a breach by AUIREL of clause 3.4(a).

12.3 **No amount payable**

If the Scheme becomes Effective then, notwithstanding the occurrence of any event in clause 12.2:

- (a) no amount is payable by AUIREL under clause 12.2; and
- (b) if any amount has already been paid under clause 12.2 it must be refunded by CHAB within 5 Business Days of the Scheme becoming Effective.

12.4 **Timing of payment**

- (a) A demand by CHAB for payment of the AUIREL Break Fee under clause 12.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of an event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of CHAB into which AUIREL must pay the AUIREL Break Fee.
- (b) AUIREL must pay the AUIREL Break Fee to CHAB under clause 12.2 within 5 Business Days of receipt by AUIREL of a valid demand for payment from CHAB under clause 12.4(a), which demand may only be made after the occurrence of an event referred to in clause 12.2.

12.5 **Nature of payment**

- (a) The AUIREL Break Fee is an amount to compensate CHAB for:
 - (i) advisory costs;
 - (ii) costs of management and directors' time;
 - (iii) out-of-pocket expenses;
 - (iv) reasonable opportunity costs incurred by CHAB in pursuing the Proposal or not pursuing alternative acquisitions or strategic initiatives which CHAB could have developed to further its business and objectives; and

- (v) damage to CHAB's reputation associated with a failed transaction and the implications of that damage for CHAB's business.
- (b) The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under clause 12.2.
- (c) The parties intend and shall use their reasonable endeavours to secure that the AUIREL Break Fee is not treated for GST purposes as consideration for a taxable supply. However, if the AUIREL Break Fee is treated, in whole or in part, as being subject to GST which is payable otherwise than by way of a reverse charge, then the amount of the Break Fee will be regarded as inclusive of such GST.
- (d) Despite any other term of this document, the AUIREL Break Fee is only payable once.

12.6 **AOF Limitation of liability**

Notwithstanding any other provision of this document:

- (a) the maximum aggregate liability of AOF (acting through AUIREL) to all other parties under or in connection with this document, the Scheme and the Supplemental Deed, including in respect of any breach of this document, the Scheme or the Supplemental Deed, will be the amount of the AUIREL Break Fee;
- (b) a payment by AOF (acting through AUIREL) in accordance with this clause 12 represents the sole and absolute liability of AOF (acting through AUIREL) and any of its Representatives under or in connection with this document and no further damages, fees, expenses or reimbursements of any kind will be payable by AOF (acting through AUIREL) in connection with this document; and
- (c) the amount of the AUIREL Break Fee paid to CHAB under this clause 12 shall be reduced by the amount of any loss or damage recovered by any other party in relation to a breach of this document.

Nothing in this clause 12.6 in any way prevents any party from seeking orders from a court of competent jurisdiction for the specific performance by another party of its obligations under this document.

12.7 **Compliance with law**

- (a) If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 12.2:
 - (i) is unlawful or would if performed be, unlawful;
 - (ii) involves a breach of the fiduciary or statutory duties of the AUIREL Board;
or
 - (iii) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then AUIREL's obligation to pay the applicable amount or part of the amount payable under clause 12.2 does not apply and if CHAB or any entity of the CHAB Group has received any such part of the payment due under clause 12.2, it must refund it within 5 Business Days of such final determination.

- (b) No party is entitled to make or cause or permit to be made any application to a Court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 12.7.

13. **TERMINATION**

13.1 **When a party may terminate**

AUIREL or CHAB may terminate this document at any time before the scheduled time for implementation of the Scheme on the Implementation Date by giving notice in writing to the other in the following circumstances:

- (a) **(failure of condition)** in accordance with clauses 3.5 or 3.6;
- (b) **(material breach)** if:
 - (i) at any time before 8.00am on the Second Court Date, the other party is in material breach of any clause of this document;
 - (ii) the terminating party has given notice to the other party setting out the relevant breach and stating an intention to terminate; and
 - (iii) to the extent that the breach is capable of remedy, the relevant party in breach does not remedy the breach by the earlier of 5 Business Days after it receives the notice or 8.00am on the Second Court Date; or
- (c) **(orders)** if a temporary restraining order, preliminary or permanent injunction or other order is issued by any court of competent jurisdiction which would prevent implementation of the Scheme.

13.2 **Termination by CHAB**

Without limiting clause 13.1, CHAB may terminate this document at any time before the scheduled time for implementation of the Scheme on the Implementation Date by giving notice in writing to AUIREL if:

- (a) there is a material breach of any of the representations and warranties in clause 14.2;
- (b) a Prescribed Occurrence occurs; or
- (c) the Independent Directors change, modify or withdraw their recommendation in relation to the Scheme.

13.3 **Termination by AUIREL**

Without limiting clause 13.1, AUIREL may terminate this document at any time before the scheduled time for implementation of the Scheme on the Implementation Date by notice to in writing to CHAB if:

- (a) there is a material breach of any of the representations and warranties in clause 14.1; or
- (b) the Independent Directors change or withdraw their recommendation in relation to the Scheme in accordance with clause 9.2.

13.4 **Effect of termination**

- (a) If a party terminates this document pursuant to clause 13.1, 13.2 or 13.3, all obligations of the parties under this document, other than this clause, clauses 1 (Interpretation), 12 (AUIREL Break Fee), 14 (Representations and warranties), 15 (Indemnities), 16 (Release), 17 (GST), 18 (Notices), 19 (AUIREL Limitation of Liability), 20 (CHAB Limitation of Liability), 21 (Amendment and Assignment) and 22 (General), immediately cease to be of further force or effect.
- (b) The termination of this document does not affect any Claim arising before this document is terminated, that a party may have against another party.

14. **REPRESENTATIONS AND WARRANTIES**

14.1 **CHAB representations and warranties**

CHAB represents and warrants to AUIREL (as responsible entity for AOF and separately as trustee for each of its Indemnified Parties) as at the date of this document, until (and including) 8.00am on the Second Court Date, the Effective Date and the Implementation Date that (except where a representation or warranty is expressed to be given at a particular time, in which case it is given at that time):

- (a) (**status**) it is a corporation validly existing under the laws of its place of incorporation;
- (b) (**power**) it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this document and to carry out the transactions that this document contemplates;
- (c) (**corporate authority**) it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out of the transactions that this document contemplates;
- (d) (**Authorisations**) it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,and, so far as it is aware (after making reasonable enquiries), it is complying with any conditions to which any Authorisation is subject;
- (e) (**document effective**) this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) (**no contravention**) neither the execution of this document by CHAB nor the carrying out of the transactions that this document contemplates by it, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;

- (ii) contravene any Authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene any of their constitutions;
- (g) **(no agreement)** none of CHAB nor any of the CHAB Group Members has entered into any arrangement, agreement or understanding which:
- (i) restricts or limits in any way any person from seeking to acquire any assets or AOF Units other than the Framework Agreement; or
 - (ii) relates to the assets or securities (including AOF Units) of AOF, including for the avoidance of doubt any form of voting or consortium arrangements (other than the Framework Agreement);
- (h) **(no dealing with AOF Unitholders)** other than the Framework Agreement, neither it nor any of the CHAB Group Members has an agreement, arrangement or understanding with any AOF Unitholder under which that AOF Unitholder (or an associate of that AOF Unitholder) would be entitled to receive consideration for their AOF Units different from the consideration payable to it under the Scheme or under which the AOF Unitholder agrees to vote in favour of the Scheme or against any Competing Transaction;
- (i) **(no Insolvency Event)** none of CHAB or any CHAB Group Member is affected by an Insolvency Event;
- (j) **(CHAB Group Information)** all CHAB Group Information given to AOF for inclusion in the Scheme Booklet:
- (i) has been given in good faith;
 - (ii) will be true and correct in all material respects as at the Scheme Booklet Despatch Date; and
 - (iii) in the form and context in which it appears in the Scheme Booklet, is not misleading or deceptive or likely to mislead or deceive (whether by omission or otherwise) and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules, Guidance Note 15 and all applicable regulatory guidance and requirements of ASIC as at the Scheme Booklet Despatch Date;
- (k) **(provision of information to Independent Expert)** all information provided by or on behalf of it to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith;
- (l) **(opinions)** any statement of opinion or belief contained in the CHAB Group Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (m) **(terms of the Scheme)** the terms of this document and, in particular, the acquisition of the Scheme Units under the Scheme, are appropriate for its objectives, financial situation and needs, and the laws, rules and regulations binding upon it;

- (n) **(knowledge and experience)** it has the necessary knowledge and experience to evaluate and understand the financial, investment and other risks involved in acquiring the Scheme Units pursuant to the Scheme and in relation to AOF;
- (o) **(funding)** it will, by the Business Day prior to the Implementation Date, have funds sufficient to perform its obligations under this document and the Deed Poll, if the Scheme becomes Effective; and
- (p) **(trust)**
 - (i) the following definitions apply in this warranty:
 - (A) Trust means the trust known as the CHAB Office Trust constituted by the Trust Deed;
 - (B) Trust Deed means the trust deed establishing the Trust, as amended from time to time; and
 - (C) Trust Fund means the assets of the Trust;
 - (ii) the Trust is duly constituted and no action has been taken to terminate or wind up the Trust nor has the date or any event occurred for the vesting of the Trust Fund;
 - (iii) CHAB is the only trustee of the Trust;
 - (iv) CHAB has been validly appointed as trustee of the Trust and it has not given any notice of resignation and no action has been taken or proposed to remove it as trustee of the Trust or appoint an additional trustee of the Trust;
 - (v) the Trust Deed was properly executed and appropriately stamped;
 - (vi) CHAB has full legal capacity and power under the Trust Deed to enter into and perform its obligations under this document; and
 - (vii) CHAB has a right to be fully indemnified out of the Trust Fund in relation to this document and all of its obligations and liabilities under this document (other than in the case of its fraud, negligence or breach of trust) and, to the best of its knowledge and belief, there is nothing that would prevent it from being fully indemnified out of the Trust Fund for any obligations under or in connection with this document or any of the transactions contemplated by this document that it incurs in its capacity as trustee of the Trust.

14.2 **AUIREL representations and warranties**

AUIREL represents and warrants to CHAB (each on its own behalf and separately as trustee for each of its Indemnified Parties) as at the date of this document, until (and including) 8.00am on the Second Court Date, the Effective Date and the Implementation Date that (except where a representation or warranty is expressed to be given at a particular time, in which case it is given at that time):

- (a) **(status)** AUIREL is a company limited by shares under the Corporations Act;
- (b) **(power)** AUIREL has the power to enter into this document and to carry out the transactions that this document contemplates;

- (c) **(corporate authority)** AUIREL has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out of the transactions that this document contemplates (subject to satisfaction or, as appropriate, waiver of each Condition);
- (d) **(Authorisations)** AUIREL holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,
 and so far as it is aware (after making reasonable enquiries) it is complying with any conditions to which any Authorisation is subject;
- (e) **(document effective)** this document constitutes AUIREL's legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither AUIREL's execution of this document nor the carrying out by AUIREL of the transactions that this document contemplates, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene the AOF Constitution;
- (g) **(no Insolvency Event)** neither it nor any AOF Group Member is affected by an Insolvency Event;
- (h) **(AOF Information)** all AOF Information in the Scheme Booklet:
 - (i) has been included in good faith;
 - (ii) will be true and correct in all material respects as at the Scheme Booklet Despatch Date;
 - (iii) in the form and context in which it appears in the Scheme Booklet, is not misleading or deceptive, or likely to mislead or deceive (whether by omission or otherwise), does not contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Listing Rules, Guidance Note 15 and all applicable regulatory guidance and requirements of ASIC, as at the Scheme Booklet Despatch Date;
- (i) **(provision of information to Independent Expert)** all information provided by or on behalf of it to the Independent Expert to enable the Independent Expert's Report to be prepared and completed will be provided in good faith;

- (j) (**opinions**) any statement of opinion or belief contained in the AOF Information is honestly held and there are reasonable grounds for holding the opinion or belief;
- (k) (**AOF securities on issue**) as at the date of this document, there are 162,831,952 AOF Units on issue;
- (l) (**AOF Group securities on issue**) there are no securities on issue in any AOF Group Member, other than ordinary units, and there are no instruments, options, or rights which may convert into units in any AOF Group Member which are outstanding;
- (m) (**continuous disclosure**) it has complied in all material respects with the continuous disclosure obligations applicable to AOF under the Listing Rules and the Corporations Act;
- (n) (**anti-bribery**) so far as AUIREL is aware, neither AUIREL nor any of its directors, officers or employees has:
 - (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; or
 - (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds, or made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment,

in each case, in violation of any applicable anti-bribery laws in Australia or any other jurisdiction which is applicable to AUIREL or AOF;
- (o) (**money laundering**) so far as AUIREL is aware, the operations of AOF (acting through AUIREL) and each AOF Group Member are and have been conducted at all times in compliance with all applicable money laundering legislation of Australia and any other jurisdiction which is applicable to AUIREL or an AOF Group Member; and
- (p) (**registered scheme**)
 - (i) AOF is duly constituted and registered under Part 5C of the Corporations Act and no action has been taken to terminate or wind up AOF (whether under Part 5C of the Corporations Act or otherwise) nor has the date or any event occurred for the vesting of the assets of AOF;
 - (ii) AUIREL is the only responsible entity of AOF;
 - (iii) AUIREL has been validly appointed as responsible entity of AOF and it has not given any notice of resignation and no action has been taken or proposed to remove it as responsible entity of AOF or appoint an additional responsible entity of AOF;
 - (iv) the AOF Constitution was properly executed;
 - (v) AUIREL has full legal capacity and power under the AOF Constitution to enter into and perform its obligations under this document; and
 - (vi) AUIREL has a right to be fully indemnified out of the assets of AOF in relation to this document and all of its obligations and liabilities under this document (other than in the case of its fraud, negligence or breach of trust) and, to the best of its knowledge and belief, there is nothing that would

prevent it from being fully indemnified out of the assets of AOF for any obligations under or in connection with this document or any of the transactions contemplated by this document that it incurs in its capacity as responsible entity of AOF;

- (q) **(material contracts)** on the date of this agreement and so far as AUIREL is aware, neither AOF nor any AOF Group Member is in material default under any material contract (being a contract which generates, or is expected to generate, annual revenue to an AOF Group Member of at least \$500,000 or more, or pursuant to which an AOF Group Member has incurred a liability of \$500,000 or more) to which a member of the AOF Group is a party, nor has anything occurred which is, or would be with the giving of notice or lapse of time, an event of default;
- (r) **(Disclosure Material)** it has collated and prepared all of the Disclosure Material (other than the information within paragraph (b) of the definition of "Disclosure Material") in good faith for the purposes of CHAB and its Representatives undertaking a due diligence process and has not deliberately omitted or included any information the effect of which is to make the Disclosure Material misleading or inaccurate in any material respect; and
- (s) **(Outstanding Fees)** as at the Implementation Date, there are no fees owing to it or its related bodies corporate from any AOF Group Member in respect of the financial year commencing 1 July 2019 other than fees which have accrued in the ordinary course in accordance with the AOF Constitution, the Property Management Services Agreement and the Investment Management Services Agreement and those accrued fees will not exceed \$600,000 (except to the extent that such fees have accrued or become payable as a result of an action undertaken with the prior written consent of CHAB (or any of its Representatives) under clause 4.3(b)).

14.3 **Reliance on representations and warranties**

Each party acknowledges that the other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made or repeated in clauses 14.1 and 14.2 (as applicable).

14.4 **CHAB acknowledgements**

CHAB acknowledges and agrees that:

- (a) **(Confidentiality Deed)** the Disclosure Materials were provided to it subject to the terms of the Confidentiality Deed;
- (b) **(repayment of capital)** it is fully aware that neither AUIREL nor any of AOF's related bodies corporate guarantees the repayment of capital or the performance of AOF or makes any representations concerning these matters;
- (c) **(information received)** it has had access to all information necessary or appropriate in connection with the transactions contemplated by this document and the Scheme, and has made and relied upon its own assessment of AOF and the Scheme (including, without limitation, the particular tax consequences of the Scheme in light of its particular situation as well as any consequences arising under the laws of any other taxing jurisdiction) and decided to participate based on its own queries and professional advice;
- (d) **(Forward Looking Information)** AUIREL and its Representatives make no representation or warranty in respect of any information provided to CHAB or any

of its Representatives in respect of any future matter, estimate, forecast or budget (**Forward Looking Information**) including, without limiting the above, any representation or warranty as to the reasonableness, accuracy, completeness or relevance of any assumptions underlying the Forward Looking Information. CHAB acknowledges and agrees that:

- (i) Forward Looking Information is inherently uncertain and may prove to be incorrect;
 - (ii) it has not relied on any Forward Looking Information in determining whether or not to enter into this document; and
 - (iii) to the maximum extent permitted by law, AUIREL and its Representatives will not be liable for any Loss suffered by any person, or any Claim made by any person, in relation to the use of, or any action taken upon, the Forward Looking Information and CHAB waives, and must procure that each of its Representatives, waives all rights and Claims against AUIREL or its Representatives in respect of such information;
- (e) (**warranties**) in entering into this document and in proceeding to the Implementation Date, it does not rely on any statement, representation, warranty, condition, forecast or other conduct which may have been made by or on behalf of AUIREL, except the warranties set out in clause 14.2, and each such warranty is subject to matters that:
- (i) have been Fairly Disclosed in the Disclosure Material or any announcement by AUIREL to ASX or document lodged with ASIC prior to the date of this document (or which ought reasonably have been expected to arise from a matter, event or circumstance which was so disclosed or otherwise known to CHAB); or
 - (ii) are within the actual knowledge of any CHAB Group Member or any of their respective Representatives that has been involved in the assessment and/or negotiation of the transactions contemplated by this document; and
- (f) (**recommendation**) nothing in this document, or in any other document provided to it by AUIREL in connection with the transactions under this document constitutes a recommendation or financial product, legal, tax or investment advice.

14.5 **Benefit and enforcement**

Each party holds the benefit of the representations and warranties given to it or repeated in clauses 14.1 and 14.2 (as applicable) on trust severally for each of its Indemnified Parties. Each party acknowledges that each Indemnified Party of another party may bring an action directly against it in respect of any breach of its respective representations and warranties.

14.6 **Notifications**

Each party will promptly advise the other party in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations and warranties given by it or repeated in clauses 14.1 and 14.2 (as applicable).

14.7 **Separate warranties**

Each representation and warranty given or made in this clause 14 is a separate warranty and representation and its meaning is not affected by any other representation or warranty.

14.8 **Survival of representations and warranties**

The representations and warranties given or made in this clause 14 survives termination of this document and is given with the intention that liability under it is not confined to breaches that are discovered before the date of termination of this document.

15. **INDEMNITIES**

15.1 **Indemnities by CHAB**

CHAB indemnifies AUIREL and each of its Indemnified Parties against any Loss or Claim arising from or in connection with a breach by CHAB of any of the representations and warranties in clause 14.1.

15.2 **Indemnities by AUIREL**

AUIREL indemnifies CHAB and each of its Indemnified Parties against any Loss or Claim arising from or in connection with a breach by AUIREL of any of its representations and warranties in clause 14.2.

16. **RELEASE**

- (a) Subject to section 199A of the Corporations Act and clause 16(b), no officer or employee of a party or any related body corporate of a party, is liable for anything done or purported to be done in connection with the implementation of the Scheme.
- (b) Clause 16(a) does not exclude an officer or employee from any liability which may arise from wilful misconduct or a negligent act or omission on the part of the person.
- (c) Each party receives and holds the benefit of this release, to the extent that it relates, to its officers and employees, as agent for them.

17. **GST**

17.1 **GST payable in addition to consideration for taxable supplies**

A recipient of a taxable supply made under or in connection with this document must:

- (a) pay to the supplier, in addition to the consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply, without deduction or set-off of any other amount; and
- (b) make the payment either when the consideration for the taxable supply is payable, or upon demand.

17.2 **Tax Invoice**

The supplier must issue a tax invoice to the recipient for any supply for which the supplier may recover GST from the recipient under or in connection with this document.

17.3 **Consideration exclusive of GST**

Any consideration or payment obligation in this document is exclusive of GST unless stated otherwise.

17.4 **Reimbursement of costs etc**

Any payment or reimbursement required to be made under this document that is by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit and/or reduced input tax credit to which an entity is entitled for the acquisition of the supply to which the cost, expense or amount relates.

18. **NOTICES**

18.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and either delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address or sent in electronic form (such as email).

18.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is sent by mail within Australia, three Business Days after posting, or to or from a place outside Australia, seven Business Days after posting; and
- (b) if it is sent in electronic form, by 5.00pm (local time in the place of receipt) on a Business Day - when sent, or after 5.00pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day - on the next Business Day, provided that no notice of failure of transmission or other error message is received by the sender.

18.3 **Address for notices**

A person's address, email address and fax number are those set out below, or as the person notifies the sender:

AUIREL

Address: 271 Spring Street, Melbourne VIC 3000
Email Address: ERodgers@australianunity.com.au
Attention: Emma Rodgers

CHAB

Address: Level 20, 1 Martin Place, Sydney, NSW, 2000
Email Address: Mark.Bryant@charterhall.com.au
LCarey@abacusproperty.com.au
Copy to: Kate.Towey@allens.com.au /
Chris.Blane@allens.com.au
Attention: Mark Bryant, Lisa-Anne Carey, Kate Towey and Chris Blane

19. **AUIREL LIMITATION OF LIABILITY**

19.1 **Application of this clause**

This clause 19 applies notwithstanding any other provision of this document.

19.2 **Liability**

- (a) The Responsible Entity enters into and incurs Obligations under, this document as responsible entity and in no other capacity. An Obligation can be enforced against the Responsible Entity but only to the extent to which that Obligation can be satisfied out of property of the Trust and out of which the Responsible Entity is actually indemnified for the Obligation (**Limitation of Liability**). However, this Limitation of Liability will not apply to an Obligation of the Responsible Entity to the extent that it is not satisfied because, under this document or any other document establishing the Trust or by operation by law, there is a reduction in the extent of the Responsible Entity's indemnification as a result of the Responsible Entity's fraud, negligence or breach of trust.
- (b) The Recipient may not sue the Responsible Entity in any capacity other than as responsible entity of the Trust, including seeking the appointment of a receiver (except in relation to the property of the Trust), a liquidator, an administrator or any similar person to the Responsible Entity or prove any liquidation, administration or arrangement of or affecting the Responsible Entity (except in relation to the property of the Trust).
- (c) The provisions of this clause do not apply an Obligation to the extent it is not satisfied because under the trust deed establishing the Trust or by operation of law there is a reduction in the extent of the Responsible Entity's indemnification out of the assets of the Trust, as a result of the Responsible Entity's fraud, negligence or breach of trust. The Responsible Entity is not to be regarded as being negligent or in breach of trust to the extent to which any failure by the Responsible Entity to satisfy its obligations under this document has been caused or contributed to by a failure by any person to fulfil its Obligations in relation to the Trust or any other act or omission of another person unless that failure, act or omission by the other person has itself been caused by the neglect or default of the Responsible Entity.
- (d) No attorney, agent, receiver or receiver and manager appointed in connection with any matter arising under or in connection with this document has authority to act on behalf of the Responsible Entity in any way which exposes the Responsible Entity to any liability in its own capacity and not as a Responsible Entity.
- (e) The Responsible Entity is not obliged to do or refrain from doing anything under this document (including incur any liability) unless the Responsible Entity's liability is limited in the same manner as set out in this clause 19.2.
- (f) For the purposes of this clause 19.2:
 - (i) **Obligations** means all obligations and liabilities of whatsoever kind, undertaking or incurred by or devolving upon a Responsible Entity under or in respect of this document or any deed, agreement or other instrument collateral with this document or given or entered into under this document and includes, without limitation, all liabilities of the Responsible Entity in any way connected with any representation, warranty conduct, omission, or agreement related to this document.

(ii) **Trust** means the Australian Unity Office Fund ARSN 113 369 627 constituted by a trust deed (as amended from time to time).

(iii) **Responsible Entity** means Australian Unity Investment Real Estate Limited in its capacity as responsible entity of the Trust or any substitute or replacement responsible entity of the Trust from time to time.

19.3 **Survival**

The provisions of this clause 19 shall survive termination of this document.

20. **CHAB LIMITATION OF LIABILITY**

20.1 **Capacity**

CHAB enters into this document only in its capacity as trustee of the CHAB Office Trust. For the purposes of this clause 20, the Trustee means CHAB and Trust means the CHAB Office Trust.

20.2 **Limitation of liability**

Subject to clause 20.3, and despite any other provision of this document, a liability arising under or in connection with this document is limited and can be enforced against the Trustee only to the extent to which the Trustee, having sought indemnification, is actually indemnified in respect of that liability out of the assets of the Trust. No person will be entitled to:

- (a) claim from or commence proceedings against the Trustee in respect of any liability under this document in any capacity other than as trustee for the Trust;
- (b) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the property of the Trust; or
- (c) enforce or seek to enforce any judgment in respect of a liability under this document against the Trustee in any capacity other than as trustee of the Trust.

20.3 **Qualification to limitation**

The limitation in clause 20.2 does not apply to any obligation or liability of the Trustee to the extent to which there is, in respect of that obligation or liability, whether under the Trust's trust deed or by operation of law, a reduction in the extent of the Trustee's indemnity, or a loss of the Trustee's right to indemnification, out of the assets of the Trust as a result of any fraud, breach of trust or breach of duty by the Trustee.

21. **AMENDMENT AND ASSIGNMENT**

21.1 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

21.2 **Assignment**

A party may only assign, declare a trust over or otherwise deal with its rights under this document with the prior consent of each other party.

22. **GENERAL**

22.1 **Governing law**

- (a) This document is governed by the law in force in Victoria, Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

22.2 **Liability for expenses**

- (a) CHAB must:
 - (i) pay or reimburse all stamp duty, registration fees and similar taxes payable on this document or assessed as being payable in connection with this document or any transaction contemplated by this document including the transfer of the Scheme Units to CHAB pursuant to this document (including any fees, fines, penalties and interest in connection with any of those amounts); and
 - (ii) indemnify AUIREL against, and agrees to reimburse and compensate it for, any liability in respect of any stamp duty, registration fees and similar taxes under clause 22.2(a).
- (b) Each party must pay its own expenses incurred in negotiating, preparing, executing and registering this document.

22.3 **Giving effect to this document**

Each party must do anything within its power (including execute any document and sign, pass, or vote in favour, of all resolutions (including conditional resolutions) necessary), and must use its best endeavours to procure that each of its employees and agents and each director it nominated to the board of a company (subject to the fiduciary obligations owed by that director to the relevant company) does anything (including execute any document and sign, pass or vote in favour of all resolutions (including conditional resolutions) necessary) that any other party may reasonably require to give full effect to this document.

22.4 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

22.5 **No partnership or agency**

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

22.6 **Operation of this document**

- (a) This document, the Supplemental Deed, Deed Poll and the Confidentiality Deed contain the entire agreement between the parties about their subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

22.7 **Operation of indemnities**

- (a) Each indemnity in this document is a continuing obligation and survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

22.8 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), the party may:

- (a) agree or consent, or not agree or consent, in its sole and absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

22.9 **No merger**

No provisions of this document merge on the implementation of the Scheme.

22.10 **Exclusion of contrary legislation**

Any legislation that adversely affects an obligation of a party, or the exercise by a party of a right or remedy, under or relating to this document is excluded to the full extent permitted by law.

22.11 **Inconsistency with other documents**

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

22.12 **Counterparts**

This document may be executed in counterparts. All counterparts together will be taken to constitute one document.

SCHEDULE 1
Supplemental Deed

ashurst

Supplemental Deed

Australian Unity Investment Real Estate Limited

ABN 86 606 414 368

2019

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THIS DEED POLL is made on

2019

BY:

- (1) **Australian Unity Investment Real Estate Limited** (ABN 86 606 414 368) (the **Responsible Entity**)

RECITALS:

- (A) The Responsible Entity is the responsible entity of the Australian Unity Office Fund (ARSN 113 369 627) (the **Trust**) established under the constitution dated 23 March 2005 (as amended from time to time) (**Constitution**).
- (B) The Trust has been registered by the Australian Securities and Investments Commission (**ASIC**) as a managed investment scheme pursuant to section 601EB of the *Corporations Act 2001* (Cth) (**Corporations Act**).
- (C) Units are officially quoted on the Australian Securities Exchange and, as at the date of this deed, there are 162,831,952 Units on issue.
- (D) The Responsible Entity (acting in its capacity as responsible entity of the Trust) and CHAB have agreed, by executing the SIA, to propose and implement the Scheme.
- (E) The Constitution must be amended to facilitate the Scheme.
- (F) Clause 26 of the Constitution provides that the Responsible Entity may, in accordance with the Corporations Act, by supplemental deed modify, add to or otherwise delete from, the Constitution.
- (G) Section 601GC(1)(a) of the Corporations Act provides that the constitution of a registered scheme may be modified by special resolution of the members of the registered scheme.
- (H) At a meeting of Members held on [●] 2019 convened in accordance with the Corporations Act and the Constitution, Members approved the Scheme Resolutions, including a special resolution to modify the Constitution by making the amendments to the Constitution now set out in this deed.

THE PARTIES AGREE AS FOLLOWS:

1. **DEFINED TERMS AND INTERPRETATION**

1.1 **Definitions**

Terms used in this deed have the same meaning as in the Constitution unless otherwise defined in this deed or the context requires otherwise. The following definitions also apply in this deed:

CHAB means CHAB Office Pty Limited (ACN 633 833 566) in its capacity as trustee for the CHAB Office Trust (ABN 57 232 539 578).

Effective Date means the date on which the amendments to the Constitution to facilitate the Scheme come into effect pursuant to section 601GC(2) of the Corporations Act.

Meeting Date means the date on which the Scheme Meeting is held.

Scheme has the same meaning given to it in the SIA.

Scheme Meeting has the same meaning given to it in the SIA.

Scheme Resolutions has the same meaning given to it in the SIA.

SIA means the Scheme Implementation Agreement dated [●] 2019 entered into between the Responsible Entity (acting in its capacity as responsible entity of the Trust) and CHAB, as amended from time to time.

1.2 **Rules for interpreting this document**

- (a) The provisions of clauses 1.1 (Definitions) and 1.2 (Interpretation) of the Constitution apply to this deed as if set out in this deed.
- (b) A reference to time in this deed is a reference to the time in Melbourne, Victoria.

2. **AMENDMENTS TO THE CONSTITUTION**

With effect on and from the Effective Date, the Constitution is amended as follows:

- (a) in clause 1.1, by inserting the following definitions in alphabetical order:

Aggregate Scheme Consideration means the Transfer Price multiplied by the number of Scheme Units.

CHAB means CHAB Office Pty Limited (ACN 633 833 566) in its capacity as trustee for the CHAB Office Trust (ABN 57 232 539 578).

CHAB Scheme means the arrangement, in accordance with Guidance Note 15, under which CHAB will acquire all of the Scheme Units for the Aggregate Scheme Consideration, as set out in clause 41.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by ASX Settlement Pty Ltd (ABN 49 008 504 532).

Condition Satisfaction Date has the meaning given to that term in the SIA.

Deed Poll means the deed poll dated [●] 2019 executed by CHAB in favour of Scheme Participants.

Effective Date means the date on which the amendments to this constitution to facilitate the CHAB Scheme, including the insertion of clause 41, came into effect pursuant to section 601GC(2) of the Corporations Act.

Excluded Unit means a Unit on issue that is held by CHAB on the Record Date.

Guidance Note 15 means *Guidance Note 15: Trust Scheme Mergers* issued by the Takeovers Panel of Australia.

Implementation Date means the date which is 7 Business Days (as defined in the SIA) after the Record Date or such other date as the parties agree in writing.

Record Date means 7.00pm on the date that is 2 Business Days (as defined in the SIA) after the Effective Date or such other date as may be agreed by the parties in writing or as may be required by ASX.

Registry means the share registry of AOF, being Boardroom Pty Limited (ACN 003 209 836).

Scheme Meeting means the meeting of Members, held on [●] 2019 and convened in accordance with the Corporations Act and the SIA, to consider and, if thought fit, approve the Scheme Resolutions, and includes any adjournment of that meeting.

Scheme Participant means each person registered as the holder of a Scheme Unit on the Record Date.

Scheme Resolutions means resolutions of Members to approve the CHAB Scheme including:

- (a) an ordinary resolution approving for all purposes, including item 7 of section 611 of the Corporations Act, the steps required to implement the CHAB Scheme; and
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve the amendments to this deed to facilitate the implementation of the CHAB Scheme.

Scheme Transfer means, for each Scheme Participant, a proper instrument of transfer of their Scheme Units for the purpose of section 1071B of the Corporations Act, which may be a master transfer of all or part of all of the Scheme Units.

Scheme Trust Account means an Australian dollar denominated trust account in the name of the Responsible Entity and operated by the Responsible Entity (or by the Registry on behalf of the Responsible Entity) as trustee for the Scheme Participants.

Scheme Unit means a Unit on issue on the Record Date other than any Excluded Unit.

SIA means the Scheme Implementation Agreement dated [●] 2019 entered into between the Responsible Entity (acting in its capacity as responsible entity of the Scheme) and CHAB, as amended from time to time.

Transfer Price means \$3.04 per Scheme Unit, subject to any reduction required under clause 4.4(b) of the SIA.

- (b) by deleting clause 19.6 and inserting a new clause 19.6 as set out below:

"19.6 Responsible Entity must not hold Units

Notwithstanding any other provision in this constitution, while the Responsible Entity is the trustee or responsible entity of the Scheme, the Responsible Entity (and any replacement responsible entity of the Scheme) must not:

- (a) hold any Units or Securities, in any capacity;
- (b) be a Member, in any capacity; or
- (c) otherwise be or become a beneficiary of the Scheme.

Notwithstanding any other provision of this constitution, this clause 19.6 is irrevocable and cannot be amended under clause 26."

- (c) by inserting a new clause 41 as set out below:

"41 CHAB Scheme

This clause 41 applies on and from the Condition Satisfaction Date.

41.1 Dealings in Units

- (a) For the purpose of establishing the persons who are Scheme Participants, dealings in Units will only be recognised if:
 - (i) in the case of dealings of the type to be effected using CHES, the transferee is registered in the Register as the holder of the relevant Units by the Record Date; and
 - (ii) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Registry by the Record Date.
- (b) The Responsible Entity will register registrable transfers or transmission applications of the kind referred to in clause 41.1(a)(ii) by, or as soon as practicable after, the Record Date.
- (c) The persons shown in the Register, and the number of Scheme Units shown as being held by them, after registration of transfer and transmission applications of the kind referred to in clause 41.1(a)(ii), will be taken to be the Scheme Participants, and the number of Scheme Units held by them, on the Record Date.
- (d) The Responsible Entity will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Participants, any transfer or transmission application in respect of Units received after the Record Date (or received prior to the Record Date not in registrable form) and prior to registration of CHAB as the holder of all Scheme Units under clause 41.4(c).
- (e) The Responsible Entity will, until CHAB has been entered into the Register as the holder of all the Scheme Units, maintain or procure the maintenance of the Register in accordance with this clause 41.1. The Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 41.1(a)(ii) will solely determine the persons who are Scheme Participants and their entitlements to the Scheme Consideration.
- (f) From the Record Date and until registration of CHAB as the holder of all Scheme Units under clause 41.4(c), no Member may deal with Units in any way except as set out in this clause 41 and any attempt to do so will have no effect.
- (g) As from the Record Date, and without limiting clause 41.6, (and, other than for CHAB, following the Implementation Date):
 - (i) all unit certificates and holding statements for Scheme Units will cease to have effect as documents of title in respect of those Scheme Units; and
 - (ii) each entry in the Register as at the Record Date relating to the Scheme Units will cease to have any effect other than as evidence of the entitlements of Scheme Participants to payment of the Transfer Price in respect of the Scheme Units.
- (h) As soon as practicable after the Record Date but before the Implementation Date, the Responsible Entity must give to CHAB

details of the names and addresses shown in the Register of all Scheme Participants and of the number of Scheme Units held by each of them on the Record Date in such form as CHAB may reasonably require.

41.2 Deposit of Aggregate Scheme Consideration

- (a) By no later than 10:00am on the date that is one Business Day before the Implementation Date, CHAB must, in consideration for the transfer of the Scheme Units under clause 41.4, deposit (or procure the deposit) in cleared funds into the Scheme Trust Account an amount equal to the Aggregate Scheme Consideration (less any amounts required to be withheld and remitted to the Australian Taxation Office (**ATO**) under clause 7.2(b) of the SIA).
- (b) The Responsible Entity must hold any amounts deposited into the Scheme Trust Account under clause 41.2(a) on trust for the Scheme Participants for the purpose of paying (or procuring the payment to) each Scheme Participant in accordance with clause 41.3 (except that the amount of any interest on the amounts deposited into the Trust Account (less any bank fees and other charges) will be to CHAB's account).
- (c) For the avoidance of doubt, any amounts deposited into the Scheme Trust Account under clause 41.2(a) shall not constitute Scheme Property.

41.3 Payment to Scheme Participants

- (a) On the Implementation Date, subject to CHAB having satisfied its obligations under the Deed Poll and clause 7.2(a)(i) of the SIA, the Responsible Entity must pay (or procure the payment to) each Scheme Participant from the Scheme Trust Account the Transfer Price per Scheme Unit held by that Scheme Participant at the Record Date (less any amounts required to be withheld and remitted to the ATO under clause 7.2(b) of the SIA) in accordance with clause 41.3(b).
- (b) The obligations of the Responsible Entity under clause 41.3(a) will be satisfied by the Responsible Entity either:
 - (i) where a Scheme Participant has, before the Record Date, complied with the requirements of the Registry for nominating a bank account to receive distribution payments that is denominated in Australian currency, by electronic funds transfer to the account nominated by the Scheme Participant; or
 - (b) otherwise, by cheque sent by pre-paid post:
 - (A) in the case of Scheme Participants who are registered as holding the Scheme Units jointly – the address recorded in the AOF Unit Register on the Record Date of the person whose name appears first in the AOF Unit Register in respect of the joint holding; and
 - (B) otherwise – to the Scheme Participant's address recorded in the AOF Unit Register on the Record Date.

41.4 Transfer of Scheme Units to CHAB

On the Implementation Date, and subject to CHAB having satisfied its obligations under the Deed Poll and clause 7.2(a)(i) of the SIA and the Responsible Entity having paid each Scheme Participant the amounts owing to it under clause 41.3, all of the Scheme Units, together with all rights and entitlements attaching to those Scheme Units as at the Implementation Date, will be transferred to CHAB without the need for any further act by any Scheme Participant (other than acts performed by the Responsible Entity (or its directors or officers) as attorney or agent of the Scheme Participants under clause 41.5) by:

- (a) the Responsible Entity delivering to CHAB for execution duly completed Scheme Transfers to transfer all of the Scheme Units to CHAB, duly executed by the Responsible Entity (or any of its directors or officers) as attorney or agent of the Scheme Participants under clause 41.5;
- (b) CHAB executing the Scheme Transfers as transferee and delivering them to the Responsible Entity for registration; and
- (c) the Responsible Entity, immediately after receipt of the executed Scheme Transfers under clause 41.4(b), entering, or procuring the entry of, the name and address of CHAB in the Register as the holder of all the Scheme Units.

41.5 Covenants by Responsible Entity and Members

- (a) Each Scheme Participant and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the CHAB Scheme and the transactions contemplated by it.
- (b) Without limiting the Responsible Entity's other powers under this clause 41, the Responsible Entity has power to do all things that it considers necessary, desirable or reasonably incidental to give effect to the CHAB Scheme, the SIA and the transactions contemplated by them.
- (c) Each Scheme Participant, without the need for any further act, irrevocably:
 - (i) agrees to the transfer of all of their Scheme Units, together with all rights and entitlements attaching to those Scheme Units as at the Implementation Date, to CHAB in accordance with this clause 41;
 - (ii) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this clause 41;
 - (iii) appoints the Responsible Entity and each of its directors and officers, jointly and severally, as that Scheme Participant's attorney and agent for the purpose of executing any document or doing any other act necessary to give full effect to the CHAB Scheme, this clause 41, and the transactions contemplated by them, including providing to CHAB on behalf of that Scheme Participant a warranty by the Scheme Participant in the terms of the deemed warranty in clause 41.6(a);
 - (iv) consents to the Responsible Entity and CHAB doing all things and executing all deeds, instruments, transfers or other

documents as may be necessary or desirable to give full effect to the CHAB Scheme, this clause 41 and the transactions contemplated by them; and

- (v) appoints the Responsible Entity and each of its directors and officers, jointly and severally, to enforce the Deed Poll against CHAB on behalf of, and as agent and attorney for, the Scheme Participant.
- (d) The Responsible Entity, as agent and attorney for each Scheme Participant, may sub delegate its functions, authorities or powers under this clause 41.5 to all or any of its directors and officers (jointly, severally, or jointly and severally).
- (e) Subject to the Responsible Entity having paid each Scheme Participant the amounts owing to it under clause 41.3, from the Implementation Date until the Responsible Entity registers CHAB as the holder of all Scheme Units in the Register, each Scheme Participant irrevocably appoints the Responsible Entity as its attorney and agent (and directs the Responsible Entity in such capacity) to appoint CHAB (or any nominee of CHAB) as its sole proxy and, where applicable, corporate representative for the purpose of:
 - (i) attending Member meetings;
 - (ii) exercising the votes attaching to the Scheme Units of which they are the registered holder in the Register; and
 - (iii) signing any Members' resolution,

and no Scheme Participant may attend or vote at any of those meetings or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to this clause 41.5(e). The Responsible Entity undertakes in favour of each Scheme Participant that it will appoint CHAB (or any nominee of CHAB) as the Scheme Participant's proxy or, where applicable, corporate representative in accordance with this clause 41.5(e).

41.6 Status of Scheme Units

- (a) Each Scheme Participant warrants to CHAB and the Responsible Entity, and authorises the Responsible Entity to warrant to CHAB as agent and attorney for the Scheme Participant, that all of their Scheme Units (and any rights and entitlements attaching to those Units) which are transferred to CHAB under this clause 41 or otherwise pursuant to the CHAB Scheme will, at the date of the transfer of them to CHAB, be fully paid and free from all mortgages, charges, liens, encumbrances, security interests (including "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those Units) to CHAB pursuant to the CHAB Scheme.
- (b) Subject to the Responsible Entity having paid each Scheme Participant the amounts owing to it under clause 41.3, CHAB will be beneficially entitled to the Scheme Units transferred to it under this

clause 41 or otherwise pursuant to the CHAB Scheme pending registration by the Responsible Entity of the name and address of CHAB in the Register as the holder of those Scheme Units.

41.7 Effect of clause 41

This clause 41:

- (a) binds the Responsible Entity and all Scheme Participants, including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions at the Scheme Meeting; and
- (b) overrides the other provisions of this constitution to the extent of any inconsistency (but, for the avoidance of doubt, remains subject to the Corporations Act and the Listing Rules).

41.8 Responsible Entity's limitation of liability

Subject to the Corporations Act, the Responsible Entity will not have any liability of any nature whatsoever to Members, beyond the extent to which the Responsible Entity is actually indemnified out of the assets of the Scheme, arising, directly or indirectly, from the Responsible Entity doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the CHAB Scheme.

41.9 Implementation of CHAB Scheme

- (a) Subject to the Corporations Act, the Responsible Entity, CHAB and any of their respective directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 41 even if they have an interest (financial or otherwise) in the outcome or in the act, matter or thing or any consequence thereof.
- (b) The Responsible Entity may amend the terms of the CHAB Scheme if:
 - (i) such amendment is not inconsistent with the approval given by the Scheme Participants or such amendment does not adversely affect the rights of Scheme Participants whose Units are to be transferred under the CHAB Scheme; and
 - (ii) such amendment is approved in writing by CHAB.

This clause 41 shall apply to the CHAB Scheme as amended.

41.10 Unclaimed monies

- (a) The *Unclaimed Moneys Act 2008* (Vic) will apply in relation to any amount payable to a Scheme Participant under the CHAB Scheme which becomes "unclaimed money" (as defined in section 3 of that Act).
- (b) The Responsible Entity may cancel a cheque issued on account of the Transfer Price paid in respect of a Scheme Unit if the cheque:
 - (i) is returned to the Responsible Entity; or

- (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.

41.11 Orders of court or Government Agency

- (a) The Responsible Entity may deduct and withhold from the Transfer Price which would otherwise be payable to a Scheme Participant in respect of a Scheme Unit, any amount which CHAB or the Responsible Entity determine is required to be deducted and withheld from that consideration under any applicable law including any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency (including any amounts required to be withheld and remitted to the ATO under clause 7.2(b) of the SIA).
- (b) To the extent that amounts are so deducted or withheld, such deducted or withheld amounts will be treated for all purposes under the CHAB Scheme as having been paid to the person in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Government Agency.
- (c) If written notice is given to the Responsible Entity (or the Registry) of an order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency which:
 - (i) requires consideration that would otherwise have been payable or provided to a Scheme Participant under the CHAB Scheme to instead be paid or provided to a Government Agency or other third party (either through payment of a sum or the issuance of a security) then the Responsible Entity shall be entitled to procure that payment or provision of that consideration is made in accordance with that order, direction or notice (and payment or provision of that consideration in accordance with that order, direction or notice will be treated for all purposes under the CHAB Scheme as having been paid or provided to that Scheme Participant); or
 - (ii) that prevents the Responsible Entity from providing consideration to any particular Scheme Participant under the CHAB Scheme, or the payment or provision of such consideration is otherwise prohibited by applicable law, the Responsible Entity will be entitled to retain the Transfer Price to which that Scheme Participant would otherwise be entitled for a Scheme Unit under the CHAB Scheme until such time as provision or payment of the Transfer Price for that Scheme Unit under the CHAB Scheme is permitted by that order, direction or notice or otherwise by law."

3. BINDING PROVISIONS

The provisions of this deed are binding on and are made for the benefit of the Responsible Entity, each Member and all persons claiming through them.

4. NO RESETTLEMENT OR DECLARATION

The Responsible Entity confirms that it is not by this deed:

- (a) resettling or redeclaring the Trust;

- (b) declaring any trust; or
- (c) effecting or causing the transfer, vesting or accruing of any property comprising the assets of the Trust to or in any person.

5. **NO MERGER**

Each obligation set out in this Supplemental Deed which is capable of having future operation continues in force after the Effective Time although this Supplemental Deed has otherwise been fully performed.

6. **GOVERNING LAW**

This deed is governed by the laws in force in Victoria, Australia. The Responsible Entity submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this deed, and waives any right it might have to claim that those courts are an inconvenient forum.

EXECUTED as a deed poll.

EXECUTED by **AUSTRALIAN UNITY
INVESTMENT REAL ESTATE LIMITED
AS RESPONSIBLE ENTITY OF
AUSTRALIAN UNITY OFFICE FUND:**

Signature of director

Signature of director/secretary

Name

Name

SCHEDULE 2

Deed Poll

ashurst

Deed Poll

CHAB Office Pty Limited as trustee for the CHAB Office
Trust

2019

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THIS DEED POLL is made on

2019

BY:

- (1) **CHAB Office Pty Limited** (ACN 633 833 566) in its capacity as trustee for the **CHAB Office Trust** (ABN 57 232 539 578) (**CHAB**)

FOR THE BENEFIT OF: Each holder of fully paid ordinary units in the **Australian Unity Office Fund** (ARSN 113 369 627) (**AOF**).

RECITALS:

- (A) CHAB and Australian Unity Investment Real Estate Limited (ABN 86 606 414 368) (**AUIREL**) as responsible entity of AOF have entered into a Scheme Implementation Agreement dated [●] 2019 (**SIA**) under which they each agree to take certain steps to implement the Scheme.
- (B) In accordance with the SIA, CHAB is entering into this document to covenant in favour of the Scheme Participants that it will observe and perform its obligations under the SIA and the Scheme.

OPERATIVE PROVISIONS

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

Terms used in this document have the same meaning as in the SIA unless otherwise defined in this document or the context requires otherwise.

1.2 **Rules for interpreting this document**

The provisions of clauses 1.1 (Definitions), 1.2 (Rules for interpreting this document) and 1.3 (Non-Business Days) of the SIA apply to this document as if set out in this document, except where the context makes it clear that a provision is not intended to apply.

2. **CONDITION PRECEDENT AND TERMINATION**

2.1 **Condition precedent**

The obligations of CHAB under this document are subject to the Supplemental Deed becoming Effective.

2.2 **Termination**

The obligations of CHAB under this document will automatically terminate and be of no further force or effect upon the termination of the SIA in accordance with its terms or if the Supplemental Deed has not become Effective on or before the End Date.

2.3 **Consequences of Termination**

If this document is terminated under clause 2.2 then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) CHAB is released from its obligations under this document except those obligations under clause 6; and

- (b) each Scheme Participant retains any rights, powers or remedies that the Scheme Participant has against CHAB in respect of any breach of its obligations under this document that occurred before termination of this document.

3. **COMPLIANCE WITH SCHEME OBLIGATIONS**

3.1 **Scheme obligations of CHAB**

CHAB covenants in favour of each Scheme Participant that it will duly and punctually observe and perform all obligations contemplated of it under and in accordance with the Scheme, including the relevant obligations relating to the provision of the Aggregate Scheme Consideration.

3.2 **Scheme Implementation**

CHAB will do all things that it is required to do under the SIA to implement the Scheme.

4. **WARRANTIES**

CHAB represents and warrants in favour of each Scheme Participant that:

- (a) **(status)** it is a company limited by shares under the laws of its place of incorporation;
- (b) **(power)** it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this document and to carry out the transactions that this document contemplates;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out of the transactions this document contemplates;
- (d) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,and, so far as it is aware (after making reasonable enquiries), it is complying with any conditions to which any Authorisation is subject;
- (e) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither its execution of this document nor the carrying out by it of the transactions that it contemplates, does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;

- (iii) contravene any undertaking or instrument binding on it or any of its property; or
- (iv) contravene its constitution;
- (g) **(no Insolvency)** none of CHAB or its subsidiaries is affected by an Insolvency Event; and
- (h) **(trust)**
 - (i) the following definitions apply in this warranty:
 - (A) Trust means the trust known as the CHAB Office Trust constituted by the Trust Deed;
 - (B) Trust Deed means the trust deed establishing the Trust, as amended from time to time; and
 - (C) Trust Fund means the assets of the Trust;
 - (ii) the Trust is duly constituted and no action has been taken to terminate or wind up the Trust nor has the date or any event occurred for the vesting of the Trust Fund;
 - (iii) CHAB is the only trustee of the Trust;
 - (iv) CHAB has been validly appointed as trustee of the Trust and it has not given any notice of resignation and no action has been taken or proposed to remove it as trustee of the Trust or appoint an additional trustee of the Trust;
 - (v) the Trust Deed was properly executed and appropriately stamped;
 - (vi) CHAB has full legal capacity and power under the Trust Deed to enter into and perform its obligations under this document; and
 - (vii) CHAB has a right to be fully indemnified out of the Trust Fund in relation to this document and all of its obligations and liabilities under this document (other than in the case of its fraud, negligence or breach of trust) and, to the best of its knowledge and belief, there is nothing that would prevent it from being fully indemnified out of the Trust Fund for any obligations under or in connection with this document or any of the transactions contemplated by this document that it incurs in its capacity as trustee of the Trust.

5. **NATURE OF DEED POLL**

5.1 **Reliance**

CHAB acknowledges that:

- (a) this document may be relied on and enforced by any Scheme Participant in accordance with its terms even though the Scheme Participant is not party to it; and
- (b) under the Scheme, each Scheme Participant irrevocably appoints AUIREL and each of its directors and officers, jointly and severally, as its agent and attorney to enforce this document against CHAB on behalf of that Scheme Participant.

5.2 **Continuing obligations**

This document is irrevocable and, subject to clause 2, remains in full force and effect until the earlier of:

- (a) CHAB has completely performed its obligations under this document; and
- (b) termination of this document under clause 2.

6. **STAMP DUTY**

CHAB must:

- (a) pay or reimburse all stamp duty, registration fees and similar taxes payable on this document or assessed as being payable in connection with this document or any transaction contemplated by this document or the SIA including the transfer of the Scheme Units to CHAB pursuant to the SIA (including any fees, fines, penalties and interest in connection with any of those amounts); and
- (b) indemnify each Scheme Participant on demand against, and agree to reimburse and compensate it for, any liability in respect of stamp duty, registration fees and similar taxes arising from a failure to comply with clause 6(a).

7. **CHAB LIMITATION OF LIABILITY**

7.1 **Capacity**

CHAB enters into this document only in its capacity as trustee of the CHAB Office Trust. For the purposes of this clause 7, the Trustee means CHAB and Trust means the CHAB Office Trust.

7.2 **Limitation of liability**

Subject to clause 7.3, and despite any other provision of this document, a liability arising under or in connection with this document is limited and can be enforced against the Trustee only to the extent to which the Trustee, having sought indemnification, is actually indemnified in respect of that liability out of the assets of the Trust. No person will be entitled to:

- (a) claim from or commence proceedings against the Trustee in respect of any liability under this document in any capacity other than as trustee for the Trust;
- (b) seek the appointment of a receiver, receiver and manager, liquidator, an administrator or any similar office-holder to the Trustee, or prove in any liquidation, administration or arrangement of or affecting the Trustee, except in relation to the property of the Trust; or
- (c) enforce or seek to enforce any judgment in respect of a liability under this document against the Trustee in any capacity other than as trustee of the Trust.

7.3 **Qualification to limitation**

The limitation in clause 7.2 does not apply to any obligation or liability of the Trustee to the extent to which there is, in respect of that obligation or liability, whether under the Trust's trust deed or by operation of law, a reduction in the extent of the Trustee's indemnity, or a loss of the Trustee's right to indemnification, out of the assets of the Trust as a result of any fraud, breach of trust or breach of duty by the Trustee.

8. **AMENDMENT AND ASSIGNMENT**

8.1 **Amendment**

A provision of this document may not be amended or varied:

- (a) before the Second Court Date, unless the amendment is agreed to in writing by AUIREL and CHAB; or
- (b) on or after the Second Court Date, unless the amendment is agreed to in writing by AUIREL and CHAB, and is approved by the Court,

and CHAB enters into a further deed poll in favour of each Scheme Participant giving effect to that amendment or variation. For the avoidance of doubt, amendments to this document do not require approval by any Scheme Participant.

8.2 **Assignment**

The rights and obligations of a person under this document are personal. They cannot be assigned, encumbered, charged or otherwise dealt with, and no person shall attempt or purport to do so, without the prior consent of AUIREL and CHAB.

9. **GENERAL**

9.1 **Governing law**

- (a) This document is governed by the law in force in Victoria, Australia.
- (b) CHAB submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waive any right they might have to claim that those courts are an inconvenient forum.

9.2 **Liability for expenses**

Subject to clause 6, each party must pay its own expenses incurred in negotiating, executing, and registering this document.

9.3 **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

9.4 **Operation of this document**

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.

- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

9.5 **Remedies cumulative**

The rights, powers and remedies in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

9.6 **Further assurances**

CHAB will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this document and the transactions contemplated by it.

EXECUTED as a deed poll.

EXECUTED by **CHAB OFFICE PTY LIMITED AS TRUSTEE FOR THE CHAB OFFICE TRUST:**

Signature of director

Signature of director/secretary

Name

Name

SCHEDULE 3

Timetable

Event	Date
Submit draft Scheme Booklet with ASIC for review	Thursday, 12 September 2019
First Court Date	Wednesday, 2 October 2019
Scheme Booklet despatched to AOF Unitholders	Wednesday, 9 October 2019
Scheme Meeting Date	Friday, 1 November 2019
Second Court Date	Monday, 4 November 2019
Effective Date	Tuesday, 5 November 2019
Record Date	Thursday, 7 November 2019
Implementation Date	Monday, 18 November 2019

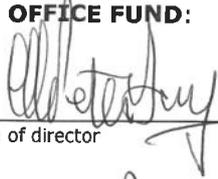
SCHEDULE 4

Responsibility Statement

1. Except as outlined below, the information in this Scheme Booklet has been provided by AUIREL and is the responsibility of AUIREL (**AOF Information**). Neither CHAB nor any of its directors, officers and advisors assume any responsibility for the accuracy or completeness of any such AOF Information.
2. CHAB has provided and is responsible for information contained in section [] of the Scheme Booklet, including information as to the funding arrangements it has made to provide the monies for the Transfer Price per Scheme Unit and information as to CHAB's opinions, views, intentions, and decisions in relation to AOF (collectively the **CHAB Group Information**). AUIREL and its directors, officers and advisors do not assume any responsibility for the accuracy or completeness of the CHAB Group Information.
3. The Independent Expert has provided and is responsible for the information contained in Attachment [] of the Scheme Booklet. Neither AUIREL nor CHAB, nor any of their respective directors, officers and advisors, assumes any responsibility for the accuracy or completeness of the information contained in Attachment []. The Independent Expert does not assume any responsibility for the accuracy or completeness of the information contained in the Scheme Booklet other than that contained in Attachment [].

EXECUTED as an agreement.

EXECUTED by **AUSTRALIAN UNITY
INVESTMENT REAL ESTATE LIMITED AS
RESPONSIBLE ENTITY OF AUSTRALIAN
UNITY OFFICE FUND:**



Signature of director

WILLIAM PETER JNR.
Name



Signature of ~~director~~ secretary

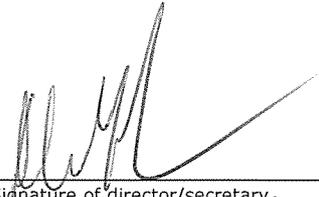
LIESL PETER
Name

**EXECUTED by CHAB OFFICE PTY
LIMITED AS TRUSTEE FOR THE CHAB
OFFICE TRUST:**



Signature of director

Name **Steven Craig Sewell**
Director



Signature of director/~~secretary~~

Name **David William Harrison**