

Disclosure of movement of 1% or more in substantial holding
or change in nature of relevant interest, or both

Sections 277 and 278, Financial Markets Conduct Act 2013

To: NZX Limited
and
To: Vital Healthcare Property Trust (**Vital**)
Relevant event being disclosed: Movement of 1% or more in substantial holding
Date of relevant event: 22 August 2019 and 27 August 2019
Date this disclosure made: 28 August 2019
Date last disclosure made: 6 July 2015

Substantial product holder(s) giving disclosure

Full name(s): NorthWest Healthcare Properties Real Estate Investment Trust (**NorthWest REIT**), NWVP Acquisition LP, NWVP Acquisition Inc., NorthWest Value Partners Inc., Paul Dalla Lana as trustee for NorthWest Real Estate Investment Trust, NWI Healthcare Properties LP, NWI Healthcare Properties GP Inc., NWI NZ Management Company Limited and NorthWest NZ Finance Holdings Limited (together, referred to as **NorthWest**)

Summary of substantial holding

Class of quoted voting products: ordinary units

Summary for NorthWest

For **this** disclosure,—

(a) total number held in class: 112,743,175
(b) total in class: 451,265,970
(c) total percentage held in class: 24.98%

For **last** disclosure,—

(a) total number held in class: 82,064,900
(b) total in class: 341,656,001
(c) total percentage held in class: 24.02%

Details of transactions and events giving rise to relevant event

Details of the transactions or other events requiring disclosure:

Transaction one:

- On 22 August 2019, 4,919,883 ordinary units were issued to NorthWest Healthcare Properties Management Limited (the **Manager**) as consideration for the Manager’s incentive fee in accordance with clauses 22.2(b) and 22.3(b) of Vital’s Trust Deed. The ordinary units were issued at a price of \$2.4548 per unit.
- The registered holder of the 4,919,883 units was Forsyth Barr Custodians Limited.

Transaction two:

- On 27 August 2019, the Manager entered into an agreement for the off-market sale of 3,000,000 units to funds associated with or managed by Salt Funds Management for \$2.5925 per unit. The transfer of these units is expected to be completed on 29 August 2019.
- Following the completion of transaction two, NorthWest will hold a relevant interest in 112,743, 175 ordinary units or 24.98% of the units in Vital (as summarised above).

Details after relevant events

Details for NorthWest as at the date of this disclosure:

1. Nature of relevant interest(s): Beneficial owner of financial products
 NorthWest has a qualified relevant interest in 102,684,228 ordinary units held by NZGT Security Trustee Limited as its nominee.
 NorthWest’s ability to control the disposition of these units is qualified by a Specific Security Deed between NWI Healthcare Properties LP by its general partner NWI Healthcare Properties GP Inc. and Australia and New Zealand Banking Group Limited (**ANZ**) dated 2 July 2019 (the **NWI LP SSD**). Pursuant to the NWI LP SSD, NWI Healthcare Properties LP has granted a first ranking security interest over these units. Amongst other things, NWI Healthcare Properties LP has agreed that it may not dispose of or otherwise deal with the relevant units without the prior consent of ANZ. Further, if an “Event of Default” arises, ANZ may direct NWI Healthcare Properties LP to exercise voting rights in respect of these units in accordance with its instructions (if any). A copy of the NWI LP SSD is attached to this notice (16 pages).

For that relevant interest,—

- (a) number held in class: 102,684,228

- (b) percentage held in class: 22.75%
- (c) current registered holder(s): NZGT Security Trustee Limited
- (d) registered holder(s) once transfers are registered: N/A

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

2. Nature of relevant interest(s): Beneficial owner of financial products
- NorthWest has a qualified relevant interest in 6,139,064 ordinary units held by NZGT Security Trustee Limited as its nominee.
- NorthWest's ability to control the disposition of these units is qualified by a Specific Security Deed between NorthWest NZ Finance Holdings Limited and ANZ dated 2 July 2019 (the **NZ Finance Co SSD**). Pursuant to the NZ Finance Co SSD, NorthWest NZ Finance Holdings Limited has granted a first ranking security interest over these units. Amongst other things, NorthWest NZ Finance Holdings Limited has agreed that it may not dispose of or otherwise deal with the relevant units without the prior consent of ANZ. Further, if an "Event of Default" arises, ANZ may direct NWI Healthcare Properties LP to exercise voting rights in respect of these units in accordance with its instructions (if any). A copy of the NZ Finance Co SSD is attached to this notice (18 pages).

For that relevant interest,—

- (a) number held in class: 6,139,064
- (b) percentage held in class: 1.36%
- (c) current registered holder(s): NZGT Security Trustee Limited
- (d) registered holder(s) once transfers are registered: N/A

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

3. Nature of relevant interest(s): Beneficial owner of financial products
NorthWest has a relevant interest in 6,919,883 ordinary units held by Forsyth Barr Custodians Limited as nominee for NWI NZ Management Company Limited.

For that relevant interest,—

- (a) number held in class: 3,919,883
- (b) percentage held in class: 0.87 %
- (c) current registered holder(s): Forsyth Barr Custodians Limited
- (d) registered holder(s) once transfers are registered: N/A

For a derivative relevant interest, also—

- (a) type of derivative: Not applicable
- (b) details of derivative: Not applicable
- (c) parties to the derivative: Not applicable
- (d) if the substantial product holder is not a party to the derivative, the nature of the relevant interest in the derivative: Not applicable

Additional information

Address of substantial product holder(s): c/o 180 Dundas Street West, Suite 1100,
Toronto, ON M5G 1Z8

Contact details: Shailen Chande
T: +1 (416) 366-2000,1002
E: Shailen.Chande@nwhreit.com

Nature of connection between substantial product holders:

The NorthWest entities are each either directly or indirectly controlled by, or related to, NorthWest REIT

Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates:

Not applicable

Certification

I, Bernard William Crotty, certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

Specific Security Deed

(in relation to investment securities issued by Vital
Healthcare Property Trust)

PARTIES

Northwest NZ Finance Holdings Limited

Grantor

Australia and New Zealand Banking Group Limited

Secured Party

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DEED dated 2 July 2019

PARTIES

Northwest NZ Finance Holdings Limited
("Grantor")

Australia and New Zealand Banking Group Limited
("Secured Party")

COVENANTS

1. INTERPRETATION

1.1 **Definitions in Facility Agreement:** Words and expressions defined in the Facility Agreement and used in this deed shall, unless the context otherwise requires, have the meanings given to them in the Facility Agreement.

1.2 **Other definitions:** In this deed, unless the context otherwise requires:

"Charged Securities" means

- (a) on the date of this deed, 6,139,064 Units issued by VHPT; and
- (b) thereafter, any additional Units issued by VHPT (or such other securities agreed by the Secured Party pursuant to the Facility Agreement) agreed by the Grantor to form part of the Charged Securities in order to meet the requirements under clause 8 (*Margin requirements*) of the Facility Agreement or otherwise held directly or indirectly through the Custodian; and
- (c) Units issued as part of a division or split (however effected) of Unit entitlements,

except to the extent any Charged Security is released in accordance with clause 7.3 (*Distribution or return of Cash Collateral and release of Collateral*) of the Facility Agreement.

"Custodian Account" means the "Account" as defined in the Custody Deed.

"Custody Deed" means the custody deed dated on or about the date of this deed between the Grantor as Client and NZGT Security Trustee Limited as custodian.

"Distribution" means a distribution of any kind by VHPT to a holder of Units and whether or not based on actual or anticipated profits for the current or any preceding, financial year of VHPT.

"Facility Agreement" means the NZ\$125,000,000 margin loan agreement dated on or about the date of this deed between NWI Healthcare Properties LP as borrower, the Grantor as additional security provider and the Secured Party as original lender.

"PPSA" means the Personal Property Securities Act 1999.

"PPSR" means the Personal Property Securities Register maintained for the purposes of the PPSA.

"Receiver" means a receiver, or receiver and manager, appointed by the Secured Party under this deed.

"Rights" means:

- (a) Distributions;
- (b) bonus shares, units, debentures or other securities;
- (c) options or rights to take up shares, debentures or other securities; and
- (d) other rights, money or securities of any nature.

"Secured Money" means all amounts of any nature which the Borrower or Grantor (each whether alone, or jointly or jointly and severally with any other person) is, or may at any time become, liable (whether actually or contingently) to pay or deliver to the Secured Party (whether alone, or jointly or jointly and severally with any other person), under, pursuant to, or arising out of, any Finance Document, and a reference to the Secured Money includes any part of it.

"Secured Property" means the property and assets described in paragraphs (c) and (d) of clause 3.1 and a reference to Secured Property includes any of it.

"Security Interest" includes a security interest, mortgage, charge, encumbrance, lien, pledge, finance lease, sale and lease back, sale and repurchase, deferred purchase or title retention arrangement, flawed asset arrangement, and any other security or arrangement having like economic effect over any property, assets or revenues.

"Transfer" means, with respect to the Charged Securities or Rights, a transfer duly signed by the Grantor or, in the case of any Charged Securities or Rights legally held by some other person but beneficially owned by the Grantor, duly signed by that other person, with the name of the transferee, date and consideration left blank, but otherwise, if appropriate, in proper form for registration by VHPT.

"VHPT" means Vital Healthcare Property Trust (Scheme Number: SCH11214).

1.3 **References:** Except to the extent that the context otherwise requires, any reference in this deed to:

"constitutional documents" includes any shareholders agreement or joint venture agreement (however described).

"disposal" includes any sale, assignment, exchange, transfer, concession, loan, lease, surrender, licence, reservation, waiver, compromise, release, dealing, parting with possession, or the granting of any option, right or interest whatever, or any agreement for any of the same, and "dispose" means to make a disposal, and "acquisition" and "acquire" shall be construed accordingly.

"**guarantee**" includes an indemnity, letter of credit, legally binding letter of comfort, suretyship and other agreement the economic effect of which is to provide security or otherwise assume responsibility for the indebtedness of another person.

"**proceeds**" includes "proceeds" as defined in the PPSA.

a "**share**" includes a share in any company, whether incorporated in New Zealand or elsewhere.

"**tax**" includes any present or future tax, levy, impost, rate, duty, charge, fee, deduction or withholding of any nature and whatever called, imposed or levied by a government agency, and any related interest, penalty, charge, fee or other amount, and "**taxation**" shall be construed accordingly.

"**upon demand**" means upon demand by notice in writing signed by or on behalf of the person making demand.

1.4 **PPSA references:** The expressions "**financing statement**", "**financing change statement**", "**future advance**", "**security interest**" and "**verification statement**" have the respective meanings given to them under, or in the context of, the PPSA.

1.5 **Miscellaneous:**

- (a) Headings are inserted for convenience only and do not affect interpretation of this deed.
- (b) References to a person include that person's successors, permitted assigns, executors and administrators (as applicable).
- (c) Unless the context otherwise requires the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.
- (d) A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (e) A reference to any document includes reference to that document as amended, modified, novated, supplemented, varied or replaced from time to time.
- (f) Except where inconsistent with the context, the expression "at any time" also means from time to time.
- (g) Unless otherwise stated a reference to a clause is to a clause of this deed.
- (h) An Event of Default is continuing unless it has been waived in writing or remedied to the satisfaction of the Secured Party.

2. PAYMENT

2.1 **General:** The Grantor shall pay the Secured Money when due in accordance with the Finance Documents or, if they do not specify a time for payment, immediately upon demand by the Secured Party.

2.2 **Receiver's remuneration:** All remuneration payable to any Receiver shall be payable by the Grantor upon demand and shall form part of the Secured Money.

3. SECURITY

3.1 **Charging clause:** As security for:

- (a) the payment or delivery of the Secured Money; and
- (b) the performance and observance by the Grantor of all of its obligations to the Secured Party at any time,

the Grantor:

- (c) grants to the Secured Party a first ranking security interest in its present and future right, title and interest in:
 - (i) the Custodian Account and all proceeds in relation to it;
 - (ii) the Charged Securities;
 - (iii) all proceeds in relation to any disposal of the Charged Securities; and
 - (iv) all documents of title relating to any Charged Securities; and
- (d) assigns by way of security to the Secured Party all its present and future right, title and benefit in, to and under the Custody Deed.

3.2 **Notice to Company:** The Secured Party may at any time give notice to VHPT of the Security Interest created by this deed.

3.3 **Secured Party may register:** The Secured Party may during the continuance of any Event of Default and without prejudice to any of its other rights, powers or remedies, cause itself to be registered as the holder of the Charged Securities, or as the person entitled to any Rights, in order to hold those Charged Securities or Rights as mortgagee on the terms of this deed, and for that purpose may complete and present any Transfer for registration or require the Custodian to transfer any Charged Securities and/or Rights to it or its nominee.

3.4 **Priority:** The security granted under this deed has the same priority in respect of all advances, including future advances.

3.5 **Continuing security:** This deed is a continuing security and shall operate irrespective of any intervening payment, settlement of account or other matter or thing whatever, until a final release has been signed by the Secured Party and delivered to the Grantor in accordance with clause 14.

3.6 **Other securities:**

- (a) This deed is collateral to each other security and guarantee (whenever executed or given) which is at any time held by the Secured Party.

- (b) The Secured Party may exercise any of its rights, powers and remedies under this deed, or under any other security or guarantee, separately or concurrently and without prior notice to the Grantor, VHPT or any other person.
- (c) Nothing in this deed shall discharge, abate or prejudice any other Security Interest or guarantee held by the Secured Party at any time.

3.7 **Further assurance:** The Grantor shall deliver to the Secured Party any Transfer, assignment, Security Interest, instrument, or other deed or document, and shall, subject to clause 3.3, do any other thing which the Secured Party reasonably requires to enable it to:

- (a) ensure the Secured Property is subject to an effective first ranking Security;
- (b) perfect the Security Interest intended to be created by this deed with the priority required by the Secured Party including, without limitation, in accordance with the provisions of the PPSA;
- (c) for so long as any Event of Default is continuing, transfer to, or vest in, the Secured Party (or any purchaser from the Secured Party or a Receiver), the Secured Property;
- (d) for so long as any Event of Default is continuing, facilitate the realisation of the Secured Property;
- (e) for so long as an Event of Default is continuing, exercise all or any of the rights, powers and remedies conferred on the Secured Party or a Receiver by this deed or by law and whether on enforcement or otherwise; and/or
- (f) secure to the Secured Party the full benefit of the provisions of this deed.

3.8 **Completion of documents:** Subject to clause 3.3, the Secured Party may fill in any blanks in any Transfer and may complete in favour of the Secured Party, or any person purchasing under the powers given by this deed or by law, any Transfer or any other document signed by or on behalf of the Grantor.

4. UNITHOLDER RIGHTS AND OBLIGATIONS

4.1 **Liability for calls etc:** If any call or other amount (a "Call") becomes payable in respect of any Charged Securities or, where an Event of Default is continuing, Rights:

- (a) while the Grantor is the beneficial holder of those Charged Securities or Rights, the Grantor shall pay that Call to VHPT (directly or through the Custodian) on or before the due date for payment and promptly confirm to the Secured Party that such payment has been made; and
- (b) while the Secured Party or its nominee is the holder of those Charged Securities or Rights (whether directly or through the Custodian), the Grantor shall, upon demand by the Secured Party, pay an amount equal to that Call to the Secured Party or, if so agreed with, or required by, the Secured Party, to VHPT (directly or through the Custodian) and, if paid to the Secured Party, the Secured Party shall pay the Call to VHPT (directly or through the Custodian).

- 4.2 **Voting rights:** Except where any Event of Default is continuing the Grantor shall be entitled to exercise or direct the exercise of all voting rights in respect of the Charged Securities provided that the Grantor shall not at any time exercise, or refrain from exercising, any voting rights in a manner which could reasonably be expected to adversely affect the Security Interests created by this deed or result in a change in the terms of issue of any of the Secured Property. If at any time any Event of Default is continuing the Grantor will exercise voting rights solely in accordance with the written instructions of the Secured Party, if any, save to the extent those instructions would cause it to breach any duty or obligation.
- 4.3 **Distributions:** The Grantor shall procure that all Distributions are paid or credited (directly or by the Custodian, if applicable) to the Collateral Income Account and shall use those amounts solely in accordance with the permissions contained in the Facility Agreement.

5. UNDERTAKINGS

- 5.1 **Registration of Transfers:** The Grantor shall, if the Secured Party so requests while an Event of Default is continuing, upon presentation to VHPT or its registrar for registration of a Transfer in accordance with the provisions of this deed, take all steps available to the Grantor to procure registration of that Transfer.
- 5.2 **Negative undertakings:** The Grantor shall not:
- (a) **Disposal:** dispose, or permit the disposal, of any Secured Property or agree to do so except as permitted by the Facility Agreement;
 - (b) **Other security:** create or permit to subsist any other Security Interest over any Secured Property or agree to do so except with the prior written consent of the Secured Party;
 - (c) **Prejudice security:** do, or omit to do, anything which could prejudicially affect the Security Interest created by this deed, render any Secured Property liable to forfeiture or cancellation;
 - (d) **Name:** change its name without first notifying the Secured Party of the new name not less than 21 days before the change takes effect; or
 - (e) **Place of business or incorporation:** relocate its principal place of business or change its jurisdiction of incorporation.

6. SECURITY INTEREST ENFORCEABLE

- 6.1 **When security enforceable:** The Security Interests created by this deed shall be enforceable at any time an Event of Default is continuing.

7. SECURED PARTY MAY REMEDY BREACH

- 7.1 **Right to remedy breach:** If the Grantor fails to comply with any obligation under this deed the Secured Party may (without prejudice to its other rights, powers and remedies) pay all amounts and do all such other things as it deems necessary or desirable to remedy any such default or otherwise protect the Security Interests created by this deed.

- 7.2 **Reimbursement of expenditure incurred:** The Grantor shall reimburse the Secured Party, upon demand, for all expenditure incurred by the Secured Party under clause 7.1 (including all reasonable legal costs as between solicitor and client), together with interest on those amounts calculated at a rate determined by the Secured Party to be the applicable default interest rate under the Finance Documents on a daily basis from the date upon which such expenditure is incurred until it is reimbursed by the Grantor and, until reimbursed, the amount and interest on the amount shall form part of the Secured Money.

8. ENFORCEMENT BY SECURED PARTY

- 8.1 **Powers on enforcement:** At any time any Event of Default is continuing the Secured Party may (without it being necessary to give any prior notice to the Grantor, and without prejudice to any other rights, powers or remedies it may have under this deed or by law) do any or all of the following:
- (a) declare the Secured Money to be due and payable, whereupon it shall immediately become due and payable;
 - (b) take possession of the Secured Property;
 - (c) if any Secured Money is then due and payable (whether by reason of acceleration or otherwise), sell or dispose of the Secured Property in such manner and on such terms as the Secured Party thinks fit, with power to buy in, or rescind or vary any contract for sale or re-sell without being responsible for any loss occasioned (other than where such loss is caused by its gross negligence or wilful default) and to transfer the Secured Property free from adverse interests; and
 - (d) whether or not a Receiver has been appointed, exercise any of the powers of a Receiver, or which a person would have if appointed as a Receiver under this deed.

9. APPOINTMENT OF RECEIVER

- 9.1 **Power to appoint Receiver:** The Secured Party may (whether or not the Secured Party has exercised any of its powers under clause 8.1):

- (a) at any time any Event of Default is continuing; or
- (b) at the Grantor's written request,

appoint in writing any person or persons (whether an officer of the Secured Party or the Grantor or not) to be Receiver of all or any of the Secured Property. A Receiver shall be the agent of the Grantor, and the Grantor alone shall be responsible for the acts and defaults of the Receiver. The Secured Party may remove any Receiver and may appoint a new Receiver in place of a Receiver who has been removed, retired or died, or in addition to a Receiver already appointed.

- 9.2 **Powers of Receiver:** In addition to, and without limiting or affecting, any other powers and authorities conferred on a Receiver (whether under the Receiverships Act 1993 or at law or otherwise), a Receiver has the power to sell or otherwise dispose of the Secured Property and to do all other things in relation to the Secured Property as if the Receiver had absolute ownership of the Secured Property.

9.3 **Remuneration of Receiver:** The Secured Party may fix the remuneration of a Receiver at an amount, or on a basis, agreed with the Receiver or, failing agreement, as determined by the Secured Party.

10. APPLICATION OF PROCEEDS

10.1 **Distribution:** All amounts received by the Secured Party or a Receiver, whether in the exercise of their powers or otherwise, shall (subject to the claims of all secured and unsecured creditors (if any) ranking in priority to the security created by this deed) be applied:

- (a) first, in payment of all costs, charges and expenses (including tax and legal costs as between solicitor and client and the remuneration of the Receiver) of and incidental to the exercise of the powers of the Secured Party or Receiver;
- (b) secondly, in payment to the Secured Party of the Secured Money in such manner and order as the Secured Party determines; and
- (c) lastly, in payment of any surplus to the Grantor or other person or persons entitled to it.

10.2 **Appropriation:** All amounts received by the Secured Party under this deed shall be appropriated as between principal, interest and other amounts in such manner as the Secured Party determines, notwithstanding any rule of law, any purported appropriation made by the Grantor or any other person, or any other matter or circumstance.

10.3 **Money actually received:** In applying any money toward satisfaction of the Secured Money the Grantor will be credited only with the money available for that purpose which is actually received by the Secured Party. The credit will date from the time of receipt.

10.4 **Contingent liabilities:** If any Secured Money is contingently owing or not yet owing at the time any application of money is made under clause 10.1, the Secured Party may deposit a sum not exceeding that amount in an interest-bearing deposit account, on such terms and conditions as the Secured Party thinks fit with any person (including the Secured Party or any of its related entities) until that amount ceases to be contingently owing or becomes actually payable. At that time the Secured Party may retain for its own account the amount which is then actually payable to it and deal with any balance in accordance with clause 10.1.

11. PROTECTION OF PERSONS DEALING WITH SECURED PARTY OR RECEIVER

11.1 **Purchaser or other person:** No purchaser or other person dealing with the Secured Party or a Receiver, or with any agent or attorney of the Secured Party or a Receiver, shall be concerned:

- (a) to enquire:
 - (i) whether the Security Interests created by this deed have become enforceable;
 - (ii) whether a Receiver has been properly appointed;

- (iii) whether the powers which the Secured Party or a Receiver, agent or attorney, as the case may be, is exercising or purporting to exercise have become exercisable;
 - (iv) as to the necessity for, or the expediency of, the stipulations or conditions subject to which any sale or disposal is made; or
 - (v) otherwise as to the propriety or regularity of any disposal, calling in, collection or conversion of any money or asset or any other matter in connection with the exercise of any of the powers of the Secured Party or any Receiver; or
 - (b) to see to the application of any amount paid to or received by the Secured Party or a Receiver, agent or attorney, as the case may be.
- 11.2 **Damages the only remedy:** The remedy of the Grantor in respect of any actionable impropriety or irregularity in the exercise, or purported exercise, of any rights, powers or remedies by the Secured Party or a Receiver, agent or attorney, as the case may be, shall be in damages only.
- 12. PROTECTION OF SECURED PARTY AND RECEIVER**
- 12.1 **Proceeds of sale:** If the Secured Party or a Receiver sells any Secured Property pursuant to this deed or otherwise, the Secured Party and the Receiver shall be accountable only for any purchase money which they actually receive.
- 12.2 **Entry into possession:** If the Secured Party or a Receiver enters into possession of any Secured Property:
- (a) it shall not be liable to account as mortgagee in possession in respect of that Secured Property or for any loss which a mortgagee in possession might otherwise be held liable for; and
 - (b) it may at any time give up possession of any Secured Property.
- 12.3 **No liability:** Neither Secured Party nor a Receiver shall be accountable for any losses which may occur in, or as a result of, the exercise, purported exercise or non-exercise of any of the Secured Party's or the Receiver's rights, powers or remedies, and any such losses which are borne by the Secured Party or the Receiver shall form part of the Secured Money.
- 12.4 **Indemnity:** Each of the Secured Party and the Receiver shall be entitled to be indemnified out of the revenue from, or proceeds of sale of, the Secured Property against all costs, losses, expenses or liabilities sustained or incurred in the exercise, purported exercise or non-exercise of the Secured Party's or the Receiver's rights, powers and remedies, including any cost, loss, expense or liability consequent upon any mistake or error of judgment.
- 13. ATTORNEY**
- 13.1 **Appointment:** For the purpose of enabling the Secured Party to obtain the full benefit of this deed, the Grantor irrevocably appoints the Secured Party and every officer of the Secured

Party, individually, to be the attorney of the Grantor ("**Attorney**") for the following purposes, at any time any Event of Default is continuing:

- (a) to do anything which the Grantor is obliged to do under the provisions of this deed or which, in the Attorney's opinion, is necessary to give effect to any right, power or remedy conferred on the Secured Party or a Receiver by this deed or by law or otherwise and which has not been done by the Grantor within a reasonable period (having regard to all of the circumstances existing at that time) after being requested to do so by the Secured Party;
- (b) to receive any Distributions paid or made in respect of the Charged Securities or Rights;
- (c) to sign any Transfer, and to transfer, any Secured Property to any person either on a sale thereof or to hold the same for the Secured Party or otherwise;
- (d) to provide instructions to the Custodian;
- (e) to appoint any person nominated by the Secured Party as the proxy or other representative of the Grantor to vote at any meeting of VHPT;
- (f) to attend and vote at any meeting of VHPT;
- (g) to sign any written resolution of unitholders of VHPT in such manner and for such purpose as the Secured Party may from time to time determine;
- (h) to commence, prosecute, settle and compromise actions or proceedings relating to any Secured Property; and
- (i) to exercise any other rights, powers or remedies which the Grantor may have as the holder, owner or beneficiary of any Secured Property.

13.2 **Authority to Company:** The production of this deed by the Secured Party shall be sufficient authority for VHPT and the Custodian to recognise the Secured Party, or any Attorney, as entitled to exercise all of the powers referred to in clause 13.1, and, as between the Secured Party, or any Attorney, on the one hand and VHPT (or, as the context requires, the Custodian) on the other hand, VHPT (or, as the context requires, the Custodian) shall not be bound or entitled to enquire if any Event of Default has occurred or is continuing or if any of the powers referred to in clause 13.1 have become exercisable.

13.3 **Delegation and conflict:** Each Attorney may:

- (a) delegate its powers (including this power of delegation) to any person for any period, and revoke a delegation; or
- (b) exercise or concur in exercising the Attorney's powers even if the Attorney has a conflict of duty in doing so, or has a direct or personal interest in the means or result of that exercise of such powers.

13.4 **Ratification:** The Grantor hereby ratifies anything done by the Attorney or a delegate of the Attorney in accordance with this clause 13.

14. RELEASE AND REINSTATEMENT

14.1 **Release:** The Grantor shall not be entitled to be released from its obligations and liabilities under this deed nor to have any Secured Property released from this deed, unless the Secured Party (in its sole discretion) is satisfied that:

- (a) the Grantor has no outstanding obligations (present or future, actual or contingent) to the Secured Party under or in connection with any Finance Document; and
- (b) no payment received, or to be received, by it may be avoided, or required to be repaid by it, under any law relating to insolvency or otherwise.

14.2 **Reinstatement:** If any payment received or recovered by the Secured Party, a Receiver or any other person on behalf of the Secured Party is or may be avoided by law or required to be repaid to a liquidator or similar official:

- (a) such payment shall be deemed not to have affected or discharged the liability of the Grantor under this deed or any other security granted in favour of the Secured Party;
- (b) the Secured Party and the Grantor shall, to the maximum extent permitted by law, be restored to the position in which each would have been if such payment had not been received or recovered; and
- (c) the Secured Party shall be entitled to exercise all rights which it would have been entitled to exercise if such payment had not been received or recovered,

notwithstanding that the Secured Party may have signed a release pursuant to clause 14.1.

15. PPSA RIGHTS

15.1 **No consent or subordination:** Nothing in this deed shall be construed as:

- (a) an agreement to subordinate any Security Interest created by this deed in favour of any person; or
- (b) a consent by the Secured Party to any other Security Interest attaching (as that term is used in the context of the PPSA) to, or any other Security Interest subsisting over, any Secured Property.

15.2 **PPSA verification statement:** The Grantor waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the Security Interests created by this deed.

15.3 **Contracting out of PPSA rights:** The Grantor:

- (a) agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to this deed, or the Security Interest created by this deed; and
- (b) waives its right to:
 - (i) receive a statement of account under section 116 of the PPSA;

- (ii) receive notice of the Secured Party's proposal to retain personal property under section 120(2) of the PPSA; and
- (iii) object to the Secured Party's proposal to retain any Secured Property under section 121 of the PPSA.

16. ASSIGNMENT

- 16.1 **Deed binding:** This deed is binding on, and is for the benefit of, the parties and their respective successors, permitted assigns and transferees.
- 16.2 **Grantor may not assign:** The Grantor may not assign or transfer any of its rights or obligations under this deed without the prior written consent of the Secured Party.
- 16.3 **Secured Party may assign and transfer:** The Secured Party may assign and/or novate all or part of its rights or obligations under this deed in accordance with clause 22.1 (*Assignments and novations by the Lender*) of the Facility Agreement.

17. GENERAL

- 17.1 **Amendments:** This deed may only be amended or varied by the written agreement of the parties.
- 17.2 **Partial invalidity:** If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, that illegality, invalidity or unenforceability shall not affect the enforceability of the remaining provisions of this deed nor shall the legality, validity or enforceability of any of those provisions (or, as the case may be, the remaining provisions) under the law of any other jurisdiction be in any way affected or impaired thereby.
- 17.3 **Waivers:**
- (a) No term of this deed may be waived except by the Secured Party in writing.
 - (b) Time shall be of the essence in respect of performance by the Grantor of its obligations under this deed, but no failure on the part of the Secured Party to exercise, and no delay on its part in exercising, any right, power or remedy under this deed or any other document relating to any Secured Money shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy of the Secured Party.
- 17.4 **Remedies not exclusive:** The rights, powers and remedies provided in this deed are in addition to, and not exclusive of, any rights, powers or remedies provided by law.
- 17.5 **Indemnities:** Each of the indemnity obligations of the Grantor under this deed shall constitute a continuing obligation, separate and independent from its other obligations under this deed and shall survive payment of the Secured Money and termination or release of this deed.
- 17.6 **Enforcement:** It shall not be necessary for the Secured Party to incur any expense or make any payment before enforcing any of the Secured Party's rights in respect of any obligation of the Grantor under this deed.

- 17.7 **No merger or marshalling:** The Secured Party's right to payment of any Secured Money (including under any negotiable instrument or any other agreement or arrangement) shall not merge in the Grantor's obligation to pay that Secured Money under this deed. The Secured Party has no duty to marshal in favour of the Grantor or any other person.
- 17.8 **Conflict of provisions:** In the event of conflict between a provision of this deed and a provision of any other Finance Document (in the sense that it is impossible to comply with both), the Secured Party may, in its sole and absolute discretion, determine which shall prevail.
- 17.9 **Payments on demand:** For the avoidance of doubt, all amounts payable to the Secured Party under this deed (including, but not limited to, all costs and all amounts payable under any indemnity) shall be payable by the Grantor upon demand (provided that no demand is necessary for the purposes of clause 2.1) and form part of the Secured Money.
- 17.10 **Certificates:** A certificate of the Secured Party as to any amount or fact which might reasonably be expected to be within the Secured Party's knowledge shall be prima facie evidence of such amount or fact.
- 17.11 **Consents:** The Secured Party may give or withhold any approval or consent under this deed conditionally or unconditionally and in its absolute discretion.
- 17.12 **Moratorium legislation:** To the fullest extent permitted by law, all legislation which at any time directly or indirectly:
- (a) lessens, varies or affects in favour of the Grantor any obligation under this deed; or
 - (b) delays, prevents or prejudicially affects the exercise by the Secured Party of any right, power or remedy conferred by this deed,

is excluded from this deed.

18. LIABILITY NOT PREJUDICED

- 18.1 **Liability not prejudiced:** Neither the liability of the Grantor, nor any of the rights of the Secured Party, under this deed shall be affected or discharged by anything which, but for this clause 18.1, might operate to affect or discharge the liability of, or otherwise provide a defence to, the Grantor (whether or not known to the Grantor, the Secured Party or any other person).

19. DELIVERY

- 19.1 **Delivery by the Grantor:** For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this deed will be delivered by the Grantor immediately on the earlier of:
- (a) physical delivery of an original of this deed, executed by the Grantor, into the custody of the Secured Party or the Secured Party's solicitors; or
 - (b) transmission by the Grantor or its solicitors of a facsimile, photocopied or scanned copy of an original of this deed, executed by the Grantor, to the Secured Party or the Secured Party's solicitors.

20. COUNTERPARTS

20.1 **Counterparts:** This deed may be signed in any number of counterparts, all of which will together constitute one and the same instrument. The parties may execute this deed by signing any such counterpart.

21. GOVERNING LAW

21.1 **Governing law:** This deed shall be governed by, and construed in accordance with, the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

EXECUTED AS A DEED

NORTHWEST NZ FINANCE LIMITED
(Company Number: 7534576)

By:

Name of Director

Signature of Director

Name of Director

Signature of Director

In the presence of:

Signature of witness

Name of witness

Occupation

City/town of residence

For and on behalf of **NORTHWEST NZ**
FINANCE LIMITED

(Company Number: 7534576)

By its attorneys:

Madeleine de Caris

Name of Attorney



Signature of Attorney

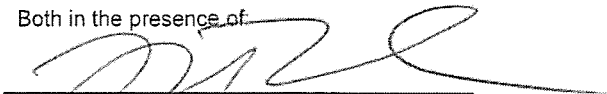
MARTIN COLEMAN

Name of Attorney



Signature of Attorney

Both in the presence of:



Signature of witness

JOHN RENDA

Name of witness

SOLICITOR

Occupation

YARRAVILLE, VICTORIA

City/town of residence

For and on behalf of **AUSTRALIA AND NEW
ZEALAND BANKING GROUP LIMITED**
(ABN: 11 005 357 522)

By its attorney:

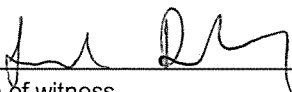
LEONG KHOO

Name of Attorney



Signature of Attorney

In the presence of:



Signature of witness

SARAH DELANEY

Name of witness

SOLICITOR

Occupation

MELBOURNE

City/town of residence

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, MADELEINE DE GARIS [full name], of MELBOURNE, AUSTRALIA
[place and country of residence], LAWYER [occupation], certify:

1. That by deed dated 28 June 2019, NorthWest NZ Finance Holdings Limited NZCN 7534576 of New Zealand and NWI NZ Management Company Limited NZCN 3679942 of New Zealand each appointed me its attorney.
2. That I have not received notice of any event revoking the power of attorney.

Signed at 181 WILLIAM STREET this 1ST day of JULY 2019
MELBOURNE VIC 3000

SIGNED by



Signature

MADELEINE DE GARIS

Name

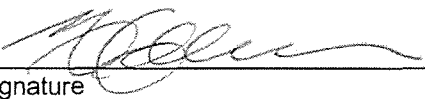
CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, MARTIN COLEMAN [full name], of 127 Wimmalee Rd, Balwyn, VIC, Aust
[place and country of residence], Lawyer [occupation], certify:

1. That by deed dated 28 June 2019, NorthWest NZ Finance Holdings Limited NZCN 7534576 of New Zealand and NWI NZ Management Company Limited NZCN 3679942 of New Zealand each appointed me its attorney.
2. That I have not received notice of any event revoking the power of attorney.

Signed at 181 WILLIAM STREET, MELBOURNE, VIC, 3000, this 1st day of JULY 2019

SIGNED by


Signature

MARTIN COLEMAN
Name

Specific Security Deed

(in relation to investment securities issued by Vital
Healthcare Property Trust)

PARTIES

NWI Healthcare Properties LP

Grantor

Australia and New Zealand Banking Group Limited

Secured Party

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DEED dated 2 July 2019

PARTIES

NWI Healthcare Properties LP
("Grantor")

Australia and New Zealand Banking Group Limited
("Secured Party")

COVENANTS

1. INTERPRETATION

1.1 **Definitions in Facility Agreement:** Words and expressions defined in the Facility Agreement and used in this deed shall, unless the context otherwise requires, have the meanings given to them in the Facility Agreement.

1.2 **Other definitions:** In this deed, unless the context otherwise requires:

"Charged Securities" means

- (a) on the date of this deed, 102,684,228 Units issued by VHPT; and
- (b) thereafter, any additional Units issued by VHPT (or such other securities agreed by the Secured Party pursuant to the Facility Agreement) agreed by the Grantor to form part of the Charged Securities in order to meet the requirements under clause 8 (*Margin requirements*) of the Facility Agreement or otherwise held directly or indirectly through the Custodian; and
- (c) Units issued as part of a division or split (however effected) of Unit entitlements,

except to the extent any Charged Security is released in accordance with clause 7.3 (*Distribution or return of Cash Collateral and release of Collateral*) of the Facility Agreement.

"Custodian Account" means the "Account" as defined in the Custody Deed.

"Custody Deed" means the custody deed dated on or about the date of this deed between the Grantor as Client and NZGT Security Trustee Limited as custodian.

"Distribution" means a distribution of any kind by VHPT to a holder of Units and whether or not based on actual or anticipated profits for the current or any preceding, financial year of VHPT.

"Facility Agreement" means the NZ\$125,000,000 margin loan agreement dated on or about the date of this deed between the Grantor as borrower, Northwest NZ Finance Holdings Limited as additional security provider and the Secured Party as original lender.

"**PPSA**" means the Personal Property Securities Act 1999.

"**PPSR**" means the Personal Property Securities Register maintained for the purposes of the PPSA.

"**Receiver**" means a receiver, or receiver and manager, appointed by the Secured Party under this deed.

"**Rights**" means:

- (a) Distributions;
- (b) bonus shares, units, debentures or other securities;
- (c) options or rights to take up shares, debentures or other securities; and
- (d) other rights, money or securities of any nature.

"**Secured Money**" means all amounts of any nature which the Borrower or Grantor (each whether alone, or jointly or jointly and severally with any other person) is, or may at any time become, liable (whether actually or contingently) to pay or deliver to the Secured Party (whether alone, or jointly or jointly and severally with any other person), under, pursuant to, or arising out of, any Finance Document, and a reference to the Secured Money includes any part of it.

"**Secured Property**" means the property and assets described in paragraphs (c) and (d) of clause 3.1 and a reference to Secured Property includes any of it.

"**Security Interest**" includes a security interest, mortgage, charge, encumbrance, lien, pledge, finance lease, sale and lease back, sale and repurchase, deferred purchase or title retention arrangement, flawed asset arrangement, and any other security or arrangement having like economic effect over any property, assets or revenues.

"**Transfer**" means, with respect to the Charged Securities or Rights, a transfer duly signed by the Grantor or, in the case of any Charged Securities or Rights legally held by some other person but beneficially owned by the Grantor, duly signed by that other person, with the name of the transferee, date and consideration left blank, but otherwise, if appropriate, in proper form for registration by VHPT.

"**VHPT**" means Vital Healthcare Property Trust (Scheme Number: SCH11214).

1.3 **References:** Except to the extent that the context otherwise requires, any reference in this deed to:

"**constitutional documents**" includes any shareholders agreement or joint venture agreement (however described).

"**disposal**" includes any sale, assignment, exchange, transfer, concession, loan, lease, surrender, licence, reservation, waiver, compromise, release, dealing, parting with possession, or the granting of any option, right or interest whatever, or any agreement for any of the same, and "**dispose**" means to make a disposal, and "**acquisition**" and "**acquire**" shall be construed accordingly.

"**guarantee**" includes an indemnity, letter of credit, legally binding letter of comfort, suretyship and other agreement the economic effect of which is to provide security or otherwise assume responsibility for the indebtedness of another person.

"**proceeds**" includes "proceeds" as defined in the PPSA.

a "**share**" includes a share in any company, whether incorporated in New Zealand or elsewhere.

"**tax**" includes any present or future tax, levy, impost, rate, duty, charge, fee, deduction or withholding of any nature and whatever called, imposed or levied by a government agency, and any related interest, penalty, charge, fee or other amount, and "**taxation**" shall be construed accordingly.

"**upon demand**" means upon demand by notice in writing signed by or on behalf of the person making demand.

1.4 **PPSA references:** The expressions "**financing statement**", "**financing change statement**", "**future advance**", "**security interest**" and "**verification statement**" have the respective meanings given to them under, or in the context of, the PPSA.

1.5 **Miscellaneous:**

- (a) Headings are inserted for convenience only and do not affect interpretation of this deed.
- (b) References to a person include that person's successors, permitted assigns, executors and administrators (as applicable).
- (c) Unless the context otherwise requires the singular includes the plural and vice versa and words denoting individuals include other persons and vice versa.
- (d) A reference to any legislation includes any statutory regulations, rules, orders or instruments made or issued pursuant to that legislation and any amendment to, re-enactment of, or replacement of, that legislation.
- (e) A reference to any document includes reference to that document as amended, modified, novated, supplemented, varied or replaced from time to time.
- (f) Except where inconsistent with the context, the expression "at any time" also means from time to time.
- (g) Unless otherwise stated a reference to a clause is to a clause of this deed.
- (h) An Event of Default is continuing unless it has been waived in writing or remedied to the satisfaction of the Secured Party.

2. PAYMENT

2.1 **General:** The Grantor shall pay the Secured Money when due in accordance with the Finance Documents or, if they do not specify a time for payment, immediately upon demand by the Secured Party.

2.2 **Receiver's remuneration:** All remuneration payable to any Receiver shall be payable by the Grantor upon demand and shall form part of the Secured Money.

3. SECURITY

3.1 **Charging clause:** As security for:

- (a) the payment or delivery of the Secured Money; and
- (b) the performance and observance by the Grantor of all of its obligations to the Secured Party at any time,

the Grantor:

- (c) grants to the Secured Party a first ranking security interest in its present and future right, title and interest in:
 - (i) the Custodian Account and all proceeds in relation to it;
 - (ii) the Charged Securities;
 - (iii) all proceeds in relation to any disposal of the Charged Securities; and
 - (iv) all documents of title relating to any Charged Securities; and
- (d) assigns by way of security to the Secured Party all its present and future right, title and benefit in, to and under the Custody Deed.

3.2 **Notice to Company:** The Secured Party may at any time give notice to VHPT of the Security Interest created by this deed.

3.3 **Secured Party may register:** The Secured Party may during the continuance of any Event of Default and without prejudice to any of its other rights, powers or remedies, cause itself to be registered as the holder of the Charged Securities, or as the person entitled to any Rights, in order to hold those Charged Securities or Rights as mortgagee on the terms of this deed, and for that purpose may complete and present any Transfer for registration or require the Custodian to transfer any Charged Securities and/or Rights to it or its nominee.

3.4 **Priority:** The security granted under this deed has the same priority in respect of all advances, including future advances.

3.5 **Continuing security:** This deed is a continuing security and shall operate irrespective of any intervening payment, settlement of account or other matter or thing whatever, until a final release has been signed by the Secured Party and delivered to the Grantor in accordance with clause 14.

3.6 **Other securities:**

- (a) This deed is collateral to each other security and guarantee (whenever executed or given) which is at any time held by the Secured Party.

- (b) The Secured Party may exercise any of its rights, powers and remedies under this deed, or under any other security or guarantee, separately or concurrently and without prior notice to the Grantor, VHPT or any other person.
- (c) Nothing in this deed shall discharge, abate or prejudice any other Security Interest or guarantee held by the Secured Party at any time.

3.7 **Further assurance:** The Grantor shall deliver to the Secured Party any Transfer, assignment, Security Interest, instrument, or other deed or document, and shall, subject to clause 3.3, do any other thing which the Secured Party reasonably requires to enable it to:

- (a) ensure the Secured Property is subject to an effective first ranking Security;
- (b) perfect the Security Interest intended to be created by this deed with the priority required by the Secured Party including, without limitation, in accordance with the provisions of the PPSA;
- (c) for so long as any Event of Default is continuing, transfer to, or vest in, the Secured Party (or any purchaser from the Secured Party or a Receiver), the Secured Property;
- (d) for so long as any Event of Default is continuing, facilitate the realisation of the Secured Property;
- (e) for so long as an Event of Default is continuing, exercise all or any of the rights, powers and remedies conferred on the Secured Party or a Receiver by this deed or by law and whether on enforcement or otherwise; and/or
- (f) secure to the Secured Party the full benefit of the provisions of this deed.

3.8 **Completion of documents:** Subject to clause 3.3, the Secured Party may fill in any blanks in any Transfer and may complete in favour of the Secured Party, or any person purchasing under the powers given by this deed or by law, any Transfer or any other document signed by or on behalf of the Grantor.

4. UNITHOLDER RIGHTS AND OBLIGATIONS

4.1 **Liability for calls etc:** If any call or other amount (a "**Call**") becomes payable in respect of any Charged Securities or, where an Event of Default is continuing, Rights:

- (a) while the Grantor is the beneficial holder of those Charged Securities or Rights, the Grantor shall pay that Call to VHPT (directly or through the Custodian) on or before the due date for payment and promptly confirm to the Secured Party that such payment has been made; and
- (b) while the Secured Party or its nominee is the holder of those Charged Securities or Rights (whether directly or through the Custodian), the Grantor shall, upon demand by the Secured Party, pay an amount equal to that Call to the Secured Party or, if so agreed with, or required by, the Secured Party, to VHPT (directly or through the Custodian) and, if paid to the Secured Party, the Secured Party shall pay the Call to VHPT (directly or through the Custodian).

- 4.2 **Voting rights:** Except where any Event of Default is continuing the Grantor shall be entitled to exercise or direct the exercise of all voting rights in respect of the Charged Securities provided that the Grantor shall not at any time exercise, or refrain from exercising, any voting rights in a manner which could reasonably be expected to adversely affect the Security Interests created by this deed or result in a change in the terms of issue of any of the Secured Property. If at any time any Event of Default is continuing the Grantor will exercise voting rights solely in accordance with the written instructions of the Secured Party, if any, save to the extent those instructions would cause it to breach any duty or obligation.
- 4.3 **Distributions:** The Grantor shall procure that all Distributions are paid or credited (directly or by the Custodian, if applicable) to the Collateral Income Account and shall use those amounts solely in accordance with the permissions contained in the Facility Agreement.

5. UNDERTAKINGS

- 5.1 **Registration of Transfers:** The Grantor shall, if the Secured Party so requests while an Event of Default is continuing, upon presentation to VHPT or its registrar for registration of a Transfer in accordance with the provisions of this deed, take all steps available to the Grantor to procure registration of that Transfer.
- 5.2 **Negative undertakings:** The Grantor shall not:
- (a) **Disposal:** dispose, or permit the disposal, of any Secured Property or agree to do so except as permitted by the Facility Agreement;
 - (b) **Other security:** create or permit to subsist any other Security Interest over any Secured Property or agree to do so except with the prior written consent of the Secured Party;
 - (c) **Prejudice security:** do, or omit to do, anything which could prejudicially affect the Security Interest created by this deed, render any Secured Property liable to forfeiture or cancellation;
 - (d) **Name:** change its name without first notifying the Secured Party of the new name not less than 21 days before the change takes effect; or
 - (e) **Place of business or incorporation:** relocate its principal place of business or change its jurisdiction of incorporation.

6. SECURITY INTEREST ENFORCEABLE

- 6.1 **When security enforceable:** The Security Interests created by this deed shall be enforceable at any time an Event of Default is continuing.

7. SECURED PARTY MAY REMEDY BREACH

- 7.1 **Right to remedy breach:** If the Grantor fails to comply with any obligation under this deed the Secured Party may (without prejudice to its other rights, powers and remedies) pay all amounts and do all such other things as it deems necessary or desirable to remedy any such default or otherwise protect the Security Interests created by this deed.

- 7.2 **Reimbursement of expenditure incurred:** The Grantor shall reimburse the Secured Party, upon demand, for all expenditure incurred by the Secured Party under clause 7.1 (including all reasonable legal costs as between solicitor and client), together with interest on those amounts calculated at a rate determined by the Secured Party to be the applicable default interest rate under the Finance Documents on a daily basis from the date upon which such expenditure is incurred until it is reimbursed by the Grantor and, until reimbursed, the amount and interest on the amount shall form part of the Secured Money.

8. ENFORCEMENT BY SECURED PARTY

- 8.1 **Powers on enforcement:** At any time any Event of Default is continuing the Secured Party may (without it being necessary to give any prior notice to the Grantor, and without prejudice to any other rights, powers or remedies it may have under this deed or by law) do any or all of the following:
- (a) declare the Secured Money to be due and payable, whereupon it shall immediately become due and payable;
 - (b) take possession of the Secured Property;
 - (c) if any Secured Money is then due and payable (whether by reason of acceleration or otherwise), sell or dispose of the Secured Property in such manner and on such terms as the Secured Party thinks fit, with power to buy in, or rescind or vary any contract for sale or re-sell without being responsible for any loss occasioned (other than where such loss is caused by its gross negligence or wilful default) and to transfer the Secured Property free from adverse interests; and
 - (d) whether or not a Receiver has been appointed, exercise any of the powers of a Receiver, or which a person would have if appointed as a Receiver under this deed.

9. APPOINTMENT OF RECEIVER

- 9.1 **Power to appoint Receiver:** The Secured Party may (whether or not the Secured Party has exercised any of its powers under clause 8.1):

- (a) at any time any Event of Default is continuing; or
- (b) at the Grantor's written request,

appoint in writing any person or persons (whether an officer of the Secured Party or the Grantor or not) to be Receiver of all or any of the Secured Property. A Receiver shall be the agent of the Grantor, and the Grantor alone shall be responsible for the acts and defaults of the Receiver. The Secured Party may remove any Receiver and may appoint a new Receiver in place of a Receiver who has been removed, retired or died, or in addition to a Receiver already appointed.

- 9.2 **Powers of Receiver:** In addition to, and without limiting or affecting, any other powers and authorities conferred on a Receiver (whether under the Receiverships Act 1993 or at law or otherwise), a Receiver has the power to sell or otherwise dispose of the Secured Property and to do all other things in relation to the Secured Property as if the Receiver had absolute ownership of the Secured Property.

9.3 **Remuneration of Receiver:** The Secured Party may fix the remuneration of a Receiver at an amount, or on a basis, agreed with the Receiver or, failing agreement, as determined by the Secured Party.

10. APPLICATION OF PROCEEDS

10.1 **Distribution:** All amounts received by the Secured Party or a Receiver, whether in the exercise of their powers or otherwise, shall (subject to the claims of all secured and unsecured creditors (if any) ranking in priority to the security created by this deed) be applied:

- (a) first, in payment of all costs, charges and expenses (including tax and legal costs as between solicitor and client and the remuneration of the Receiver) of and incidental to the exercise of the powers of the Secured Party or Receiver;
- (b) secondly, in payment to the Secured Party of the Secured Money in such manner and order as the Secured Party determines; and
- (c) lastly, in payment of any surplus to the Grantor or other person or persons entitled to it.

10.2 **Appropriation:** All amounts received by the Secured Party under this deed shall be appropriated as between principal, interest and other amounts in such manner as the Secured Party determines, notwithstanding any rule of law, any purported appropriation made by the Grantor or any other person, or any other matter or circumstance.

10.3 **Money actually received:** In applying any money toward satisfaction of the Secured Money the Grantor will be credited only with the money available for that purpose which is actually received by the Secured Party. The credit will date from the time of receipt.

10.4 **Contingent liabilities:** If any Secured Money is contingently owing or not yet owing at the time any application of money is made under clause 10.1, the Secured Party may deposit a sum not exceeding that amount in an interest-bearing deposit account, on such terms and conditions as the Secured Party thinks fit with any person (including the Secured Party or any of its related entities) until that amount ceases to be contingently owing or becomes actually payable. At that time the Secured Party may retain for its own account the amount which is then actually payable to it and deal with any balance in accordance with clause 10.1.

11. PROTECTION OF PERSONS DEALING WITH SECURED PARTY OR RECEIVER

11.1 **Purchaser or other person:** No purchaser or other person dealing with the Secured Party or a Receiver, or with any agent or attorney of the Secured Party or a Receiver, shall be concerned:

- (a) to enquire:
 - (i) whether the Security Interests created by this deed have become enforceable;
 - (ii) whether a Receiver has been properly appointed;

- (iii) whether the powers which the Secured Party or a Receiver, agent or attorney, as the case may be, is exercising or purporting to exercise have become exercisable;
 - (iv) as to the necessity for, or the expediency of, the stipulations or conditions subject to which any sale or disposal is made; or
 - (v) otherwise as to the propriety or regularity of any disposal, calling in, collection or conversion of any money or asset or any other matter in connection with the exercise of any of the powers of the Secured Party or any Receiver; or
- (b) to see to the application of any amount paid to or received by the Secured Party or a Receiver, agent or attorney, as the case may be.

11.2 **Damages the only remedy:** The remedy of the Grantor in respect of any actionable impropriety or irregularity in the exercise, or purported exercise, of any rights, powers or remedies by the Secured Party or a Receiver, agent or attorney, as the case may be, shall be in damages only.

12. PROTECTION OF SECURED PARTY AND RECEIVER

12.1 **Proceeds of sale:** If the Secured Party or a Receiver sells any Secured Property pursuant to this deed or otherwise, the Secured Party and the Receiver shall be accountable only for any purchase money which they actually receive.

12.2 **Entry into possession:** If the Secured Party or a Receiver enters into possession of any Secured Property:

- (a) it shall not be liable to account as mortgagee in possession in respect of that Secured Property or for any loss which a mortgagee in possession might otherwise be held liable for; and
- (b) it may at any time give up possession of any Secured Property.

12.3 **No liability:** Neither Secured Party nor a Receiver shall be accountable for any losses which may occur in, or as a result of, the exercise, purported exercise or non-exercise of any of the Secured Party's or the Receiver's rights, powers or remedies, and any such losses which are borne by the Secured Party or the Receiver shall form part of the Secured Money.

12.4 **Indemnity:** Each of the Secured Party and the Receiver shall be entitled to be indemnified out of the revenue from, or proceeds of sale of, the Secured Property against all costs, losses, expenses or liabilities sustained or incurred in the exercise, purported exercise or non-exercise of the Secured Party's or the Receiver's rights, powers and remedies, including any cost, loss, expense or liability consequent upon any mistake or error of judgment.

13. ATTORNEY

13.1 **Appointment:** For the purpose of enabling the Secured Party to obtain the full benefit of this deed, the Grantor irrevocably appoints the Secured Party and every officer of the Secured

Party, individually, to be the attorney of the Grantor ("**Attorney**") for the following purposes, at any time any Event of Default is continuing:

- (a) to do anything which the Grantor is obliged to do under the provisions of this deed or which, in the Attorney's opinion, is necessary to give effect to any right, power or remedy conferred on the Secured Party or a Receiver by this deed or by law or otherwise and which has not been done by the Grantor within a reasonable period (having regard to all of the circumstances existing at that time) after being requested to do so by the Secured Party;
- (b) to receive any Distributions paid or made in respect of the Charged Securities or Rights;
- (c) to sign any Transfer, and to transfer, any Secured Property to any person either on a sale thereof or to hold the same for the Secured Party or otherwise;
- (d) to provide instructions to the Custodian;
- (e) to appoint any person nominated by the Secured Party as the proxy or other representative of the Grantor to vote at any meeting of VHPT;
- (f) to attend and vote at any meeting of VHPT;
- (g) to sign any written resolution of unitholders of VHPT in such manner and for such purpose as the Secured Party may from time to time determine;
- (h) to commence, prosecute, settle and compromise actions or proceedings relating to any Secured Property; and
- (i) to exercise any other rights, powers or remedies which the Grantor may have as the holder, owner or beneficiary of any Secured Property.

13.2 **Authority to Company:** The production of this deed by the Secured Party shall be sufficient authority for VHPT and the Custodian to recognise the Secured Party, or any Attorney, as entitled to exercise all of the powers referred to in clause 13.1, and, as between the Secured Party, or any Attorney, on the one hand and VHPT (or, as the context requires, the Custodian) on the other hand, VHPT (or, as the context requires, the Custodian) shall not be bound or entitled to enquire if any Event of Default has occurred or is continuing or if any of the powers referred to in clause 13.1 have become exercisable.

13.3 **Delegation and conflict:** Each Attorney may:

- (a) delegate its powers (including this power of delegation) to any person for any period, and revoke a delegation; or
- (b) exercise or concur in exercising the Attorney's powers even if the Attorney has a conflict of duty in doing so, or has a direct or personal interest in the means or result of that exercise of such powers.

13.4 **Ratification:** The Grantor hereby ratifies anything done by the Attorney or a delegate of the Attorney in accordance with this clause 13.

14. RELEASE AND REINSTATEMENT

14.1 **Release:** The Grantor shall not be entitled to be released from its obligations and liabilities under this deed nor to have any Secured Property released from this deed, unless the Secured Party (in its sole discretion) is satisfied that:

- (a) the Grantor has no outstanding obligations (present or future, actual or contingent) to the Secured Party under or in connection with any Finance Document; and
- (b) no payment received, or to be received, by it may be avoided, or required to be repaid by it, under any law relating to insolvency or otherwise.

14.2 **Reinstatement:** If any payment received or recovered by the Secured Party, a Receiver or any other person on behalf of the Secured Party is or may be avoided by law or required to be repaid to a liquidator or similar official:

- (a) such payment shall be deemed not to have affected or discharged the liability of the Grantor under this deed or any other security granted in favour of the Secured Party;
- (b) the Secured Party and the Grantor shall, to the maximum extent permitted by law, be restored to the position in which each would have been if such payment had not been received or recovered; and
- (c) the Secured Party shall be entitled to exercise all rights which it would have been entitled to exercise if such payment had not been received or recovered,

notwithstanding that the Secured Party may have signed a release pursuant to clause 14.1.

15. PPSA RIGHTS

15.1 **No consent or subordination:** Nothing in this deed shall be construed as:

- (a) an agreement to subordinate any Security Interest created by this deed in favour of any person; or
- (b) a consent by the Secured Party to any other Security Interest attaching (as that term is used in the context of the PPSA) to, or any other Security Interest subsisting over, any Secured Property.

15.2 **PPSA verification statement:** The Grantor waives the right to receive a copy of the verification statement confirming registration of a financing statement or financing change statement relating to the Security Interests created by this deed.

15.3 **Contracting out of PPSA rights:** The Grantor:

- (a) agrees that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to this deed, or the Security Interest created by this deed; and
- (b) waives its right to:
 - (i) receive a statement of account under section 116 of the PPSA;

- (ii) receive notice of the Secured Party's proposal to retain personal property under section 120(2) of the PPSA; and
- (iii) object to the Secured Party's proposal to retain any Secured Property under section 121 of the PPSA.

16. ASSIGNMENT

- 16.1 **Deed binding:** This deed is binding on, and is for the benefit of, the parties and their respective successors, permitted assigns and transferees.
- 16.2 **Grantor may not assign:** The Grantor may not assign or transfer any of its rights or obligations under this deed without the prior written consent of the Secured Party.
- 16.3 **Secured Party may assign and transfer:** The Secured Party may assign and/or novate all or part of its rights or obligations under this deed in accordance with clause 22.1 (*Assignments and novations by the Lender*) of the Facility Agreement.

17. GENERAL

- 17.1 **Amendments:** This deed may only be amended or varied by the written agreement of the parties.
- 17.2 **Partial invalidity:** If at any time any provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any relevant jurisdiction, that illegality, invalidity or unenforceability shall not affect the enforceability of the remaining provisions of this deed nor shall the legality, validity or enforceability of any of those provisions (or, as the case may be, the remaining provisions) under the law of any other jurisdiction be in any way affected or impaired thereby.
- 17.3 **Waivers:**
- (a) No term of this deed may be waived except by the Secured Party in writing.
 - (b) Time shall be of the essence in respect of performance by the Grantor of its obligations under this deed, but no failure on the part of the Secured Party to exercise, and no delay on its part in exercising, any right, power or remedy under this deed or any other document relating to any Secured Money shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy of the Secured Party.
- 17.4 **Remedies not exclusive:** The rights, powers and remedies provided in this deed are in addition to, and not exclusive of, any rights, powers or remedies provided by law.
- 17.5 **Indemnities:** Each of the indemnity obligations of the Grantor under this deed shall constitute a continuing obligation, separate and independent from its other obligations under this deed and shall survive payment of the Secured Money and termination or release of this deed.
- 17.6 **Enforcement:** It shall not be necessary for the Secured Party to incur any expense or make any payment before enforcing any of the Secured Party's rights in respect of any obligation of the Grantor under this deed.

- 17.7 **No merger or marshalling:** The Secured Party's right to payment of any Secured Money (including under any negotiable instrument or any other agreement or arrangement) shall not merge in the Grantor's obligation to pay that Secured Money under this deed. The Secured Party has no duty to marshal in favour of the Grantor or any other person.
- 17.8 **Conflict of provisions:** In the event of conflict between a provision of this deed and a provision of any other Finance Document (in the sense that it is impossible to comply with both), the Secured Party may, in its sole and absolute discretion, determine which shall prevail.
- 17.9 **Payments on demand:** For the avoidance of doubt, all amounts payable to the Secured Party under this deed (including, but not limited to, all costs and all amounts payable under any indemnity) shall be payable by the Grantor upon demand (provided that no demand is necessary for the purposes of clause 2.1) and form part of the Secured Money.
- 17.10 **Certificates:** A certificate of the Secured Party as to any amount or fact which might reasonably be expected to be within the Secured Party's knowledge shall be prima facie evidence of such amount or fact.
- 17.11 **Consents:** The Secured Party may give or withhold any approval or consent under this deed conditionally or unconditionally and in its absolute discretion.
- 17.12 **Moratorium legislation:** To the fullest extent permitted by law, all legislation which at any time directly or indirectly:
- (a) lessens, varies or affects in favour of the Grantor any obligation under this deed; or
 - (b) delays, prevents or prejudicially affects the exercise by the Secured Party of any right, power or remedy conferred by this deed,
- is excluded from this deed.

18. LIABILITY NOT PREJUDICED

- 18.1 **Liability not prejudiced:** Neither the liability of the Grantor, nor any of the rights of the Secured Party, under this deed shall be affected or discharged by anything which, but for this clause 18.1, might operate to affect or discharge the liability of, or otherwise provide a defence to, the Grantor (whether or not known to the Grantor, the Secured Party or any other person).

19. DELIVERY

- 19.1 **Delivery by the Grantor:** For the purposes of section 9 of the Property Law Act 2007, and without limiting any other mode of delivery, this deed will be delivered by the Grantor immediately on the earlier of:
- (a) physical delivery of an original of this deed, executed by the Grantor, into the custody of the Secured Party or the Secured Party's solicitors; or
 - (b) transmission by the Grantor or its solicitors of a facsimile, photocopied or scanned copy of an original of this deed, executed by the Grantor, to the Secured Party or the Secured Party's solicitors.

20. COUNTERPARTS

- 20.1 **Counterparts:** This deed may be signed in any number of counterparts, all of which will together constitute one and the same instrument. The parties may execute this deed by signing any such counterpart.

21. GOVERNING LAW

- 21.1 **Governing law:** This deed shall be governed by, and construed in accordance with, the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of the courts of New Zealand.

22. JURISDICTION

- 22.1 **Submission to jurisdiction:** The Grantor agrees that any legal action or proceedings arising out of or in connection with this deed ("**proceedings**") may be brought in the courts of New Zealand and irrevocably submits to the non-exclusive jurisdiction of those courts.
- 22.2 **Non-exclusive jurisdiction:** Nothing contained in this clause shall limit the right of the Secured Party to take proceedings against the Grantor in any other court of competent jurisdiction, nor will the taking of proceedings in one or more jurisdiction preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.
- 22.3 **Waiver of objection:** The Grantor irrevocably waives any objection which it may have at any time to such courts being nominated as the forum to hear and determine any proceedings, and to settle any disputes, which may arise out of or in connection with this deed, and any claim that any such court is not a convenient or appropriate forum.
- 22.4 **Process agent:** For the purpose of this clause 22 the Grantor irrevocably appoints Northwest NZ Finance Holdings Limited as its agent for the service of process in relation to any proceedings in New Zealand.
- 22.5 **Service of process:** The Grantor irrevocably agrees that any writ, judgment or other notice of process will be sufficiently and effectively served on it in connection with proceedings in New Zealand if addressed to Northwest NZ Finance Holdings Limited and delivered to it at its address designated for the purposes of this deed (currently Level 16 AIG Building, 41 Shortland Street, Auckland, 1010, New Zealand; Attention: Stuart Harrison) or if served in any other manner permitted by law.

EXECUTED AS A DEED

NWI HEALTHCARE PROPERTIES LP

By its general partner NWI Healthcare
Properties GP Inc.:



Authorised Representative

For and on behalf of **AUSTRALIA AND NEW
ZEALAND BANKING GROUP LIMITED**
(ABN: 11 005 357 522)

By its attorney:

LEONG KHOO

Name of Attorney



Signature of Attorney

In the presence of:



Signature of witness

SARAH DELANEY

Name of witness

SOLICITOR

Occupation

MELBOURNE

City/town of residence