



ASX Release

15 February 2022

Amendments to SAT1 Trust Constitution

Sydney Airport¹ refers to the scheme of arrangement and trust scheme (together, the "**Schemes**") under which Sydney Aviation Alliance Pty Ltd will acquire all of the securities in Sydney Airport.

On 9 February 2022, and as previously announced to the ASX, Sydney Airport lodged with ASIC a copy of the amendments to the SAT1 Trust Constitution approved by Sydney Airport Securityholders at the Scheme Meetings held on 3 February 2022.

In accordance with ASX Listing Rule 15.4.2, a consolidated copy of the SAT1 Trust Constitution is attached.

Authorised for release by the Company Secretary of SAL and TTCSAL

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¹ "**Sydney Airport**" means Sydney Airport Limited (ACN 165 056 360) ("**SAL**") and The Trust Company (Sydney Airport) Limited (ACN 115 967 087) ("**TTCSAL**") as responsible entity for Sydney Airport Trust 1 (ARSN 099 567 921) ("**SAT1**").

Constitution Sydney Airport Trust 1

Manager: The Trust Company
(Sydney Airport) Limited
(ACN 115 967 087)

Constitution deed dated Friday 13 July 2001

Consolidated as at 9 February 2022

Notes to user:

The footnotes contain only selected references to relevant Listing Rule requirements, not an exhaustive list of those which may apply.

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Constitution of the Sydney Airport Trust 1

Date: Friday 13 July 2001

Operative provisions:

This deed poll was declared by Macquarie Specialised Asset Management Limited (ACN 087 382 965) to be the constitution of the Sydney Airport Trust 1.

1. Name of Trust and Investment Policy

- 1.1. The Trust is called the Sydney Airport Trust 1 or by such other name as the Manager determines from time to time¹.
- 1.2. The principal investment policy of the Manager in relation to the Trust is investment in or in relation to both existing and proposed Airport Assets and the making of such other investments with the Assets which in the Manager's opinion are not from time to time required for that purpose. The Manager may vary the principal investment policy, provided reasonable notice is given to Members in order that Members may, if they see fit, dispose of the Units prior to the variation taking effect.
- 1.3. For the purpose of giving effect to the investment policy specified in clause 1.2 but without limiting any other provision of this constitution, the Manager may:
 - (a) invest the Assets in cash and cash equivalents, interests, securities or Other Instruments issued by the Stapled Company;
 - (b) lend Assets or provide any other financial accommodation to the Stapled Company; and
 - (c) enter into hedging contracts in connection with any actual or prospective investment of the Trust or any borrowing by the Trust.

2. Assets held on trust

- 2.1. The Manager must hold the Assets on trust for Members².
- 2.2. The Assets vest in the Manager, but must be clearly identified as property of the Trust and held separately from the assets of the Manager and any other managed investment scheme if and to the extent that the Corporations Act so requires³.

¹ See Corporations Regulation 5C.1.02

² See section 601FC(2) of the Corporations Act

³ See section 601FC(1)(i)

3. Units, and members

Nature of Units

- 3.1. The beneficial interest in the Trust is divided into Units.
- 3.2. Each Fully Paid Unit confers an equal undivided interest.
- 3.3. A Unit confers an interest in the Assets as a whole, subject to the Liabilities. It does not confer an interest in a particular Asset.
- 3.3A The provisions of the constitution relating to Stapling take effect on and from the date of issue of 100 Partly Paid Units under clause 22.1 and an identical number of initial Stapled Units, subject to all other provisions of this constitution which may suspend, abrogate or terminate Stapling.

Classes

- 3.4. Different Classes may be issued. If the Manager determines in relation to particular Units, the Terms of Issue of those Units may:
 - (a) eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units;
 - (b) create rights which are preferred or subordinate to those that apply to other units or another class; and
 - (c) provide for conversion of Units from one Class to another Class and, if the Manager so determines, change the number of Units on such a conversion.

Unless permitted otherwise under an ASIC Exemption, the Terms of Issue of a Class of Units must be set out in this Constitution (which may include in a schedule).

Fractions

- 3.5. Subject to clause 3.7, fractions of a Unit may not be issued. When any calculations under this Constitution would result in the issue of a fraction of a Unit, the number of Units to be issued must be rounded down to the nearest whole Unit. Any excess application or other money becomes an Asset.

Equal value

- 3.6. At any time, all the Units of a Class are of equal value.

Consolidation and redivision

- 3.7. Subject to clause 3.8, the Manager may at any time consolidate or divide the Assets into any number of Units other than the number into which the Assets is for the time being divided.
- 3.8. A consolidation or division of a kind referred to in clause 3.7 must not change the ratio of Units of a Class registered in the name of any Member to the Units on Issue in that Class.

Rights attaching to Units

- 3.9. A Member holds a Unit subject to the rights and obligations attaching to that Unit.

- 3.10. Each Member agrees not to:
- (a) interfere with any rights or powers of the Manager under this Constitution;
 - (b) purport to exercise a right in respect of an Asset or claim any interest in an Asset (for example, by lodging a caveat affecting an Asset); or
 - (c) require an Asset to be transferred to the Member (or any other person).

Directions

- 3.11. Members may not give any directions to the Manager if it would require the Manager to do or omit doing anything which:
- (a) may result in the Manager acting contrary to Law; or
 - (b) would otherwise be within the scope of any discretion or power expressly conferred on the Manager by this Constitution.

Information from Members

- 3.12. Each Member must provide to the Manager any information requested by the Manager (**Required Information**) in a notice sent to the Member (a **Required Information Request**).
- 3.13. Subject to clause 3.14:
- (a) the Manager may issue Required Information Requests at any time and may issue supplementary Required Information Requests seeking more information; and
 - (b) each Member authorises the Manager to use Required Information in any way, including providing it to third parties.
- 3.14. The Manager may only issue a Required Information Request if it believes the Required Information is necessary to:
- (a) comply with any law of Australia (including AML Legislation) or any other jurisdiction or a request for information by a Government Authority where that request is binding on the Manager; or
 - (b) avoid amounts being withheld from any payments to the Trust or any Member; or
 - (c) lessen the risk of the Trust or any Member suffering a material detriment (whether or not financial),

and the Required Information Request specifies a reasonable period within which the Member must provide the Requested Information.

- 3.15. If any Required Information is not provided by the Member within the time and in the manner specified in a Required Information Request then, despite any other provision of this Constitution, the Member must indemnify the Manager for any Loss suffered by the Manager in relation to the Member's failure to provide the Required Information.

- 3.16. Each Member undertakes that any payment of money by the Manager in accordance with instructions provided by the Member (or any agent of the Member) will not breach any law of Australia or any other jurisdiction.
- 3.17. The Manager may enter into agreements with any Government Authority in any jurisdiction where the Manager believes it is reasonably necessary to do so to:
- (a) avoid amounts being withheld from any payments to the Trust or any Member; or
 - (b) lessen the risk of the Trust or any Member suffering a material detriment (whether or not financial).

This includes any agreement with the United States Internal Revenue Service under Chapter 4 of subtitle A of the Internal Revenue Code of 1986.

- 3.18. If the Manager is required to provide any information about Members under any agreement made with a Government Authority then, to the extent permitted by Law, each Member consents to the Manager providing that information.

Capital contributions

- 3.19. Subject to clauses 3.20 and 3.23 a Member may, at any time, pay an amount to the Manager as an additional capital contribution to the Trust.
- 3.20. The Manager may accept or decline an additional capital contribution under clause 3.20 in its absolute discretion. However, unless the Manager decides otherwise and subject to 3.23:
- (a) the amount of the capital contribution must be calculated on a per Unit basis;
 - (b) the total amount to be contributed by the Member must be the per Unit amount multiplied by the total number of Units held by the Member;
 - (c) where there is more than one Member, the amount of the capital contribution must be the same on a per Unit basis for each Member and each Member must make a total contribution as calculated under paragraph (b); and
 - (d) each Member contribution must be paid as one payment within a time specified by the Manager.
- 3.21. Any amount contributed under clause 3.19 and clause 3.20 will become an Asset on payment of the amount to the Manager or as the Manager directs.
- 3.22. Nothing in this clause 3.19 to 3.23:
- (a) restricts the Manager's power to issue Units or any Options or Other Instruments and no clause relating to issuing Units, Options or Other Instruments limits the Manager's powers

under this clause; or

- (b) prevents the Manager from approaching a Member regarding an additional capital contribution or proposing a capital contribution.

3.23. Clauses 3.19 to 3.23 has effect in respect of each Class of Units but is subject to the Terms of Issue of that Class.

4. Partly Paid Units

Terms of Issue

- 4.1. Subject to clause 4.3, the Manager may issue Partly Paid Units on such terms and conditions as it determines. In particular, without limitation, the Manager may determine the number of instalments and the terms on which they are payable. This is subject to the Listing Rules, if applicable.
- 4.2. This clause 4 applies to all Partly Paid Units unless the Terms of Issue of a Unit specify otherwise. If there is an inconsistency between this clause 4 and the Terms of Issue, the Terms of Issue prevail.
- 4.3. While Stapling applies:
 - (a) Units may not be issued on the basis that they are Partly Paid Units unless there is a contemporaneous and corresponding issue of the same number of Attached Securities with terms for the making and payment of calls and Cancellation which are compatible with the Terms of Issue of the Partly Paid Units;
 - (b) any issue of Partly Paid Units will be on the basis that a Call in relation to the Units will not be regarded as having been validly paid unless any amount of any call payable at the same time in relation to the partly paid Attached Securities is also paid; and
 - (c) if any Attached Security is Cancelled, the Manager may Cancel the Unit to which it is Stapled.

Calls

- 4.4. Each Holder of a Partly Paid Unit must pay a Call made in accordance with the Terms of Issue of the Unit. The Manager may only make a Call if the Call is made on all Members of that Class. If the date fixed for payment of a Call is not a Business Day, the Call is due and must be paid on the immediately preceding Business Day.

Interest on late payment of Call

- 4.5. If any Call is not paid on or before the day appointed for payment, the Holder of the Partly Paid Unit must pay interest on the amount of the Call from the day appointed for the payment to the time of actual payment. Interest which accrues on an unpaid Call will become an Asset. Interest will be payable at the Interest Rate (determined as at the day appointed for payment or, if a rate cannot be determined on that day, on the next day that the rate can be determined).

Non receipt of notice of Call

- 4.6. A Call is not invalidated because any Member does not receive a notice of the Call, or because notice is accidentally not sent to any Member.

Deductions for unpaid Calls

- 4.7. If all or part of a Call is not paid by the date appointed for payment, the Manager may apply any amount payable to the relevant Member under this Constitution to pay amounts unpaid under the Call (as well as accrued interest and all costs and expenses incurred by the Manager in relation to the unpaid Call). For the purposes of this clause 4, while Stapling applies, a Call will not be regarded as having been properly paid unless any amount payable at the same time in relation to Attached Securities is also paid.

Notice requiring payment of sums payable

- 4.8. Without limiting clause 4.7, if a Call is not paid in full by the day appointed for the payment, the Manager may give a notice to the Member requiring payment of the unpaid amounts, accrued interest and all costs and expenses incurred by the Manager in relation to the unpaid Call.
- 4.9. The notice must appoint a day (at least 14 days after the date of the notice) by which the payment required by the notice is to be made.
- 4.10. The notice must also state that, if the payment is not made by the day appointed, the Units to which the Call related will be liable to be Cancelled.
- 4.11. While the Trust is admitted to the Official List the notice must also:
- (a) be sent to anyone else specified in the ASX Settlement Operating Rules; and
 - (b) contain any other information required by ASX or the Listing Rules (including the ASX Settlement Operating Rules).

Cancellation on non compliance with notice

- 4.12. If a Member does not comply with a Cancellation Notice, subject to the Listing Rules, any Units the subject of the Cancellation Notice may be Cancelled. The Manager is not liable to a Member for any Loss suffered by the Member as a result of the Cancellation.
- 4.13. Cancellation may be effected by a notice from the Manager, with effect from the date of the notice.
- 4.14. Cancellation includes cancelling all rights to any distributions (and other money payable to the Member relating to the Cancelled Units) not actually paid to the Member before the Cancellation (except where such amounts have already been applied to reduce the Call amount under clause 4.7).
- 4.15. Cancellation of Units in those circumstances is a right of the Manager arising from the Member's failure to comply with a Cancellation Notice. The Manager's right to Cancel a Partly Paid Unit in those circumstances is a Term of Issue of the Unit.

Entry on Register of Members

- 4.16. Where any Unit has been Cancelled in accordance with this clause, the Manager will enter the Cancellation and the date of the Cancellation in the Register of Members.

Issue of Replacement Units

- 4.17. Subject to the Listing Rules, the Corporations Act and any relevant ASIC Exemption, the Manager may issue Units (*Replacement Units*) to replace the Cancelled Units.
- 4.18. Subject to clause 4.19, the Replacement Units will be issued with the same Terms of Issue as Cancelled Units (including the Issue Price). However, subject to clause 4.19, the amount immediately payable in relation to the Replacement Unit will be:
- (a) if the Cancelled Units are Officially Quoted:
 - (i) but do not form part of a Stapled Security, the Market Price of the Partly Paid Units, calculated by reference to the period starting from the day the Units begin to trade on the basis that the Call has been paid; or
 - (ii) as part of a Stapled Security, the Issue Price of the Partly Paid Units determined in accordance with clause 6.3, calculated by reference to the period starting from the day the Stapled Securities begin to trade on the basis that the Call has been paid; or
 - (b) if the Cancelled Units are not Officially Quoted, equal to the amount paid up and payable in relation to the Cancelled Unit (including the amount payable in relation to the Call made but not paid in relation to the Cancelled Unit).

Also, in either case, the Call not paid in relation to the Cancelled Units will be taken to have been paid in relation to the Replacement Units.

- 4.19. Despite clause 4.18, to the extent permitted by the Corporations Act as modified by an ASIC Exemption and subject to the terms of that ASIC Exemption, the Manager may determine the Issue Price of the Replacement Unit as the Manager considers appropriate (including as to the amount immediately payable in relation to the Replacement Unit).
- 4.20. Where clause 4.19 applies and the Cancelled Units are quoted on ASX, then, if required by a relevant ASIC Exemption, the offer of Replacement Units must be made in accordance with section 254Q of the Corporations Act, other than subsections (1), (9), (10) and (13), as if the Replacement Units were shares, the Trust were the company and the Manager were each director of the company.

Not proceeding with Cancellation

- 4.21. At any time before a Unit is Cancelled:
- (a) the Manager may decide not to proceed with the Cancellation on such conditions as it determines; and

- (b) if the Member pays to the Manager the full amount owing in relation to the Units in question (including accrued interest and all costs and expenses incurred by the Manager in relation to the unpaid Call), the Manager must not proceed with the Cancellation.

Liability notwithstanding Cancellation

- 4.22. A Member whose Units have been Cancelled remains liable to pay to the Manager all amounts unpaid specified in clauses 4.25(a), 4.25(b) and 4.25(c) which are referable to the Cancelled Units. That liability ceases when the Manager is paid all such amounts under clause 4.25 or otherwise, and (if relevant) amounts under clause 4.26, in relation to the Cancelled Units.

Lien

- 4.23. Subject to the Listing Rules, the Manager has a first and paramount lien on every Unit for unpaid Calls and other moneys payable to the Manager by the Member in relation to a Unit. That lien extends to all distributions and other money from time to time payable in relation to that Unit.

Sale of Units to enforce lien

- 4.24. For the purpose of enforcing a lien, the Manager may sell the Units subject to the lien in such manner as it thinks fit. This is subject to the requirements of any relevant ASIC Exemption.

Proceeds of issue

- 4.25. The amounts received from issuing the Replacement Units or the sale of Units to enforce a lien (and all distributions and other money from time to time payable but not paid to the Member in relation to the Cancelled Units) must be applied to pay:
 - (a) first, all costs which have been or will be incurred in relation to enforcing the lien or the Cancellation and the issue (as the case may be);
 - (b) second, the amount of the unpaid Call; and
 - (c) third, any accrued interest on the Call and any other moneys payable to the Manager.

The balance (if any) must be paid to the Member whose Units have been Cancelled or sold. If the net proceeds of the Cancellation or sale are insufficient to pay the amounts in paragraphs (a), (b) and (c) then the Member remains liable for the difference between the net proceeds of issue or sale and the sum of those amounts.

Underwriting of Calls

- 4.26. If:
 - (a) the Manager has appointed an underwriter to underwrite the payment of a Call;
 - (b) in discharging its obligations, the underwriter has subscribed for Replacement Units for an amount equal to the Call;
 - (c) the Market Price of Units (or, while Stapling applies, the Issue

Price of Units determined in accordance with clause 6.3) on the day of the purchase is less than the Call; and

- (d) the Manager is liable to the underwriter in respect of the difference,

then the former Member whose Units have been Cancelled is liable to pay to the Manager, in respect of those Cancelled Units, and may be sued for:

- (e) the amounts by which the Call exceeds the Market Price (or Issue Price, as applicable);
- (f) interest; and
- (g) all costs and expenses incurred in procuring payment from the former Member.

- 4.27. The Manager may assign its rights of action under clause 4.26(e) against the former Member to an underwriter in satisfaction of the Manager's liability under clause 4.26(d). The Members acknowledge that rights against each of them under clause 4.26(e) may be assigned in the manner contemplated by this paragraph and such assignment will not affect the ability of the Manager to recover the amounts referred to in clauses 4.25(a), 4.25(b), 4.26(f) and 4.26(g).

Joint Holders

- 4.28. Joint Holders of Partly Paid Units are jointly and severally liable for all amounts due on the Partly Paid Units held by them.

Winding up

- 4.29. The whole of the unpaid Issue Price of each Partly Paid Unit is payable on a Termination Event occurring.

5. Options and other instruments

Issue of Options

- 5.1. The Manager may issue Options:
 - (a) on the basis that the price for a Unit or, if Stapling applies, a Stapled Security to be issued on exercise of the Option (the *Exercise Price*):
 - (i) if the Unit or Stapled Security is Officially Quoted, is the Market Price of the Unit or Stapled Security (as applicable) as at the Calculation Date; or
 - (ii) if the Unit or Stapled Security is not Officially Quoted, is the Issue Price determined in accordance with clause 6.2, calculated as at the last Valuation Time before the Calculation Date; or
 - (iii) is a price determined by the Manager in accordance with clauses 6.5, 6.6 or 6.16; or

- (iv) subject to clause 5.2, is a price determined by the Manager other than in accordance with clauses 5.1(a)(i) to 5.1(a)(iii);
 - (b) for consideration of \$1 or, subject to clause 5.2, for other consideration determined by the Manager (including no consideration); and
 - (c) on such other terms as the Manager determines,
- subject to any requirements of the Listing Rules.

5.2. The Manager may issue an Option on the basis that the Exercise Price is a price determined by the Manager other than in accordance with clauses 5.1(a)(i) to 5.1(a)(iii) or consideration other than \$1 (including for no consideration), to the extent it is permitted to do so by an ASIC Exemption (and subject to the terms of that ASIC Exemption). The following conditions apply to the extent they reflect the requirements of a relevant ASIC Exemption.

- (a) The Manager must offer the Options to Unit Holders on the Register on a date not more than 20 Business Days before the date of the offer (the *Entitled Unit Holders*) in proportion to the value of their interests.
- (b) Subject to clause 6.12, the Manager must make the offer to all Entitled Unit Holders. Subject to clause 5.2(j), Options offered to Entitled Unit Holders but not acquired by them may be issued to other persons.
- (c) The Options offered must be in the same class.
- (d) The issue price and the Exercise Price of all the Options offered must be the same.
- (e) The means of working out the Exercise Price must be set out in the Terms of Issue of the Options.
- (f) If the Units to which the Option relates are Officially Quoted and will not form part of a Stapled Security, the Exercise Price of an Option must not be less than 90% of the Market Price of a Unit determined on the date which is five Business Days before the proposal to issue the Options is announced.
- (g) If the Units to which the Option relates are Officially Quoted as part of a Stapled Security, the Exercise Price of an Option must not be less than 90% of the Market Price of a Stapled Security determined on the date which is five Business Days before the proposal to issue the Options is announced.
- (h) If the Units to which the Option relates are not Officially Quoted, the Exercise Price of an Option must not be less than 90% of the price of a Unit as determined under clause 6.1 or 6.2 (as applicable) on the date which is five Business Days before the Options are offered.
- (i) The Manager must offer the Options to Entitled Unit Holders at

substantially the same time.

- (j) The Manager must only issue Options to any of its associates as Entitled Unit Holders or, if the Units to which the Option relates are Officially Quoted or AFM Quoted, in accordance with clause 6.13.

- 5.3. The entitlement of Holders of Partly Paid Units will be determined by reference to the amount of the Issue Price actually paid up on those Partly Paid Units at the relevant time.

Reorganisation of Options

- 5.4. Subject to the Listing Rules, the Manager may at any time reorganise Options in accordance with their terms.

Option exercise

- 5.5. Options may only be exercised in accordance with their terms and subject to clause 5.15.
- 5.6. The Manager must deal with payment for and issue of Units on exercise of Options as if such payment and issue were an application for Units but the Manager must not refuse to issue any Units except if the Terms of Issue and, if applicable, the Listing Rules permit (or if any Law requires) such refusal.

Other Instruments

- 5.7. Other Instruments may be issued:
 - (a) for consideration or no consideration;
 - (b) on such other terms (including with preferred, deferred or other special rights, obligations or restrictions, with regard to distributions, voting, return of capital, payment of calls, redemption, conversions or otherwise) as the Manager determines.

Rights attaching to Options and Other Instruments

- 5.8. An Option will not confer any interest in, or any rights to participate in the income or capital of, the Trust.
- 5.9. Subject to the terms of the Other Instrument, an Other Instrument will not confer any interest in, or any right to participate in the income or the capital of, the Trust.
- 5.10. Each Option Holder and, subject to the terms of the Other Instrument, each Other Instrument Holder agrees not to:
 - (a) interfere with any rights or powers of the Manager under this Constitution;
 - (b) purport to exercise a right in respect of an Asset or claim any interest in an Asset (for example, by lodging a caveat affecting an Asset); or
 - (c) require an Asset to be transferred to them (or any other person).
- 5.11. Subject to the terms of the Option or Other Instrument and the

Corporations Act, a Holder who is not a Member is entitled to attend any meeting of Members but is not entitled to receive notice of or speak or vote at such a meeting.

- 5.12. Subject to the terms of the Option or Other Instrument and the Corporations Act, a Holder who is not a Member is not entitled to any other rights of a Member.
- 5.13. If an Option or an Other Instrument constitutes an interest in the Trust for the purposes of the Corporations Act, the Terms of Issue must be set out in this Constitution (which may include in a schedule).

Information from Option Holders or Other Instrument Holders

- 5.14. Subject to the terms of the Option or Other Instrument, clauses 3.14 to 3.20 apply to a Holder who is not a Member as if they were a Member.

Exercise of Options and Other Instruments while Stapling applies

- 5.15. While Stapling applies in respect of Units (if applicable, of a Class), an Option to acquire those Units or any other right to acquire those Units under the terms of an Other Instrument may only be exercised if, at the same time the Units are acquired pursuant to the Option or under the terms of the Other Instrument, the same person acquires the same number of Attached Securities.

6. Issue Price for Units

Issue Price while Units are not officially Quoted

- 6.1. The first 100 Units issued on the initial settlement of the Trust⁴ in accordance with clause 22.1 were issued at an Issue Price of \$1 per Unit of which 50 cents was paid at the time of application. All Units issued under the first prospectus for the Trust will be issued at the Issue Price of \$1.98 per Unit which will be payable at the times the Manager specifies.
- 6.2. Subject to clauses 6.3 to 6.16 (inclusive) and to clauses 7.14 to 7.16 and 4.17 to 4.20, for Units that are not Officially Quoted, the Issue Price for any Unit issued after Units issued under the first disclosure document for the Trust will be equal to:

Net Fund Value + Transaction Costs

number of Fully Paid Units on Issue + Partly Paid Proportion

all calculated as at the first Valuation Time after the Manager receives:

- (a) the application for Units; or
- (b) the application money (if applicable) or the Property (or other Investment) to be transferred to the Manager,

whichever happens later.

Issue Price while Units and Stapled Securities are Officially Quoted

- 6.3. Subject to clauses 6.4 to 6.16 (inclusive) and to clauses 7.14 to 7.16

⁴ See “Duration of the Trust”

and 4.17 to 4.20 for Units that are Officially Quoted:

- (a) and do not form part of a Stapled Security, the Issue Price for any Unit will be the Market Price of a Unit on the Calculation Date; or
- (b) as part of a Stapled Security, the Issue Price for any Unit will be the price determined by the Manager in accordance with clauses 6.18 and 6.19. However, the aggregate of the Issue Price of that Unit and the issue price of the Attached Security or Attached Securities to which that Unit will be Stapled must equal the Market Price of a Stapled Security on the Calculation Date.

Rights issues

- 6.4. The Manager may issue Units (or while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager, being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3, by way of rights issue or similar offering. to the extent that it is permitted to do so by an ASIC Exemption (and subject to the terms and conditions of that ASIC Exemption). The following conditions apply to the extent that they reflect the requirements of a relevant ASIC Exemption.
- (a) The Manager must offer the Units to Unit Holders on the Register on a date not more than 20 Business Days before the date of the offer (***Rights Unit Holders***) in proportion to the value of each Rights Unit Holder's interests in the Trust on that date. Subject to clause 6.4(h), Units offered to, but not acquired by, Rights Unit Holders may be issued to other persons.
 - (b) Subject to clause 6.12, the Manager offers Units to all the Rights Unit Holders at substantially the same time.
 - (c) All the Units offered must be in the same Class.
 - (d) The Issue Price of all the Units offered must be the same.
 - (e) If the Units are Officially Quoted but do not form part of a Stapled Security, the Issue Price of a Unit must not be less than 90% of the Market Price for the Units in that Class on the day which is five Business Days preceding the date on which the intention to make the offer or issue is announced to the ASX.
 - (f) If the Units are Officially Quoted as part of a Stapled Security, the issue price of a Stapled Security must not be less than 90% of the Market Price for the Stapled Securities in that Class on the day which is five Business Days preceding the date on which the intention to make the offer or issue is announced to the ASX.
 - (g) If the Units are not Officially Quoted, the Issue Price of a Unit must not be less than 90% of the Issue Price for the Units in that Class (calculated in accordance with clause 6.2) on the day

which is five Business Days preceding the date on which the intention to make the offer or issue is announced.

- (h) The Manager must only issue Units to associates as Rights Unit Holders or, if the Units are Officially Quoted or AFM Quoted, in accordance with clause 6.13.

Placements of Units without Unit Holder Approval

- 6.5. The Manager may issue Units (or while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager, being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3 (as applicable), by way of placement or other non-proportionate offer without Unit Holder approval to the extent it is permitted to do so by an ASIC Exemption (and subject to the terms and conditions of that ASIC Exemption). The following conditions apply to the extent they reflect the requirements of a relevant ASIC Exemption.
 - (a) The Units (or if the Units to be issued are in a Class of Units, Units in that Class), or while Stapling applies the Stapled Securities, must be Officially Quoted or AFM Quoted (and in either case quotation is not suspended).
 - (b) Units must not be issued to the Manager or its associates unless the issue is covered by clause 6.13 or clause 6.14.
 - (c) The issue, together with any Related Issue in the previous year does not, immediately before the issue, comprise more than 15% of Units in that Class.

Placements of Units with Unit Holder Approval

- 6.6. The Manager may issue Units (or while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager, being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3 (as applicable), by way of placement or other non-proportionate offer with Unit Holder approval to the extent it is permitted to do so by an ASIC Exemption (and subject to the terms and conditions of that ASIC Exemption). The following conditions apply to the extent they reflect the requirements of a relevant ASIC Exemption.
 - (a) The Units (or if the Units to be issued are in a Class of Units, Units in that Class), or while Stapling applies the Stapled Securities, must be Officially Quoted or AFM Quoted (and in either case quotation is not suspended).
 - (b) Units must not be issued to the Manager or its associates unless the issue is covered by clause 6.13 or clause 6.14.
 - (c) Unit Holders who hold Units in the same Class must approve the issue by a Placement Resolution.
 - (d) Unless the Manager reasonably considers that the issue will not adversely affect the interests of Unit Holders in another Class (if any) (nor the interests of persons holding interests of any

other kind in the Trust), Unit Holders in that other Class (or persons holding interests of any other kind in the Trust) must approve the issue by a Placement Resolution.

- (e) Any notice convening a meeting to vote on a proposed Placement Resolution must contain particulars of the use to be made of the money raised by the issue.

Issue of Units to acquire an Asset

- 6.7. Where Units that are not Officially Quoted are consideration (in whole or in part) for the acquisition of Property or another Investment, the Issue Price for those Units must be calculated in accordance with clause 6.2 calculated on the date of the agreement under which there will be an issue of the Units.
- 6.8. Subject to clause 6.11, where Units that are Officially Quoted:
 - (a) but do not form part of a Stapled Security are consideration (in whole or in part) for the acquisition of Property or an Investment, the Issue Price for those Units must be the Market Price calculated on the day which is five Business Days before the day on which the Manager publicly announces the transaction (or proposed transaction) under which there will be an issue of the Units (or if there is no such announcement, five Business Days before the date of the agreement under which there will be an issue of the Units); or
 - (b) as part of a Stapled Security are consideration (in whole or in part) for the acquisition of Property or an Investment, the issue price for those Stapled Securities must be the Market Price of a Stapled Security calculated on the day which is five Business Days before the day on which the Manager publicly announces the transaction (or proposed transaction) under which there will be an issue of the Stapled Securities (or if there is no such announcement, five Business Days before the date of the agreement under which there will be an issue of the Stapled Securities).

Reinvestment

- 6.9. The Manager may issue Units (or, while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager, being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3, under a distribution reinvestment arrangement referred to in clause 11.11 (and, when Stapling applies, clause 11.12), to the extent it is permitted to do so by an ASIC Exemption (and subject to the terms and conditions of that ASIC Exemption). The following conditions apply to the extent they reflect the requirements of a relevant ASIC Exemption.
 - (a) Subject to clause 6.12, each Unit Holder may from time to time elect to participate in the distribution reinvestment arrangement as to the whole, or some proportion, of the distributions which are, or would otherwise be, payable to that Unit Holder.

- (b) All the Units issued under the distribution reinvestment arrangement must be of the same Class.
- (c) The price of each Unit issued in relation to any particular distribution must be the same.
- (d) The Units issued in relation to any particular distribution must be issued at substantially the same time.
- (e) While Stapling does not apply, the price of each Unit issued must not be less than 90% of the Issue Price of each Unit, calculated under clauses 6.1, 6.2 or 6.3 (as applicable) as at the date determined by the Manager under clause 11.11 for the reinvestment of entitlements to income.
- (f) While Stapling applies, the price of each Stapled Security issued must not be less than 90% of the Market Price of a Stapled Security as at the date determined by the Manager under clause 11.12 for the reinvestment of entitlements to income.

Issue of Units as Bid Consideration

6.10. If the Manager considers that it would be in the best interests of Members to issue Units as consideration, or part of the consideration, to acquire financial products of a target entity (***Bid Consideration***):

- (a) the Manager may offer the Bid Consideration under a takeover bid made in accordance with Chapter 6 of the Corporations Act, or other offer to acquire financial products of a target entity;
- (b) while Stapling does not apply, the Issue Price of a Unit which is, or forms part of, the Bid Consideration is the Market Price of a Unit (where applicable, of a Class) on the Calculation Date. However, the Manager may amend this Constitution to provide a specific issue price of the Units offered as Bid Consideration; and
- (c) while Stapling applies, the price of a Stapled Security which is, or forms part of, the Bid Consideration is the Market Price of a Stapled Security on the Calculation Date. However, the Manager may amend this Constitution to provide a specific issue price of the Stapled Securities offered as Bid Consideration.

Unit purchase plan

6.11. The Manager may issue Units (or while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3 (as applicable) under a Unit purchase plan undertaken in accordance with an ASIC Exemption.

Foreign Members

6.12. To the extent permitted by the Listing Rules, the Corporations Act and any ASIC Exemption, the Manager is not required to offer Units or Options under clauses 5.2, 6.4 and 6.9 to Members whose address on

the Register is outside Australia.

Underwriting of rights issues and placements by associates of the Manager

- 6.13. Subject to the terms of any relevant ASIC Exemption and to the Corporations Act, the Manager may issue Units or Options to an associate as an underwriter or sub underwriter.

Issues to associates of the Manager

- 6.14. Subject to the Corporations Act, the Listing Rules and any relevant ASIC Exemption, the Manager may issue Units to an associate that holds interests in the Trust.

General

- 6.15. The Terms of Issue of a Class of Units (or, while Stapling applies, Stapled Securities) may specify an Issue Price for those Securities.
- 6.16. Despite any other provision in this clause 6 but subject to any applicable ASIC Exemption and the Listing Rules, the Manager may issue Units (or, while Stapling applies, Stapled Securities) at an Issue Price determined by the Manager, being a price other than the Issue Price calculated in accordance with clauses 6.1, 6.2 or 6.3 (as applicable), to the extent the Manager is permitted under the Corporations Act to do so. This includes specifying an Issue Price by amending this Constitution or, to the extent permitted by the Corporations Act and any applicable ASIC Exemption, determining the Issue Price by reference to specified criteria or a formula.

Satisfaction of Issue Price

- 6.17. The Issue Price may be satisfied by payment of Cash or by transfer to the Manager of Property or another Investment acceptable to the Manager (or by a combination of both). If the Manager accepts Property or Investments, it may, subject to the Corporations Act and any applicable ASIC Exemption, determine that some or all of the costs associated with the valuation, transfer or assignment of the Property or Investments are payable or reimbursable out of the Assets or by the applicant.

Apportionment of Issue Price while Stapling applies

- 6.18. If a Unit is to be issued as part of a Stapled Security the Manager must determine what part of the Issue Price of a Stapled Security is to represent the Issue Price of a Unit for the purposes of this Constitution (*Issue Price Allocation*) in accordance with clause 6.19.
- 6.19. Unless otherwise agreed between the Manager and the other Stapled Entities, the Issue Price Allocation is to be in the ratio that the net assets (adjusted for the net market value of its investments) of the Trust and each Stapled Entity at the end of the relevant period immediately before the issue of the Stapled Security bears to the amount of the aggregate net assets (adjusted for the net market value of their investments) of the Trust and each Stapled Entity at the end of the relevant period immediately before the issue of the Stapled Security. However, subject to clauses 6.7 to 6.16 (inclusive) and clauses 7.14 to 7.16 (inclusive) and clauses 4.17 to 4.20 (inclusive), the aggregate of the Issue Price of that Unit and the issue price of the Attached Security or Attached Securities to which that Unit will be Stapled must equal the Market Price of a Stapled Security on the

7. Application procedure

Offer and minimum subscription

- 7.1. The Manager may at any time offer Units, Options or Other Instruments for subscription or sale. The Manager may determine a minimum amount which must be lodged with an application for Units, Options or Other Instruments and a minimum holding of Units, Options or Other Instruments for the Trust. The Manager may invite persons to make offers to subscribe for or buy Units, Options or Other Instruments.

Form of application

- 7.2. Each application for Units, Options or Other Instruments will, unless the Manager approves otherwise:
- (a) conform with the form and content requirements of any relevant disclosure document; and
 - (b) be accompanied by application moneys as required by any relevant disclosure document; or
 - (c) if there is no relevant disclosure document, be made in such manner as the Manager approves.
- 7.3. While Stapling applies in respect of Units (where applicable, of a Class), an applicant for those Units must, at the same time, apply for an identical number of Attached Securities.

Acceptance or rejection

- 7.4. The Manager may, without giving any reason:
- (a) accept an application;
 - (b) reject an application; or
 - (c) reject part of the application.
- 7.5. While Stapling applies, the Manager must reject an application for Units of a Class which are Stapled (including an application reliant on the exercise of an Option or a realisation under the terms of an Other Instrument) if the applicant does not also apply for an identical number of Attached Securities and if an identical number of Attached Securities will not be issued to the applicant at the same time as the Units.

Uncleared funds

- 7.6. Units, Options or Other Instruments issued against application money in the form of a cheque or other payment order (other than in cleared funds) are void if the cheque or payment order is not cleared within five Business Days (or other period stated in a relevant disclosure document) of being presented for payment.

Issue of Units, Options and Other Instruments

- 7.7. Units, Options or Other Instruments are taken to be issued when:

- (a) the Manager accepts the application and the Units, Options or Other Instruments are entered in the Register; or
- (b) the application money is received by (or Property which is acceptable to the Manager against which Units, Options or Other Instruments are to be issued is transferred to) the Manager,

whichever is the later or at such other time as the Manager determines.

Number of Units issued

7.8. Subject to clause 7.9 and the terms of any Option, Other Instrument or Partly Paid Unit, the number of Units issued at any time in respect of an application for Units will be calculated as follows:

- (a) by dividing the application money or the value of the Property paid by the applicable Issue Price at that time;
- (b) by rounding down to the nearest Unit,

and any balancing amount will become an Asset.

Units as consideration

7.9. Where an Investment is acquired for consideration which includes the issue of Units by the Manager, the number of Units created and issued by the Manager is determined in accordance with the following formula.

$$\frac{MVA - C}{IP}$$

IP

Where:

MVA = the value of the Investment being acquired as determined in accordance with this Constitution

C = the amount of the cash consideration paid in respect of the Investment (if any)

IP = the Issue Price of the Units being issued (as determined in accordance with clause 6.7 or 6.8 (as applicable)).

Certificates

7.10. Unless their Terms of Issue require it, no certificates will be issued for Units, Options or Other Instruments (unless the Manager determines otherwise in relation to some Units, Options or Other Instruments, a Class or all Units).

Defective applications

7.11. Where, within 10 Business Days of the issue of Units, Options or Other Instruments (or such longer period as the Manager determines), the Manager determines that:

- (a) the applicant was not entitled to hold the Units, Options or Other Instruments;

- (b) the application form was incorrectly executed or executed without power or authority;
- (c) the application form was defective and was accepted in error; or
- (d) the application moneys due were not credited to the Manager's account or, if credited, were later reversed by the paying party,

the Manager may, in its sole discretion, cancel those Units, Options or Other Instruments and make an appropriate entry in the Register and, if necessary, repay the application moneys to the applicant out of the Assets. If Units, Options or Other Instruments are cancelled under this clause 7.11, the Manager is not required to adjust the Issue Price or Withdrawal Price determined before the cancellation of the Units, Options or Other Instruments.

- 7.12. Where Stapling applies, the Manager may take any action contemplated by clause 7.11 where the application form is for Stapled Securities.
- 7.13. Where Stapling applies but there are application forms for each part of the Stapled Security, if a Stapled Entity determines in relation to an Attached Security that the application for the Attached Security is defective, the Manager must treat the application for related Units as defective for the purposes of clause 7.11.

Capital Reallocation Issue

- 7.14. The Manager may at any time issue Units (*Capital Reallocation Units*) in either of the following circumstances:
 - (a) a Stapled Entity applies for Capital Reallocation Units as agent for all the holders of Stapled Securities and compulsorily applies a distribution of capital paid out of the Stapled Entity towards the application moneys for those Capital Reallocation Units; or
 - (b) a Stapled Entity applies for Capital Reallocation Units out of a distribution of capital paid out of the Stapled Entity and the Manager is satisfied that immediately following the issue of such Capital Reallocation Units, those Capital Reallocation Units will be distributed pro rata to the holders of Stapled Securities.
- 7.15. The Manager must immediately consolidate the Capital Reallocation Units issued under clause 7.14 with all other Units then on issue in the Trust so that the total number of Units on Issue after the consolidation is equal to the total number of Units on Issue before the issue of the Capital Reallocation Units taking place.
- 7.16. Capital Reallocation Units issued under clauses 7.14 to 7.16 will be issued at an Issue Price equal to the amount derived by dividing the total amount received in relation to the application made under clause 7.14 by the number of Units on Issue on the Calculation Date.

Restriction on issue and redemption of interests

- 7.17. The Manager cannot issue or redeem any Units or any other interests in the Trust from the 80th anniversary of the Commencement Date if that issue or redemption would cause a contravention of the rule against perpetuities or any other rule of law or equity. Subject to clause 27, this clause prevails over all other provisions of this Constitution.

8. Withdrawal Price of Units⁵

- 8.1. The Withdrawal Price for any Unit will be equal to:

$$\frac{\text{Net Fund Value – Transaction Costs}}{\text{number of Fully Paid Units on Issue + Partly Paid Proportion}} \times \frac{\text{amount paid up on that Unit}}{\text{Issue Price of that Unit}}$$

While the Trust is not a Registered Scheme or is Liquid, each of these variables will be calculated as at the next Valuation Time after the Manager received (or is taken to have received) the withdrawal request. If the Trust is a Registered Scheme but is not Liquid, then each such variable will be calculated as at the day the relevant Withdrawal Offer closes.

9. Redemption procedures⁶

Terms of Issue

- 9.1. This clause 9 and clause 18 have effect in respect of each Class of Units but is subject to the Terms of Issue of Units of that Class.

Withdrawal request while Trust is Liquid

- 9.2. Subject to clause 9.4, while the Trust is Liquid or is not a Registered Scheme, any Member may request that some or all of their Units be withdrawn. Each request must:

- (a) satisfy the reasonable form and content requirements prescribed by the Manager; and
- (b) be delivered to the Manager at its registered office (or other place nominated by the Manager).

On making such a request, the Member will have no right to deal with the Units (unless and until the request is denied by the Manager). A Member may not withdraw a withdrawal request unless the Manager agrees.

Action following request

- 9.3. Within 15 Business Days of receiving a withdrawal request under clause 9.2 (*Request Date*), the Manager must consider that request and:

⁵ Required to be included by Section 601GA(4) if the Manager wishes to offer Members a right to withdraw from the scheme.

⁶ These procedures must be fair to all Members: Section 601GA(4)

- (a) notify the Member within 20 Business Days of the Request Date whether it denies or accepts the request; and
- (b) if it accepts the request:
 - (i) effect the withdrawal by causing the number (or value) of Units held by the Member referred to in the withdrawal request to be redeemed at the applicable Withdrawal Price out of the Assets;
 - (ii) subject to the Corporations Act, purchase or arrange for another person to purchase the number (or value) of Units held by the Member referred to in the withdrawal request; or
 - (iii) partially effect the withdrawal in the manner described in subparagraph (i) and partially purchase (or arrange for Units to be purchased) in the manner described in subparagraph (ii).
- (c) The Manager must use all reasonable endeavours to pay the proceeds of withdrawal and purchase to the Member within 30 Business Days of the Request Date (but in any case no later than 60 Business Days of the Request Date).

Suspension of withdrawal request right

- 9.4. Unless the Manager determines otherwise, the right to make a withdrawal request under clause 9.2 is suspended while the Trust is admitted to the Official List.
- 9.5. While the Trust is not admitted to the Official List, the Manager may, in its discretion, suspend the right to make a withdrawal request under clause 9.2.

Withdrawal while Trust is not Liquid

- 9.6. While the Trust is a Registered Scheme but is not Liquid the Manager may make a Withdrawal Offer to all Members or to Members of a Class. A Member may withdraw from the Trust in accordance with the terms of any current Withdrawal Offer. Otherwise, a Member has no right to request that some or all of the Member's Units be withdrawn. A Member may not withdraw an acceptance of a Withdrawal Offer unless the Manager agrees.
- 9.7. A Withdrawal Offer must contain the information required by the Corporations Act and, if applicable, the Listing Rules. The Withdrawal Offer may be made by:
 - (a) publishing it (for example, in a national newspaper or on the internet); or
 - (b) giving a copy to all Members (or Holders of a Class).
- 9.8. Subject to clause 9.3, the Corporations Act and the Listing Rules, the Manager may determine the terms of a Withdrawal Offer.
- 9.9. The Manager may cancel a Withdrawal Offer in accordance with the Corporations Act.

Minimum holding

- 9.10. Subject to the Listing Rules, the Manager may, at any time, on giving 30 days' notice to Members, establish (or reduce or increase) a minimum number of Units which must be held at any time.
- 9.11. On doing so, the Manager may, after giving 30 days' notice to a Member who holds, in aggregate, Units less than the minimum holding, redeem that Member's Units. The Manager may treat a withdrawal request (including acceptance of a Withdrawal Offer), which if accepted, would lead a Member to hold fewer Units than that minimum number, as a request for the withdrawal of all that Member's Units.
- 9.12. If there is more than one Class, this clause only applies to Units in the same Class.
- 9.13. If the Units are Stapled, a Member will be taken to have given a withdrawal request for an equivalent number of Attached Securities to be Cancelled, transferred or Unstapled (as the Stapled Entity decides) to the Stapled Entity.

Sums owed

- 9.14. The Manager may deduct from the proceeds of withdrawal of Units any money due to the Manager in relation to the Member.

Transfer of Assets to effect a withdrawal

- 9.15. Rather than pay Cash to effect a withdrawal in whole or in part, the Manager may transfer Assets to a Member (or the Member's nominee). The Manager must satisfy itself that the Asset Value (with any Cash paid) will equal the total amount of Cash otherwise payable. The Manager may do this on the basis of a valuation of the Assets obtained within one month of the withdrawal date. Expenses incurred in transferring the Assets will be borne by the Member. The Manager is irrevocably appointed as the agent and attorney of each Member or the relevant Member's nominee (as the case may be) to do all things which it reasonably considers are necessary or desirable to be done on behalf of the Member or the Member's nominee (as the case may be) to give effect to a transfer of Assets under this clause.

Liquid or not Liquid

- 9.16. The Manager will determine whether or not the Trust is Liquid. Such a determination is binding on Holders and no Holder will challenge it.

Cooling off

- 9.17. Nothing in this clause 9 prevents the Manager from complying with any requirement to return application money to Members in accordance with Part 7.9 of the Corporations Act or with any similar requirement that applies to the Manager or the Trust.

Order

- 9.18. Unless the Manager decides otherwise, the first Units issued to a Member are the first Units withdrawn.

Redemption by Manager

- 9.19. The Manager may, in its absolute discretion but subject to clause 9.22, redeem some or all Units held by a Member or held by all Members

(and may also redeem all or any Units of a Class). The Manager may do this whether or not the Trust is Liquid.

- 9.20. Subject to clause 9.21, the Manager must give at least 30 Business Days' notice of its intention to redeem Units under this clause.
- 9.21. The Manager need not give notice under paragraph (b), or may give shorter notice, if the Manager considers that the redemption is necessary:
- (a) in order to comply with a Law; or
 - (b) to comply with the terms of any agreement with a Government Authority (including any agreement with the United States Internal Revenue Service under Chapter 4 of subtitle A of the Internal Revenue Code of 1986); or
 - (c) to lessen the risk of the Trust or Members (or a Class of them) suffering a material detriment.
- 9.22. While the Units are Officially Quoted, the Manager may, subject to and in accordance with the Listing Rules and the Corporations Act, redeem Units in accordance with this clause 9.19 to 9.23.
- 9.23. Units redeemed under this clause will be redeemed at the Withdrawal Price determined under clause 10 as at the next Valuation Time after notice is given of the proposed redemption (or, if no notice is given, at the next Valuation Time after the Manager decides to effect the redemption).

On market buy back of Units

- 9.24. The Manager may buy back Units on market to the extent permitted by the Listing Rules, the Corporations Act and the terms and conditions of any relevant ASIC Exemption.

10. Valuation of Assets

Valuation of an Asset

- 10.1. Subject to clause 10.2, the Manager may cause an Asset to be valued at any time.

Valuation if required

- 10.2. The Manager must cause an Asset to be valued if required by ASIC or under the Corporations Act and the valuation must be undertaken in accordance with those requirements.

Valuation method

- 10.3. The Manager may determine and vary valuation methods and policies for each category of Asset. Unless the Manager determines otherwise, the value of an Asset will be its market value. Where the Manager values an Asset at otherwise than its market value, the valuation methods and policies applied by the Manager must be consistent with ordinary commercial practice for valuing an Asset of that kind and must be reasonably current having regard to the nature of the Asset.

Determination of Net Fund Value

- 10.4. The Manager may determine the Net Fund Value at any time in its discretion, including more than once a day.

11. Income and distributions to Members

Distributable Income

- 11.1. The *Distributable Income* of the Trust for a Financial Year or an Interim Distribution Period is equal to the Trust Income for the period, unless the Manager determines otherwise under clause 11.2 before the end of the Financial Year.

Determination of Income and categories of Income

- 11.2. In respect of a Financial Year, the Manager may determine the amount of the Distributable Income for the Trust, including:
- (a) whether an amount of income or gain which is earned, received or accrued represents either income or capital of the Trust and in relation to that Financial Year;
 - (b) by keeping separate accounts of different classes and sources of income and allocate or distribute a separate class of income to any Member for the purpose of making or satisfying a distribution of Trust Income;
 - (c) by applying the principles set out in clause 11.4(a); and
 - (d) by allocating expenditure or losses directly referable to any separate class of income maintained under paragraph (b) and allocate all other expenditure pro-rata across the income categories.

Determination of Reserves

- 11.3. The Manager must determine before the end of the relevant Financial Year the extent to which the income of the Trust is to be adjusted by allocating such amount as it considers proper in accordance with generally accepted accounting principles to a provision or any reserve account for the purpose of meeting anticipated expenses or obligations of the Trust.

Distributions

- 11.4. Except in any income year in which the Manager is taxed as a company:
- (a) before termination of the Trust, the Manager may, for a Financial Year (but only when applying clause 11.2 to determine Distributable Income) or in respect of any Interim Distribution Period, distribute an amount (capital or income) from the Trust to Members. A distribution made by the Manager to a Member under this clause will be taken to be a distribution of:
 - (i) capital gains;
 - (ii) franked dividends; or

(iii) any other class or classes of Trust Income,

of the relevant Financial Year or Interim Distribution Period to the extent the Manager determines the distribution constitutes a distribution of such capital gains, franked dividends or any other class of Trust Income derived by the Trust during that Financial Year or Interim Distribution Period;

- (b) except as otherwise provided by this Constitution, the distribution (whether of Distributable Income or otherwise) referable to a class of Units for each Financial Year or Interim Distribution Period must be distributed to Members who hold Units in that class pro rata to the number of Units they hold in that class at the end of the Financial Year or Interim Distribution Period;
- (c) subject to paragraph (d) below and the Terms of Issue of any class of Units on issue, each Member registered at midnight on the last day of each Financial Year, has a vested and indefeasible interest on and is presently entitled to, a share of the Distributable Income for that Financial Year not previously distributed in any prior Interim Distribution Period for each Unit held by that Member in the proportion set out in paragraph (b) above; and
- (d) in calculating the number of Units held by a Member and the number of Units on issue, each Partly Paid Unit is to be counted as a Unit multiplied by the proportion of the Issue Price that is actually paid up on the Partly Paid Unit at the relevant time.

11.5. Subject to clause 11.1, the Manager may at any time distribute any amount of capital or income to Members in a class pro rata to the number of Units they hold in that class at the time of the distribution.

Distribution of Distributable Income

11.6. Within 90 days of the end of the Financial Year, the Manager must pay to the Members on the Register at the end of the last day of that Financial Year an amount equal to the Distributable Income of the Trust for the Financial Year less any amounts previously distributed during that Financial Year.

Capital distributions

11.7. Without limiting clause 11.4(a), the Manager may distribute capital of the Trust to the Members. Subject to the Terms of Issue of any particular Unit or Class, a Member is entitled to that proportion of the capital to be distributed as is equal to the number of Units held by that Member on a date determined by the Manager divided by the number of Units on the Register on that date. A distribution may be in Cash or of Assets or by way of bonus Units. The Manager is irrevocably appointed as the agent and attorney of each Member to do all things which it reasonably considers are necessary or desirable to be done on behalf of the Members to give effect to a distribution of Assets under this clause.

Grossed up Tax amounts

- 11.8. Subject to the Terms of Issue of any particular Unit or Class, the grossed up amount under the Tax Act in relation to Tax credits or franking rebates is taken to be distributed to Members in proportion to the Distributable Income for a Financial Year or an Interim Distribution Period, as the case may be, which is referable to a dividend or other income to which they are presently entitled.

Excess or under distribution

- 11.9. If at the end of a Financial Year, the auditor of the Trust determines that the amount distributed as Distributable Income under this clause 11 of the Trust exceeds the aggregate of the Trust Income for such Financial Year, the excess will be taken to be a distribution of capital.
- 11.10. If at any time after a distribution has been made in accordance with clause 11.6, it is determined by the Manager that an amount that should have been included in the Distributable Income for a Financial year was not so included, then for the avoidance of doubt the Members on the Register at midnight at the end of the relevant Financial Year remain presently entitled to the amount under this clause 11 and it is to be distributed to those Members at the earliest convenience as determined by the Manager.

Reinvestment

- 11.11. At any time:
- (a) subject to the Listing Rules, the Corporations Act and any applicable ASIC Exemption, the Manager may decide to require Members to reinvest some or all of any distribution; and
 - (b) a Member may, if the Manager approves, elect to reinvest some or all of any distribution,

by acquiring Units in the Trust and the amount of distribution must be applied on behalf of the Member to acquire the additional Units in the Trust. In those cases, the Manager is treated as having received an application to reinvest distributions on the first Business Day after the distribution is paid at an Issue Price determined in accordance with clause 6. The procedure for reinvestment of distributions is to be determined by the Manager and notified to Members from time to time.

Reinvestment while Stapling applies

- 11.12. While Stapling applies:
- (a) no reinvestment may occur unless, contemporaneously with the reinvestment in additional Units, the Member subscribes for or purchases an additional number of Attached Securities which, when issued or acquired, are Stapled to the additional Units;
 - (b) the Manager may pay the subscription and purchase price for those Attached Securities out of a distribution available for reinvestment under clause 11.11;
 - (c) if the amount to be reinvested in additional Stapled Securities results in a fraction of a Stapled Security, the money

representing the fraction may be paid to the Member or held for future reinvestment in the Trust and the Stapled Entity in such proportions as the Manager and the Stapled Entity may determine; and

- (d) whenever under this Constitution or by law money is held on behalf of a Member for future reinvestment, the money so held may be aggregated and, on each occasion on which the aggregated amount equals the Issue Price of a Unit, the amount will be applied to purchase a new Unit for issue to the Member (as part of a Stapled Security only).

Member's rights

11.13. Despite anything in this clause 11:

- (a) the rights of a Member under this clause 11 are subject to the Terms of Issue of the Units which they hold; and
- (b) subject to their Terms of Issue, for the purposes of distribution entitlements, Partly Paid Units will be treated as that proportion of a whole Unit as the amount paid up bears to the total Issue Price for that Unit, rounded to the nearest two decimal places, or will be treated in such other manner as the Manager determines.

Trust taxed as company

11.14. If the Trust is to be taxed as if it were a company, the Manager may determine that this clause 11.14 applies to any period (a *Distribution Period*) instead of clauses 11.1 to 11.11. If it does so:

- (a) As soon as practicable after the end of the Distribution Period the Manager must determine the income in respect of the Distribution Period. Unless the Manager determines otherwise before the end of the Distribution Period, income will be calculated in accordance with applicable Australian Accounting Standards.
- (b) The Manager must provide for, and pay from the Assets of the Trust when appropriate, all Tax attributable to the income of the Trust.
- (c) The Manager may, in its discretion from time to time, determine to pay such amounts of income (if any) as a distribution in respect of the Distribution Period (each a Distributable Amount) to Members on the Register on any date determined by the Manager (*CD Date*).
- (d) For each Distributable Amount being paid to Members under this clause 11.14 the Manager:
 - (i) must comply with the Tax Act; and
 - (ii) may do anything required or permitted by the Tax Act in relation to trusts which are taxed as if they were companies.
- (e) A Member is entitled to a portion of the Distributable Amount,

calculated as follows:

$$\frac{A \times C}{B}$$

Where:

A = the aggregate of the number of Units held by the Member as at the close of business on the CD Date for that Distributable Amount which are entitled to a full income distribution plus, if the Member holds on the CD Date for that Distributable Amount Units which have proportionate income entitlement in accordance with clause 11.13, the aggregate number of such Units held by that Member multiplied by the relevant proportion;

B = the aggregate of the total number of Units entitled to a full income distribution plus, if Units have been issued which have a proportionate income entitlement in accordance with clause 11.13, the aggregate of the total number of such Units multiplied by the relevant proportion in each case calculated as at the close of business on the CD Date for that Distributable Amount; and

C = the Distributable Amount.

- (f) The Distributable Amount must be paid to Members within two Months after the relevant CD Date.

Managed Investment Trust compliance

- 11.15. Without limiting clause 24 but subject to the Corporations Act, the Manager is authorised to make any amendment to this Constitution that the Manager considers is necessary or desirable to assist the Trust to become a Managed Investment Trust or to be subject to any specific income tax regime for Managed Investment Trusts.

Withholding Tax

- 11.16. The Manager may deduct from any amount dealt with under this clause any Tax that it is required by Law to deduct from such amount.

12. Payments

Money payable

- 12.1. Subject to the Terms of Issue relating to a Class of Units, money payable by the Manager to a Holder may be paid in any manner the Manager decides.

Cancel cheques

- 12.2. The Manager may cancel cheques drawn by the Manager that are not presented within six Months. Subject to the Corporations Act, when such a cheque was drawn in favour of a Holder, the money may be:
- (a) in the case of a Member, reinvested in Units at the Issue Price prevailing at the next Valuation Time after the day the cheque is cancelled; or

- (b) held by the Manager for the benefit of the Holder; or
 - (c) paid by the Manager in accordance with applicable unclaimed money legislation.
- 12.3. The same applies where the Manager attempts to make a payment to a Holder by electronic transfer of funds and the transfer is unsuccessful three times. However, the Manager may also then draw a cheque in favour of the Holder.

Joint Holders

- 12.4. A payment to any one of joint Holders will discharge the Manager for the payment.

Deductions for Tax or other payments

- 12.5. The Manager may deduct from any amount payable to a Holder or former Holder (or received from a Holder or former Holder) any amount of Tax or other payment (or an estimate of it) which the Manager reasonably believes it must or should deduct, in respect of that Holder or former Holder.

13. Powers of the Manager

Powers

- 13.1. The Manager has all the powers:
- (a) in respect of the Trust that it is possible under the Law to confer on a trustee;
 - (b) as though it were the absolute owner of the Assets and acting in its personal capacity; and
 - (c) necessary for fulfilling its obligations under this Constitution and at Law.
- 13.2. Without limiting clause 13.1, the Manager's powers include the following.
- (a) To acquire Property or dispose of Assets for cash or other consideration.
 - (b) To develop, improve and otherwise deal with any Assets (including by granting a lease or licence over an Asset).
 - (c) To borrow, raise money or otherwise obtain financial accommodation (for example, for the purposes of clauses 13.2(a) and 13.2(b)) and to incur all types of obligations and liabilities.
 - (d) To create Security Interests over the Assets or any Asset (for example, for the purposes of clauses 13.2(c) and 13.2(e)).
 - (e) To guarantee liabilities of any person or provide indemnities in respect of such liabilities.
 - (f) To apply for listing of the Trust, and quotation of the Units

(and, while Stapling applies, quotation of Stapled Securities), Options or Other Instruments (or any other financial product), on any securities exchange, including the ASX, and for this purpose the Manager is authorised on its own behalf and on behalf of each Holder as the Holder's agent or attorney to do all things necessary to effect a listing and quotation.

- (g) To make any kind of Investment.
- (h) To enter into Derivatives.
- (i) To buy back Units.
- (j) To fetter future discretions, such as by the granting of options.
- (k) To enter into any arrangement or agreement with underwriters in relation to the Trust.
- (l) To institute, defend and compromise legal proceedings, including arbitrations and investigations.
- (m) To insure any Assets against all or any risks and for amounts the Manager considers appropriate.
- (n) To attend and vote at meetings of any company or other entity.

Delegation

- 13.3. The Manager may appoint delegates or agents (including Custodians) to perform any act or exercise any power of the Manager (including a power in turn to appoint its own agent or delegate).
- 13.4. An agent or delegate may be an associate or employee of the Manager.
- 13.5. An appointment may be joint.
- 13.6. Subject to section 601FB of the Corporations Act, the Manager will not be liable for the acts or omissions of any delegate so long as reasonable care is taken in selecting the delegate. The Manager may include provisions in the delegate's appointment to protect and assist those dealing with the delegate as the Manager thinks fit.

Advisers

- 13.7. Without limiting clause 13.1, the Manager may engage Advisers to assist it with its duties and functions under this Constitution. An Adviser may be an associate or employee of the Manager.

14. Retirement of Manager

Voluntary retirement while a Registered Scheme

- 14.1. While the Trust is a Registered Scheme, the Manager may retire as the responsible entity of the Trust as permitted by the Corporations Act.

Voluntary retirement while not a Registered Scheme

- 14.2. While the Trust is not a Registered Scheme, the Manager may retire on not less than two Months' notice to Members (or such shorter period as they agree). On retirement, the Manager may appoint in writing

another person to be the trustee.

Compulsory retirement

- 14.3. The Manager must retire as the responsible entity of the Trust when required by Law.

New Manager

- 14.4. Any replacement trustee must execute a deed by which it covenants to be bound by this Constitution as if it had originally been a party to it. While the Trust is not a Registered Scheme the Manager must also be a party to that deed and agree to do all things reasonably necessary to facilitate the change of trustee.

Release

- 14.5. When the Manager retires or is removed, subject to the Corporations Act, the Manager is released from all obligations in relation to the Trust arising after the time it retires or is removed.

Retirement benefit

- 14.6. Subject to the Listing Rules and the Corporations Act, the Manager is entitled to be paid by, or receive a benefit from, the incoming trustee or any other person for:

- (a) agreeing to submit a proposal for its retirement to a meeting of Members, and nominating to the Members the incoming trustee as its replacement; or
- (b) retiring as trustee,

and is not required to account to Members for such payment or benefit. The Members consent to the Manager receiving any such payment or benefit. The Manager is also entitled to sell part or all of its business relating to managing the Trust to the incoming trustee (or any related body corporate or associate of the incoming trustee) for any consideration the parties may agree and the Members consent to it doing so.

15. Notices to Members, Option Holders and Other Instrument holders

- 15.1. A reference to a document includes a notice. Subject to the Corporations Act and the Listing Rules:
- (a) A document may be given by the Manager to any Holder by, in the Manager's discretion:
 - (i) serving it on the Holder personally;
 - (ii) sending it by post to the Holder or leaving it at the Holder's address as shown in the Register or the address nominated by the Holder to the Manager for the giving of documents;
 - (iii) sending it to the fax number nominated by the Holder to the Manager for the giving of documents;
 - (iv) sending it to the electronic address nominated by the

Holder to the Manager for the giving of documents or by other electronic means nominated by the Holder;

- (v) if a Holder nominates any electronic means by which the Holder may be notified that documents are available and may access documents, sending a notification that the document is available for access, in each case by the relevant electronic means; or
 - (vi) serving it in any manner contemplated in this clause 15.1 on a Holder's attorney as specified by the Holder in a notice given under clause 15.1(b).
- (b) By written notice left at or sent to the registered office of the Manager or the Manager's securities registry, a Holder may request that all documents to be given by the Manager be served on the Holder's attorney at an address, or by the electronic means, nominated in the notice and the Manager may do so in its discretion.
- (c) A document may be sent to a Holder whose address for documents is outside Australia by airmail, air courier or fax or otherwise be sent or made available electronically (including as contemplated by clause 15.1(a)(v)).
- (d) Any document sent by post is conclusively considered to have been served at the expiry of 24 hours after the envelope containing the document is posted and, in proving service, it is sufficient to prove that the envelope containing the document was properly addressed and posted. Any document served on a Holder personally or left at the Holder's registered address is conclusively considered to have been served when delivered. Any document sent to a Holder by fax or other electronic means is conclusively considered to have been served when the fax or other electronic transmission is sent. Any document made available to a Holder by electronic means as contemplated by clause 15.1(a)(v) is conclusively considered to have been served when notification that the document is available for access by that means is sent.
- (e) The Manager may give a document or other communication to joint Holders by giving it to the Holder first named in the Register for that holding.
- (f) Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any Units, Options or Other Instruments is bound by every document that, before the person's name and address being entered in the Register in respect of the Units, Options or Other Instruments, was properly given to the person from whom the person derived title to those Units, Options or Other Instruments.
- (g) A document served in accordance with this Constitution is (despite the fact that the Holder is then dead and whether or not the Manager has notice of the Holder's death) conclusively

considered to have been properly served in respect of any registered Units, Options or Other Instruments, whether held solely or jointly with other persons by the Holder, until some other person is registered in the Holder's place as the holder or joint holder. The service is sufficient service of the document on the Holder's personal representative and any persons jointly interested with the Holder in the Units, Options or Other Instruments.

- (h) Where a Holder does not have a registered address or where the Manager has a reason in good faith to believe that a Holder is not known at the Holder's registered address, a document is conclusively deemed to be given to the Holder if the document is exhibited in the registered office of the Manager for a period of 24 hours (and is conclusively deemed to be duly served at the commencement of that period) unless and until the Holder informs the Manager of a new registered address.
- (i) The signature to any document or other communication by the Manager may be written, printed, stamped or produced electronically and the signature may be that of the Manager or of any director or secretary of the Manager.

16. Notices to the Manager

- 16.1. A Holder may send a document to the Manager by delivering it to the Manager's registered address or any other means permitted by the Manager and communicated to Holders in writing. A document is effective when it is received by the Manager. A document must be signed by the Holder or a duly authorised representative (unless the Manager waives this requirement).

17. Meetings of Members

Convening meetings

- 17.1. The Manager may at any time convene a meeting of Members and must convene a meeting of Members when required to do so by the Corporations Act. Members may convene a meeting when permitted by the Corporations Act but not otherwise.

Calling and holding meetings while a Registered Scheme

- 17.2. While the Trust is a Registered Scheme, meetings of Members must be called and held in accordance with Part 2G.4 of the Corporations Act. However:
 - (a) (Section 252G) Despite section 252G(3) of the Corporations Act, the Manager may give a notice of meeting in accordance with clause 15 and despite section 252G(4) of the Corporations Act, a notice of meeting will be taken to be sent in accordance with clause 15.
 - (b) (Section 252R(2)) Despite section 252R(2) of the Corporations Act, if, at any time, there is only one Member who may vote on a resolution, the quorum for a meeting is one.

- (c) (Section 252R(3)) Despite section 252R(3) of the Corporations Act, if an individual is attending a meeting both as a Member and as a proxy or body corporate representative, the Manager may, in determining whether a quorum is present, count the individual in respect of each such capacity.
- (d) (Section 252W(2)) A proxy is entitled to vote on a show of hands.
- (e) (Section 252W(3)) A proxy is entitled to speak and vote for a Member (to the extent allowed by the appointment) even if the Member is present at the meeting, but only so long as the Member does not speak or vote.
- (f) (Section 252Y(2)) Despite section 252Y(1) of the Corporations Act,:
 - (i) the Manager may determine that the appointment of a proxy is valid even if it contains only some of the information required under the Corporations Act;
 - (ii) an appointment of proxy may be a standing one; and
 - (iii) the Manager may establish procedures for accepting appointments of proxy by electronic means, including procedures for authentication of an appointment other by signature.
- (g) (Section 252Z(5)) The Manager may determine, in relation to a particular meeting or generally, that proxy documents may be received up to any period less than 48 hours before the meeting.
- (h) (Section 253K(2)) A poll cannot be demanded on any resolution concerning either the election of the chair of the meeting or the adjournment of the meeting.

At any meeting where the chair of the meeting is to be elected by Members (including under sections 252C, 252D or 252E of the Corporations Act) (an ***Elected Chair***) the Manager must appoint a person to facilitate convening the meeting and appointing an Elected Chair (the ***Interim Chair***). The Interim Chair must endeavour to ensure that an Elected Chair is appointed as quickly as possible. Until the Elected Chair is appointed, the Interim Chair is taken to be the chair of the meeting for all purposes and has all the powers, duties and discretions of a chair at a meeting of Members. The powers of the Interim Chair include determining how to call for nominations of an Elected Chair and the election process.

Where a meeting has been called by the Members under section 252D of the Corporations Act, those Members, or their representative, must provide all information relating to the meeting that the Manager requests (acting reasonably). Without limiting section 252D(1), the Members calling the meeting will be jointly and severally liable for all the expenses

in relation to that meeting (including expenses incurred by the Manager).

Calling and holding meetings while not a Registered Scheme

17.3. While the Trust is not a Registered Scheme, meetings of Members will be called and conducted as if Part 2G.4 applied (as modified by clause 17.2) with any necessary modifications except:

- (a) sections 252B, 252C, 252D, 252E, Division 3, section 253E, and Division 7 will not apply; and
- (b) the procedures for calling and conducting one or more meetings may be changed if the modification is approved by a resolution passed at a meeting of Members.

Cancellation or adjournment

17.4. The chair of a meeting of Members has power to cancel a meeting or to adjourn the meeting for any reason to such place and time as the chair thinks fit.

Non receipt

17.5. If a Member does not receive a notice (including if the notice was accidentally omitted to be given to them) the meeting is not invalidated.

Resolution binding on Members

17.6. A resolution passed at a meeting of Members is binding on all Members.

Written resolution

17.7. Except in circumstances where the Corporations Act requires a resolution to be passed at a meeting of members, a resolution in writing signed by Members together holding that number of votes necessary for the resolution to be passed is a valid resolution of the Members and is effective when signed by the last of the Members constituting the majority. The resolution may consist of several documents in the same form, each signed by one or more Members. A facsimile transmission or other document produced by mechanical or electronic means under the name of the Member with the Member's authority is considered to be a document in writing signed by the Member.

Extension

17.8. For the purposes of this clause 17, Member includes any person holding an interest in the Trust by virtue of which, and to the extent that, the person has rights to vote under Part 2G.4 of the Corporations Act.

Option Holders and Other Instrument Holders

17.9. This clause 17 applies to meetings of a Class of Members, Option Holders and Other Instrument Holders with any necessary modifications.

Meetings while Stapling applies

17.10. While Stapling applies:

- (a) representatives of the Stapled Entities may attend and speak at any meeting and may invite any other person to attend and speak; and
- (b) meetings may be held in conjunction with meetings of the holders of the Attached Securities and the Manager may make such rules for the conduct of these meetings as the Manager determines.

18. Rights and liabilities of Manager

Other activities

- 18.1. Subject to the Corporations Act, nothing in this Constitution restricts the Manager (in its personal capacity or in any capacity other than as trustee and responsible entity of the Trust) or its related bodies corporate or other associates:
- (a) from dealing with the Manager (as trustee and responsible entity of the Trust) or any Holder; or
 - (b) from being interested in any contract, transaction, or matter with the Manager (as trustee and responsible entity of the Trust) or with any Holder; or
 - (c) from acting as trustee or responsible entity in relation to any other trust or managed investment scheme including a Stapled Entity; or
 - (d) from dealing with any entity, including a Stapled Entity, in which the Manager holds an Investment on behalf of the Trust; or
 - (e) from undertaking any other business activity (including any activities relating to Property or an Investment in which the Trust may have an interest),
- and:
- (f) none of them, unless they have contracted otherwise, has any obligation to present or grant any right over any Property (including Land) to the Trust; and
 - (g) in each case set out in paragraphs (a) to (e) the Manager (or any associate) may retain for its own benefit all profits or benefits derived from that activity and each Holder consents to any such dealing, interest or activity.

Hold Units

- 18.2. Subject to the Corporations Act and the Listing Rules, the Manager and its associates may hold Units (and, while Stapling applies, Attached Securities), Options or Other Instruments in any capacity.

Rights in relation to Stapling

- 18.3. Despite any other provision of this Constitution and to the full extent permitted by Law (including under any ASIC Exemption), in exercising any power or discretion conferred on it, the Manager may,

while Stapling applies, have regard to the interests of the Members and the members of the Stapled Entities as a whole and not only the interest of the Members alone.

- 18.4. The reference to exercising any power or discretion includes carrying out the Manager's functions and duties and identifying Members' rights and interests.

19. Limitation of liability and indemnity in favour of Manager

Manager's Limitation of liability

19.1. General

To the extent permitted by Applicable Legislation, if the Manager acts in good faith without fraud or dishonesty, the Manager is not liable for any Loss to any person (including any Member, Option Holder or Other Instrument Holder) arising out of any matter (including in relation to the Stapling of any Attached Securities and any action taken by the Manager under clause 27B.4) relating to, or connected with, the Trust. In any case, to the extent permitted by Applicable Legislation, the liability of the Manager in relation to the Trust is limited to the Assets, from which the Manager is entitled to be, and is in fact, indemnified.

19.2. Specific

In particular, to the extent permitted by Applicable Legislation, the Manager is not liable for any Loss to any person arising out of any matter where, in respect of that matter:

- (a) to the extent permitted by Law, it relied in good faith on the services of, or information or advice from, or purporting to be from, any person appointed by the Manager; or
- (b) it acted or refrained from acting as required by Law; or
- (c) it relied in good faith on any signature, marking or documents.

Indemnities

19.3. Manager's indemnity

In addition to any indemnity under any Law, but subject to the Corporations Act, the Manager has a right of indemnity out of the Assets on a full indemnity basis, in respect of any liability incurred by the Manager in properly performing or exercising any of its powers or duties in relation to the Trust.

19.4. Manager's indemnity continuing

Such right of indemnity in respect of a matter (an *Indemnified Matter*) will not be lost or impaired by reason of a separate matter (whether before or after the Indemnified Matter) in respect of which the indemnity does not apply. Also, the right of indemnity continues to be available after the Manager retires or is removed as trustee of the Trust.

19.5. Payment

The Manager may pay out of the Assets any amount for which it would be entitled to be indemnified under clause 19.3 or clause 19.4.

19.6. The Manager not to incur liability

The Manager is not required to do anything (including enter into any contract or commitment) which involves it incurring any liability (actual or contingent) unless its liability is limited in a manner satisfactory to it in its absolute discretion.

19.7. Compliance committee

If any member of a compliance committee established by the Manager in connection with the Trust incurs a liability in that capacity in good faith, the Manager may indemnify the compliance committee member out of the Assets, to the extent permitted by the Corporations Act.

19.8. Right of indemnity not affected by an unrelated breach

Where a liability is incurred by the Manager in properly performing or exercising any of its powers or duties in relation to the Trust, the Manager may exercise any of its rights to be indemnified or reimbursed out of the Assets to meet that liability. It may do so despite any loss incurred in relation to the Trust or any reduction in the value of the Assets arising from any unrelated act or omission by the Manager or by any person acting on behalf of the Manager.

The Manager's Indemnity by Holders for Tax Liability

19.9. Liability limited

The Manager is entitled to be indemnified by a Holder or a former Holder to the extent that it incurs any liability for Tax as a result of the Holder's or former Holder's action or inaction or as a result of an act or omission requested by the Holder or former Holder.

19.10. Joint Holders

Joint Holders are jointly and severally liable in respect of all payments including payments of Tax to which clause 19.9 applies.

20. Liability of Members and Option Holders

Liability

20.1. To the extent permitted by Law but subject to this Constitution and the Terms of Issue relating to a Class of Units, no Member will, in its capacity as Member, be personally liable for any obligation of, or liability incurred by, the Manager and:

- (a) a Member is not required to indemnify the Manager or a creditor of the Manager against any liability of the Manager in relation to the Trust; and
- (b) the recourse of the Manager and any creditor of the Manager is limited to the Assets.

Except as expressly provided, nothing in this Constitution makes the

Manager the agent of a Member nor does it create any relationship between the Manager and each Member other than that of trustee and beneficiary.

Limitation of liability

- 20.2. To the extent permitted by Law but subject to this Constitution and the Terms of Issue relating to a Class of Units, each Member's liability to the Manager or the Trust is limited to the amount, if any, which remains unpaid in relation to the Member's subscription for their Units. This is subject to any separate agreement between a Member and the Manager.

21. Remuneration and expenses of the Manager

RE Fee

- 21.1. Until the Net Proceeds From Realisation are distributed under clause 23.4, the Manager is entitled to receive a fee for managing the ordinary day-to-day activities of the Trust (*RE Fee*) of an amount equal to:
- (a) for the first year after the Appointment Date, \$450,000;
 - (b) for the second year after the Appointment Date, \$400,000; and
 - (c) thereafter, \$250,000 per annum adjusted on each anniversary of the Appointment Date to reflect any increase in the CPI as at the end of the Quarter ending before the adjustment date against the CPI as at the end of the same Quarter in the preceding year, plus \$150,000 per annum.
- 21.2. The RE Fee is payable out of the Assets Quarterly in arrears and calculated on the gross Asset Value as at the last day of the relevant Quarter. This fee is payable to the Manager on the final day of each Quarter (or such later time as the Manager determines).
- 21.3. The RE Fee is adjusted on a pro rata basis if the Quarter in respect of which the calculation is made is the Quarter in which the Manager commences or retires as the responsible entity of the Trust.

AML Fee

- 21.4. Subject to the Corporations Act, the Manager is entitled to a fee of \$500 per applicant for Units under clause 7, payable out of the Assets, if the Manager is required to verify the identity of that person in order to comply with AML Legislation.

Additional Activity Fees

- 21.5. Subject to the Corporations Act, the Manager is entitled to a fee (not to exceed \$1,000,000 per annum, adjusted on each anniversary of the Appointment Date to reflect any increase in the CPI as at the end of the Quarter ending before the adjustment date against the CPI as at the end of the same Quarter in the preceding year) payable Quarterly in arrears equal to the Quarterly cost of internal legal or executive services (charged by the Manager or charged to the Manager by an associate or related party of the Manager at the reasonable hourly rates applicable at the time the relevant services were provided) for the benefit of the Trust but which the Manager reasonably considers is

beyond the scope of managing the ordinary day-to-day activities of the Trust, including, but not limited to, services in relation to loan default and covenant breaches; Member meetings; significant equity raisings; mergers and acquisitions; significant restructures; debt financing; and significant regulatory inquiries.

Waiver of fees

- 21.6. The Manager may waive or postpone the receipt of any fee (or any part of a fee) or charge a lesser fee than it is entitled to receive under this Constitution.

Establishment Fee

- 21.7. The Manager is entitled to a fee equal to \$500,000 plus the reasonable costs actually incurred by The Trust Company (Sydney Airport) Limited (or one of its related bodies corporate) in connection with the appointment of The Trust Company (Sydney Airport) Limited as the Manager, which amount (including the \$500,000 amount referred to in this clause) may not exceed \$1,200,000.

Expenses

- 21.8. All Expenses incurred by the Manager (whether internal or inhouse Expenses incurred in performing work, or Expenses incurred by the Manager in appointing, including amounts payable by the Manager to, an associate or related party of the Manager or an external third party to perform work) in relation to the proper performance of its duties in respect of the Trust are payable or reimbursable out of the Assets to the extent that such reimbursement is not prohibited by the Corporations Act. This includes expenses connected with:
- (a) this constitution and the formation of the Trust and registration of the Trust as a registered scheme;
 - (b) the preparation, review, distribution and promotion of any prospectus or offering memorandum in respect of Units, Options, Other Instruments and/or Stapled Securities and other promotion of the Trust and/or the Stapled Trust;
 - (c) the acquisition, disposal, insurance, custody and any other dealing with Assets;
 - (d) any proposed acquisition, disposal or other dealing with an investment;
 - (e) the administration or management of the Trust or its Assets and Liabilities including expenses in connection with the Register or the valuation of any Asset or the Trust as a whole;
 - (f) borrowing arrangements on behalf of the Trust or guarantees in connection with the Trust, including hedging costs;
 - (g) underwriting of any subscription or purchase of Units, Options and/or Stapled Securities or Other Instruments including underwriting fees, handling fees, costs and expenses (including marketing and roadshow costs, travel and accommodation expenses and legal fees), amounts payable under indemnity or reimbursement provisions in the underwriting agreement and

any amounts becoming payable in respect of any breach (other than for negligence, fraud or breach of duty) by the Manager of its obligations, representations or warranties under any such underwriting agreement;

- (h) convening and holding meetings of Members, Option Holders or Other Instrument holders, the implementation of any Resolutions and communications with Members, Option Holders or Other Instrument holders and attending any meeting of the Stapled Trust;
- (i) Tax, including any amount charged by a supplier of goods or services, or both, to the Manager by way of or as a reimbursement for GST;
- (j) financial institution fees;
- (k) the engagement of agents (including real estate agents and managing agents), valuers, contractors and advisers (including legal advisers) whether or not the agents, valuers, contractors or advisers are associates of the Manager;
- (l) preparation and audit of the taxation returns, accounting records and accounts of the Trust;
- (m) termination of the Trust and the retirement or removal of the Manager and the appointment of a replacement;
- (n) any court proceedings, arbitration or other dispute concerning the Trust including proceedings against the Manager, except to the extent that the Manager is found by a court to be in breach of trust or to have been grossly negligent, in which case any expenses paid or reimbursed under this clause 21.8(n) must be repaid;
- (o) all damages, expenses, payments, legal and other costs and disbursements incurred by the Manager in relation to or in connection with any claim, dispute or litigation (Claim) arising as a result of or in connection with any untrue representation or warranty contained in any document relating to any investment by the Trust including any project document in connection with the investment and any offering document or borrowing document in connection with the Trust except where the Claim arises out of the fraud or wilful default of the Manager;
- (p) the compliance committee established by the Manager in connection with the Trust (if any), including any fees paid to, or insurance premiums in respect of, compliance committee members;
- (q) any costs and expenses associated with the board of directors of the Manager or any subsidiary of the Manager, including:
 - (i) any fees paid or payable to the non-executive directors of the Manager; and
 - (ii) any expenses reimbursed to, or insurance premiums

paid in respect of, the directors;

- (r) the preparation, implementation, amendment and audit of the compliance plan;
- (s) the appointment of any compliance officer to undertake compliance work for the Trust;
- (t) the preparation of reports including compliance reports;
- (u) the promotion of the Trust generally;
- (v) recording, responding to and dealing with any complaints from Members in connection with the Trust;
- (w) complying with any law, and any request or requirement of the ASIC;
- (x) the admission of the Trust to any stock exchange, the Official Quotation of Units or Stapled Securities and compliance with the rules of such an exchange; and
- (y) any fee or expense payable by the Manager under Resources Agreements with Sydney Airport Corporation Limited and The Trust Company Limited (or one of its related bodies corporate) dated in or about November 2013 or under any agreement which replaces either of those agreements, and any expense which the Manager incurs under those agreements or otherwise in procuring services to replace or supplement the services provided under those agreements.

Waiver of Expenses

- 21.9. The Manager may waive or postpone reimbursement of any or all Expenses under clause 31.3.

Fees paid to Manager in a different capacity

- 21.10. Subject to the Corporations Act and the Listing Rules, the Manager may be paid a fee or receive any other consideration for work performed by it in connection with the Trust in any capacity, including its personal capacity. If and to the extent that the Manager undertakes any work in connection with the Trust in any capacity other than as the trustee and responsible entity of the Trust, the Manager may keep any consideration it receives for that work and is not required to account for the consideration to the Trust or Members.

Recovery of GST

- 21.11. The fees payable to the Manager under this Constitution do not include any amount referable to GST. If GST is payable in respect of any supply made by the Manager under or in connection with this Constitution, the Manager is entitled to be paid as additional consideration an amount equal to the amount of GST payable on that supply (the *GST Amount*). The Manager will be entitled to be reimbursed or indemnified for such amount out of the Assets.

Liability Net of GST

- 21.12. Where any indemnity, reimbursement or similar payment under this Constitution is based on any cost, expense or other liability, it shall be

reduced by any Input Tax Credit entitlement in relation to the relevant cost, expense or other liability.

Adjustment events

- 21.13. If an adjustment event occurs in relation to a supply made under or in connection with this Constitution, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties.

Proper performance

- 21.14. Despite anything else in this clause 21, while the Trust is a Registered Scheme then, to the extent required by the Corporations Act, the Manager's right to be paid fees or recover (or pay) Expenses is available only in relation to the proper performance of the Manager's duties.

Payment of Base Fee to Sydney Airport Holdings Limited

- 21.15. The Manager must pay to Sydney Airport Holdings Limited (*Former RE*) the Base Fee, adjusted on a pro rata basis, that the Former RE would have received for the Quarter in which the Former RE ceased to be the responsible entity of the Trust had the Former RE not ceased to be the responsible entity of the Trust.

22. Duration of the Trust

Initial settlement

- 22.1. The Trust commences when the Manager's nominee subscribes \$50 for Units in the Trust. The Manager's nominee must be issued with 100 Units paid to 50 cents each in return for that payment with a balance payable of 50 cents on each Unit when called by the Manager.

Termination

- 22.2. The Trust terminates on the earliest of:
- (a) the date specified by the Manager as the date of termination of the Trust in a notice given to Members; and
 - (b) the date on which the Trust terminates in accordance with another provision of this constitution or by law⁷.

Restriction on issue and redemption of Units

- 22.3. Despite any other provisions in this constitution, no Units may be issued or redeemed after the 80th anniversary of the day preceding the day the Trust commenced, unless that issue or redemption would not offend the rule against perpetuities, or any other rule of law or equity.

23. Procedure on termination

Termination Event

- 23.1. When a Termination Event occurs, the Manager must:
- (a) cease issuing Units or any other interests in the Trust;
 - (b) cease approving withdrawal requests under clause 9;

⁷ See Part 5C.9 on winding up

- (c) not make any Withdrawal Offers; and
- (d) to the extent permitted by the Corporations Act, cancel any Withdrawal Offer current at the time of the Termination Event.

Procedure After a Termination Event

23.2. Notice of winding up

- (a) The Manager must give Members notice of a Termination Event as soon as possible after it has occurred. The notice must provide reasonable details of the Termination Event and summarise the procedures contemplated by this clause 23.

23.3. Realisation of Assets

- (a) Subject to clauses 23.5 and 23.6, as soon as practicable after giving of the notice under clause 23.2 the Manager must sell or realise the Assets in such manner as the Manager considers appropriate, but subject to the Terms of Issue of any Unit or Class.

23.4. Final distribution

- (a) Subject to the Terms of Issue of any Unit or Class, the Net Proceeds From Realisation must be distributed among the Members in proportion to the number of Units they hold. The Manager may make more than one distribution under this clause. The Manager is authorised to give notice under section 60 of the Trustee Act 1925 (NSW) and equivalent provisions in other legislation before making any distributions under this clause.
- (b) Subject to the Terms of Issue of any Unit or Class, the Manager must use reasonable endeavours to distribute the Net Proceeds From Realisation among the Unit Holders at the same time.
- (c) For the purposes of distribution entitlements, Partly Paid Units will be treated as that proportion of a whole Unit as the amount paid up bears to the total Issue Price for that Unit, rounded to the nearest two decimal places, or will be treated in such other manner as the Manager determines.
- (d) This clause does not limit clause 23.7.

23.5. Transfer of Assets

- (a) Despite clause 23.4, but subject to the Terms of Issue of any Unit or Class, the Manager may transfer Assets to any Member holding Units having a value in excess of an amount as determined by the Manager in satisfaction of that Member's entitlement in the Assets. The value of the Assets transferred will be calculated at market value, as determined by the Manager, and the Expenses incurred in transferring the Assets will be borne by the Member or Members. The Manager is irrevocably appointed as the agent and attorney of the relevant Member or Members to do all things which it reasonably considers are necessary or desirable to be done on behalf of the

Member or Members to give effect to a transfer of Assets under this clause.

23.6. Postponement of realisation

- (a) The Manager may postpone the sale or realisation of any Asset for as long as it thinks it is desirable to do so in the interests of Members. To the extent permitted by Applicable Legislation, the Manager will not be responsible for any Loss attributable to the postponement.

23.7. Retention of property

- (a) The Manager may retain for as long as it thinks fit sufficient Assets as, in its opinion, may be required to meet any Expenses or Liabilities (actual or contingent) in respect of the Trust. If any Asset retained is ultimately found not to be required, then it must be distributed to the Members in accordance with this clause 23.

23.8. Continuation of powers

- (a) The powers, duties and rights of the Manager (including the rights to remuneration and to any indemnities under this Constitution or the Law) continue following a Termination Event to the extent to which they are not inconsistent with this clause 23.

23.9. Cancellation of Units

- (a) Unless the Manager determines otherwise, all Units in the Trust will be cancelled and taken to be redeemed from the date the final distribution of the Net Proceeds From Realisation is made.

23.10. Audit

- (a) If, at the time the final distribution of the Net Proceeds From Realisation is made the Trust is a Registered Scheme and ASIC policy requires it, the Manager will provide for an independent audit by a registered company auditor of the final accounts of the Trust.

23.11. Notice to Stapled Entities

- (a) Where Stapling applies, the Manager must notify each Stapled Entity of a Termination Event at the same time as Members are notified. If a Stapled Entity is terminated or wound up under its constitution or by Law, then the provisions of this Constitution relating to Stapling will cease to apply to that Stapled Entity.

24. Amendments to this constitution

Subject to the Corporations Act, the Manager may amend this Constitution (including this clause) by deed or as otherwise permitted by the Corporations Act.

25. Compliance committee

25.1. If any Compliance Committee Member incurs a liability in that capacity in good faith, the Compliance Committee Member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act⁸.

26. Complaints

Procedure

- 26.1. While the Trust is a Registered Scheme, if a Member submits to the Manager a complaint in relation to the Trust or its operation, the Manager must:
- (a) (Acknowledge complaint) immediately acknowledge in writing receipt of the complaint;
 - (b) (Consider complaint) consider the complaint in accordance with clause 26.2;
 - (c) (Communicate) communicate in writing to the complainant the determination and the reasons for that determination of either the compliance committee or the Manager (as the case may be) in relation to the complaint as soon as practicable and, subject to clause 26.1(e), in any event not more than 45 days after the Manager received the complaint;
 - (d) (Further avenues) if the complainant is dissatisfied with the outcome of the determination:
 - (i) refer the complainant to (and provide reasonable details of) an independent external dispute resolution body of which the Manager is a member; and
 - (ii) provide general guidance (without any obligation to provide legal advice) on further avenues available to the complainant;
 - (e) (No response possible within 45 days) if the Manager is unable to communicate the determination and reasons for that determination in accordance with clause 26.1(c) within 45 days:
 - (i) inform the complainant of the reasons for the delay;
 - (ii) advise the complainant of the complainant's right to complain to an independent external dispute resolution

⁸ See section 601JF

body of which the Manager is a member; and

- (iii) provide the complainant with the name and contact details of that independent external dispute resolution body; and
- (f) (Inspection of documents) if the complainant so requests, provide the complainant with an opportunity to inspect the material referred to in clause 26.2(d).

Consideration of complaint

26.2. In considering a complaint, the Manager will take into account such of the following factors as are relevant to that complaint:

- (a) the alleged breach of the Corporations Act, this Constitution or breach of trust;
- (b) legal advice (if any) it has received in relation to that alleged breach;
- (c) the supporting material provided by the Member in relation to the alleged breach;
- (d) any material held by the Manager in relation to the alleged breach; and
- (e) any other relevant information.

Referral of complaint

26.3. The Manager must consider a complaint by referring it to either:

- (a) the Manager's Compliance Officer; or
- (b) if the Compliance Officer considers the complaint to be of a material nature or where there is no Compliance Officer, the board of directors of the Manager (or their nominee).

Remedies

26.4. The Manager may in its absolute discretion provide any of the following remedies:

- (a) information about and an explanation regarding the circumstances giving rise to the complaint;
- (b) an apology; or
- (c) compensation for loss incurred by the complainant as a direct result of the matter the subject of the complaint.

Licensee obligations

26.5. In addition to its obligations under clauses 26.1 to 26.4, the Manager must, while the Trust is a Registered Scheme, comply with the dispute resolution requirements in section 912A(2) of the Corporations Act when dealing with Unit Holder complaints.

Appointment of auditors

26.6. The Manager must appoint a registered company auditor to audit the

Trust's financial report for a Financial Year and perform the other duties required of the auditor under the Corporations Act.

- 26.7. While the Trust is a Registered Scheme the Manager must appoint a Compliance Plan Auditor.

Retirement of auditors

- 26.8. While the Trust is a Registered Scheme, the Trust Auditor and the Compliance Plan Auditor may each retire or be removed in accordance with the Corporations Act. Otherwise, the Trust Auditor may retire or be removed in accordance with its terms of engagement or as agreed with the Manager.

Remuneration of auditors

- 26.9. The remuneration of the Trust Auditor and Compliance Plan Auditor will each be fixed by the Manager.

Accounts and reports

- 26.10. The financial statements of the Trust must be kept and prepared by the Manager in accordance with applicable Australian Accounting Standards.
- 26.11. The Manager must report to Members concerning the affairs of the Trust and their holdings as required by the Corporations Act. Subject to the Corporations Act, the person preparing a report may determine the form, content and timing of it.

Audit

- 26.12. The Manager will cause:
- (a) the Trust Auditor to audit and report on the financial statements; and
 - (b) while the Trust is a Registered Scheme the Compliance Plan Auditor to audit and report on the compliance plan,
- each in the manner required by the Corporations Act to the extent it applies.

27. Listing rules

- 27.1. If and for so long as the Trust is admitted to the Official List the following applies.
- (a) Notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act must not be done.
 - (b) Nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done.
 - (c) If the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
 - (d) If the Listing Rules require this Constitution to contain a

provision and it does not contain such a provision, this Constitution is deemed to contain that provision.

- (e) If the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision.
- (f) If any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

This is despite clause 25.

27A Small Holdings

27A.1 Subject to this clause 27A and any necessary ASIC Exemption or Listing Rule Waiver, the Manager may in its discretion from time to time sell or redeem any Units held by a Member which comprise less than a marketable parcel for the purposes of the Listing Rules without request by the Member.

27A.2 The Manager may only sell or redeem Units held by a particular Member under this clause 27A on one occasion in any 12 Month period. The Manager must notify the Member of its intention to sell or redeem Units under this clause 27A.

27A.3 The Manager will not sell or redeem Units the subject of a notice under 27A:

- (a) before the expiry of six weeks from the date of the notice; or
- (b) if, within the six weeks allowed under clause 27A.3(a):
 - (A) the Member advises the Manager that the Member wishes to retain the Units; or
 - (B) the Member increases their holding of Units to at least a marketable parcel and the Member notifies the Manager of the increase; or
 - (C) the Member sells the Units.

27A.4 The Manager's power to sell or redeem the Units lapses following the announcement of a takeover bid (but the procedure may be started again after the close of the offers made under the bid).

27A.5 The Manager or the purchaser of the Units must pay the costs of the sale as the Manager decides. The proceeds of the sale or redemption must be sent to the Member but not until the Manager has received the certificate (if any) relating to the Units, or is satisfied that it has been lost or destroyed. Despite clause 8, the Withdrawal Price of a Unit redeemed under this clause 27A will be the Market Price of the unit.

27A.6 To effect a sale or redemption of Units under this clause 27A,

the Member appoints the Manager as the Member's agent and attorney to do all things necessary, desirable or appropriate to effect the sale or redemption. Nothing in this clause 27A obliges the Manager to sell the Units.

27A.7 For the purposes of a sale or redemption of Units under this clause 27A, the Manager may initiate a Holding Adjustment to move the Units from a CHESS holding to an Issuer Sponsored Holding or a Certificated Holding (each as defined and provided in the ASX Settlement Operating Rules).

27A.8 While Stapling applies:

- (a) whether there is a marketable parcel will be determined by reference to the market value of Stapled Securities;
- (b) the Manager will not sell or redeem Units under this clause 27A unless there is a contemporaneous and corresponding sale or redemption of Attached Securities undertaken on the same terms; and
- (c) the Withdrawal Price of a Unit will, subject to any ASIC Exemption, be determined in accordance with clause 8.

27B Stapling

Power to Staple

27B.1 In addition to any power the Manager has under clause 13, the Manager may, subject to the Corporations Act and this clause 27B, cause the Stapling of any security to any Unit and may cause the Stapling of further securities to Units whether those securities are a different class of securities of a Stapled Entity from those Stapled at the time or securities of an entity that is not a Stapled Entity.

27B.2 Any Stapling referred to in clause 27B.1 takes effect from the Stapling Date. The Stapling Provisions take effect on and from the Stapling Date.

27B.3 Without limiting clause 13, the Manager has power and is authorised to execute all documents and do all things that it considers to be necessary, desirable or reasonably incidental to give effect to the Stapling of any other security or securities to the Units, including consolidating or dividing the Units, without needing further authority or approval of Members.

27B.4 The Manager is irrevocably appointed as the agent and attorney of each Member to execute all documents or do all things which it reasonably considers are necessary or desirable to be done on behalf of Members to give effect to the Stapling, including:

- (a) making distributions to or on behalf of a Member;
- (b) applying for or purchasing Attached Securities on

behalf of a Member;

- (c) agreeing to become a member of the company, managed investment scheme or other entity issuing the Attached Securities and consenting to the entry of the name of the Member in the register of members of the entity issuing Attached Securities; and
- (d) so far as permitted by Law, supplying any such entity (or their advisers or service providers) with information, notices and elections relating to that Member.

27B.5 Subject to their Terms of Issue, the Manager is authorised to change the terms of any Option or Other Instrument to facilitate and take account of Stapling.

Paramountcy of Stapling provisions

27B.6 Subject to clause 24, the Stapling Provisions prevail over all other provisions of this Constitution including any that are expressed to prevail over others, except where this would result in a breach of the Corporations Act, the Listing Rules or any other Law. Any clause of this Constitution which is inconsistent with this clause 27B does not operate to the extent of any inconsistency.

Operation of Stapling Provisions

27B.7 Clauses 27B.8 to 27B.17 apply only, and for so long as, a Unit is a component of a Stapled Security.

Units to be Stapled

27B.8 The number of issued Units which are Stapled at any time must equal the number of issued Attached Securities.

27B.9 From the Stapling Date and before the Unstapling Date, the Manager must not issue Units unless satisfied that each of those Units will be Stapled to the same number of each Attached Security to form a Stapled Security or that those Units will be issued as part of a Capital Reallocation Issue.

27B.10 From the Stapling Date and before the Unstapling Date, the Manager and the Members must not do anything nor refrain from doing anything if to do so or refrain from doing so would result in any Unit no longer being a component of a Stapled Security (or have the same practical effect). In particular:

- (a) the Manager must not offer a Unit for subscription or sale (including by way of offering Options or other convertible securities) unless an offer is made at the same time and to the same person for the same number of each Attached Security for issue or sale;
- (b) any offer of a Unit for subscription or sale must require the offeree to subscribe for or buy the same number of each Attached Security;

- (c) a Member must not sell a Unit to any person unless the same number of each Attached Security is also sold to the same person at the same time;
- (d) the Manager must not issue or sell a Unit to any person unless the same number of each Attached Security is also issued or sold to the same person at the same time;
- (e) the Manager must not reorganise, redeem or cancel any Units unless at the same time there is a corresponding reorganisation, redemption or cancellation of all Attached Securities;
- (f) the Manager must not make a Call on a Party Paid Unit unless a call is also made on the Attached Security;
- (g) the Manager must not Cancel a Member's Unit unless the Attached Security is also cancelled or forfeited; and
- (h) the Manager must not register the transmission or transfer of Units unless the same number of each Attached Security is also transmitted or transferred (as the case may be),

but nothing in this clause 27B.8 to 27B.10 prevents the Manager from issuing Units as part of a Capital Reallocation Issue.

Temporary Suspension of Stapling

27B.11 The Manager may determine that Stapling is to be temporarily suspended (the *Suspension*). When doing so, the Manager must also determine the period of the Suspension. The Manager must procure that the Units and Attached Securities are treated as Unstapled during the Suspension. However, clauses 27B.14 and 27B.15 will not apply during the Suspension.

27B.12 The Manager must as soon as possible notify Members of the Suspension, including how long it will last.

Unstapling

27B.13 Once the Units are Stapled to the Attached Securities, Stapling will continue for so long as the Units are on issue, unless:

- (a) Members determine otherwise by special resolution;
- (b) Stapling becomes unlawful;
- (c) any of the Stapled Entities becomes insolvent or commences winding up or terminates and the Manager determines that Stapling should cease; or
- (d) the Manager determines that Stapling is materially adverse to the interests of Members

(each an *Unstapling Event*).

27B.14 From the date of an Unstapling Event, the Manager must do all things reasonably necessary to procure that the Attached Securities are Unstapled.

27B.15 As soon as possible after the date of the Unstapling Event, the Manager must determine a date from which the Stapling Provisions in this Constitution will no longer apply (the *Unstapling Date*).

27B.16 Nothing in this clause 27B.13 to 27B.16 prevents the Manager from subsequently determining that the Stapling Provisions should again apply.

Manager's duties

27B.17 In exercising any power or discretion or in fulfilling any of its obligations the Manager may, except to the extent prohibited by the Corporations Act or the Listing Rules, have regard to the interests of the holders of Stapled Securities as a whole and not only to the interests of holders of Units.

27C Sale Facility

27C.1 Subject to the Corporations Act and the Listing Rules, the Manager shall be entitled to invoke the procedures in clauses 27C.2 and 27C.3 in respect of any Non-Australasian Member, if the Manager proposes to distribute Assets in the form of securities or interests in managed investment schemes under clause 11.7 or Staple a new financial product to the Units or Stapled Security.

27C.2 On the date of distribution of Assets or the Stapling Commencement Date (*Transfer Date*):

- (a) each Non-Australasian Member will have transferred to the Cashout Bank:
 - (i) in respect of a distribution of Assets in the form of securities or managed investment interests, the securities or managed investment interests that they would have been entitled to receive under the distribution; or
 - (ii) in respect of the new financial product to be Stapled to the Units or existing Stapled Securities, the unencumbered beneficial and legal title to all Units and existing Stapled Securities registered in their name on that date,

(*Transfer Securities*);

- (b) the Cashout Bank will become the legal and beneficial owner of the Transfer Securities under clause 27C.1 without need for any further act by the Non-Australasian Member. For the avoidance of doubt, the Cashout Bank will not be acting as trustee, custodian,

nominee or agent in respect of the Transfer Securities (whether for the purpose of distributions to be paid on those Transfer Securities or any sale or transfer of those Transfer Securities or otherwise).

27C.3 On the Transfer Date the Manager must procure that the Cashout Bank:

- (a) on, or as soon as reasonably practicable after the Transfer Date, sells the Transfer Securities, including in the context of the stapling of new financial products, those financial products; and
- (b) pays or arranges for the payment of the Transfer Securities Price to the Non-Australasian Members within 30 days of the Transfer Date in consideration for the Transfer Securities transferred under clause 27C.1. The Cashout Bank's obligation to make such payment will be satisfied upon payment of the Transfer Securities Price to the Trust's registry, for payment to the relevant Non-Australasian Member within 30 days of the Transfer Date.

27C.4 The Manager shall have no liability of any nature whatsoever beyond the Assets to Members arising, directly or indirectly, from the Manager doing or refraining from doing any act (including the execution of a document) pursuant to or in connection with the transfer of Assets under clause 11.7 or the implementation of the Sale Facility provided for in clauses 27C.2 and 27C.3.

28. References to Corporations Act and Listing Rules

Despite any other clause of this Constitution, a clause of this Constitution which is expressed to apply subject to the:

- (a) Listing Rules, is only so subject while the Trust is admitted to the Official List (and the clause is to be read accordingly); and
- (b) Corporations Act, is only so subject while the Trust is a Registered Scheme (and the clause is to be read accordingly).

29. Airports Act compliance

Ownership Regulations

29.1. The purpose of this clause 29 is to assist in ensuring that an Unacceptable Ownership Situation does not arise in:

- (a) the Trust; or
- (b) any Airport Investment of the Trust or a Stapled Entity.

Information on foreign, cross and airline ownership

29.2. (a) Except where the Manager otherwise specifies in the Divestment Rules, a Member, applicant for Units or Options or

Option Holder must notify the Manager in a form and in a manner approved by the Manager whether:

- (i) the Member (or any person on whose behalf the Member holds Units) is or is not or becomes or ceases to be;
- (ii) an applicant (or any person on whose behalf the applicant is applying) for Units or Options is or is not; or
- (iii) an Option Holder (or any person on whose behalf the Option Holder holds Options) is or is not,

a Foreign Person, a Cross Stakeholder or an Airline.

- (b) Notification under clause 29.2(a) must be made at the same time as or within 5 Business Days after:
 - (i) an application for Units is made (including an application consequent on the exercise of an Option);
 - (ii) an application for Options is made;
 - (iii) registration of a transfer or transmission application under which the Member, applicant for Units or Options or Option Holder has first acquired Units or Options; or
 - (iv) the Member or Option Holder (or a person on whose behalf they hold Units or Options, as applicable) has become, or ceased to be, a Foreign Person, a Cross Stakeholder or an Airline.
- (c) Notification may be made under this clause 29.2 by a broker or other person on behalf of the Member, applicant for Units or Options or Option Holder.

29.3. The Manager may, at any time send to a Member, applicant for Units or Options or Option Holder who:

- (a) has a foreign address; or
- (b) who has notified the Manager (in accordance with clause 29.2) that it is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or an Airline; or
- (c) has not given a notification in accordance with clause 29.2; or
- (d) holds more Units or Options than the minimum number specified by the Manager in the Divestment Rules for the purposes of this clause 29.3; or
- (e) the Manager has reason to believe, or is concerned, may be, or hold on behalf of, a Foreign Person, a Cross Stakeholder or an Airline; or

(f) the Minister has requested be sent such a request,

a request in a form approved by the Manager which requires the Member, applicant for Units or Options or Option Holder to inform the Manager of any (or all) of the following:

- (i) whether the Member, applicant for Units or Options, Option Holder, or person on whose behalf they hold Units or Options or are making application, is or is not a Foreign Person, a Cross Stakeholder or an Airline;
- (ii) if the Member or Option Holder is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or an Airline, the number of Units or Options held by that Member or Option Holder;
- (iii) such other information as determined by the Manager and relating to:
 - (A) foreign ownership;
 - (B) cross-ownership of the Airline Operator Companies for Perth Airport, Melbourne Airport or Brisbane Airport; or
 - (C) Airline ownership,

(the information so requested being the *Required Information*).

29.4. Within the period specified by the Manager in the request given under clause 29.3, the Member, applicant for Units or Options or Option Holder must give the Manager information in the form requested which:

- (a) contains the Required Information; and
- (b) is signed by that Member, applicant for Units or Options or Option Holder or, in the case of a corporation, an officer of that Member, applicant for Units or Options or Option Holder.

29.5. The Manager may send a request under clause 29.3 which requires the Member, applicant for Units or Options or Option Holder to inform the Manager of the Required Information at the times or at the intervals specified in the request, in which case the Member, applicant for Units or Options or Option Holder must give the Manager information in the form requested at the times or the expiry of each interval so specified but otherwise in compliance with clause 29.4.

Manager's power to dispose of Units and Options

29.6. The Manager may, for the purpose of seeking to prevent or cure an Unacceptable Ownership Situation at any time, procure the disposal of Units and / or Options when:

- (a) the Foreign Ownership Trigger has been or is likely to be exceeded;
- (b) an Unacceptable Cross Ownership Situation has occurred or is

likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity; or

- (c) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity.

In determining:

- (d) which Units or Options give rise to (as applicable)
 - (i) the Foreign Ownership Trigger being, or being likely to be, exceeded;
 - (ii) the Unacceptable Cross Ownership Situation occurring or being likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity; or
 - (iii) the Unacceptable Airline Ownership Situation occurring or being likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity,

(the *Offending Securities*); and

- (e) which Member and/or Option Holder the Manager requires to dispose of Units and/or Options,

the Manager must, unless in its opinion it would be inequitable or not in the best interests of the Members to do so, have regard to the chronological order in which the Units or Options became registered, on the basis that:

- (f) the last registered Unit or Option is to be the first treated as an Offending Security; unless
- (g) a Member or Option Holder who was not previously a Foreign Person, a Cross Stakeholder or an Airline becomes a Foreign Person, a Cross Stakeholder or an Airline (as applicable) in which case the Units and/or Options of that Member or Option Holder are to be the first treated as Offending Securities.

Warning Notice

29.7. If the Manager believes at any time that:

- (a) the Foreign Ownership Trigger has been or is likely to be exceeded;
- (b) an Unacceptable Cross Ownership Situation has occurred or is likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity; or
- (c) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity,

the Manager may (but is not obliged to), by notice in writing or in any other form approved by the Manager (*Warning Notice*), inform a Member or Option Holder who is, or holds on behalf of, a Foreign Person, a Cross Stakeholder or an Airline that the Member or Option Holder may be required to dispose of Units and / or Options.

Disposal Notice

29.8. If the Manager believes at any time that:

- (a) the Foreign Ownership Trigger has been or is likely to be exceeded;
- (b) an Unacceptable Cross Ownership Situation has occurred or is likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity; or
- (c) an Unacceptable Airline Ownership Situation has occurred or is likely to occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity,

the Manager may (but is not obliged to), by notice in writing or in any other form or manner approved by the Manager (*Disposal Notice*), require a Member or Option Holder who is, or holds on behalf of, a Foreign Person, Cross Stakeholder or an Airline (as applicable) to dispose of such number of Units and/or Options as would ensure that (as applicable):

- (d) the Foreign Ownership Trigger is no longer or will not be exceeded;
- (e) the Unacceptable Cross Ownership Situation no longer occurs or will no longer occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity; or
- (f) the Unacceptable Airline Ownership Situation no longer occurs or will no longer occur in respect of the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity,

by no later than the Divestment Date, consistent with the Divestment Rules. The Disposal Notice may specify circumstances, consistent with the Divestment Rules, in which the relevant Member or Option Holder need not dispose of all or any of the Units and / or Options the subject of a Disposal Notice if certain events happen.

29.9. A Disposal Notice may require the Member or Option Holder to whom it is addressed to dispose of all or any of that Member's or Option Holder's Units and / or Options as specified in the Disposal Notice.

29.10. If a Disposal Notice is not complied with by the Member or Option Holder to whom it is addressed, the Manager may, at any time, sell all or any of that Member's or Option Holder's Units and / or Options specified in the Disposal Notice.

29.11. For the purposes of clause 29.10:

- (a) the Manager may sell the relevant Member's or Option Holder's Units and / or Options at the best price reasonably

obtainable at the relevant time. For this purpose, any sale of Units and / or Options by the Manager on the ASX will be regarded as discharging this obligation;

- (b) each Member or Option Holder appoints each director of the Manager as its attorney (with power to appoint sub attorneys) in the name of the Member or Option Holder and on behalf of the Member or Option Holder to execute any documents and implement any procedures as may be necessary or desirable in the opinion of the attorney to procure the transfer of Units and / or Options on behalf of the Member or Option Holder; and
- (c) the title of the transferee to any Units and / or Options so sold is not affected by any irregularity or invalidity in connection with the sale of the Units and / or Options to the transferee (but nothing in this clause 29.11 prevents the exercise by the Manager of its powers under this clause 29 if the transferee is a Foreign Person, a Cross Stakeholder or an Airline).

Proceeds of sale

- 29.12. The Manager may receive and give a good discharge for the proceeds of a sale under clause 29.10, may pay or recoup out of those proceeds all reasonable costs and expenses of or incidental to the sale (including, but not limited to, any brokerage, duties, taxes or registry or administration costs) and shall pay the net amount to the person who immediately before the Divestment Date was the Member or Option Holder in respect of the Units and / or Options sold (*Former Member or Option Holder*).

Payment of net amount

- 29.13. The net amount payable under clause 29.12 may be paid by cheque posted to the Former Member or Option Holder at the relevant address appearing in the register immediately before the Divestment Date.

Exercise of powers by the Manager

- 29.14. Each Member, applicant for Units or Options and Option Holder acknowledges and recognises that the exercise of the powers given to the Manager under this clause 29 may cause individual Members, applicants for Units or Options and Option Holders, or persons on whose behalf they hold Units or Options or make application, considerable disadvantage (including possible adverse financial and taxation consequences) but each Member, applicant for Units or Options and Option Holder acknowledges that such a result is necessary to enable the requirements of the Airports Act to be met.
- 29.15. To the fullest extent permitted by law the Manager shall be under no liability to any Member, applicant for Units or Options or Option Holder, or persons on whose behalf they hold Units or Options or make application, and the Trust shall be under no liability to any Member, applicant for Units or Options or Option Holder, or persons on whose behalf they hold Units or Options or make application, for any loss or disadvantage incurred by a Member, applicant for Units or Options or Option Holder, or persons on whose behalf they hold Units or Options or make application, as a result, whether directly or indirectly, of the Manager exercising the powers provided by this clause 29.

29.16. Any resolution, determination or decision to exercise any discretion or power by the Manager under this clause 29 shall be final and conclusive and may be made or exercised by the Manager at its discretion including, without limitation, a decision to issue a Warning Notice under clause 29.7, Disposal Notice under clause 29.8 and to sell Units under clause 29.10.

Forms and rules

29.17. The Manager, may from time to time, publish:

- (a) the form (whether electronic, written or otherwise) in which, and method by which, information may be provided under clauses 29.2 and 29.3;
- (b) the form of request the Manager will use for the purposes of clause 29.3;
- (c) the rules the Manager will apply to determine whether to issue a Warning Notice under clause 29.7, a Disposal Notice under clause 29.8 and to sell Units and / or Options under clause 29.10;
- (d) the procedures by which any divestment will be effected;
- (e) any other matters required or permitted to be determined or prescribed by the Manager under this clause 29 and related definitions; and
- (f) related matters.

Such rules, procedures and matters (including circumstances in which a Member, applicant for Units or Options or Option Holder will be treated as a Foreign Person, a Cross Stakeholder or an Airline) may include provisions giving the Manager rights to deal with Units and / or Options and will be binding on Members, applicants for Units or Options and Option Holders.

Register

29.18. The Manager may establish and maintain a register (***Compliance Register***) containing such information as it considers appropriate in relation to:

- (a) Units and Options held by, or on behalf of a Foreign Person and foreign ownership generally;
- (b) Units and Options held by, or on behalf of an Airline and the ownership of Units and Options by Airlines generally; and
- (c) Units and Options held by, or on behalf of a Cross Stakeholder and cross-ownership generally of the Airline Operator Companies for Perth Airport, Melbourne Airport or Brisbane Airport paired, in each case, with Sydney (Kingsford Smith) Airport.

The Compliance Register does not form part of the Register.

- 29.19. The Manager may treat any Member, applicant for Units or Options or Option Holder who does not comply with clause 29.2 or a request for information under clause 29.3 as a Foreign Person, a Cross Stakeholder or an Airline. For this purpose, the Manager may specify one or more groups of Members, applicants for Units or Options or Option Holders who will be treated as Foreign Persons, Cross Stakeholders or Airlines in the event of non compliance with clause 29.2 or a request for information under clause 29.3.
- 29.20. The Manager may rely on information contained in the Compliance Register when forming its belief at any time as to whether or not:
- (a) an Unacceptable Ownership Situation has occurred or is likely to occur; and
 - (b) the Foreign Ownership Trigger has been or is likely to be exceeded.

The information contained in the Compliance Register is to be taken as correct unless proven otherwise.

Delegation

- 29.21. The Manager may delegate any of its powers under clause 29 to any person. The provisions of this clause 29 apply to each person to whom the Manager has delegated a power under this Constitution as if a reference to the Manager included a reference to that person.

Stapling

- 29.22. If the Manager exercises its powers under this clause 29 to effect the disposal of Units and the Units comprise part of a Stapled Security, the relevant Member (or the Stapled Entities on the Member's behalf) must at the same time effect the disposal of the relevant Attached Securities.

Other Instruments

- 29.23. If any Other Instrument issued by the Manager confers a beneficial interest in the income or capital of the Trust or a right to acquire such an interest, then the provisions of this clause 29 shall apply to that Other Instrument and Other Instrument holder:
- (a) as though the Other Instrument was a Unit; and
 - (b) as though the Other Instrument holder was a Member; and
 - (c) with such other changes as may be necessary.

Foreign Ownership Trigger

- 29.24. The Manager may from time to time specify and notify to Members a percentage in relation to the Trust (the *Foreign Ownership Trigger*) which must not exceed:
- (a) 48.99% as the maximum total aggregate of beneficial interests in the Trust held by all Foreign Persons; and
 - (b) 14.99% as the maximum beneficial interest in the Trust held by a single Foreign Person (the *Single Person Trigger*) in circumstances where if the Manager has determined that the

Single Person Trigger will apply.

- 29.25. The Single Person Trigger will only apply where the Manager determines that the imposition of the trigger is reasonably necessary to ensure that an Unacceptable Foreign Ownership Situation does not arise in relation to the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity.
- 29.26. A reduction in the Foreign Ownership Trigger in relation to the Trust, as specified by the Manager at any time, is permitted only to avoid an Unacceptable Foreign Ownership Situation arising in relation to the Trust, a Stapled Entity or any Airport Investment of the Trust or a Stapled Entity, in whole or in part by reason of beneficial interests or Stakes held in the Trust and/or a Stapled Entity by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons.

30. Transfers

- 30.1. This clause 30 has effect in respect of each Class of Units but is subject to the Terms of Issue of that Class.

Transferability

- 30.2. Subject to this Constitution and their Terms of Issue, a Unit, Option or Other Instrument may be transferred by instrument in writing, in any form authorised by the Corporations Act or, subject to the Corporations Act, in any other form that the Manager approves.
- 30.3. A transferor of Units, Options or Other Instruments remains the Holder of the Units, Options or Other Instruments (as the case may be) transferred until the transfer is registered.

Uncertificated system

- 30.4. Units, Options or Other Instruments may be transferred in any manner permitted by an applicable uncertificated trading system. The Manager may require before registration of any such transfer that there be provided to the Manager any documents which the rules of the uncertificated system require or permit the Manager to require be provided to it to authorise registration.
- 30.5. Subject to the Corporations Act, while Units can be transferred on an uncertificated trading system, a joint holding statement may be issued to evidence the holding of Stapled Securities comprising Units and Attached Securities.

Registration of transfers

- 30.6. Where Units, Options or Other Instruments are transferred other than in accordance with an applicable uncertificated trading system, the following documents must be lodged for registration at the registered office of the Manager or the location of the Register:
- (a) the instrument of transfer (duly stamped if relevant);
 - (b) the certificate (if any) for the Units, Options or Other Instruments; and
 - (c) any other information that the Manager may require to

establish the transferor's right to transfer the Units, Options or Other Instruments.

- 30.7. On compliance with clause 30.6, the Manager will, subject to the powers or obligations of the Manager to refuse registration, register the transferee as a Holder.
- 30.8. The Manager may waive compliance with clause 30.6(b) on receipt of satisfactory evidence of loss or destruction of the certificate.

Where registration may be refused

- 30.9. Subject to the Corporations Act, the Listing Rules or the rules of any applicable uncertificated trading system, the Manager may refuse to register any transfer of Units, Options or Other Instruments. When the Listing Rules apply, the Manager may also apply a holding lock (or ask that a holding lock be applied) to the extent permitted by the Listing Rules.

Restricted Securities

- 30.10. When Units (or Stapled Securities) are Officially Quoted and the Listing Rules or a restriction agreement requires, the Manager must refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of any restricted securities on issue which is or might be in breach of the Listing Rules or any restriction agreement entered into by the Manager under the Listing Rules in relation to the restricted securities.
- 30.11. During a breach of the Listing Rules relating to restricted securities, or a breach of a restriction agreement, the holder of the restricted securities is not entitled to any distribution or (subject to the Corporations Act) voting rights in respect of the restricted securities.

Small holdings

- 30.12. Without limiting clause 27A, a transfer that results in a holding of less than a marketable parcel of Units (or Stapled Securities) is permitted:
 - (a) for the purposes of effecting a sale of Units (or Stapled Securities) in accordance with clause 27A; or
 - (b) in any other circumstances approved by the Manager.

Transfer of Stapled Securities

- 30.13. A transfer of a Unit forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if, in addition to the requirements of clause 30, the transfer relates to or is accompanied by a transfer of the same number of each Attached Security from the same transferor in favour of the same transferee.
- 30.14. A transfer of a Unit which is not accompanied by a transfer of the same number of each Attached Security will be taken to authorise the Manager as agent for the transferor to effect a transfer of the same number of each Attached Security from the same transferor to the same transferee.
- 30.15. A transfer of any Attached Security to which a Unit is Stapled which is not accompanied by a transfer of the Unit will be taken to authorise the

Manager as agent for the transferor to effect a transfer of the Unit and any other Attached Securities to which the Unit is Stapled to the same transferee.

- 30.16. Each Member irrevocably appoints the Manager as its agent and attorney for the purposes of taking all necessary action (including executing necessary documents) to effect, on a date to be determined by the Manager, the transfer to the Manager (or to a person determined by the Manager) of any Attached Security which was Stapled to a Partly Paid Unit which has been Cancelled or sold.

31. Transmission of Units, Options, Other Instruments and Stapled Securities

Entitlement to Units on death

- 31.1. If a Holder dies:

- (a) the survivor (or survivors, where the Holder was a joint Holder); and
- (b) the legal personal representatives of the deceased, where the Holder was a sole holder,

will be the only persons recognised by the Manager as having any title to the Holder's interest in the Units, Options, Other Instruments or Stapled Securities (as the case may be).

- 31.2. The Manager may require evidence of a Holder's death as it thinks fit.
- 31.3. This clause does not release the estate of a deceased joint Holder from any liability in respect of a Unit, Option, Other Instrument or Stapled Security (as applicable) that had been jointly held by the Holder with other persons.

Registration of persons entitled

- 31.4. Subject to the Bankruptcy Act 1966 (Cth), the Corporations Act and to the production of any information that is properly required by the Manager, a person becoming entitled to a Unit, Option, Other Instrument or Stapled Security (as applicable) in consequence of the death, bankruptcy, insolvency (or other legal disability) of a Holder may elect to:

- (a) be registered personally as a Holder; or
- (b) have another person registered as the Holder.

- 31.5. All the limitations, restrictions and provisions of this Constitution relating to:

- (a) the right to transfer;
- (b) the registration of the transfer of; and
- (c) the issue of certificates for,

Units, Options, Other Instruments or Stapled Securities (as applicable)

apply to any relevant transfer as if the death, bankruptcy, insolvency (or other legal disability) of the Holder had not occurred and the notice or transfer were a transfer signed by that Holder.

Distributions and other rights

- 31.6. If a Holder dies or suffers a legal disability, the Holder's legal personal representative or the trustee of the Holder's estate (as the case may be) is, on the production of all information as is properly required by the Manager, entitled to the same distributions, entitlements and other advantages and to the same rights (whether in relation to meetings of the Trust or to voting or otherwise) as the Holder would have been entitled to if the Holder had not died or suffered a legal disability.
- 31.7. Where two or more persons are jointly entitled to any Unit, Option, Other Instrument or Stapled Security (as applicable) as a result of the death or legal disability of a Holder, they will, for the purposes of this Constitution, be taken to be joint Holders of the Unit, Option, Other Instrument or Stapled Security (as the case may be).

32. Exchange of Units

- 32.1. Subject to the Corporations Act and the Listing Rules, if, with the approval of or by the Manager, a written offer to transfer or redeem some or all of their Units (an *Exchange Offer*) is made to Members or to one or more specific Members (*Offer Members*) in consideration of any or all of:
 - (a) the issue or transfer of units in another trust, or interests of whatever nature in or in relation to another entity;
 - (b) a cash payment; and
 - (c) a transfer of Assets,and at least 21 days notice is given to Offer Members to accept the Exchange Offer, then on expiry of the period of notice any Offer Member who has not made an election in relation to the Exchange Offer will be taken to have accepted the Exchange Offer in accordance with clause 32.2.
- 32.2. Where an Exchange Offer is comprised of:
 - (a) cash and one or more other alternatives, the Offer Member is taken to have elected to accept the cash alternative; and
 - (b) one or more non cash alternatives, the Offer Member is taken to have elected to accept the alternative determined by the Manager.
- 32.3. The Manager is irrevocably authorised to complete any application for units, forms of transfer or other documents reasonably required for the purposes of this clause, in each case on behalf of and in the name of the relevant Offer Member, as agent or attorney.
- 32.4. Payment made to or an issue or transfer effected in favour of a Member pursuant to this clause is in full discharge of the Member's

rights in respect of the Units to which the Exchange Offer relates.

- 32.5. The Manager will not give its approval to any Exchange Offer if, having regard to any reasonably foreseeable material benefits and detriments to Members, the Manager believes that to approve the Exchange Offer is not in the interests of the Members as a whole, or is materially adverse to the Exchange Members and to the Members as a whole.

33. Holding Assets

How held

- 33.1. Subject to clauses 33.2 and 33.3, all Assets will be held in the name of the Manager.

Other Custodian

- 33.2. If the Manager considers it necessary or desirable, the Assets (or any Asset) may be held by a custodian or nominee appointed by the Manager and acting as agent for the Manager.

Holding of Assets

- 33.3. The Custodian of a particular Asset must hold that Asset either:
- (a) directly in its name; or
 - (b) indirectly by means of any asset title transfer or holding system approved by the Manager (while the Trust is a Registered Scheme, to the extent permitted by the Corporations Act or an ASIC Exemption).

34. The Register

Keeping Registers

- 34.1. The Manager must establish and keep a register of Members and, where applicable, a register of Option Holders and a register of Stapled Security Holders and any other register required by the Corporations Act. The Manager may elect to maintain the register of Members and the register of Stapled Security Holders as one register. In addition to the information required under clause 34.2, the Manager must, in relation to:
- (a) the register of Members, enter the Class of Units held by a Member; and
 - (b) the register of Stapled Security Holders, record the number and type of Attached Securities to which each Member's Units are Stapled.

Information in and form of Registers

- 34.2. To the extent applicable, the Registers must be kept in accordance with, and contain the information required by, the Corporations Act. Otherwise, subject to clause 34.1, the Manager may decide what information is included in the Registers. If the Corporations Act applies, the Manager has the powers conferred under the Corporations Act in relation to the Register. The Manager is not obliged to register

more than three persons as joint Holders.

Changes

- 34.3. Every Holder must promptly notify the Manager of any change of name or address and the Manager must alter the relevant Register accordingly.

Register

- 34.4. Only the persons entered into the relevant Register are recognised as having any interest in a Unit, Option, Other Instrument or Stapled Security (as applicable).

35. Statements, Accounts and Audit

Appointment of auditors

- 35.1. The Manager must appoint a registered company auditor to audit the Trust's financial report for a Financial Year and perform the other duties required of the auditor under the Corporations Act.
- 35.2. While the Trust is a Registered Scheme the Manager must appoint a Compliance Plan Auditor.

Retirement of auditors

- 35.3. While the Trust is a Registered Scheme, the Trust Auditor and the Compliance Plan Auditor may each retire or be removed in accordance with the Corporations Act. Otherwise, the Trust Auditor may retire or be removed in accordance with its terms of engagement or as agreed with the Manager.

Remuneration of auditors

- 35.4. The remuneration of the Trust Auditor and Compliance Plan Auditor will each be fixed by the Manager.

Accounts and reports

- 35.5. The financial statements of the Trust must be kept and prepared by the Manager in accordance with applicable Australian Accounting Standards.
- 35.6. The Manager must report to Members concerning the affairs of the Trust and their holdings as required by the Corporations Act. Subject to the Corporations Act, the person preparing a report may determine the form, content and timing of it.

Audit

- 35.7. The Manager will cause:
- (a) the Trust Auditor to audit and report on the financial statements; and
 - (b) while the Trust is a Registered Scheme the Compliance Plan Auditor to audit and report on the compliance plan,
- each in the manner required by the Corporations Act to the extent it applies.

36. ASIC Exemptions

- 36.1. If relief from the provisions of the Corporations Act granted by an ASIC Exemption requires that this Constitution contain certain provisions or may only be relied on if this Constitution contains certain provisions, then, despite clause 24, those provisions are taken to be incorporated into this Constitution at all times at which they are required to be included and prevail over any other provisions of this Constitution to the extent of any inconsistency. However, if the relief is granted by class order (rather than specifically in relation to the Trust) then the ASIC Exemption (and the provisions it requires) will not be taken to be incorporated if the Manager declares in writing that this is the case. This declaration may be made at any time.

37. Interpretation

Definitions

- 37.1. In this constitution these words and phrases have the following meaning unless the contrary intention appears:

Adviser includes any adviser, consultant or expert including any architect, project manager, barrister, solicitor, underwriter, accountant, auditor, valuer, banker, information technology or systems adviser, real estate agent, investment manager, broker, administrator, property manager, environmental auditor or assessor and any other person appointed by the Manager to provide advice in relation to the Trust.

AFM Quoted means quoted on an approved foreign market as defined in an ASIC Exemption.

Airline has the meaning given to that term in the Airports Act.

Airport Assets:

- (a) airports together with their related assets (if any); and
- (b) airport-related assets, the substantial part of whose revenue derives or is expected to derive from the existence of an airport;

and each of (a) and (b) above may be of an equity, equity-related, debt or debt-related nature (but investments may not be made in airlines or aircraft).

Airport Investment means any direct or indirect investment by the Trust or a Stapled Entity in or in connection with an Airport Operator Company or a holding company of an Airport Operator Company.

Airport Operator Company has the meaning given to it in the Airports Act.

Airports Act means the Airports Act 1996 (Cth) and all applicable subordinate-legislation including, without limitation, the Ownership Regulations.

AML Legislation means the Anti-Money Laundering and Counter-

Terrorism Financing Act 2006 (Cth), the Financial Transaction Reports Act 1988 (Cth) and any similar legislation in any jurisdiction.

Applicable Legislation means the Corporations Act, the Australian Securities and Investments Commission Act 2001 (Cth) and any other legislation applying to the Manager or the Trust that affects any limitation of the Manager's liability.

ASIC the Australian Securities and Investments Commission or any regulatory body which replaces it or performs its functions.

Appointment Date means the date on which ASIC updates the record of the Trust's registration to reflect The Trust Company (Sydney Airport) Limited (ACN 115 967 087) as the Manager.

ASIC Exemption means:

- (a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the Corporations Act; and
- (b) any other instrument issued by ASIC under a power conferred on ASIC which relates to the Manager or the Trust,

whether in the form of a class order or a specific instrument and whether modifying the Corporations Act, exempting the Manager or others from provisions of that Act or otherwise, and includes Class Order 13/655.

Assets means all the property, rights and income of the Trust, but not application money or property in respect of which Units have not yet been issued, proceeds of redemption which have not yet been paid or any amount in the distribution account.

Asset Value at any time means the value of all Assets at that time, as most recently calculated in accordance with clause 10.

ASX means ASX Limited or the financial market operated by that company (whichever the context requires).

ASX Trading Day means those Business Days on which buying and selling occurs through ASX Trade.

Attached Security means a security of a Stapled Entity which is from time to time Stapled or to be Stapled to a Unit.

Australian Accounting Standards means:

- (a) the accounting standards from time to time approved under the Corporations Act;
- (b) the requirements of the Corporations Act in relation to the preparation and content of accounts; and
- (c) generally accepted accounting principles and practices in Australia consistently applied, except those principles and practices which are inconsistent with the standards or requirements referred to in paragraph (a) or (b).

Australian Financial Services Licence has the same meaning as in the Corporations Act.

Base Fee in respect of a Quarter means an amount equal to the aggregate costs (determined in accordance with generally accepted accounting principles in Australia) incurred by the Former RE in performing its role as responsible entity of the Trust during the relevant Quarter plus an amount equal to 15% of such costs.

Bid Consideration has the meaning given in clause 6.10.

Business Day has the meaning given to that term in the Listing Rules, if Units are Officially Quoted. In any other case, Business Day means a weekday on which banks are open in Sydney and Melbourne.

Calculation Date, in relation to a Unit, an Option or a Stapled Security (as applicable) means:

- (a) where the Unit, Option or Stapled Security (as applicable) is offered by way of a product disclosure statement, information memorandum or other offer document, the date specified in that document;
- (b) where the Unit or Stapled Security is offered as Bid Consideration, or as part of the Bid Consideration, the day the offer is announced; or
- (c) in any other case, the date of issue of the Unit, Option or Stapled Security (as applicable).

Call means a call on a Member to pay all or any part of the unpaid Issue Price for a Partly Paid Unit.

Cancelled, in relation to a Partly Paid Unit, means terminated for failure to pay a Call and cancelled in the manner set out in clause 4 and the Terms of Issue of that Unit.

Cancellation Notice means a notice given under clause 4.8.

Capital Reallocation Issue means an issue of Units in the circumstances contemplated by clause 7.14.

Capital Reallocation Units has the meaning set out in clause 7.14.

Cash includes cheques.

Cashout Bank means an Australian Financial Services Licence holder with sufficient authority and expertise that is appointed by the Manager to sell the Transfer Securities.

Class means a class of Units, being Units which have the same rights (disregarding any differences connected with the first distribution following an issue of Units). If all Units have the same rights (disregarding any differences connected with the first distribution following an issue of Units), there is only one Class.

Class Order 13/655 means the instrument issued by ASIC and

described as ASIC Class Order [CO 13/655].

Commencement Date means the date on which the Units are first issued.

Commodity means any tangible personal property, currency, interest or other rate, financial or other index or indices (including any share index) and such other tangible or intangible thing determined by the Manager to be a Commodity for the purposes of this definition.

Compliance Committee Member a member of a compliance committee established by the Manager in connection with the Trust.

Compliance Officer means the person from time to time appointed to that role within the Manager.

Compliance Plan Auditor means the last person appointed under clause 26.7 to audit the Trust compliance plan as required by section 601HG of the Corporations Act.

Constitution means this deed as amended from time to time.

Corporations Act means the Corporations Act 2001 (Cth), and includes the Act as modified by any ASIC Exemption.

CPI means the 'All groups CPI weighted average of eight capital cities' published by the Australian Bureau of Statistics in respect of a Quarter.

Cross Stakeholder means a person who has a Stake in the Airport Operator Company for Brisbane Airport, Perth Airport or Melbourne (Tullamarine) Airport.

Custodian means a custodian or nominee appointed under clause 33.2.

Derivative has the meaning given in the Corporations Act but also includes:

- (a) any contract (including a master agreement) commonly known as a derivative, futures contract or synthetic under which there are rights in respect of the acquisition, disposal or trading of any Commodity, Property or Investment and under which delivery, settlement, payment or adjustment is to be made at a future date at a price, or based on a formula, agreed on when the contract is made; or
- (b) any financial instrument or arrangement, contract or transaction that relates to any Commodity, Property or Investment and is, in the opinion of the Manager, for the purpose or anticipated or intended purpose of:
 - (i) managing, limiting or reducing perceived risks or anticipated costs relative to returns;
 - (ii) augmenting or improving returns having regard to perceived risks or anticipated costs; and

(iii) securing a profit or avoiding a loss,
associated with any Commodity, Property or Investment.

Distributable Income has the meaning given in clause 11.1.

Divestment Date means the period or date which must not be less than 30 days from the date of a Disposal Notice or such shorter period as ASX permits.

Divestment Rules at any time means the rules, procedures and matters (if any) then most recently adopted and published by the Manager under clause 29.17.

Elected Chair has the meaning given in clause 17.2(h).

Entitled Unit Holders has the meaning given in clause 5.2.

Exercise Price has the meaning given in clause 5.1.

Expenses includes any costs, liabilities, expenses, commissions, brokerage, fees, Taxes and duties.

Financial Year means a year ending on 31 December in each year but:

- (a) the period commencing on the Commencement Date and ending on 31 December in the same year will be a Financial Year; and
- (b) the period commencing on the 1 January immediately before the day all the assets of the Trust have been realised and distributed in accordance with clause 23 and ending on that final distribution day will be a Financial Year.

Foreign Ownership Trigger means at any time the percentage specified by the Manager under clause 29.24.

Foreign Person has the same meaning as in the Airports Act.

Fully Paid Unit means a Unit for which the Issue Price is fully paid.

Government Authority means a government or a governmental, semi governmental or judicial entity or authority. It also includes a self regulatory organisation established under statute or a securities exchange.

GST has the meaning given in section 195–1 of the A New Tax System (Goods and Services) Tax Act 1999 (Cth).

Holder means a Member, an Option Holder, an Other Instrument Holder or a Stapled Security Holder.

Ineligible Fund a unit trust in which a beneficial interest in not less than 40% of the capital, and not less than 40% of the income, is held by persons who are Foreign Persons.

Input Tax Credit has the meaning given to that term by the A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Interest Rate means the daily buying rate displayed at or about 10.30am on the Reuters screen BBSW page for Australian bank bills of a three month duration.

Interim Chair has the meaning given in clause 17.2.

Interim Distribution Period means any period determined by the Manager so long as the period commences and ends during the same Financial Year (but does not end on the last day of that Financial Year).

Investment means any type of investment, whether in Australia or elsewhere, which a natural person or corporation may make on its own behalf and not as a trustee and includes:

- (a) (without limiting paragraph (b)) financial products; and
- (b) the pursuit of gain or the protection against Loss by way of any of the following:
 - (i) acquiring or holding of any Property;
 - (ii) making available financial accommodation; or
 - (iii) entering into any contract or a Derivative,and may involve incurring a liability or obligation of any kind.

Issue Price in relation to a Unit means the price at which that Unit is issued and calculated in accordance with clause 6.

Land includes any interest in land whether vested or contingent, freehold or leasehold, whether at law or in equity and any buildings or other improvements on that land.

Law includes:

- (a) the Corporations Act, the Australian Securities and Investments Commission Act 2001 (Cth) and any other statute; and
- (b) any rule of common law, rule of equity or judgement which applies to the Trust or the Manager (as the case may be).

Liabilities at any time means all present liabilities of the Trust including any provision which the Manager decides should be taken into account in determining the liabilities of the Trust but excluding the amount representing Members' capital, undistributed profits, interest attributable to Members accruing on Member capital, capital reserves or any other amount representing the value of rights attaching to Units, whether or not redeemable, regardless of whether characterised as equity or debt in the accounts of the Trust.

Liquid in relation to the Trust, has the meaning given by section

601KA(4) of the Corporations Act.

Listing Rule Waiver means an exemption from or modification to the Listing Rules granted by the ASX to the Manager or in relation to the Trust.

Listing Rules means the listing rules of the ASX and any other rules of the ASX which are applicable while the Trust is admitted to the Official List of the ASX (for example, the ASX Settlement Operating Rules), each as amended or replaced from time to time, except to the extent of any Listing Rule Waiver.

Loss means any losses, liabilities, costs, expenses or damages.

Managed Investment Trust has the meaning given in the Tax Act.

Manager means the company which is registered with the ASIC as the single responsible entity for the Trust under the Corporations Act.

Market Price of a Security (where applicable, of a Class) on a particular day means:

- (a) subject to paragraph (b), the volume weighted average traded price per Security of all Securities traded on ASX (excluding any special crossings) and on any other Open Trading Facility for the period of 15 ASX Trading Days ending on the relevant day (whether or not a sale was recorded on any particular day) (the **VWAP**) but if the Security to be issued will be issued ex distribution and the VWAP is cum distribution, the Market Price will be reduced by the amount of that distribution (with corresponding adjustments made to the extent some but not all sales included in the VWAP were for Securities cum distribution); or
- (b) if a person referred to in subparagraph (i) or (ii) below concludes that a price determined in accordance with that subparagraph is a more appropriate measure of the market price of Securities than the price determined under paragraph (a), the price calculated in accordance with subparagraph (i) or (ii) (as applicable).
 - (i) The price obtained with a bookbuild arranged by a reputable investment bank, with experience in arranging bookbuilds in the Australian equity market. However, the Trust Auditor must provide written certification that the bookbuild was conducted in accordance with normal market practice for bookbuilds; or
 - (ii) The price determined by an adviser who:
 - (A) is independent of the Manager; and
 - (B) is qualified to determine and has relevant market experience in determining the issue price of Securities in circumstances similar to

those in which the determination of the Security issue price is being made; and

- (C) certifies the amount in writing to the Manager and confirms that in determining the amount the expert has had regard to the matters set out in subparagraphs (D) to (F) below,

as being the fair issue price of the Security having regard to:

- (D) the nature and size of the proposed offer of Securities for which purpose the issue price of a Security is being calculated;
- (E) the circumstances in which the proposed offer of Securities will be made; and
- (F) the interests of holders of Securities generally including the balancing the dilutionary effect of any such issue against the desirability of a successful capital raising.

However, the valuation methods and policies applied by the adviser must be capable of resulting in a calculation of the market price that is independently verifiable.

If the Securities have not been traded in the 15 ASX Trading Days ending on the relevant Day, paragraph (b) applies.

Member the person Registered as the holder of a Unit (including persons jointly Registered).

Minister means any Minister of State of the Commonwealth administering the Airports Act or any part of that legislation and includes any Minister of State of the Commonwealth or member of the Federal Executive Council for the time being acting on behalf of such a Minister.

Month means a calendar month.

Net Fund Value means the value of the Assets calculated in accordance with clause 10 less the Liabilities.

Net Proceeds From Realisation means the proceeds from sale or other realisation of the Assets after paying or providing for:

- (a) all Liabilities of the Trust;
- (b) any unpaid fees payable (or to be payable) to the Manager; and
- (c) any Expenses incurred in realising the Assets.

Non-Australasian Member means any Member who is a citizen or resident of a jurisdiction outside Australia and New Zealand or whose address in the Register is a place outside of Australia and New Zealand, unless the Manager is satisfied that it would not be unlawful

for the Trust to issue Units or distribute Assets to the Member either unconditionally or after compliance with conditions which the Manager in its sole discretion regards as acceptable and not unduly onerous.

Official List has the same meaning as in the Listing Rules.

Officially Quoted quotation on the official list of the ASX, including when quotation is suspended for a continuous period of not more than 60 days.

Open Trading Facility means a securities exchange or trading facility licensed under the Corporations Act where the trading prices are publicly available.

Option means an option granted by the Manager in respect of unissued Units.

Option Holder means a person registered as the holder of an Option (including persons registered jointly).

Other Instruments means any other interests, rights or other instruments of a debt, equity, quasi-debt, quasi-equity or hybrid nature (other than Units or Options).

Other Instrument Holder means a person registered as the holder of an Other Instrument (including persons registered jointly).

Ownership Provisions means Part 3 of, and the schedule to, the Airports Act.

Ownership Regulations the *Airports (Ownership – Interests in Shares) Regulations 1996 (Cth)*.

Partly Paid Proportion means the number derived from multiplying the number of Partly Paid Units on Issue by the following fraction:

$$\frac{\text{the total of all amounts paid or due but unpaid for Partly Paid Units on issue}}{\text{the total of all Issue Prices for Partly Paid Units on issue}}$$

Partly Paid Units means Units which have an Issue Price which is payable by instalments and in respect of which all instalments have not been called.

Placement Resolution means in relation to the approval or ratification of an issue of Units, a special resolution where both of the following apply:

- (a) votes are cast only in respect of Units (the Eligible Interests):
 - (i) that are held by a Member who will not (or did not) acquire any of the Units that are (or were) to be issued; or
 - (ii) that are held by a Member for the benefit of another person who will not (or did not) obtain beneficial ownership of any of the interests that are (or were) to be

issued; and

- (b) the value of the Eligible Interests held by the Members who vote represents at least 25% of the total value of Eligible Interests.

Property means property of any description and includes:

- (a) Land and any personal property;
- (b) any estate or interest in property;
- (c) any debt or chose in action or any other right or interest;
- (d) any permit, licence or authority or any patent, copyright, design, trade mark or other form of intellectual property; and
- (e) anything regarded as an asset for the purposes of Australian Accounting Standards.

Quarter means a period of three Months ending on 31 March, 30 June, 30 September and 31 December in each year (or that part of such a period occurring at the commencement or winding up of the Trust) and Quarterly has a corresponding meaning.

Register means each of the registers kept under clause 34.

Registered means recorded in the Register.

Registered Scheme means a managed investment scheme which is registered under Chapter 5C of the Corporations Act.

Related Issue means, in relation to an issue of Units, an issue of Units in the same Class which has not been approved or ratified by Members in accordance with clause 6.6 or issued in accordance with a provision of this Constitution other than clause 6.5 or 6.6.

Restricted Security has the same meaning as in the Listing Rules.

Rights Unit Holder has the meaning as in clause 6.4.

Sale Facility means the procedures set out in clause 27C.

Sale Price means the average price (less any costs) at which Transfer Securities (including in the context of the Stapling of new financial products, those financial products) held by the Cashout Bank are sold under clause 27C.3.

Security means:

- (a) where Units of a Class are Stapled, a Stapled Security; and
- (b) where Units are not Stapled, a Unit.

Security Interest means any mortgage, charge, pledge, lien, encumbrance, arrangement for the retention of title or any other similar right, interest, power or arrangement of any nature having the

effect of providing security.

Stake has the meaning given to that term in the Airports Act. Where a reference is made to an aggregate of Stakes held by certain persons, this refers to the particular type of Stake held by each relevant person.

Stapled Company means Sydney Airport Limited (ACN 165 056 360).

Stapled Entity means any trust, corporation, managed investment scheme or other entity the securities in which are Stapled to Units and, where the context requires, includes the trustee or responsible entity of the relevant trust or managed investment scheme.

Stapled Security means a Unit (if applicable, of a Class) and each Attached Security which are Stapled together and registered in the name of a Member.

Stapled Security Holder means a person registered as the holder of a Stapled Security (including persons registered jointly).

Stapled Unit means a unit in Sydney Airport Trust 2 (Stapled Units were stapled to Units in the Trust at the time of the formation of the Trust).

Stapling means the linking together of the rights and obligations which attach to a Stapled Security so that the Unit (of a Class, if applicable) and the Attached Security or Attached Securities may only be dealt with together and Stapled has a corresponding meaning.

Stapling Date means the date determined by the Manager to be the first day on which all Units on issue in the Trust, or a Class of Units, are Stapled to an Attached Security or Attached Securities.

Stapling Provision means a provision of this Constitution relating or referring to or connected with Stapling.

Tax means all income tax, capital gains tax, capital tax, recoupment tax, land tax, sales tax, payroll tax, fringe benefits tax, group tax, profit tax, interest tax, property tax, undistributed profits tax, GST, withholding tax, municipal rates, stamp duties and other tax, impost, rates, duties, charges and levies assessed or charged or assessable or chargeable by or payable to any national, federal, state or municipal taxation or excise authority in Australia or elsewhere, including any interest, penalty, charge, fee or other amount imposed or made on or in respect of the failure to file a return in respect of or to pay any such tax, impost, rates, duties, charges or levies.

Tax Act means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth).

Termination Event means:

- (a) the Manager decides that the Trust should terminate and the Assets realised in accordance with clause 23; or
- (b) the Manager is required by the Corporations Act to wind up

the Trust or is otherwise required by Law to realise the Assets and distribute the proceeds.

Terms of Issue, in relation to a Unit, an Option or an Other Instrument, means the terms and conditions on which that Unit, Option or Other Instrument is issued.

Transaction Costs means:

- (a) when calculating the Issue Price of a Unit, the Manager's estimate of the total Expenses which would be incurred if all the Assets were to be acquired at the relevant time; and
- (b) when calculating the Withdrawal Price of a Unit, the Manager's estimate of the total Expenses which would be incurred if all the Assets were to be disposed of at the relevant time,

(in each case excluding the actual cost of the Assets); or
- (c) in either case, to the extent permitted by the Corporations Act if applicable, a lesser amount (including zero) determined by the Manager.

In estimating the total Expenses the Manager may take account of any policy it has established regarding the amortisation of Asset acquisition and disposal costs.

Transfer Date has the meaning set out in clause 27C.2.

Transfer Securities has the meaning set out in clause 27C.2.

Transfer Securities Price means an amount equal to the Sale Price multiplied by the number of Transfer Securities which are transferred to the Cashout Bank or, where the Transfer Securities are consolidated or divided, by the number of consolidated or divided Transfer Securities referable to the number of Transfer Securities which were transferred to the Cashout Bank under clause 27C.2.

Trust means the trust constituted or governed by this Constitution.

Trust Auditor means the last person appointed under clause 26.6.

Trust Income for a Financial Year or an Interim Distribution Period will be the net income of the Trust under section 95 of the Income Tax Assessment Act 1936 (Cth) (calculated by the Manager) determined, in respect of each Interim Distribution Period, as if references to financial year in section 95 were references to the relevant Interim Distribution Period, but less amounts attributable to franking credits, foreign tax credits and other notional and deemed amounts, unless the Manager in its discretion before the end of the Interim Distribution Period determines another amount to be the Trust Income.

Unacceptable Airline Ownership Situation has the same meaning as in the Airports Act.

Unacceptable Cross Ownership Situation has the same meaning as in the Airports Act.

Unacceptable Foreign Ownership Situation has the same meaning as in the Airports Act.

Unacceptable Ownership Situation means each of an Unacceptable Cross Ownership Situation, Unacceptable Foreign Ownership Situation or Unacceptable Airline Ownership Situation.

Unit an undivided share in the beneficial interest in the Trust as provided in this Constitution.

Units on Issue in relation to a Unit or Class means the total number of Units of that kind issued which have not been withdrawn.

Unstapled or **Unstapling** in relation to a Unit in the Trust means not being Stapled to an Attached Security.

Unstapling Date has the meaning set out in clause 27B.15.

Unstapling Event has the meaning set out in clause 27B.13.

Valuation Time means any time the Net Fund Value is determined.

Withdrawal Offer means an offer made by the Manager in accordance with section 601KB of the Corporations Act.

Withdrawal Price in relation to a Unit means the price at which that Unit is to be withdrawn in accordance with clause 8.1.

Interpretation

37.2. Unless the contrary intention appears, in this constitution:

- (a) terms defined in the Corporations Act are used with their defined meaning;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
- (c) the singular includes the plural and vice versa;

- (d) the words “includes” or “including”, “for example” or “such as” when introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not;
- (e) amend includes delete or replace;
- (f) person includes a firm, a body corporate, an unincorporated association or an authority;
- (g) the cover page, contents, headings (except in so far as they are used as a means of cross reference), footnotes, marginal notes and finding lists are for convenience only and do not affect interpretation of this constitution;
- (h) a reference to a year (other than a Financial Year) or month means a calendar year or calendar month respectively; and
- (i) a reference to dollars or \$ is a reference to the currency of Australia.

Other documents

- 37.3. A document does not become part of this constitution by reason only of that document referring to this constitution or vice versa, or any electronic link between them.

Constitution legally binding⁹

- 37.4. This constitution binds the Manager and each present and future Member and Option Holder and any person claiming through any of them in accordance with its terms (as amended from time to time) as if each of them had been a party to this constitution.

Severance

- 37.5. If any provision of this Constitution is held or found to be void, invalid or otherwise unenforceable then so much of it as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this Constitution remains in full force and effect.
- 37.6. If any provision of this Constitution is held or found to be inconsistent with the Corporations Act (as modified by any applicable ASIC Exemption), then, to the extent of that inconsistency, the provision is of no effect.

Governing law

- 37.7. This Constitution is governed by the laws of New South Wales. In relation to it and related non contractual matters the Manager and each Holder irrevocably submits to the non exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Other obligations excluded

- 37.8. Subject to the Corporations Act, all obligations of the Manager or restrictions on its power which might otherwise be implied by Law are expressly excluded to the extent permitted by Law.

⁹ Refer Section 601GB

Schedule 1 – Trust Scheme

1 Definitions

In this Schedule 1, unless the context otherwise requires:

ADI means authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) and, where the context requires, the financial market that it operates.

Bidder means Sydney Aviation Alliance Pty Ltd (ACN 651 567 841).

Business Day means a business day as defined in the Listing Rules and which is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, New South Wales.

CHES means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Ltd (ACN 008 504 532) and ASX Clear Pty Limited (ACN 001 314 503).

CHES Holding has the meaning given in the Settlement Rules.

Company Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between SAL and the Sydney Airport Securityholders (as holders of SAL Shares), subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by the Bidder and SAL.

Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC class order, ASIC legislative instrument or ASIC relief.

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing by the Bidder and Sydney Airport.

Deed Poll means a deed poll under which the Bidder covenants in favour of the Scheme Securityholders to perform the obligations attributed to the Bidder under the Schemes.

Effective means:

- (a) in relation to the Trust Scheme, the coming into effect of the amendments to the Constitution (which will occur on the date and at the time a copy of the amended Constitution, or of the amendments, is lodged with ASIC under section 601GC(2) of the Corporations Act); and
- (b) in relation to the Company Scheme, the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) in relation to the Company Scheme but in any event at no time before an office copy of the orders of the Court is lodged with ASIC.

Effective Date means the date on which the Trust Scheme and Company Scheme have both become Effective.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

Government Agency means any Australian or foreign government or governmental, semi-governmental or judicial entity or authority. It also includes any government minister (and his or her delegate), any self-regulatory organisation established under statute or any securities

exchange and, for the avoidance of doubt, includes ASIC, ASX, the Australian Foreign Investment Review Board and equivalent bodies in jurisdictions outside Australia.

HoldCo means Sydney Aviation Alliance Holdings Pty Ltd (ACN 654 912 197).

HoldCo A Loan Note Subscription Agreement means the subscription agreement for the HoldCo A Loan Notes, in the form provided to UniSuper Limited immediately prior to execution of the Scheme Implementation Deed (or as subsequently amended on or prior to the Implementation Date with the written consent of UniSuper Limited).

HoldCo A Loan Notes means each of a HoldCo A1 Loan Note and HoldCo A2 Loan Note.

HoldCo A1 Loan Note means a new A1 Loan Note issued by HoldCo under Facility A and in accordance with the A Loan Note Subscription Agreement and the deed poll under that agreement.

HoldCo A2 Loan Note means a new A2 Loan Note issued by HoldCo under Facility A and in accordance with the A Loan Note Subscription Agreement and the deed poll under that agreement.

HoldCo B Loan Note means a new B Loan Note issued by HoldCo in accordance with the B Loan Note Subscription Agreement and deed poll under that agreement.

HoldCo B Loan Note Subscription Agreement means the subscription agreement for the HoldCo B Loan Notes in the form provided to UniSuper Limited immediately prior to execution of the Scheme Implementation Deed (or as subsequently amended on or prior to the Implementation Date with the written consent of UniSuper Limited).

HoldCo Constitution means the constitution of HoldCo in the form provided to UniSuper Limited immediately prior to execution of the Scheme Implementation Deed (or as subsequently amended on or prior to the Implementation Date with the written consent of UniSuper Limited).

HoldCo Loan Note Registers means the registers established to record the holders of and the principal amounts outstanding under the HoldCo A Loan Notes and HoldCo B Loan Notes under the HoldCo A Loan Note Subscription Agreement and HoldCo B Loan Note Subscription Agreements.

HoldCo Loan Note Subscription Agreements means the HoldCo A Loan Note Subscription Agreement and the HoldCo B Loan Note Subscription Agreement.

HoldCo Register means the register of members of HoldCo maintained in accordance with the Corporations Act.

HoldCo Share means each of a newly issued A Class share and B Class share in Holdco.

HoldCo Shareholders Deed means the shareholders deed in relation to HoldCo in the form provided to UniSuper Limited immediately prior to execution of the Scheme Implementation Deed (or as subsequently amended on or prior to the Implementation Date with the written consent of UniSuper Limited).

Implementation Date means the fifteenth Business Day after the Scheme Record Date, or such earlier date after the Scheme Record Date (not to be earlier than the tenth Business Day after the Scheme Record Date) as notified by the Bidder to Sydney Airport in writing.

Issuer Sponsored Holding has the meaning given in the Settlement Rules.

Listing Rules means the official listing rules of ASX.

Operating Rules means the official operating rules of ASX.

Registered Address means, in relation to a Sydney Airport Securityholder, the address shown in the Sydney Airport Security Register as at the Scheme Record Date.

SAL means Sydney Airport Limited (ACN 165 056 360).

SAL Share means a fully paid ordinary share in the capital of SAL.

Scheme Consideration means the consideration to be provided by the Bidder to each Scheme Securityholder for the transfer to the Bidder of each Scheme Security, being, subject to the terms of this Scheme:

- (a) in the case of Scheme Securityholders (other than UniSuper in relation to the UniSuper Specified Securities), an amount of \$8.75 for each Scheme Security held by the Scheme Securityholder as at the Scheme Record Date; and
- (b) in the case of the UniSuper Security Holder in relation to the UniSuper Specified Securities only:
 - (i) 3,002 HoldCo Shares, comprising:
 - (A) 1,501 A Class shares (which shall represent 15.01% of the total number of A Class shares on issue immediately after implementation of the Schemes); and
 - (B) 1,501 B Class shares (which shall represent 15.01% of the total number of B Class shares on issue immediately after implementation of the Schemes);
 - (ii) a HoldCo A1 Loan Note with an outstanding principal amount of \$1,918,810,975.08 (which shall represent 15.01% of the total aggregate principal amount of all HoldCo A1 Loan Notes on issue immediately after implementation of the Schemes);
 - (iii) a Holdco A2 Loan Note with an outstanding principal amount of \$15,010.00 (which shall represent 15.01% of the total aggregate principal amount of all HoldCo A2 Loan Notes on issue immediately after implementation of the Schemes); and
 - (iv) a HoldCo B Loan Note with an outstanding principal amount of \$1,656,650,157.64 (which shall represent 15.01% of the total aggregate principal amount of all HoldCo B Loan Notes on issue immediately after implementation of the Schemes).

Scheme Implementation Deed means the Scheme Implementation Deed between SAL, the RE and the Bidder dated 8 November 2021.

Scheme Record Date means 7.00pm on the fifth Business Day after the Effective Date, or such other time and date as Sydney Airport and the Bidder agree in writing.

Scheme Security means a Sydney Airport Security as at the Scheme Record Date.

Scheme Securityholder means a holder of Sydney Airport Securities recorded in the Sydney Airport Security Register as at the Scheme Record Date.

Scheme Transfer means a duly completed and executed proper instrument of transfer in respect of the Scheme Securities for the purposes of section 1071B of the Corporations Act, from Scheme Securityholders as transferors to the Bidder as transferee, which may be a master transfer of all or part of the Scheme Securities held by Scheme Securityholders.

Scheme Unit means a Unit on issue as at the Scheme Record Date.

Schemes means:

- (a) the Trust Scheme; and
- (b) the Company Scheme.

Security Interest has the meaning given in section 51A of the Corporations Act.

Settlement Rules means the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.

Sydney Airport means SAL and the RE as responsible entity of the Trust together.

Sydney Airport Registry means Computershare Investor Services Pty Ltd (ACN 078 279 277) or any replacement share registry services provider to the RE.

Sydney Airport Security means a stapled security comprising one Unit stapled to one SAL Share.

Sydney Airport Security Register means the register of securityholders of Sydney Airport maintained in accordance with the Corporations Act (comprising a register of holders of Units and a register of holders of SAL Shares).

Sydney Airport Securityholder means each person who is registered as the holder of a Sydney Airport Security in the Sydney Airport Security Register.

Transaction Documents has the meaning given in clause 7.2 of this Schedule 1.

Trust means Sydney Airport Trust 1 (ARSN 099 597 921).

Trust Account means an Australian dollar denominated trust account with an ADI operated by the RE (or by the Sydney Airport Registry on behalf of the RE) as trustee for Scheme Securityholders.

Trust Scheme means an arrangement under which the Bidder acquires all of the Units from the Sydney Airport Securityholders facilitated by amendments to the Constitution as set out in this Schedule 1 (as may be amended from time to time in accordance with clause 7.9 of this Schedule 1), subject to the requisite approvals of the Sydney Airport Securityholders.

Trust Scheme Meeting means the meetings of Sydney Airport Securityholders (as holders of Units) convened by the RE to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.

Trust Scheme Resolutions means the resolutions to approve the Trust Scheme, including:

- (a) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the Constitution as set out in a deed poll under which the RE amends the Constitution to effect the Trust Scheme; and
- (b) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition by the Bidder of all the Units as at the Scheme Record Date.

UniSuper means UniSuper Limited (ACN 006 027 121) as trustee for the UniSuper Fund of Level 1, 385 Bourke Street, Melbourne, Victoria 3000.

UniSuper Fund means the complying superannuation fund known as UniSuper established by trust deed dated 24 December 1982 as amended from time to time.

UniSuper Limited means UniSuper Limited (ACN 006 027 121).

UniSuper Nominee HoldCo Shareholder has the meaning given in clause 4.5(a) of this Schedule 1.

UniSuper Security Holder means the legal and registered holder of the UniSuper Specified

Securities recorded in the Sydney Airport Security Register, being BNP Paribas Nominees Pty Limited as custodian for UniSuper.

UniSuper Specified Securities means 404,969,320 Sydney Airport Securities held on behalf of UniSuper.

Unit means a fully paid unit in the Trust.

2 Trust Scheme

2.1 Implementation of Trust Scheme

- (a) Each Scheme Securityholder and the RE must do all things and execute all deeds, instruments, transfers or other documents as the RE considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.
- (b) Without limiting the RE's powers under this Schedule 1 or the Constitution, the RE has power to do all things that it considers necessary or desirable to give effect to the Trust Scheme, the Scheme Implementation Deed and the transactions contemplated by them.
- (c) The Trust Scheme is intended to, in a manner consistent with the Company Scheme, result in the transfer of the Scheme Securities to Bidder in return for the Scheme Consideration being received by the Scheme Securityholders. If there is any inconsistency between the Trust Scheme and the Company Scheme, the RE is authorised to take, and must take any steps required to implement the Schemes in a manner which is consistent with the Company Scheme.
- (d) Subject to the Corporations Act, the RE, SAL and the Bidder and any of their respective directors, officers, employees or associates, may do any act, matter or thing described in or contemplated by this Schedule 1 even if they have an interest (financial or otherwise) in the outcome.

2.2 Deed Poll

- (a) The Trust Scheme attributes actions to the Bidder and HoldCo but does not itself impose an obligation on them to perform those actions. The Bidder and HoldCo have agreed, by executing the Deed Poll, to perform the actions attributed to them under and in accordance with the Trust Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Securityholders.
- (b) The Trust Scheme attributes actions to UniSuper, but does not itself impose an obligation on it to perform those actions. UniSuper has agreed, by executing a voting deed dated 8 November 2021, to perform the actions attributed to it under and in accordance with the Trust Scheme.

3 Scheme Securityholders

3.1 Determination of Scheme Securityholders

To establish the identity and addresses of the Scheme Securityholders, dealings in Sydney Airport Securities and other alterations to the Sydney Airport Security Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Sydney Airport Security Register as the holder of the relevant Sydney Airport Security on or before the Scheme Record Date; and

- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of those alterations, are received on or before the Scheme Record Date at the place where the Sydney Airport Security Register is kept, and the RE must not accept for registration, nor recognise for any purpose (except a transfer to the Bidder pursuant to the Trust Scheme and any subsequent transfer by the Bidder and its successors in title), any transfer or transmission application or other request received after such times, or received before such times but not in actionable or registrable or actionable form, as appropriate.

3.2 Register

- (a) The RE must register, or cause to be registered, registrable transmission applications or transfers of the Scheme Units in accordance with clause 3.1(b) of this Schedule 1 by the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 3.2(a) of this Schedule 1 requires the registration of a transfer that would result in a Scheme Securityholder holding a parcel of Sydney Airport Securities that is less than a 'marketable parcel' (for the purposes of this clause 3.2(a) of this Schedule 1, 'marketable parcel' has the meaning given in the Operating Rules).
- (b) If the Trust Scheme becomes Effective, a holder of Scheme Securities (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Securities or any interest in them after the Scheme Record Date (except a transfer to the Bidder pursuant to the Schemes or any subsequent transfer by the Bidder or its successors in title) and any attempt to do so will have no effect and the RE shall be entitled to disregard any such disposal.
- (c) The RE will, until the Scheme Consideration has been provided and the name and address of the Bidder has been entered into the Sydney Airport Security Register as the holder of all Scheme Securities, maintain, or procure the maintenance of, the Sydney Airport Security Register in accordance with the provisions of this clause 3.2 of this Schedule **1Error! Reference source not found.**, and the Sydney Airport Security Register in this form and the terms of the Trust Scheme will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for Sydney Airport Securities will cease to have effect after the Scheme Record Date as documents of title in respect of those Sydney Airport Securities and, as from that date and time, each entry current at that date on the Sydney Airport Security Register (other than any entries on the Sydney Airport Security Register in respect of the Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Sydney Airport Securities relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, the RE will ensure that details of the names, Registered Addresses and holdings of Sydney Airport Securities for each Scheme Securityholder as shown in the Sydney Airport Security Register are available to the Bidder in the form the Bidder reasonably requires.

4 Scheme Consideration

4.1 Entitlement to Scheme Consideration

- (a) The Scheme Consideration in respect of the Scheme Securities is, in respect of each Scheme Securityholder, the Scheme Consideration for the Scheme Securities held by that Scheme Securityholder.
- (b) Each Scheme Securityholder is entitled to receive the Scheme Consideration in respect of the Scheme Securities held by that Scheme Securityholder, subject to the terms of this Company Scheme and the Trust Scheme.

4.2 Deposit of Scheme Consideration

The Bidder must, by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) in cleared funds an amount at least equal to the aggregate amount of the Scheme Consideration payable to all Scheme Securityholders (other than the UniSuper Security Holder in relation to the UniSuper Specified Securities) into the Trust Account (provided that any interest on the amounts deposited (less bank fees and other charges) will be to the Bidder's account).

4.3 Provision of Scheme Consideration

- (a) On the Implementation Date, subject to funds having been deposited in accordance with clause 4.2 of this Schedule 1, the RE must pay or procure the payment of that Scheme Consideration from the Trust Account, to each Scheme Securityholder (other than the UniSuper Security Holder in relation to the UniSuper Specified Securities) as that Scheme Securityholder is entitled under clause 4.1 of this Schedule 1.
- (b) The obligations of the RE under clause 4.3(a) of this Schedule 1 will be satisfied by the RE (in its absolute discretion and despite any election referred to in clause 4.3(b)(i) below or authority referred to in clause 4.3(b)(ii) below made or given by the Scheme Securityholder):
 - (i) where a Scheme Securityholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Sydney Airport Registry to receive distribution payments from the RE by electronic funds transfer to a bank account nominated by the Scheme Securityholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Securityholder by an appropriate authority from the Scheme Securityholder to the RE; or
 - (iii) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Securityholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Securityholder (or in the case of joint holders, in accordance with the procedures set out in clause 4.7 of this Schedule 1).
- (c) If the Bidder is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) to pay amounts to the Commissioner of Taxation in respect of the acquisition of Scheme Securities from certain Scheme Securityholders, then the Bidder is permitted to deduct the relevant amounts from the payment of the Scheme Consideration to those Scheme Securityholders and remit such amounts to the

Commissioner of Taxation. The aggregate sum payable to Scheme Securityholders shall not be increased to reflect the deduction and the net aggregate sum payable to those Scheme Securityholders shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Securityholders. The Bidder must pay any amount so withheld to the Commissioner of Taxation within the time permitted by law, and, if requested in writing by the relevant Scheme Securityholder, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Scheme Securityholder.

- (d) If, following satisfaction of the Bidder's obligations under clause 4.2 of this Schedule 1 but prior to the occurrence of all of the events described in clause 5, the Trust Scheme lapses under clause 7.8 of this Schedule 1:
- (i) the RE must immediately repay (or cause to be repaid) to or at the direction of the Bidder the funds that were deposited in the Trust Account plus any interest on the amounts deposited (less bank fees and other charges);
 - (ii) the obligation to transfer Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, to the Bidder under clause 5 of this Schedule 1 will immediately cease;
 - (iii) the Bidder must return the Scheme Transfers, if provided pursuant to clause 5 of this Schedule 1; and
 - (iv) the RE is no longer obliged to enter, or procure the entry of, the name of the Bidder in the Sydney Airport Security Register in accordance with clause 5 of this Schedule 1.

4.4 Provision of Scheme Consideration in relation to the UniSuper Specified Securities

HoldCo must on the Implementation Date:

- (a) issue the Scheme Consideration in relation to the UniSuper Specified Securities to UniSuper (or to the UniSuper Nominee HoldCo Shareholder in accordance with clause 4.5 of this Schedule 1); and
- (b) procure that the name and address of UniSuper (or the UniSuper Nominee HoldCo Shareholder (as applicable)) is entered in the HoldCo Register and HoldCo Loan Note Registers respectively in respect of that Scheme Consideration and provide to UniSuper a copy of each of such register evidencing the issue of the Scheme Consideration to UniSuper (or the UniSuper Nominee HoldCo Shareholder (as applicable)) which is certified by a director of HoldCo to be true and correct; and
- (c) procure that a share certificate or holding statement (or equivalent document) is sent to UniSuper representing the HoldCo Shares issued as Scheme Consideration pursuant to this clause 4.4 of this Schedule 1.

4.5 Direction to issue Scheme Consideration to UniSuper Nominee HoldCo Shareholder

- (a) Subject to clause 4.5(b) of this Schedule 1, the UniSuper Security Holder or UniSuper may, by written notice delivered to Bidder, HoldCo, SAL and the RE no later than two Business Days before the Scheme Record Date, irrevocably direct and permit HoldCo to discharge its obligations in clause 4.4 of this Schedule 1 by instead issuing that Scheme Consideration to:
 - (i) a single Australian incorporated wholly-owned subsidiary of UniSuper; or

- (ii) a single nominee or custodian of UniSuper;
(the *UniSuper Nominee HoldCo Shareholder*); provided that the UniSuper Nominee HoldCo Shareholder only holds the Scheme Consideration as legal and beneficial owner or as trustee for the UniSuper Fund, a UniSuper subsidiary or a subsidiary fund and for no one else.
- (b) In order to be valid, a notice delivered to the Bidder, HoldCo, SAL and the RE under clause 4.5(a) of this Schedule 1 must be in the form of a deed poll duly executed by UniSuper Security Holder in favour of Bidder, HoldCo, SAL and the RE and must include or be accompanied by:
 - (i) a representation that UniSuper Security Holder nominates the UniSuper Nominee HoldCo Shareholder to be issued the Scheme Consideration in relation to the UniSuper Specified Securities under the Schemes;
 - (ii) a representation setting out complete details of the UniSuper Nominee HoldCo Shareholder's full legal name, registered office, directors, ACN or ABN, and details for the service of legal notices (including by electronic means); and
 - (iii) a representation that the UniSuper Nominee HoldCo Shareholder has validly authorised UniSuper Limited as its attorney and agent to give the covenants set out in clause 7.2 of this Schedule 1 and evidence of that valid authorisation.

4.6 Status of Scheme Consideration provided to UniSuper

Subject to the Schemes becoming Effective, HoldCo must, on the Implementation Date, issue the Scheme Consideration in relation to the UniSuper Specified Securities to UniSuper (or the UniSuper Nominee HoldCo Shareholder, if applicable under clause 4.5 of this Schedule 1) under the Schemes on terms such that:

- (a) each HoldCo Share which is a Class A share in HoldCo will rank equally in all respects with each issued Class A share in HoldCo and any Class A shares which have been agreed to be issued (and no amount will be payable on the Class A shares);
- (b) each HoldCo Share which is a Class B share in HoldCo will rank equally in all respects with each issued Class B share in HoldCo and any Class B shares which have been agreed to be issued (and no amount will be payable on the Class B shares);
- (c) the HoldCo A1 Loan Note so issued will rank equally in all respects with each issued HoldCo A1 Loan Note and any HoldCo A1 Loan Notes which have been agreed to be issued;
- (d) the HoldCo A2 Loan Note so issued will rank equally in all respects with each issued HoldCo A2 Loan Note and any HoldCo A2 Loan Notes which have been agreed to be issued; and
- (e) the HoldCo B Loan Note so issued will rank equally in all respects with each issued HoldCo B Loan Note and any HoldCo B Loan Notes which have been agreed to be issued.

4.7 Joint holders

In the case of Scheme Securities held in joint names:

- (a) any Scheme Consideration payable is payable to the joint holders and any cheque required to be sent under the Trust Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the RE, the holder whose name appears first in the

Sydney Airport Security Register as at the Scheme Record Date or to the joint holders;
and

- (b) any other document required to be sent to Scheme Securityholders under the Trust Scheme will be forwarded to either, at the sole discretion of the RE, the holder whose name appears first in the Sydney Airport Security Register as at the Scheme Record Date or to the joint holders.

4.8 CHESSE Holdings

Each Scheme Securityholder who holds their Scheme Securities in a CHESSE Holding agrees to the conversion of those Scheme Securities to an Issuer Sponsored Holding and irrevocably authorises the RE to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion.

4.9 Fractional entitlements

Where the calculation of the aggregate Scheme Consideration to be provided to a particular Scheme Securityholder would result in the Scheme Securityholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

4.10 Remaining monies in Trust Account

To the extent that, following satisfaction of the RE's obligations under clause 4.3(a) of this Schedule 1 and provided the Bidder has by that time acquired the Scheme Units in accordance with the Trust Scheme, there is a surplus in the amount held by the RE as trustee for the Scheme Securityholders in the Trust Account, then subject to compliance with applicable laws, the other terms of the Trust Scheme, the Deed Poll and the Scheme Implementation Deed, that surplus (less any bank fees and related charges) shall be paid by the RE (or the Sydney Airport Registry on the RE's behalf) to the Bidder.

4.11 Unclaimed monies

- (a) The RE may cancel a cheque issued under this clause 4 of this Schedule 1 if the cheque:
 - (i) is returned to the RE; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Securityholder to the RE (or the Sydney Airport Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), the RE must reissue a cheque that was previously cancelled under this clause 4.11 of Schedule 1.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).

4.12 Orders of a court or Government Agency

- (a) If written notice is given to the RE, the Sydney Airport Registry or the Bidder of an order or direction made by a court of competent jurisdiction or by another Government Agency that:
 - (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Securities held by a

particular Scheme Securityholder, which would otherwise be payable or required to be issued to that Scheme Securityholder by the RE in accordance with this clause 4 of this Schedule 1, then the RE shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or

- (ii) prevents the RE from providing consideration to any particular Scheme Securityholder or third party in accordance with this clause 4 of this Schedule 1, or the payment or issuance of such consideration is otherwise prohibited by applicable law, the RE shall be entitled to (as applicable):
 - (A) retain an amount, in Australian dollars, equal to the number of Scheme Securities held by that Scheme Securityholder multiplied by the Scheme Consideration; or
 - (B) direct HoldCo not to issue, or to issue to a trustee or nominee, such Scheme Consideration as that Scheme Securityholder or third party would otherwise be entitled to under clause 4.4 of this Schedule 1,

until such time as the provision of Scheme Consideration in accordance with this clause 4 of this Schedule 1 is permitted by that (or another) court or direction or otherwise by law.

- (b) To the extent that amounts are so deducted or withheld in accordance with clause 4.12(a) of this Schedule 1, such deducted or withheld amounts will be treated for all purposes under the Trust Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

5 Transfer of Scheme Units

- (a) On the Implementation Date, subject to the Bidder having satisfied its obligations in clause 4 of this Schedule 1, all of the Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, will be transferred to the Bidder, without the need for any further act by any Scheme Securityholder (other than acts performed by SAL or any of its directors and officers as attorney and agent for Scheme Securityholders under the Trust Scheme), by:
 - (i) the RE delivering to the Bidder for execution a duly completed Scheme Transfer, executed on behalf of the Scheme Securityholders by the RE (or any of its directors and officers) for registration;
 - (ii) the Bidder duly executing the Scheme Transfer as transferee, attending to the stamping of the Scheme Transfer (if required) and delivering it to the RE for registration; and
 - (iii) the RE, immediately after receipt of the Scheme Transfer in accordance with clause 5(a)(ii) of this Schedule 1, but subject to the stamping of the Scheme Transfers (if required), or the transfer being effected under section 1074D of the Corporations Act (as the case may be), entering, or procuring the entry of, the name and address of the Bidder in the Sydney Airport Security Register as the holder of all of the Scheme Units transferred to the Bidder in accordance with the Trust Scheme.

- (b) The transfer of all of the Scheme Units to the Bidder in accordance with clause 5(a) of this Schedule 1 must occur simultaneously with the transfer to the Bidder of all of the other Scheme Securities under the Company Scheme.

6 Quotation of Sydney Airport Securities

- (a) The RE must apply to the ASX to suspend trading of Sydney Airport Securities on the ASX with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date, to be determined by the Bidder, the RE must apply to the ASX for termination of official quotation of Sydney Airport Securities on the ASX and the removal of Sydney Airport from the official list of the ASX.

7 General Provisions

7.1 Covenants by Scheme Securityholders

Each Scheme Securityholder:

- (a) acknowledges that this Schedule 1 binds the RE and all of the Scheme Securityholders from time to time (including those who do not attend the Trust Scheme Meeting, do not vote or vote against the Trust Scheme Resolutions) and, to the extent of any inconsistency, overrides any other part of the Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act and the Listing Rules);
- (b) irrevocably agrees to the transfer (at the same time as their other Sydney Airport Securities are transferred pursuant to the Company Scheme) of all of their Scheme Units, together with all rights and entitlements attaching to those Scheme Units, to the Bidder in accordance with the terms of the Trust Scheme, without the need for any further act by that Scheme Securityholder;
- (c) agrees to the modification, cancellation or variation (if any) of the rights attaching to their Scheme Units arising from this Schedule 1, without the need for any further act by that Scheme Securityholder; and
- (d) without the need for any further act by any Scheme Securityholder, irrevocably appoints SAL and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of executing any document necessary or expedient to give effect to the transactions described in this Schedule 1 or doing any other act or thing necessary or desirable to give effect to this Schedule 1, provided that this clause 7.1(d) of this Schedule 1 does not apply with respect to the obligations of UniSuper under clause 7.2 of this Schedule 1 (or any other matter specific to UniSuper as distinct from matters in respect of which all Scheme Securityholders are treated the same).

7.2 Covenants by UniSuper and UniSuper Nominee HoldCo Shareholder

In addition to the covenants set out in clause 7.1 of this Schedule 1, UniSuper (or, if applicable, UniSuper Nominee HoldCo Shareholder provided that UniSuper or the UniSuper Security Holder has delivered a valid notice to Bidder, HoldCo, SAL and the RE in accordance with clause 4.5 of this Schedule 1):

- (a) agrees to become a member of HoldCo and be bound by the terms of the HoldCo Constitution;
- (b) agrees to be bound by, and to deliver to HoldCo duly executed copies of the following documents after the Schemes become Effective and by no later than 5.00pm on the Business Day before the Scheme Record Date (the *Delivery Deadline*):

- (i) the HoldCo Shareholders Deed;
- (ii) the HoldCo A Loan Note Subscription Agreement;
- (iii) the HoldCo B Loan Note Subscription Agreement; and
- (iv) any other documentation which, in accordance with the terms of such documents, is required to be delivered by the Delivery Deadline under the documents set out in the preceding subclauses,

(the *Transaction Documents*);

and UniSuper

- (c) must not (and must procure that neither UniSuper Security Holder nor any entity holding the UniSuper Specified Securities on behalf of UniSuper does not):
 - (i) deal with, sell or otherwise dispose of (or deal with, sell or otherwise dispose of any interest in) any of the UniSuper Specified Securities, or purport or agree to any of the forgoing; or
 - (ii) take any action that would cause UniSuper to cease to be the beneficial owner of any of the UniSuper Specified Securities,

(except a transfer to the Bidder pursuant to the Schemes or any subsequent transfer by the Bidder or its successors in title) and any attempt to do so will have no effect and the RE must disregard any such disposal;

and UniSuper (or, if applicable, UniSuper Nominee HoldCo Shareholder provided that UniSuper or the UniSuper Security Holder has delivered a valid notice to Bidder, HoldCo, SAL and the RE in accordance with clause 4.5 of this Schedule 1):

- (d) without the need for any further act irrevocably appoints SAL and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of, if UniSuper (or, if applicable, UniSuper Nominee HoldCo Shareholder) fails to deliver duly executed copies of the Transaction Documents to HoldCo by the Delivery Deadline, executing each of the documents set out in clause 7.2(b) of this Schedule 1, and SAL accepts each such appointment and shall take such actions. SAL as attorney and agent of UniSuper or, if applicable, UniSuper Nominee HoldCo Shareholder, may sub-delegate its functions, authorities or powers under this clause 7.2 of this Schedule 1 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

7.3 Authority given to SAL

- (a) Each Scheme Securityholder, without the need for any further act:
 - (i) on the Effective Date, irrevocably appoints SAL and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against the Bidder, and SAL undertakes in favour of each Scheme Securityholder that it will enforce the Deed Poll against the Bidder and HoldCo and, in doing so, to the extent necessary, enforce SAL's rights under the Equity Commitment Letters, on behalf of and as agent and attorney for each Scheme Securityholder; and
 - (ii) on the Implementation Date, irrevocably appoints SAL and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act

necessary, desirable or expedient to give effect to the Trust Scheme, the Scheme Implementation Deed, and the transactions contemplated by them, including executing the Scheme Transfers,

and SAL accepts each such appointment.

- (b) SAL, as attorney and as agent of each Scheme Securityholder, may sub-delegate its functions, authorities or powers under clause 7.3(a)(a) of this Schedule 1 to all or any of its directors, officers, secretaries or employees (jointly, severally, or jointly and severally).
- (c) Each Scheme Securityholder:
 - (i) consents to SAL doing all things necessary or incidental to the implementation of the Trust Scheme, the Scheme Implementation Deed and the transactions contemplated by them; and
 - (ii) indemnifies SAL and each of its directors, officers, secretaries or employees against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 7.3 of this Schedule 1.

7.4 Warranties by the Scheme Securityholders

Each Scheme Securityholder is deemed to have warranted to the RE, SAL and the Bidder, and have appointed and authorised SAL as that Scheme Securityholder's agent and attorney to warrant to the Bidder, that as at the Implementation Date:

- (a) all of their Scheme Units (including all rights and entitlements attaching to those Scheme Units) will, at the time of the transfer of them to the Bidder pursuant to the Trust Scheme, be fully paid and free from all Encumbrances; and
- (b) they have full power and capacity to sell and to transfer their Scheme Units (together with any rights and entitlements attaching to those Scheme Units) to the Bidder pursuant to the Trust Scheme.

SAL undertakes in favour of each Scheme Securityholder that it will provide such warranties to the Bidder as agent and attorney of that Scheme Securityholder.

7.5 Warranties by UniSuper

In addition to the warranties given in clause 7.4 of this Schedule 1, UniSuper (or, if applicable, UniSuper Nominee HoldCo Shareholder provided that UniSuper or the UniSuper Security Holder has delivered a valid notice to Bidder, HoldCo, SAL and the RE in accordance with clause 4.5 of this Schedule 1), is deemed to have warranted to SAL and the Bidder, and, to the extent enforceable, to have appointed and authorised SAL as that Scheme Securityholder's agent and attorney to warrant to the Bidder, that on the Effective Date, on the Scheme Record Date and on the Implementation Date:

- (a) UniSuper is entitled to be registered as the registered holder of, and is the beneficial owner of, the UniSuper Specified Securities; and
- (b) if a UniSuper Nominee HoldCo Shareholder is nominated by UniSuper in accordance with clause 4.5 of this Schedule 1, the UniSuper Nominee HoldCo Shareholder is an Australian incorporated wholly-owned subsidiary of UniSuper.

SAL undertakes in favour of UniSuper that it will provide such warranties to the Bidder as attorney, agent and trustee for, and on behalf, of UniSuper (or, if applicable, UniSuper Nominee HoldCo Shareholder).

7.6 Title to and rights in Scheme Units

- (a) To the extent permitted by law, the Scheme Units (including all rights and entitlements attaching to the Scheme Units) transferred under the Trust Scheme to the Bidder will, at the time of transfer, vest in the Bidder free from all Encumbrances.
- (b) Immediately upon the deposit of the Scheme Consideration in accordance with clause 4.2 of this Schedule 1, the Bidder will be beneficially entitled to the Scheme Units to be transferred to it under the Trust Scheme pending registration by the RE of the name and address of the Bidder in the Sydney Airport Security Register as the holder of the Scheme Units.

7.7 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Securityholder, and until the Bidder is registered as the holder of all Scheme Securities in the Sydney Airport Security Register, each Scheme Securityholder:

- (a) is deemed to have appointed the Bidder as attorney and agent (and directed the Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by the Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend Sydney Airport Securityholders' meetings, exercise the votes attaching to the Scheme Units registered in their name and sign any resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 7.7 of this Schedule 1);
- (c) must take all other actions in the capacity of a registered holder of Scheme Units as the Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in this clause 7.7 of this Schedule 1, the Bidder and any director, officer, secretary or agent nominated by the Bidder may act in the best interests of the Bidder as the intended registered holder of the Scheme Units.

7.8 Lapsing

This Schedule 1 (except clause 4.3(d)) will lapse and be of no further force or effect if the Company Scheme terminates or lapses in accordance with clauses 3.3 or 3.4 of the Company Scheme.

7.9 Amendment

The RE may amend the Trust Scheme and, as applicable, this Schedule 1 if such amendment is not inconsistent with the approvals given by the Scheme Securityholders in the Trust Scheme Resolutions, and this Schedule 1 shall apply to the Trust Scheme as amended.

7.10 Further action

The RE must do all things and execute all documents necessary to give full effect to the Trust Scheme and the transactions contemplated by it.