

ASX Announcement

Westpac Office Trust (WOT)

Total pages: 75

28 April 2010

Westpac Office Trust announces Recommended Offer from Mirvac Group

Key Points

- Westpac Funds Management Limited (“WFML”), in its capacity as responsible entity of Westpac Office Trust (“WOT”) (ASX: WOT), today announced an offer that, if approved and implemented, would result in Mirvac Group (“Mircac”) (ASX: MGR) acquiring all units and instalment receipts (“WOT IRs”) in WOT (“Offer”).
- It is proposed that the Offer be implemented by way of a trust scheme (“Scheme”) which will require the approval of WOT Unitholders and WOT IR Holders (together, “WOT Investors”).
- Mirvac is offering WOT Investors at the record date, Scheme consideration of either:
 - 0.597 Mirvac stapled securities for every one WOT unit held or 0.597 Mirvac IRs for every one WOT IR held, equating to an implied value of \$0.86¹ per WOT unit (“Scrip Option”); or
 - Cash of \$0.86 per WOT unit up to an aggregate cash component of \$200 million² (“Cash Option”).
- Based on an implied value of \$0.86¹ per WOT unit, the Offer represents a premium of:
 - 12.4% to the closing price of WOT units of \$0.765 on 6 April 2010³
 - 14.2% to the one month VWAP of WOT units of \$0.75 to 6 April 2010³; and
 - 15.9% to the three month VWAP of WOT units of \$0.74 to 6 April 2010³.
- The Offer also represents a premium of 2.4% to WOT’s stated NTA of \$0.84 as at 31 December 2009 and a premium of 4.5% to the adjusted NTA of \$0.82 following payment of the accrued performance fee of about \$7.8 million⁴.
- WOT Investors holding WOT IRs may choose to receive Mirvac instalment receipts (“Mircac IRs”) in exchange for their WOT IRs.
- If the Offer is approved, the resulting merged entity is expected to provide WOT Investors who accept the Scrip Option with the following benefits:
 - Larger equity market capitalisation, increased liquidity and index inclusion;
 - Lower gearing, improved cost of capital and financial flexibility; and
 - Broader geographic, asset and business diversification.
- The Independent Directors of WFML unanimously recommend the Offer in the absence of a superior proposal and subject to an independent expert concluding that the Offer is fair and reasonable and in the best interests of WOT Investors.

¹ Based on the 5-day VWAP of \$1.44 for Mirvac stapled securities to 27 April 2010.

² If applications for the Cash Option exceed \$200 million, all applications will be scaled back pro rata and the balance of the Scheme consideration will be Mirvac stapled securities for WOT Unitholders and Mirvac IRs for WOT IR Holders.

³ The last trading day before the announcement of an exclusive due diligence period between Mirvac and WFML.

⁴ The accrued performance fee becomes payable upon a change of control if the Offer is accepted and implemented.

Terms of the Offer

WFML, the responsible entity of WOT, has entered into a Scheme Implementation Agreement with Mirvac in relation to the Offer by Mirvac to acquire all WOT units and WOT IRs.

It is proposed that the Offer be implemented by way of a trust scheme which will require WOT Investor approval and which, if implemented, will result in WOT becoming a wholly owned sub-trust of Mirvac Property Trust.

Under the terms of the Offer, WOT Investors may elect to receive:

- The Scrip Option of 0.597 Mirvac stapled securities for every one WOT unit or 0.597 Mirvac IRs for every one WOT IR, equating to an implied value of \$0.86⁵ per WOT unit ("Scrip Option"); or
- The Cash Option of \$0.86 per WOT unit up to an aggregate cash component of \$200 million⁶.

WOT IR Holders who elect the Scrip Option will receive new Mirvac IRs on substantially the same terms as the existing WOT IRs. WOT IR Holders who elect the Cash Option will receive \$0.36 per WOT IR following repayment of \$0.50 Instalment Debt per WOT IR.

WOT Investors who make no election will be deemed to have elected the Scrip Option.

Mirvac will arrange a sale facility ("Sale Facility") for WOT Investors who do not wish to retain Mirvac stapled securities or Mirvac IRs issued to them under the Scheme. WOT Investors with registered addresses outside Australia or New Zealand will, to the extent they would otherwise become entitled to Mirvac stapled securities or Mirvac IRs, also have those Mirvac stapled securities sold through the Sale Facility with the cash proceeds, less the Instalment Debt repayment in the case of WOT IR Holders, paid to the WOT Investor.

Full details of this Facility will be set out in the Explanatory Memorandum issued to WOT Investors.

Based on an implied value of \$0.86⁵ per WOT unit, the offer represents a premium of:

- 12.4% to the closing price of WOT units of \$0.765 on 6 April 2010⁷
- 14.2% to the one month VWAP of WOT units of \$0.75 to 6 April 2010⁷; and
- 15.9% to the three month VWAP of WOT units of \$0.74 to 6 April 2010⁷.

The Offer also represents 2.4% to WOT's stated NTA of \$0.84 as at 31 December 2009 and a premium of 4.5% to the adjusted NTA of \$0.82 following payment of the accrued performance fee of about \$7.8 million⁸.

The Record Date for determining WOT Investor entitlements under the Scheme is expected to be set at a date in late July 2010.

WOT Unitholders remain entitled to the distribution for the 3 month period ending 30 June 2010.

If the Offer is approved and implemented, WOT Investors who receive Mirvac securities are expected to benefit from an investment in a leading listed property group offering:

- Lower gearing;
- Improved cost of capital and financial flexibility;
- Enhanced liquidity;
- Broader geographic, asset and business diversification;
- Increased market capitalisation; and
- Inclusion in key property indices.

⁵ Based on the 5-day VWAP of \$1.44 for Mirvac stapled securities to 27 April 2010.

⁶ If applications for the Cash Option exceed \$200 million, all applications will be scaled back pro rata and the balance of the Scheme consideration will be Mirvac stapled securities for WOT Unitholders and Mirvac IRs for WOT IR Holders.

⁷ The last trading day before the announcement of an exclusive due diligence period between Mirvac and WFML.

⁸ The accrued performance fee becomes payable upon a change of control if the Offer is accepted and implemented.

Westpac Banking Corporation (“Westpac”)

Westpac has provided several undertakings in favour of WFML and Mirvac to assist in relation to the proposal including undertaking to:

- Rollover of the WOT IR debt facilities to Mirvac IRs on substantially the same terms;
- Accept the Scrip Option for its interest in about 37.3m WOT units and IRs and hold its interest in Mirvac stapled securities and Mirvac IRs in escrow for 12 months; and
- Terminate the Business Development Agreement and other related party agreements between WOT and Westpac.

If WOT Investors approve the Offer, Westpac will receive \$15m consideration for agreeing to forgo future management fees, transaction and advisory fees and entering into various agreements in relation to the Offer including those agreements set out above.

Independent Directors’ Recommendation

The Independent Directors believe that the Offer is in the best interests of WOT Investors and unanimously recommend that the WOT Investors vote in favour of the resolutions, in the absence of a superior offer and subject to the opinion of an independent expert that concludes that the Offer is fair and reasonable and in the best interests of WOT Investors.

WFML Independent Director and Chairman, Alan Cameron said, “Having considered a number of alternatives, we believe Mirvac’s offer is attractive and represents a premium to both recent trading prices and NTA.”

“The Offer provides WOT Investors an opportunity, through the Scrip Option, to participate in Mirvac’s future, including retaining an interest in WOT’s high quality assets, which will be material contributors to the performance of Mirvac Property Trust. Alternatively, the Offer includes a Cash Option or participation in the Sale Facility.”

The Independent Directors are being advised by Citi and Allens Arthur Robinson.

Explanatory Memorandum and Investor Meeting

WOT Investors will be invited to vote on the Offer at a meeting expected to be held on or about 13 July 2010. An Explanatory Memorandum (including a Notice of Meeting and an independent expert’s report) is expected to be sent to WOT Investors in mid June 2010. If the Offer is approved, it is expected that it will be implemented in late July 2010.

A copy of the Scheme Implementation Agreement is attached to this announcement. It includes detailed terms and conditions of the Offer (including the conditions precedent to the implementation of the Offer).

An Indicative Timetable for consideration and implementation of the Offer is included as Schedule 2 of the Scheme Implementation Agreement.

Further Information

WOT Investors who have questions before the Explanatory Memorandum is available, are invited to contact the WOT Information line on 1300 766 855 (within Australia) and for callers outside Australia: +61 2 8280 7070.

For further enquiries, please contact:

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Scheme Implementation Agreement

Mirvac Limited

Mirvac Funds Limited as responsible entity of the
Mirvac Property Trust

Westpac Funds Management Limited as responsible entity
for Westpac Office Trust

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Date	28 April 2010
Parties	<ol style="list-style-type: none"> 1. Mirvac Limited (ABN 92 003 280 699) of Level 26, 60 Margaret Street, Sydney NSW 2000 (<i>Mirvac Limited</i>) 2. Mirvac Funds Limited (ABN 70 002 561 640) as responsible entity of the Mirvac Property Trust of Level 26, 60 Margaret Street, Sydney NSW 2000 (<i>Mirvac RE</i>) <p>(In this Agreement, Mirvac Limited and Mirvac RE will collectively be referred to as <i>Mirvac</i>)</p> <ol style="list-style-type: none"> 3. Westpac Funds Management Limited (ABN 28 085 352 405) as responsible entity of the Westpac Office Trust of Level 15, 90 Collins Street, Melbourne VIC 3000 (<i>WFML</i>).
Recitals	<p>A Mirvac RE proposes to acquire all of the issued units in Westpac Office Trust by way of the Scheme.</p> <p>B WFML has agreed to propose the Scheme and issue the Scheme Booklet, at the request of Mirvac. WFML and Mirvac have agreed to implement the Scheme on the terms and conditions of this Agreement.</p>

It is agreed as follows.

1. Definitions and interpretation

1.1 Definitions

In this Agreement, the following definitions apply unless the context requires otherwise. In addition, where a term is not defined in this Agreement but is defined in the Supplemental WOT Deed, the definition in the Supplemental WOT Deed applies unless the context requires otherwise.

AAR means Allens Arthur Robinson of Level 28, Deutsche Bank Place, Corner Phillip & Hunter Streets, Sydney NSW 2000.

Agreed Announcement means the Announcement to be made by each party in the form agreed by Mirvac and WFML.

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

ASIC means the Australian Securities and Investments Commission.

ASIC Modifications means, to the extent that such relief is necessary to implement the Scheme:

- (a) a modification of item 7 of section 611 of the Corporations Act, to allow WOT Unitholders other than Mirvac and its associates to vote in favour of the Scheme for the purpose of item 7 of section 611 of the Corporations Act;
- (b) a modification by ASIC of, or exemption by ASIC from, section 601FC(1)(d) of the Corporations Act to permit WFML to treat Ineligible Overseas Unitholders and Ineligible Overseas IR Holders differently when implementing the Scheme by not offering these holders Mirvac Stapled Securities or the cash alternative and directing these holders to use the sale facility;
- (c) a modification by ASIC of, or exemption from, section 601ED, Divisions 2 to 5A of Part 7.9, section 259C and Chapter 6C of the Corporations Act, and the requirement to hold an Australian financial services licence, in relation to the proposed security sale facility to be established by Mirvac under the Scheme;
- (d) a modification by ASIC of, or exemption from, Divisions 5A of Part 7.9 of the Corporations Act, in relation to the proposed offer to purchase Scheme Securities under the Scheme;
- (e) a modification by ASIC of, or exemption from, Parts 7.9 and 7.11 and Chapters 6C and 6D of the Corporations Act, in relation to the new Mirvac instalment receipts to be issued under the Scheme;
- (f) a modification by ASIC of Chapter 5C of the Corporations Act to apply after the Implementation Date to permit a responsible entity of WOT that is part of the Mirvac Group to give a benefit out of the assets of WOT when the only member of WOT is a member of the Mirvac Group; and
- (g) such other modifications, relief and waivers from ASIC as agreed by the parties.

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

ASX Listing Rules means the official listing rules of ASX.

ASX Waivers and Confirmations means, to the extent that such relief is necessary to implement the Scheme:

- (a) a waiver from ASX Listing Rule 7.1 to allow New Mirvac Securities to be issued under the Scheme; and
- (b) such confirmations and other waivers from ASX as agreed by the parties.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it; and
- (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.



Business Day means:

- (a) a Business Day as defined in the ASX Listing Rules; and
- (b) a week day on which trading banks are open for business in Sydney, Australia.

Citi means Citi Group Global Markets Australia Pty Limited (ABN 64 003 114 832).

Claim means, in relation to a party, a demand, claim, action or proceeding made or brought by or against the party, however arising and whether present, unascertained, immediate, future or contingent.

Competing Proposal means any expression of interest, proposal, offer, transaction or arrangement by or with any person as a result of which, if that expression of interest, proposal, offer, transaction or arrangement is entered into or completed substantially in accordance with its terms:

- (a) a person other than a Mirvac Group entity will:
 - (i) acquire a Relevant Interest in 10% or more of the WOT Units;
 - (ii) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in all, or a substantial part of, the assets or business of WOT;
 - (iii) otherwise acquire Control of WOT; or
 - (iv) otherwise directly or indirectly acquire, merge or amalgamate with WOT or a substantial part of its assets or business, whether by way of takeover offer, trust scheme, unitholder approval acquisition, capital reduction, unit buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company or trust for WOT or other synthetic merger or any other transaction or arrangement; or
- (b) WOT would be required to abandon or otherwise fail to proceed with the Scheme, by whatever means.

Conditions has the meaning given in clause 3.1.

Confidentiality Deed means the deed of that name entered into by Mirvac and WFML on 22 October 2009.

Control has the meaning given in section 50AA of the Corporations Act.

Controlled Entity means, in relation to a person, any entity (which includes any trust) which the person Controls.

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

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

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



Election Date means 5pm on the date of the Scheme Meeting.

End Date means the earlier of:

- (a) the later of:
 - (i) 31 August 2010; or
 - (ii) if the Scheme Booklet is despatched to Scheme Securityholders after 11 June 2010 for a reason other than delay by Mirvac, the date which is five weeks after the Scheme Booklet is despatched to Scheme Securityholders; or
- (b) 30 September 2010,

or such other date as the parties may agree in writing.

Exclusivity Period means the period from the date of this Agreement until the earliest of the Implementation Date, the End Date and the date of termination of this Agreement.

Government Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister (including the Commonwealth Treasurer), ASIC, ASX and any regulatory organisation established under statute or any stock exchange.

Implementation Date means the date which is 2 Business Days after the Record Date or such other date as the parties agree in writing.

Independent Board Committee means the committee of WFML directors who are independent of the Westpac Group, such committee having been established to consider and assess the Scheme and any Competing Proposals.

Independent Expert means an independent expert to be engaged by WFML.

Independent Expert's Report means the report prepared by the Independent Expert stating whether or not, in its opinion, the Scheme (including, to the extent that the Independent Expert determines that it is information relevant to forming its opinion, any payments to be made by Mirvac to Westpac and Westpac Group Related Entities in connection with the Scheme) is fair and reasonable for, and in the best interests of, Scheme Securityholders, and giving reasons for that opinion (and includes any update of such report).

Insolvency Event means, in relation to a person:

- (a) **(insolvency official)** the appointment of a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person;
- (b) **(arrangements)**
 - (i) the entry by the person into a compromise or arrangement with its creditors generally or, if it is a trustee, the creditors of its trust generally; or
 - (ii) the person executes a deed of company arrangement;



- (c) **(winding up)**
 - (i) a court makes an order for the winding up of the person; or
 - (ii) the making of an application or order for the winding up or dissolution of the person, other than where the application or order (as the case may be) is set aside within 14 days;
 - (d) **(statutory demand)** being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
 - (e) **(suspends payments)** the person suspends or threatens to suspend payment of its debts or, if it is a trustee, the debts of the trust;
 - (f) **(insolvency)** the person is or becomes unable to pay its debts or, if it is a trustee, the debts of its trust, as and when they fall due within the meaning of the Corporations Act or is (or if it is a trustee, its trust is) otherwise presumed to be insolvent under the Corporations Act; or
 - (g) **(analogous event)** any analogous event, or event which has substantially similar effect, occurring in relation to that person under the laws of another jurisdiction,
- provided that:
- (h) where the 'person' is a Mirvac Group entity, any event or circumstance in respect of the person which is fairly disclosed to WFML in the Mirvac Disclosure Materials will not constitute an Insolvency Event in respect of the person for the purposes of this Agreement; and
 - (i) where the 'person' is WFML, any event or circumstance in respect of WFML which is fairly disclosed to Mirvac in the WOT Disclosure Materials will not constitute an Insolvency Event in respect of WFML for the purposes of this Agreement.

Investigating Accountant means an accounting firm to be appointed by Mirvac and WFML to prepare the Investigating Accountant's Report.

Investigating Accountant's Report means the report that is prepared by the Investigating Accountant in relation to the financial information regarding the Merged Group that is prepared by Mirvac from information provided by Mirvac and WFML for inclusion in the Scheme Booklet.

Liabilities means Claims, debts, obligations, liabilities, losses, expenses, costs and damages of any kind and however arising, including penalties, fines, and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

Merged Group means Mirvac Group and the WOT Group, assuming implementation of the Scheme.

Mirvac Deed Polls means the deed polls to be executed by Mirvac in favour of Scheme Securityholders, the forms of which are set out in **Schedule 1** with any alterations or amendments approved in writing by Mirvac and WFML.

Mirvac Disclosure Material means:



- (a) the due diligence information disclosed before the date of this Agreement by or on behalf of Mirvac to WFML at the request of WFML or otherwise pursuant to the Confidentiality Deed; and
- (b) information available on the Public Registers before the date of this Agreement.

Mirvac Group means Mirvac Limited, Mirvac RE and MPT and their respective Controlled Entities (excluding the WOT Group).

Mirvac Indemnified Party means each Mirvac Group entity and its directors, officers, employees and advisers, and any person who is a Representative of Mirvac.

Mirvac Information means the information about the Mirvac Group and the Merged Group which Mirvac provides to WFML for inclusion in the Scheme Booklet, but excludes the WFML Information, Investigating Accountant's Report and the Independent Expert's Report.

Mirvac Material Adverse Change means the occurrence or coming into existence of one or more events or circumstances which, individually or when aggregated with all such events or circumstances, is reasonably likely to have the effect of diminishing:

- (a) the operating profit, excluding mark-to-market movements relating to MPT investment properties and financial derivatives, of the Mirvac Group by \$14 million or more; or
- (b) the consolidated net assets of the Mirvac Group by \$250 million or more, excluding any occurrence or circumstance which was disclosed to ASX before the date of this Agreement or which was fairly disclosed in the Mirvac Disclosure Material.

Mirvac Material Contract means a contract or commitment:

- (a) requiring total payments in excess of \$250 million by the Mirvac Group; and
- (b) entered into by a Mirvac Group entity:
 - (i) that is not consistent with the Mirvac Group's announced strategy as at the date of this Agreement; and
 - (ii) under which a person does not have an unconditional right to terminate within 2 years of entry into the contract or commitment,

but excludes this Agreement.

Mirvac Prescribed Occurrence means the occurrence of any of the following events on or after the date of this Agreement:

- (a) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited converts all or any of its securities into a larger or smaller number of securities;
- (b) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited reduces or resolves to reduce its capital in any way;
- (c) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited:
 - (i) enters into a buy-back agreement; or



- (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act,

in relation to shares in Mirvac Limited or interests in MPT;
- (d) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited issues securities (whether as part of a rights issue, placement or otherwise) or grants a performance right or an option over its securities, or agrees to make such an issue or grant such a performance right or option, other than pursuant to any Mirvac Long Term Performance Plan, Employee Incentive Scheme and LTI Plan or currently existing dividend or distribution reinvestment plan (including any issue of securities to any underwriter of such a plan) or security purchase plan;
- (e) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited issues, or agrees to issue, convertible notes or any other security or instrument convertible into securities;
- (f) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited directly or indirectly disposes, or agrees to dispose, of the whole or a substantial part of its business or any single property asset in value exceeding \$100 million;
- (g) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited incurs any additional borrowings or financial indebtedness (other than in the normal course of business) in excess of \$250 million or creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole or a substantial part of its business or property;
- (g) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited makes any change or amendment to its constitution which would adversely affect Mirvac's ability to carry out the transactions that this Agreement or the Scheme contemplates (For the avoidance of doubt, this does not include any amendment to the MPT constitution made by the MPT Supplemental Deed);
- (h) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited agrees to pay, declares, pays or makes, or incurs a liability to pay or make a distribution of income, profits, assets or capital, other than a distribution for the 3 months ending 30 March 2010 in an amount not exceeding \$70 million in aggregate and a distribution for the 3 months ending 30 June 2010 in an amount not exceeding \$80 million in aggregate;
- (i) MPT (acting through Mirvac RE as responsible entity of MPT) or Mirvac Limited:
 - (i) enters into or agrees to enter into a Mirvac Material Contract;
 - (ii) changes the terms of any Mirvac Material Contract;
 - (iii) pays, discharges or satisfies any Liabilities under any Mirvac Material Contract other than in accordance with its terms and consistently with past practice; or
- (j) waives any material Claims or rights under, or waives the benefit of, any provisions of any Mirvac Material Contract; and
- (k) an Insolvency Event occurs in relation to MPT or Mirvac Limited,



but excluding any matter:

- (l) required to be done or procured by a Mirvac Group entity under this Agreement or the Scheme;
- (m) which was disclosed to ASX before the date of this Agreement or which was fairly disclosed in the Mirvac Disclosure Material; or
- (n) the undertaking of which WFML has approved in writing.

Mirvac Stapled Security means one fully paid ordinary unit in MPT stapled to one fully paid ordinary share in Mirvac Limited.

MPT means Mirvac Property Trust (ARSN 086 780 645).

MPT Supplemental Deed means the supplemental deed amending the MPT constitution made on or about the Implementation Date.

New Mirvac Security means a Mirvac Stapled Security to be issued to, or at the direction of, Scheme Securityholders under the Scheme.

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

Panel Guidance Note means 'Guidance Note 15: Listed Trusts and Managed Investment Scheme Mergers' issued by the Takeovers Panel of Australia, as may be amended from time to time.

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

Record Date means 7pm (Sydney time) on the day that is 4 Business Days after the Effective Date or such other date as may be agreed by the parties in writing.

Related Entities means, in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act.

Relevant Interest has the meaning given in the Corporations Act.

Representative means:

- (a) in respect of Mirvac:
 - (i) a director, officer or employee of Mirvac; and
 - (ii) an adviser, agent or representative of the Mirvac Group or of a person referred to in sub-paragraph (i) above in respect of the Scheme;
- (b) in respect of WFML:
 - (i) a director of WFML; and
 - (ii) the following individuals: Keith Grayson, Steve Bulloch, Lee Doyle and Andrew Faber; and
 - (iii) an adviser, agent or representative of the WOT Group or of a person referred to in sub-paragraph (i) or (ii) above in respect of the Scheme.



Scheme means the arrangement, in accordance with the Panel Guidance Note, under which Mirvac RE acquires all of the WOT Units, that is facilitated by amendments to the WOT Constitution as set out in the Supplemental WOT Deed, and that is subject to the Scheme Resolutions being approved by the requisite majorities of WOT Unitholders.

Scheme Booklet means the Scheme Booklet in respect of the Scheme, to be prepared by WFML in accordance with this Agreement, which shall include the Notice of Meeting, Independent Expert's Report, this Agreement, the Supplemental WOT Deed, the Westpac Deed Poll and the Mirvac Deed Polls.

Scheme Consideration means the consideration to be provided by Mirvac in consideration for the acquisition of the Scheme Securities, as described in the Supplemental WOT Deed.

Scheme IR means a WOT Instalment Receipt on issue as at the Record Date.

Scheme IR Holder means a person registered in the WOT Unit Register as the holder of one or more Scheme IRs.

Scheme Meeting means the meeting of WOT Unitholders to be held to consider and, if thought fit, to approve the Scheme Resolutions.

Scheme Resolutions means resolutions of WOT Unitholders to approve the Scheme, being:

- (a) an ordinary resolution approving for all purposes, including item 7 of section 611 of the Corporations Act, the acquisition by Mirvac RE of all the Scheme Units and Scheme IRs and the steps required to implement the Scheme;
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve the amendments to the WOT Constitution as set out in the Supplemental WOT Deed and to authorise WFML to execute and lodge with ASIC the Supplemental WOT Deed to give effect to those amendments; and
- (c) if WFML agrees, a resolution for the retirement of WFML as the responsible entity of WOT,

and such other resolutions necessary to give effect to the Supplemental WOT Deed.

Scheme Security means a Scheme Unit or Scheme IR (or both, as the context requires).

Scheme Securityholder means a Scheme Unitholder or a Scheme IR Holder (or both, as the context requires).

Scheme Unit means a WOT Unit on issue as at the Record Date, excluding a WOT Unit represented by a WOT Instalment Receipt.

Scheme Unitholder means a person registered in the WOT Unit Register as the holder of a Scheme Unit.

Security Trust Deed means the Security Trust and Subscription Deed in respect of the WOT Instalment Receipts between WSL and WCN dated 10 June 2003 as amended and restated on 25 August 2005 and subsequently amended and restated on 14 August 2009.

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means a Competing Proposal which satisfies the criteria in clauses 14.5(a) and 14.5(b).

Supplemental WOT Deed means a deed poll pursuant to which WFML will amend the WOT Constitution to give effect to the Scheme as described in the Agreed Announcement.

Timetable means the indicative timetable in relation to the Scheme, as set out in **Schedule 2** or as otherwise may be agreed by the parties in writing.

WCN means Westpac Custodian Nominees Limited (ABN 18 002 861 565) as security trustee in respect of the WOT Instalment Receipts.

Westpac means Westpac Banking Corporation (ABN 33 007 457 141).

Westpac Deed Poll means a deed poll to be executed by Westpac in favour of Scheme Securityholders dated on or about the date of this Agreement.

Westpac Group means Westpac and its Controlled Entities from time to time (but excluding WFML in its capacity as responsible entity of WOT).

Westpac Implementation Deed means the deed of that name entered into on or about the date of this Agreement between Westpac, WFML and Mirvac.

Westpac Information means the information that Westpac provides for disclosure in the Scheme Booklet.

WFML Information means all information included in the Scheme Booklet other than the Mirvac Information, the Independent Expert's Report and the Investigating Accountant's Report.

WOT means Westpac Office Trust (ARSN 103 853 523).

WOT Constitution means the constitution establishing WOT dated 20 July 2005.

WOT Group means WOT and its Controlled Entities.

WOT Disclosure Material means:

- (a) the due diligence information disclosed before the date of this Agreement by or on behalf of WOT to Mirvac at the request of Mirvac or otherwise pursuant to the Confidentiality Deed; and
- (b) information available on the Public Registers before the date of this Agreement.

WOT Indemnified Party means each WOT Group entity and its directors, officers, employees and advisers, and any person who is a Representative of WFML.

WOT Instalment Receipt means an instalment receipt which evidences beneficial ownership of one (1) WOT Unit, where such WOT Unit is held in the name of WCN or such other trustee under the Security Trust Deed.

WOT Material Adverse Change means the occurrence or coming into existence of one or more events or circumstances which, individually or when aggregated with all such events or circumstances, is reasonably likely to have the effect of diminishing:

- (a) the operating profit, excluding mark-to-market movements relating to investment properties and financial derivatives, of the WOT Group by \$1,600,000 or more; or



- (b) the consolidated net assets of the WOT Group by \$20,300,000 or more, excluding any occurrence or circumstance which was disclosed to ASX before the date of this Agreement or which was fairly disclosed in the WOT Disclosure Material.

WOT Material Contract means a contract or commitment:

- (a) requiring total payments in excess of \$10 million by WOT; and
- (b) entered into by WOT (acting through WFML as responsible entity of WOT) other than in the ordinary course of business and under which a person does not have an unconditional right to terminate within 2 years of entry into the contract or commitment,

but excludes this Agreement.

WOT Prescribed Occurrence means the occurrence of any of the following events on or after the date of this Agreement:

- (a) WOT (acting through WFML as responsible entity of WOT) converts all or any of its units into a larger or smaller number of units;
- (b) WOT (acting through WFML as responsible entity of WOT) reduces or resolves to reduce its capital in any way;
- (c) WOT (acting through WFML as responsible entity of WOT):
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act,
in relation to interests in WOT;
- (d) WOT (acting through WFML as responsible entity of WOT) issues securities (whether by way or a rights issue, placement or otherwise) or grants an option over its units, or agrees to make such an issue or grant such an option;
- (e) WOT (acting through WFML as responsible entity of WOT) issues, or agrees to issue, convertible notes or any other security or instrument convertible into units;
- (f) WOT (acting through WFML as responsible entity of WOT) directly or indirectly disposes, or agrees to dispose, of the whole or a substantial part of its business or any of its properties;
- (g) WOT (acting through WFML as responsible entity of WOT) incurs any additional borrowings or financial indebtedness (other than in the normal course of business) in excess of \$50 million or creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole or a substantial part of its business or property;
- (h) WOT (acting through WFML as responsible entity of WOT) makes any change or amendment to the WOT Constitution other than under the Supplemental WOT Deed;
- (i) WOT (acting through WFML as responsible entity of WOT) agrees to pay, declares, pays or makes, or incurs a liability to pay or make a distribution of income, profits,



assets or capital, other than a distribution for the 3 months ending 30 June 2010 in an amount not exceeding 1.6625 cents per WOT Unit;

- (j) WOT (acting through WFML as responsible entity of WOT):
 - (i) enters into or agrees to enter into a WOT Material Contract;
 - (ii) changes the terms of any WOT Material Contract;
 - (iii) pays, discharges or satisfies any Liabilities under any WOT Material Contract other than in accordance with its terms and consistently with past practice;
 - (iv) waives any material Claims or rights under, or waives the benefit of, any provisions of any WOT Material Contract; or
 - (v) enters into, makes or revokes any tax election or choice, other than a managed investment trust election in accordance with the proposed Tax Laws Amendment (2010 Measures No 1) Bill 2010 (if that bill, including any amendments, become law) (which it may elect without Mirvac's consent);
- (k) an Insolvency Event occurs in relation to WOT;
- (l) a Claim is brought against WOT (other than a frivolous or vexatious Claim) which (in the written opinion of senior counsel appointed by WFML's solicitors) will or is likely to have an adverse effect on WOT in excess of \$10 million; or WFML as responsible entity of WOT becomes the subject of a regulatory investigation or prosecution in relation to WOT which (in the written opinion of senior counsel appointed by WFML's solicitors) will or is likely to have an adverse effect on WOT in excess of \$10 million; and
- (m) a destruction of, or physical damage to any part of:
 - (i) Westpac Place, 275 Kent Street, Sydney or Woolworths NSO, Norwest Business Park, Baulkham Hills, Sydney (collectively, **Key Properties**) in excess of \$150 million, except if the destruction or damage is covered by an insurance policy or policies such that the amount of the destruction or damage less the amount received under the policy is less than \$150 million); or
 - (ii) either of the Key Properties giving any tenant a right to an entire rent abatement or materially vary or terminate the lease, which abatement, variation or termination would result in a WOT Material Adverse Change, except if the loss of rent is covered by an insurance policy or policies such that the amount of the loss less the amount received under the policy would bring the loss under the thresholds stipulated in the definition of WOT Material Adverse Change;

but excluding any matter:

- (n) required to be done or procured by WOT or WFML under this Agreement or the Scheme;



- (o) which was disclosed to ASX before the date of this Agreement or which was fairly disclosed in the WOT Disclosure Material; or
- (p) the undertaking of which Mirvac has approved in writing.

WOT Unit means a fully paid ordinary unit in WOT.

WOT Unitholder means a person who is registered as the holder of one or more WOT Units in the WOT Unit Register from time to time.

WOT Unit Register means either or both (as applicable):

- (a) the register of holders of WOT Units from time to time, as administered by WFML; and
- (b) the register of holders WOT Instalment Receipt Holders from time to time, as administered by WFML.

WSL means Westpac Securities Limited (ABN 39 087 924 221).

1.2 Interpretation

In this Agreement, headings are for convenience only and do not affect interpretation. The following rules apply in this Agreement unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this Agreement.
- (f) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (g) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to *dollars* and \$ is to Australian currency.
- (j) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail.



- (k) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (l) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (m) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (n) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (o) A reference to any time is a reference to that time in Sydney, Australia.

1.3 Consents or approval

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

1.4 Business Day

Except where otherwise expressly provided, where under this Agreement the day on or by which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing shall be done on the immediately preceding Business Day.

1.5 Joint and several obligations

Unless otherwise specified in this Agreement and subject to clause 17.2:

- (a) a reference to Mirvac is a reference to both Mirvac Limited and Mirvac RE;
- (b) a reference to Mirvac as a party to this Agreement is a reference to both Mirvac Limited and Mirvac RE as parties to this Agreement;
- (c) a right, obligation or liability of Mirvac Limited or Mirvac RE confers that right, or imposes that obligation or liability, jointly and severally on Mirvac Limited and Mirvac RE; and
- (d) a reference to a covenant or representation given by Mirvac Limited or Mirvac RE is a reference to a covenant or representation given jointly and severally by Mirvac Limited and Mirvac RE.

Nothing in this clause 1.5 will operate to limit the liability of Mirvac Limited by reason of clause 17.2.



2. Agreement to proceed with Scheme

2.1 WFML to propose Scheme

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

2.2 Mirvac to assist

Mirvac agrees to assist WFML in preparing and implement the Scheme on and subject to the terms and conditions of this Agreement, and to use all reasonable endeavours to do so in accordance with the Timetable and otherwise as soon as is reasonably practicable.

3. Conditions to Scheme

3.1 Conditions

The obligations of WFML under clause 7.1(k) do not become binding until each of the following conditions (the **Conditions**) has been satisfied or waived under clause 3.2:

Conditions for the benefit of Mirvac and WFML

- (a) **(ASIC Modifications)** before the commencement of the Scheme Meeting, ASIC has granted the ASIC Modifications on terms agreed by the parties (acting reasonably) or, in respect of any ASIC Modification which has not been granted, has indicated in writing that such a modification is not required;
- (b) **(ASX Waivers and Confirmations)** before the commencement of the Scheme Meeting, ASX has granted the ASX Waivers and Confirmations or, in respect of any ASX waiver or confirmation which has not been granted, has indicated in writing that such a waiver or confirmation is not required;
- (c) **(WOT Unitholder approval)** the Scheme Resolutions are approved at the Scheme Meeting by the requisite majorities of the WOT Unitholders under the Corporations Act and in accordance with the Panel Guidance Note (subject to any exemption or modification granted by ASIC);
- (d) **(judicial advice)** the Supreme Court of New South Wales grants judicial advice under section 63 of the *Trustee Act 1925* (NSW) which confirms that WFML would be justified in convening the Scheme Meeting and proceeding on the basis that amending the WOT Constitution as set out in the Supplemental WOT Deed would be within the powers of alteration conferred by the WOT Constitution and section 601GC of the Corporations Act;
- (e) **(no restraints)** as at 9am on the Effective Date, no temporary restraining order, preliminary or permanent injunction or other legal restraint or prohibition restraining or prohibiting the Scheme, which has been enacted, enforced or issued by a Government Agency, is in effect;



- (f) **(Independent Expert's Report)** the Independent Expert provides the Independent Expert's Report to WFML which states that, in the Independent Expert's opinion, the Scheme is fair and reasonable for, and in the best interests of, Scheme Securityholders and the Independent Expert does not change that conclusion before the commencement of the Scheme Meeting;

Conditions for the benefit of Mirvac only

- (g) **(Independent Board Committee)** the Independent Board Committee unanimously recommends that WOT Unitholders approve the Scheme Resolutions and does not change that recommendation or support a Superior Proposal at or before the Scheme Meeting; and no member of the Committee changes his or her recommendation or supports a Superior Proposal at or prior to the Scheme Meeting;
- (h) **(WOT Material Adverse Change)** no WOT Material Adverse Change occurs between and including the date of this Agreement and 9am on the Effective Date;
- (i) **(WOT Prescribed Occurrence)** no WOT Prescribed Occurrence occurs between and including the date of this Agreement and 9am on the Effective Date;
- (j) **(WOT representations and warranties)** each of the representations and warranties given by WFML under clause 12.4 remain true and correct in all respects, in each case at the times set out in clause 12.4;

Conditions for the benefit of WFML only

- (k) **(Mircac Material Adverse Change)** no Mircac Material Adverse Change occurs between and including the date of this Agreement and 9am on the Effective Date;
- (l) **(Mircac Prescribed Occurrence)** no Mircac Prescribed Occurrence occurs between and including the date of this Agreement and 9am on the Effective Date;
- (m) **(Mircac representations and warranties)** each of the representations and warranties given by Mircac under clause 12.1 remain true and correct in all respects, in each case at the times set out in clause 12.1;
- (n) **(ASX quotation)** the New Mircac Securities and (if applicable) Mircac instalment receipts have been approved by ASX for official quotation on ASX and, in respect of the New Mircac Securities, trading on a deferred settlement basis from the Business Day next following the Effective Date and on a normal settlement basis from the Implementation Date; and
- (o) **(Certificate)** Mircac provides to WFML a certificate in the form set out in Annexure A and signed by two directors of Mircac Limited and Mircac RE on or before the date of despatch of the Scheme Booklet.

3.2 Benefit and waiver

- (a) The Conditions in clauses 3.1(a) to 3.1(f) are for the benefit of each of Mircac and WFML, and (except in the case of the Condition in clauses 3.1(c) and 3.1(f), which cannot be waived) any breach or non-fulfilment of any of those Conditions may only be waived with the written consent of both Mircac and WFML.



- (b) The Conditions in clauses 3.1(g) to 3.1(j) are for the sole benefit of Mirvac only, and any breach or non-fulfilment of any of those Conditions may only be waived by Mirvac giving its written consent.
- (c) The Conditions in clauses 3.1(k) to 3.1(o) are for the sole benefit of WFML, and any breach or non-fulfilment of any of those Conditions may only be waived by WFML giving its written consent.
- (d) A party entitled to waive the breach or non-fulfilment of a Condition pursuant to this clause 3.2 may do so in its absolute discretion.
- (e) If a waiver by a party of a Condition is itself expressed to be conditional and the other parties accept the conditions, the terms of the conditions apply accordingly. If the other parties do not accept the conditions, the relevant Condition has not been waived.
- (f) If a party waives the breach or non-fulfilment of a Condition, that waiver will not preclude it from suing the other parties for any breach of this Agreement constituted by the same event that gave rise to the breach or non-fulfilment of the Condition.
- (g) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event or circumstance.

3.3 Obligations in relation to Conditions

- (a) Each of Mirvac and WFML must use its reasonable endeavours (other than waiver) to ensure and procure that each of the Conditions in clauses 3.1(a) to 3.1(c) is satisfied as soon as practicable after the date of this Agreement and in any event on or before the date (if any) specified for its satisfaction.
- (b) WFML must use its reasonable endeavours (other than waiver) to ensure and procure that each of the Conditions in clauses 3.1(d) and 3.1(g) to 3.1(j) is satisfied as soon as practicable after the date of this Agreement and in any event on or before the date (if any) specified for its satisfaction.
- (c) Mirvac must use its reasonable endeavours (other than waiver) to ensure and procure that each of the Conditions in clauses 3.1(k) to 3.1(o) is satisfied as soon as practicable after the date of this Agreement and in any event on or before the date (if any) specified for its satisfaction.
- (d) Each of Mirvac and WFML must:
 - (i) not take any action (except as required by law) designed to prevent the Conditions being satisfied, without the prior consent of the other parties;
 - (ii) keep the other parties informed of:



- (A) any failure to satisfy a Condition; and
- (B) any circumstances which may result in any of the Conditions not being satisfied in accordance with its terms; and
- (iii) promptly advise the other parties of the satisfaction of a Condition.

3.4 Conditions not satisfied

- (a) If any of the Conditions is not satisfied or waived by the date (if any) specified for its satisfaction (or an event occurs which would prevent a Condition being satisfied by the date (if any) specified for its satisfaction), or if the Supplemental WOT Deed has not become Effective by the End Date, then Mirvac and WFML will consult in good faith:
 - (i) with a view to determining whether the Scheme, or a transaction which results in a Mirvac Group entity acquiring all of the WOT Units, may proceed by way of alternative means or methods; or
 - (ii) to extend the date for satisfaction of the relevant Condition or the End Date.
- (b) If the parties are unable to reach agreement under clause 3.4(a) within 5 Business Days after the relevant date, then unless the relevant Condition is waived in accordance with clause 3.2 Mirvac or WFML may terminate this Agreement by notice in writing to the other parties and clause 16.4 shall then have effect.

3.5 Consultation on communications with ASIC and ASX

- (a) To the extent reasonably practicable, each party must consult with the other in advance in relation to all communications (whether written or oral, and whether direct or through agents or advisers) with ASIC in relation to the ASIC Modifications and ASX in relation to the ASX Waivers and Confirmations.
- (b) Without limiting the generality of paragraph (a), each party must:
 - (i) give the other parties drafts of any material written communications to be sent to ASIC in relation to the ASIC Modifications and ASX in relation to the ASX Waivers and Confirmations; and
 - (ii) give the other parties copies of any written communications sent to, or received from, ASIC in relation to the ASIC Modifications and ASX in relation to the ASX Waivers and Confirmations, as soon as reasonably practicable on sending or receiving them (as the case may be).

4. Outline of Scheme

If the Supplemental WOT Deed becomes Effective, the Scheme will be implemented with the result that, on the Implementation Date:

- (a) Mirvac RE will become the registered holder of all of the WOT Units; and



- (b) the Scheme Consideration will be provided to Scheme Securityholders in accordance with the Scheme.

5. Covenants by Mirvac

Subject to the Supplemental WOT Deed becoming Effective, Mirvac covenants in favour of WFML (in its capacity as trustee for each of the Scheme Unitholders) and WCN (in its capacity as trustee for each of the Scheme IR Holders) that, in consideration of the performance of WFML of its obligations under the Supplemental WOT Deed, Mirvac will:

- (a) provide the Scheme Consideration to Scheme Securityholders in accordance with the terms of the WOT Constitution as amended by the Supplemental WOT Deed; and
- (b) otherwise perform all of the tasks it is required to perform under the WOT Constitution as amended by the Supplemental WOT Deed.

6. Conduct of business

6.1 WOT Group

From the date of this Agreement up to and including the Implementation Date, WFML must procure that the WOT Group conducts its business in the ordinary course consistent with past practice in substantially the same manner and at the same locations as conducted as at the date of this Agreement, and does not do or fail to do anything which does or could reasonably be expected to result in a WOT Prescribed Occurrence.

except in relation to any matter or course of action:

- (a) required to be done pursuant to, or which is otherwise permitted by, this Agreement or the Scheme;
- (b) fairly disclosed in the WOT Disclosure Material; or
- (c) consented to by Mirvac.

6.2 Mirvac Group

From the date of this Agreement up to and including the Implementation Date, Mirvac must procure that:

- (a) the Mirvac Group conducts its business in the ordinary course in accordance with the Mirvac Group's announced strategy as at the date of this Agreement in substantially the same manner as conducted as at the date of this Agreement, and does not do or fail to do anything which does or could reasonably be expected to result in a Mirvac Prescribed Occurrence;
- (b) without limiting the generality of clause 6.2(a), the Mirvac Group does not:
 - (i) alter MPT's strategy of owning and maintaining Australian investment grade properties;



- (ii) acquire, or enter into any agreement (or agreements) or give a binding commitment (or commitments) to acquire, a property or business asset not located in Australia or New Zealand whose value exceeds \$250 million; or
- (iii) acquire, or enter into an agreement (or a number of, or separate agreements, or a series of agreements) or give a binding commitment (or a number of separate agreements or a series of commitments) to acquire, any asset or assets whose aggregate value exceeds \$500 million, including by way of a takeover bid or trust scheme transaction,

except in relation to any matter or course of action:

- (c) required to be done pursuant to, or which is otherwise permitted by, this Agreement or the Scheme;
- (d) fairly disclosed in the Mirvac Disclosure Material; or
- (e) consented to by WFML.

7. Implementation steps

7.1 WFML's obligations

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

- (a) **(commission Independent Expert's Report)** commission the preparation of the Independent Expert's Report and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (b) **(Investigating Accountant)** as expeditiously as practicable, provide any assistance and information reasonably requested by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report;
- (c) **(prepare Scheme Booklet)** prepare and verify the Scheme Booklet in accordance with clause 8;
- (d) **(ASIC modifications)** liaise with Mirvac in applying to ASIC for the ASIC Modifications;
- (e) **(ASX Waivers and Confirmations)** apply to ASX for the ASX Waivers and Confirmations;
- (f) **(liaison with ASIC)** provide an advanced draft of the Scheme Booklet to ASIC for its review and approval and keep Mirvac informed of any matter raised by ASIC in relation to the draft Scheme Booklet (and of any resolution of those matters);
- (g) **(ASX confirmation)** seek confirmation from ASX under ASX Listing Rule 15.1 that it does not object to the proposed amendments to the WOT Constitution as set out in the Supplemental WOT Deed or the Scheme Booklet;



- (h) **(approval of Scheme Booklet)** procure that a meeting of the Independent Board Committee is convened to approve the Scheme Booklet for despatch to Scheme Securityholders;
- (i) **(proxy solicitation)** engage a proxy solicitation firm to encourage Scheme Securityholder participation in the voting of the Scheme at the Scheme Meeting;
- (j) **(Scheme Meeting)** convene the Scheme Meeting, despatch the Scheme Booklet to Scheme Securityholders, hold the Scheme Meeting and put the Scheme Resolutions to WOT Unitholders at the Scheme Meeting, in each case taking all reasonable steps necessary to comply with the Panel Guidance Note, the WOT Constitution, the Corporations Act and the ASX Listing Rules (as applicable); and
- (k) **(implementation of Scheme)** if the Scheme Resolutions are passed by the requisite majorities of WOT Unitholders at the Scheme Meeting:
 - (i) as soon as practicable and by no later than 1 Business Day after the Scheme Meeting, execute the Supplemental WOT Deed and lodge with ASIC a copy of the executed Supplemental WOT Deed;
 - (ii) close the WOT Unit Register as at the Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) promptly procure the registration of all transfers of WOT Instalment Receipts and WOT Units to Mirvac RE in accordance with the Scheme; and
 - (iv) promptly do all other things contemplated by or necessary to give effect to the Scheme.

7.2 Mirvac obligations

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

- (a) **(assist preparation of Independent Expert's Report)** as expeditiously as practicable, provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (b) **(Investigating Accountant)** appoint the Investigating Accountant, and provide any assistance and information reasonably requested by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report;
- (c) **(ASIC modifications)** liaise with WFML in applying to ASIC for the ASIC Modifications;
- (d) **(preparation of Scheme Booklet)** provide all assistance with the preparation and verification of the Scheme Booklet in accordance with clause 8;
- (e) **(approval of Scheme Booklet)** procure that meetings of the boards of Mirvac Limited and Mirvac RE are convened to:



- (i) consider those sections of the Scheme Booklet that comprise Mirvac Information as being in a form appropriate for despatch to Scheme Securityholders and issuing to WFML a written consent to the despatch of that information in that form to Scheme Securityholders; and
- (ii) approve the issue of the Scheme Consideration in accordance with the Scheme;
- (f) **(Mirvac Deed Polls)** before the despatch of the Scheme Booklet, execute the Mirvac Deed Polls; and
- (g) **(implementation of Scheme)** if the Supplemental WOT Deed becomes Effective, provide the Scheme Consideration in accordance with the Supplemental WOT Deed.

8. Preparation of Scheme Booklet

8.1 WFML to prepare Scheme Booklet

Subject to Mirvac complying with its obligations under clause 8.4, WFML must prepare the Scheme Booklet as soon as is reasonably practicable after the date of this Agreement and otherwise having regard to the Timetable.

8.2 Compliance requirements

WFML must ensure that the Scheme Booklet:

- (a) complies with all applicable laws and regulatory guidance, in particular the requirements of the Corporations Act, the ASX Listing Rules, the Panel Guidance Note and all applicable ASIC regulatory guides; and
- (b) is not misleading or deceptive in any material respect (whether by omission or otherwise),

except that the foregoing obligations in respect of the Mirvac Information is subject to Mirvac complying with its obligations under clause 8.4.

8.3 Responsibility Statement

Without limiting clause 8.2, the Scheme Booklet must include a responsibility statement, in a form to be agreed by the parties, which will contain words to the effect that:

- (a) WFML has provided, and is responsible for, the WFML Information in the Scheme Booklet, and that Mirvac and Westpac Group and their respective directors and officers do not assume any responsibility for the accuracy or completeness of that WFML Information;
- (b) Mirvac has provided, and is responsible for, the Mirvac Information, and that WFML and Westpac Group and their respective directors and officers do not assume any responsibility for the accuracy or completeness of that Mirvac Information except, in the case of WFML and its directors and officers, to the



extent that WFML has provided Mirvac with information for the purpose of Mirvac preparing information on the Merged Group;

- (c) Westpac has provided, and is responsible for, the Westpac Information in the Scheme Booklet, and that:
 - (i) Mirvac and its directors and officers do not assume any responsibility for the accuracy or completeness of the Westpac Information; and
 - (ii) WFML and its directors and officers do not assume any responsibility for the accuracy or completeness of the Westpac Information; and
 - (iii) Westpac Group and its directors and officers have no involvement in the preparation of any part of the Scheme Booklet other than the Westpac Information, and Westpac Group has not authorised or caused the issue of, and expressly disclaims and takes no responsibility for, any part of the Scheme Booklet other than the Westpac Information;
- (d) the Independent Expert has provided and is responsible for the Independent Expert's Report, and that:
 - (i) Mirvac and its directors and officers do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
 - (ii) WFML and Westpac Group and their respective directors and officers do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
- (e) the accounting firm that has been engaged by Mirvac to prepare the Investigating Accountant's Report has provided and is responsible for that report, and that:
 - (i) Mirvac and its directors and officers do not assume any responsibility for the accuracy or completeness of the Investigating Accountant's Report; and
 - (ii) WFML and Westpac Group and their respective directors and officers do not assume any responsibility for the accuracy or completeness of the Investigating Accountant's Report.

8.4 Mirvac Information

- (a) Mirvac must provide the Mirvac Information and Investigating Accountant's Report to WFML as soon as is reasonably practicable after the date of this Agreement and otherwise having regard to the Timetable, in a form that:
 - (i) includes all information regarding the Mirvac Group and the Merged Group that is required by all applicable laws and regulatory guidance including the Corporations Act, the ASX Listing Rules, the Panel Guidance Note and all relevant ASIC regulatory guides;
 - (ii) without limiting the generality of sub-paragraph (i), includes all information that would be required under section 636(1)(g) of the Corporations Act if the Scheme Booklet was a bidder's statement offering the New Mirvac Securities as consideration under a takeover bid; and



(iii) is not misleading or deceptive in any material respect (whether by omission or otherwise).

(b) Mirvac must provide to WFML such assistance as WFML may reasonably require to adapt the Mirvac Information for inclusion in the Scheme Booklet.

8.5 Review by Mirvac

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

8.6 Dispute as to Scheme Booklet

If, after a reasonable period of consultation and compliance by WFML with its obligations under clause 8.5, Mirvac and WFML, acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:

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

8.7 Consent of Mirvac

Without limiting clause 8.6, Mirvac must provide written consent to WFML in relation to the form and context in which any Mirvac Information is included in the Scheme Booklet.

8.8 Verification

WFML must undertake appropriate verification processes in relation to the WFML Information included in the Scheme Booklet, and Mirvac must undertake appropriate verification processes in relation to the Mirvac Information in the Scheme Booklet.

8.9 Supplementary disclosure

- (a) If, at any time between the date of despatch of the Scheme Booklet and the date of the Scheme Meeting, WFML becomes aware either:
 - (i) of new information which, were it known at the time the Scheme Booklet was prepared should have been included in the Scheme Booklet; or
 - (ii) that any part of the WFML Information in the Scheme Booklet is misleading or deceptive in a material respect (whether by omission or otherwise),



then, in either case, WFML will advise Mirvac of that information and, if considered by WFML that supplementary disclosure is required, provide supplementary disclosure to Scheme Securityholders.

- (b) If, at any time between the date of despatch of the Scheme Booklet and the date of the Scheme Meeting, Mirvac becomes aware either:
- (i) of new information which, were it known at the time the Scheme Booklet was prepared should have been included in the Mirvac Information that is included in the Scheme Booklet; or
 - (ii) that any part of the Mirvac Information is misleading or deceptive in a material respect (whether by omission or otherwise),

then, in either case, Mirvac will advise WFML of that so that WFML can determine whether supplementary disclosure to Scheme Securityholders is required and if WFML determines that supplementary disclosure is required, Mirvac must provide WFML of supplementary Mirvac Information as soon as reasonably practicable.

- (c) Any supplementary disclosure to Scheme Securityholders in accordance with paragraphs (a) and (b) will be considered to form part of the WFML Information or Mirvac Information (as applicable).

8.10 Co-operation

Each party must ensure that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to implement the Scheme and to prepare all documents required relating to the Scheme.

9. Access to information

9.1 WFML to give access

From the date of this Agreement and up to and including the Implementation Date, WFML must give Mirvac reasonable access to its records (subject to any existing confidentiality obligations owed to third parties), premises and personnel relating to WOT, and reasonable co-operation for the purpose of:

- (a) the implementation of the Scheme (however this obligation does not require WFML to provide information to Mirvac concerning its directors' and management's consideration of the Scheme);
- (b) Mirvac's understanding of the operations of WOT's business to allow and facilitate the smooth implementation of the plans of the Mirvac Group for that business following the Implementation Date; and
- (c) any other purpose which is agreed in writing between the parties,

subject to the proper performance by the directors and officers of WFML and the WOT Group of their fiduciary duties.



9.2 Information provided subject to confidentiality obligation

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

10. WFML board recommendations

10.1 Agreed Announcement

The Agreed Announcement must be issued by each of Mirvac and WFML as soon as reasonably practicable following the execution of this Agreement and must state (on the basis of written statements or resolutions made by the Independent Board Committee) that the Independent Board Committee unanimously recommends that WOT Unitholders approve the Scheme Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is fair and reasonable for, and in the best interests of, Scheme Securityholders.

10.2 Independent Board Committee

- (a) Subject to clause 10.2(b), WFML must use its best endeavours to procure that the Independent Board Committee will:
- (i) not change, modify or withdraw its recommendations set out in the Agreed Announcement;
 - (ii) state in the Scheme Booklet that the Independent Board Committee unanimously recommends the Scheme and that WOT Unitholders approve the Scheme Resolutions, in the absence of a Superior Proposal, and do not change, modify or withdraw those recommendations once made; and
 - (iii) not make any public statement to the effect, or take any other action that suggests, that the Scheme is no longer so recommended,
- if (and for as long as) the Independent Expert concludes in the Independent Expert's Report that the Scheme is fair and reasonable for, and in the best interest of, Scheme Securityholders, and does not subsequently change that opinion.
- (b) WFML is relieved of the obligation in clause 10.2(a) if:
- (i) the Independent Board Committee determines that a Competing Proposal constitutes a Superior Proposal; or
 - (ii) the Independent Board Committee has formed the view acting in good faith that, to satisfy what it considers to be its or any WFML director's fiduciary or statutory duties (having taken appropriate financial and legal advice), the Independent Board Committee:
 - (A) should not continue to recommend that WOT Unitholders vote in favour of the Scheme; or
 - (B) should change, modify or withdraw any recommendations previously made.



10.3 Independent director voting

WFML must use its best endeavours to ensure that, in the absence of the occurrence of an event described in clause 10.2(b) or 10.2(b)(ii), and for as long as the Independent Expert concludes in the Independent Expert's Report that the Scheme is fair and reasonable for, and in the best interest of, Scheme Securityholders, and has not subsequently changed that opinion:

- (a) each WFML director who is on the Independent Board Committee and who has a Relevant Interest in WOT Units or WOT Instalment Receipts and in respect of which they have control over voting rights attaching to such WOT Units or WOT Instalment Receipts:
 - (i) intends to vote those WOT Units in favour of the Scheme Resolutions; and
 - (ii) does not change that voting intention; and
- (b) such voting intentions are disclosed in the Scheme Booklet.

11. Announcements

11.1 Restrictions

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

- (a) is required by this Agreement;
- (b) has the prior approval of Mirvac and WFML; or
- (c) is required to be made by any applicable law or the ASX Listing Rules.

11.2 Notice of Announcement

If a party is required to make an Announcement under clause 11.1(c), it must, to the extent practicable without that party breaking any applicable law, give to Mirvac and WFML:

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

unless an immediate Announcement is required by the ASX Listing Rules to be made by the party.

12. Representations and warranties

12.1 Mirvac representations and warranties

Mirvac represents and warrants to WFML (on its own behalf and separately as trustee for the WOT Unitholders and for the WOT Indemnified Parties) that:



- (a) as at the date of this Agreement, the date of despatch of the Scheme Booklet, immediately before the commencement of the Scheme Meeting, the Effective Date and the Implementation Date:
- (i) **(company status)** it is validly incorporated as a company limited by shares under the Corporations Act;
 - (ii) **(MIS status)** MPT is validly established and registered as a 'registered scheme' under Chapter 5C of the Corporations Act;
 - (iii) **(capacity)** it has full legal capacity and power to:
 - (A) own its property and to carry on its business; and
 - (B) enter into this Agreement and to carry out the transactions that this Agreement contemplates;
 - (iv) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and its carrying out the transactions that this Agreement contemplates;
 - (v) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (A) enable it to properly execute this Agreement and to carry out the transactions that this Agreement contemplates;
 - (B) ensure that this Agreement is legal, valid, binding and admissible in evidence; and
 - (C) enable it to properly carry on its business, and it is complying with any conditions to which any Authorisation is subject;
 - (vi) **(Agreement effective)** this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
 - (vii) **(no contravention)** neither its execution of this Agreement nor the carrying out by it of the transactions that this Agreement contemplates does or will:
 - (A) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (B) contravene any Authorisation; or
 - (C) contravene its constitution or the MPT constitution;
 - (viii) **(no Insolvency Event)** no Mirvac Group entity is affected by an Insolvency Event; and
 - (ix) **(due diligence)** Mirvac has taken all reasonable steps to ensure that all due diligence information provided by it or its Representatives to WFML or its Representatives in connection with the Scheme and any other



transactions contemplated by this Agreement is not false, misleading or deceptive in any material respect (whether by omission or otherwise);

- (b) **(Mirvac Information)** as at the date of despatch of the Scheme Booklet and immediately before the commencement of the Scheme Meeting, all Mirvac Information given to WFML for inclusion in the Scheme Booklet:
 - (i) has been given in good faith and on the understanding that WFML is relying on that information to prepare the Scheme Booklet and propose and implement the Scheme;
 - (ii) includes all information regarding the Mirvac Group and the Merged Group that is required by all applicable laws and regulatory guidance including the Corporations Act, the ASX Listing Rules, the Panel Guidance Note and all relevant ASIC regulatory guides (including any information withheld from disclosure in reliance on the carve-out in ASX Listing Rule 3.1A);
 - (iii) without limiting the generality of sub-paragraph (i), includes all information that would be required under section 636(1)(g) of the Corporations Act if the Scheme Booklet was a bidder's statement offering the New Mirvac Securities as consideration under a takeover bid; and
 - (iv) is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (c) **(continuous disclosure)**
 - (i) as at the date of this Agreement neither it nor MPT is:
 - (A) in breach of its continuous disclosure obligations under the ASX Listing Rules; or
 - (B) relying on the carve-out in ASX Listing Rule 3.1A to withhold any information from disclosure, except in respect to information relating specifically to the Scheme or other information disclosed to WFML prior to the date of this deed; and
 - (ii) as at the date of despatch of the Scheme Booklet, immediately before the commencement of the Scheme Meeting, the Effective Date and the Implementation Date, neither it nor MPT is:
 - (A) in breach of its continuous disclosure obligations under the ASX Listing Rules; or
 - (B) relying on the carve-out in ASX Listing Rule 3.1A to withhold any information from disclosure; and
- (d) **(New Mirvac Securities)** except as provided under the Scheme, the New Mirvac Securities issued as Scheme Consideration will, on their issue:
 - (i) be fully paid and free from any mortgages, charges, liens, encumbrances and other security interests; and
 - (ii) rank equally in all respects with all existing Mirvac Stapled Securities.



12.2 Mirvac indemnity

Subject to clause 12.3, Mirvac indemnifies WFML and each WOT Indemnified Party against all Liabilities arising from or in connection with a breach by Mirvac of any of its representations and warranties in clause 12.1.

12.3 Qualification

Mirvac is not liable in respect of any Claim for breach of:

- (a) a warranty in clause 12.1 if the fact, matter or circumstance giving rise to the Claim was:
 - (i) disclosed by Mirvac to the party making, or seeking to make, a Claim or its Representatives; or
 - (ii) known to the party making, or seeking to make, a Claim or its Representatives or any other member of the WOT Group, before the execution of this Agreement; and
- (b) the warranty in clause 12.1(a)(ix) except to the extent that, as a result of the breach, the Mirvac Disclosure Material fails to disclose a Mirvac Material Adverse Change.

12.4 WFML representations and warranties

WFML represents and warrants to Mirvac (on its own behalf and separately as trustee for each Mirvac Indemnified Party) that:

- (a) as at the date of this Agreement, the date of despatch of the Scheme Booklet, immediately before the commencement of the Scheme Meeting, the Effective Date and the Implementation Date:
 - (i) **(company status)** it is validly incorporated as a company limited by shares under the Corporations Act;
 - (ii) **(MIS status)** WOT is validly established and registered as a 'registered scheme' under Chapter 5C of the Corporations Act;
 - (iii) **(capacity)** it has full legal capacity and power to:
 - (A) own its property and to carry on its business; and
 - (B) enter into this Agreement and to carry out the transactions that this Agreement contemplates;
 - (iv) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and its carrying out the transactions that this Agreement contemplates;
 - (v) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (A) enable it to properly execute this Agreement and to carry out the transactions that this Agreement contemplates;



- (B) ensure that this Agreement is legal, valid, binding and admissible in evidence; and
 - (C) enable it to properly carry on its business,and it is complying with any conditions to which any Authorisation is subject;
- (vi) **(Agreement effective)** this Agreement constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (vii) **(no contravention)** neither WFML's execution of this Agreement nor the carrying out by it of the transactions that this Agreement contemplates does or will:
 - (A) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (B) contravene any Authorisation;
 - (C) contravene any undertaking or instrument binding on it or any of its property; or
 - (D) contravene the constitution of WFML or WOT;
- (viii) **(no Insolvency Event)** no WOT Group entity is affected by an Insolvency Event;
- (ix) **(due diligence)** WFML has taken all reasonable steps to ensure that the due diligence information, listed in a separate document to be dated as at the date of this Agreement and initialled by the parties for identification purposes, provided in connection with the Scheme and any other transactions contemplated by this Agreement are not false, misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(WFML Information)** as at the date of despatch of the Scheme Booklet and immediately before the commencement of the Scheme Meeting, all WFML Information in the Scheme Booklet:
 - (i) includes all information regarding the WOT Group that is required by all applicable laws and regulatory guidance including the Corporations Act, the ASX Listing Rules, the Panel Guidance Note and all relevant ASIC regulatory guides; and
 - (ii) is not misleading or deceptive in any material respect (whether by omission or otherwise); and
- (c) **(continuous disclosure)**
 - (i) as at the date of this Agreement, WOT is not in breach of its continuous disclosure obligations under the ASX Listing Rules; and



- (ii) as at the despatch of the Scheme Booklet, immediately before the commencement of the Scheme Meeting, the Effective Date and the Implementation Date, WOT is not:
 - (A) in breach of its continuous disclosure obligations under the ASX Listing Rules; or
 - (B) subject to clause 14.6, relying on the carve-out in ASX Listing Rule 3.1A to withhold any information from disclosure, except in respect of information relating to the strategic review of WOT announced on ASX on 4 February 2010.

12.5 WFML indemnity

Subject to clause 12.6, WFML indemnifies Mirvac, each Mirvac Indemnified Party against all Liabilities arising from or in connection with a breach by WFML of any of its representations and warranties in clause 12.4.

12.6 Qualification

WFML is not liable in respect of any Claim for breach of:

- (a) a warranty in clause 12.4 if the fact, matter or circumstance giving rise to the Claim was:
 - (i) disclosed by WFML to the party making, or seeking to make, a Claim or its Representatives; or
 - (ii) known to the party making, or seeking to make, a Claim or any of its Representatives or any other member of the Mirvac Group, before the execution of this Agreement; and
- (b) the warranty in clause 12.4(a)(ix) except to the extent that, as a result of the breach, the WOT Disclosure Material fails to disclose a WOT Material Adverse Change.

12.7 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations and warranties given by it under this clause 12.

12.8 Sole remedy

- (a) The sole remedies of either party against the other for a Claim arising in respect of this Agreement will be as set out in this Agreement.
- (b) WFML has no Liability to any member of the Mirvac Group:
 - (i) in connection with the Scheme or the matters the subject of this Agreement or the WFML Disclosure Materials unless the relevant Claim may properly be made under the terms of this Agreement or arises out of a statutory right or other claim which cannot be excluded by contract; or



- (ii) resulting from or implied by conduct made in the course of negotiations in connection with the Scheme or the matters the subject of this Agreement or the WFML Disclosure Materials, unless the relevant Claim arises out of a statutory right or other claim, neither of which can be excluded by contract.
- (c) Mirvac has no Liability to any member of the WOT Group:
 - (i) in connection with Scheme or the matters the subject of this Agreement or the Mirvac Disclosure Materials unless the relevant Claim may properly be made under the terms of this Agreement or arises out of a statutory right or other claim which cannot be excluded by contract; or
 - (ii) resulting from or implied by conduct made in the course of negotiations in connection with the Scheme or the matters the subject of this Agreement or the Mirvac Disclosure Materials, unless the relevant Claim arises out of a statutory right or other claim, neither of which can be excluded by contract.

12.9 Status of representations and warranties

Each representation and warranty in this clause 12:

- (a) is severable;
- (b) will survive the termination of this Agreement; and
- (c) is given with the intent that Liability under it will not be confined to breaches that are discovered before the date of termination of this Agreement.

13. Release and D&O insurance

13.1 Release of officers

- (a) Subject to section 199A of the Corporations Act and paragraph (b) below, no Representative of Mirvac or WFML is liable for anything done or purported to be done in connection with the implementation of the Scheme.
- (b) Paragraph (a) does not exclude a person from any Liability which may arise from wilful misconduct or a negligent act or omission or an absence of good faith on the part of the person.
- (c) Each party receives and holds the benefit of this release, to the extent that it relates, to its Representatives, as trustee for them.

13.2 Due diligence investigations by Mirvac

- (a) Without prejudice to the rights of Mirvac, including in respect of any representations and warranties given to Mirvac and its Representatives under this Agreement, Mirvac acknowledges on its own behalf and on behalf of each of its Representatives that, before entry into this Agreement, it and its Representatives have undertaken and concluded due diligence investigations in relation to the



WOT Group and have conducted discussions with WFML and certain of its Representatives.

- (b) Mirvac acknowledges on its own behalf and on behalf of each of its Representatives that each of WFML and its Representatives (unless otherwise agreed in writing with WFML and its Representatives) makes no representation or warranty in respect of any forward looking information, as to the reasonableness of any such information or the accuracy, completeness or relevance of any assumptions underlying any such information (and Mirvac expressly acknowledges that all such information is necessarily a matter of opinion, is inherently uncertain and subject to change and, when provided, did not take into account any investment criteria or other considerations that may have determined or influenced the decision of Mirvac to enter into this Agreement).
- (c) Without prejudice to the rights of Mirvac, including in respect of any representations and warranties given to Mirvac and its Representatives under this Agreement, Mirvac acknowledges on its own behalf and on behalf of each of its Representatives that:
 - (i) Mirvac has made its own independent assessment of all information it has received during due diligence;
 - (ii) in relation to forward looking information:
 - (A) there are uncertainties inherent in attempting to prepare the forward looking information and Mirvac is familiar with these uncertainties;
 - (B) Mirvac is taking full responsibility for making its own evaluation of the adequacy and accuracy of all forward looking information (including the reasonableness of any assumptions and contingencies which may affect the forward looking information); and
 - (C) neither WFML nor any of its Representatives is liable under any Claim arising out of or in connection with any party's use or disclosure of any such forward looking information.

13.3 Due diligence investigations by WFML

- (a) Without prejudice to WFML's rights, including in respect of any representations and warranties given to WFML and its Representatives under this Agreement, WFML acknowledges on its own behalf and on behalf of each of its Representatives that before entry into this Agreement, it and its Representatives have undertaken and concluded due diligence investigations in relation to the Mirvac Group and have conducted discussions with Mirvac and certain of its Representatives.
- (b) WFML acknowledges on its own behalf and on behalf of each of its Representatives that Mirvac Limited and its Representatives (unless otherwise agreed in writing with Mirvac and its Representatives) makes no representation or warranty in respect of any forward looking information, as to the reasonableness of any such



information or the accuracy, completeness or relevance of any assumptions underlying any such information (and WFML expressly acknowledges that all such information is necessarily a matter of opinion, is inherently uncertain and subject to change and, when provided, did not take into account any investment criteria or other considerations that may have determined or influenced the decision of WFML to enter into this Agreement).

- (c) Without prejudice to WFML's rights, including in respect of any representations and warranties given to WFML and its Representatives under this Agreement, WFML hereby acknowledges and agrees on its own behalf and on behalf of each of its Representatives, that:
- (i) WFML has made its own independent assessment of all information it has received during due diligence;
 - (ii) in relation to forward looking information:
 - (A) there are uncertainties inherent in attempting to prepare the forward looking information and WFML is familiar with these uncertainties;
 - (B) WFML is taking full responsibility for making its own evaluation of the adequacy and accuracy of all forward looking information (including the reasonableness of any assumptions and contingencies which may affect the forward looking information); and
 - (C) none of Mirvac nor any of their Representatives is liable under any Claim arising out of or in connection with any party's use or disclosure of any such forward looking information.

13.4 Benefit

The acknowledgements, confirmations and agreements given and made by a party on its own behalf and on behalf of its Representatives in this clause 13 are given to the other party on its own behalf and separately as trustee for each of its Representatives.

14. Exclusivity

14.1 No shop

- (a) During the Exclusivity Period, WFML must not, and must ensure that each of its Representatives, does not directly or indirectly solicit, invite, facilitate, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with a view to obtaining an offer, proposal or expression of interest from any person in relation to a Competing Proposal or if to do so may be reasonably likely to lead to a Competing Proposal, or communicate any intention to do any of those things.
- (b) For the removal of doubt, nothing in this clause 14.1 affects, or operates to reduce, the rights of WFML under the remaining provisions of this clause 14.



14.2 No talk

Subject to clause 14.5, during the Exclusivity Period, WFML must not, and must ensure that each of its Representatives does not, enter into, continue or participate in negotiations or discussions with, or enter into any agreement, arrangement or understanding with a view to obtaining an offer, proposal or expression of interest from any person in relation to a Competing Proposal or if to do so may be reasonably likely to lead to a Competing Proposal (including, without limitation, allowing any person other than Mirvac to undertake due diligence investigations on WOT), even if:

- (a) the Competing Proposal was not directly or indirectly solicited, invited, facilitated, encouraged or initiated by WFML or any its Representatives; or
- (b) the Competing Proposal has been publicly announced.

14.3 Access to information

Where, in reliance on clause 14.5, WFML, the WOT Group or any member of the WOT Group or any of their Representatives proposes to provide any due diligence information relating to the WOT Group to any person in connection with or for the purposes of a current or future Competing Proposal, it must, to the extent that Mirvac has not previously been provided with the information, provide Mirvac with a complete copy of that information at the same time as it is provided to the third party. Any information provided by WFML to Mirvac under this clause will be provided subject to the terms of the Confidentiality Agreement.

14.4 WFML's response to Rival Bidder and Mirvac's right to respond

- (a) If WFML is permitted by virtue of clause 14.5 to engage in activity that would otherwise breach clauses 14.2 and 14.3, WFML must enter into a confidentiality agreement with the Rival Bidder which is on terms no less onerous to the Rival Bidder than the Confidentiality Deed is to Mirvac, save and except that such confidentiality agreement must allow WFML to be able to comply with and perform its obligations under this clause 14 (including clause 14.4(b)(ii)), unless WFML has entered into a relevant confidentiality agreement with the Rival Bidder prior to the date of this Agreement (in which case WFML must use its best endeavours to amend that confidentiality agreement to allow WFML to comply with its obligations under this clause 14 (including clause 14.4(b)(ii)).
- (b) If WFML receives a Competing Proposal during the Exclusivity Period that it determines to be Superior Proposal and as a result the Independent Board Committee proposes to publicly change or withdraw their recommendation of, or support for, the Scheme, WFML must (unless the Independent Board Committee, acting in good faith and after having obtained advice from Citi and AAR (or such other independent financial advisers or external legal advisers as appointed by WFML from time to time) determine that it would be in breach of their fiduciary or statutory duties to do so):
 - (i) give Mirvac 2 Business Days' notice in writing of the proposed change or withdrawal; and



- (ii) provide Mirvac with all material terms of the Superior Proposal (including details of the price or value, conditions and timing); and
- (iii) if and to the extent that:
 - (A) such information is not subject to any confidentiality restrictions imposed by the Competing Bidder; or
 - (B) the Competing Bidder has consented to such information being provided to Mirvac,provide Mirvac with the name of the person making the Superior Proposal (the **Competing Bidder**).
- (c) If WFML gives notice to Mirvac under clause 14.4(b), Mirvac will have the right, but not the obligation, at any time during the period of 2 Business Days following receipt of the notice, to:
 - (i) offer to amend the terms of the Scheme;
 - (ii) make a takeover bid for WOT (notwithstanding any term in the Confidentiality Deed); or
 - (iii) propose any other form of transaction, (each a **Counterproposal**), and if it does so then WFML and the Independent Board Committee must review the Counterproposal in good faith.
- (d) For the purposes of clause 14.4, each successive modification of any third party expression of interest, offer or proposal in relation to an Competing Proposal will constitute a new Competing Proposal.

14.5 Fiduciary Out

The restrictions in clause 14.2 do not apply to the extent that they restrict WFML or the Independent Board Committee from taking or refusing to take any action (including responding to, entering into discussions and negotiations with, providing information to, or otherwise dealing with any third party) with respect to any proposal that is, or that the Independent Board Committee considers may reasonably be expected to lead to, a Competing Proposal provided:

- (a) the relevant proposal is bona fide and is made in writing by or on behalf of a person that each of the members of the Independent Board Committee reasonably considers is of reputable commercial standing; and
- (b) the Independent Board Committee, acting in good faith and in order to satisfy what the Independent Board Committee reasonably considers to be its statutory or fiduciary duties, determines after taking advice from Citi and AAR (or such other independent financial advisors and external legal advisers appointed by WFML from time to time), that the relevant proposal:
 - (i) is capable of being valued and completed; and
 - (ii) would, if completed substantially in accordance with its terms, be more favourable to the Scheme Securityholders than the Scheme,



after taking into account all aspects of the relevant proposal (including its terms and conditions) and the person making it.

14.6 WFML's discussions with a third party

If WFML is permitted by virtue of this clause 14 to engage in activity that would otherwise breach clause 14.2 then, despite anything in this Agreement, the warranty given in clause 12.4(c) does not apply in respect of any such activity.

14.7 Miscellaneous

- (a) Nothing in this clause 14 prevents WFML from:
 - (i) providing information to its Representatives;
 - (ii) providing information to any Government Agency;
 - (iii) providing information to its auditors, advisers, customers, joint venturers, suppliers, lessees and financiers acting in that capacity in the ordinary course of business;
 - (iv) making presentations to brokers, portfolio investors, analysts and others third parties in the ordinary course of business; or
- (b) Each successive modification of a Superior Proposal will be subject to the process in this clause 14.

15. Break fee

15.1 Background

- (a) WFML and Mirvac acknowledge that, if they enter into this Agreement and the Scheme is subsequently not implemented, the Mirvac Group has incurred or will incur significant costs including advisory costs, costs of management time, out of pocket expenses and opportunity costs.
- (b) In the circumstances described in paragraph (a) above, Mirvac has requested that provision be made for the payment described in clause 15.2, without which Mirvac would not have entered into this Agreement.

15.2 Payment of break fee

- (a) Subject to clause 15.3, WFML must pay to Mirvac Limited the amount of \$4,146,527 (**Break Fee**) (which, for the avoidance of doubt, can only be payable once) as compensation for the costs of the Mirvac Group as described in clause 15.1(a) if any of the following occur:
 - (i) this Agreement is terminated under clause 16.2(c) or 16.3(c) (change of Recommendation); or
 - (ii) a Competing Proposal is announced, completed within six months after the date of this Agreement and is a Superior Proposal.



- (b) The payment of the Break Fee by WFML to Mirvac Limited must be made within 5 Business Days after the receipt by WFML of a written demand for payment from Mirvac Limited. The demand may only be made after the occurrence of any of the events in clauses 15.2(a).

15.3 Qualifications

If a Court or the Takeovers Panel determines that the agreement by WFML to pay the Break Fee, or any part of the Break Fee, or the actual payment of the Break Fee or any part of the Break Fee:

- (a) constituted, constitutes, or would constitute a breach of the fiduciary of statutory duties of the WFML board;
- (b) constituted, constitutes or would constitute unacceptable circumstances within the meaning of the Corporations Act; or
- (c) was, or is or would be unlawful for any other reason,

then, to that extent, WFML will not be obliged to pay the Break Fee and Mirvac Limited must refund to WFML any Break Fee payment, or the relevant part, already made.

15.4 Exclusive remedy

Notwithstanding any other provision of this Agreement, where a Break Fee becomes payable by WFML to Mirvac Limited (or would be payable if a demand was made), Mirvac cannot make any Claim against WFML or any WOT Indemnified Party in relation to the event giving rise to the payment of the Break Fee (other than for payment of the Break Fee).

15.5 GST exclusive

- (a) Subject to clause 15.5(b), the Break Fee is exclusive of GST and clause 19.12 applies to any payment of the Break Fee.
- (b) If a Break Fee becomes payable, WFML and Mirvac will seek a private ruling from the ATO to confirm that there is no GST payable in respect of the Break Fee (at WFML's cost). If WFML and Mirvac, having used their best endeavours, are not able to obtain a private ruling from the ATO on those terms within 45 days of the date the Break Fee becomes payable, WFML agrees to pay the Break Fee and GST in respect of the Break Fee.

16. Termination

16.1 Termination events

Without limiting any other provision of this Agreement either party (**non-defaulting party**) may terminate this Agreement by notice in writing to the other party if:

- (a) the End Date has passed before the Scheme has been implemented (other than as a result of a breach by the terminating party of its obligations under this Agreement);

- (b) the required majorities of Scheme Securityholders do not approve the Scheme at the Scheme Meeting;
- (c) the Westpac Implementation Deed is terminated; or
- (d) a Court or other Government Agency has issued an order, decree or ruling or taken other action that permanently restrains or prohibits the Scheme and that order, decree, ruling or other action has become final and cannot be appealed.

16.2 Termination by Mirvac

Mirvac may terminate this Agreement at any time before the scheduled time for implementation of the Scheme on the Implementation Date by notice in writing to WFML:

- (a) **(failure of condition)** in accordance with clause 3.4;
- (b) **(material breach)** if:
 - (i) WFML is in material breach of any clause of this Agreement;
 - (ii) Mirvac has given notice to WFML setting out the relevant breach and stating an intention to terminate; and
 - (iii) to the extent that the breach is capable of remedy, WFML does not remedy the breach by the earlier of 5 Business Days after it receives the notice or the scheduled time for implementation of the Scheme on the Implementation Date; or
- (c) **(change of recommendation)** the Independent Board Committee changes, withdraws or modifies its recommendation in relation to the Scheme, or it or any member of that committee, makes a public statement to the effect that the Independent Board Committee or any member of that committee no longer recommends that WOT Unitholders approve the Scheme Resolutions or that it, he or she supports a Superior Proposal.

16.3 Termination by WFML

WFML may terminate this Agreement at any time before the scheduled time for implementation of the Scheme on the Implementation Date by notice in writing to Mirvac:

- (a) **(failure of condition)** in accordance with clause 3.4;
- (b) **(material breach)** if:
 - (i) Mirvac is in material breach of any clause of this Agreement;
 - (ii) WFML has given notice to Mirvac setting out the relevant breach and stating an intention to terminate; and
 - (iii) to the extent that the breach is capable of remedy, Mirvac does not remedy the breach by the earlier of 5 Business Days after it receives the notice or the scheduled time for implementation of the Scheme on the Implementation Date; or
- (c) **(change of recommendation)** the Independent Board Committee changes, withdraws or modifies its recommendation in relation to the Scheme, or it or any



member of that committee, makes a public statement to the effect that the Independent Board Committee or any member of that committee no longer recommends that WOT Unitholders approve the Scheme Resolutions or that it, he or she supports a Superior Proposal.

16.4 Effect of termination

- (a) If a party terminates this Agreement pursuant to clause 16.1 or 16.3, all obligations of the parties under this Agreement (other than this clause 16.4, clauses 1, 12, 13, 15, 17, 18 and 19) immediately cease to be of further force or effect.
- (b) The termination of this Agreement does not affect any Claim arising before this Agreement is terminated, that a party may have against another party.

17. Limitation of liability

17.1 WFML limitation of liability

- (a) WFML enters into this Agreement only in its capacity as responsible entity of WOT. In this Agreement:
 - (i) a reference to WFML is a reference to WFML in its capacity as responsible entity of WOT only, and in no other capacity; and
 - (ii) a reference to the undertaking, assets, business, money or any other thing of or in relation to WFML is a reference to such undertaking, assets, business, money or other thing of or in relation to WFML in its capacity as responsible entity of WOT only, and in no other capacity.
- (b) Subject to clause 17.1(c), a liability of WFML arising under or in connection with this Agreement is strictly limited and can only be enforced against the WFML to the extent to which it can be satisfied out of the property of WOT out of which WFML is actually indemnified for the liability.
- (c) The limitation of liability in clause 17.1(b):
 - (i) applies to any obligation or liability of WFML, except to the extent that, under the WOT Constitution or by operation of law, WFML is not entitled to be indemnified out of the assets of WOT including as a result of WFML's fraud, negligence or breach of the WOT Constitution;
 - (ii) extends to all liabilities and obligations of WFML in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement; and
 - (iii) applies notwithstanding any other provision of this Agreement.
- (d) Mirvac may not sue WFML in any capacity other than as responsible entity of WOT, including seeking the appointment of a receiver (except in relation to property of WOT), a liquidator, an administrator or any similar person to WFML or prove in any liquidation, administration or arrangement of or affecting WFML (except in relation to property of WOT) except to the extent specified in clause 17.1(c)(i).



- (e) WFML is not obliged to do or refrain from doing anything under this Agreement (including incurring any liability) unless its liability is limited in the same manner as set out in clauses 17.1(a), (b), (c) and (d).

17.2 Mirvac RE limitation of liability

- (a) Mirvac RE enters into this Agreement only in its capacity as responsible entity of MPT.
- (b) A liability arising under or in connection with this Agreement is limited to and can be enforced against Mirvac RE only to the extent to which it can be and is in fact satisfied out of property of MPT out of which Mirvac RE is actually indemnified for the liability. This limitation of Mirvac RE's liability applies despite any other provision of this Agreement and extends to all liabilities and obligations of Mirvac RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
- (c) The other parties to this Agreement may not sue Mirvac RE in any capacity other than as responsible entity of MPT, including seeking the appointment of a receiver (except in relation to property of MPT) a liquidator, an administrator or any similar person to Mirvac RE or proving in any liquidation, administration or arrangement of or affecting Mirvac RE (except in relation to property of MPT).
- (d) These provisions do not apply to any obligation or liability of Mirvac RE to the extent that it is not satisfied because under the constitution establishing MPT, or by operation of law, there is a reduction in the extent of Mirvac RE's indemnification out of the assets of MPT, as a result of Mirvac RE's failure to perform its duties as responsible entity of MPT.
- (e) Nothing in this clause 17.1(a) shall make Mirvac RE liable to any claim for an amount greater than the amount which Mirvac RE would have been able to claim and recover from the assets of MPT in relation to the relevant liability if Mirvac RE's right of indemnification out of the assets of MPT had not been prejudiced by failure to properly perform its duties.
- (f) Mirvac RE is not obliged to do or refrain from doing anything under this Agreement (including incur any liability) unless its liability is limited in the same manner as set out in this clause 17.1(a).

18. Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand to the address below or the address last notified by the intended recipient to the sender:
 - (i) to Mirvac Limited or Mirvac Level 26, 60 Margaret Street

- RE: Sydney NSW 2000
Attention: The Company Secretary;
- (ii) to WFML: Level 15
90 Collins Street
Melbourne VIC 3000
Attention: The Company Secretary; and
- (c) will be taken to be duly given or made:
- (i) in the case of delivery in person, when delivered; and
 - (ii) in the case of delivery by post, on the third Business Day after the date of posting (if posted to an address in the same country) or on the fifth Business Day after the date of posting (if posted to an address in another country),
- but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 5pm (local time) it will be taken to have been duly given or made at the start of business on the next business day in that place.

19. General

19.1 Confidentiality Deed

Each of Mirvac and WFML acknowledges and agrees that it remains bound by the Confidentiality Deed and accepts that, for so long as this Agreement remains on foot, the terms of this Agreement will prevail over the Confidentiality Deed to the extent of any inconsistency.

19.2 Entire agreement

This Agreement and the Confidentiality Deed contain the entire agreement between the parties with respect to their respective subject matter and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their respective subject matter.

19.3 Amendment

This Agreement may be amended only by a document signed by or on behalf of each of the parties.

19.4 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the other party.



19.5 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

19.6 Further assurances

Each party must do anything necessary (including executing agreements and documents) to give full effect to this Agreement and the transactions contemplated by it.

19.7 Change name of WOT

- (a) Subject to clause 19.7(b), with effect from the Implementation Date Mirvac will not use and will procure that the name of WOT is changed to exclude the name 'Westpac' (and that all documents issued, entered into or executed after the Implementation Date relating to WOT shall reflect this change of name).
- (b) Clause 19.7 does not apply to the extent that Mirvac is required to use the name WOT at law (for example, in the preparation of accounts) or to the extent it is reasonably necessary in implementing the Scheme (for example, communication with investors and tenants).

19.8 No merger

The rights and obligations of the parties will not merge on the implementation of the Scheme. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

19.9 Severability of provisions

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

19.10 No representation or reliance

- (a) No party (nor any person acting on its behalf) has made any representation or other inducement to the other to enter into this Agreement, except for representations or inducements expressly set out in this Agreement.
- (b) Neither party enters into this Agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this Agreement.

19.11 Costs and stamp duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement. Any stamp duty (including fines, penalties and interest)

payable on or in connection with the transfer to Mirvac RE of WOT Instalment Receipts and WOT Units pursuant to the Scheme shall be borne by Mirvac.

19.12 GST

- (a) Unless otherwise expressly stated, all amounts payable under this Agreement are expressed to be exclusive of GST. If GST is payable on a Taxable Supply made under or in connection with this Agreement, the recipient of the supply must pay the supplier an additional amount equal to the GST payable on that supply provided that the supplier first issues a tax invoice for that supply.
- (b) Without limiting clause 19.12(a), if an amount payable under this Agreement is calculated by reference to a liability incurred by a party, then the amount of the liability must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of the acquisition of the supply to which that liability relates. A party will be assumed to be entitled to a full Input Tax Credit unless it demonstrates that its entitlement is otherwise before the date on which payment must be made.
- (c) Words and expressions used in this clause 19.12 have the same meaning as in *A New Tax System (Goods and Services) Tax Act 1999 (Cth)*.

19.13 Governing law

This Agreement is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there, and waives any right to claim that those courts are an inconvenient forum.

19.14 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

Schedule 1 – Mirvac Deed Polls

Deed Poll

Mirvac Funds Limited as responsible entity of Mirvac
Property Trust

Allens Arthur Robinson
Level 28
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000
Tel +61 2 9230 4000
Fax +61 2 9230 5333
www.aar.com.au

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Date	[*] 2010
By	Mirvac Funds Limited (ABN 70 002 561 640) as responsible entity of the Mirvac Property Trust (ARSN 086 780 645) (<i>MPT</i>) of Level 26, 60 Margaret Street, Sydney NSW 2000 (<i>Mirvac RE</i>).
In favour of	Each Scheme Securityholder
Recitals	
A	Mirvac RE has entered into a Scheme Implementation Agreement dated [*] with Mirvac Limited (ACN 003 280 699) and Westpac Funds Management Limited (ACN 085 352 405) (<i>WFML</i>) as responsible entity of Westpac Office Trust (ARSN 103 853 523) (the <i>SIA</i>).
B	WFML has agreed in the SIA to propose the Scheme, pursuant to which, subject to the satisfaction or waiver of certain conditions, Mirvac RE will acquire all of the Scheme Securities from Scheme Securityholders for the Scheme Consideration.
C	In accordance with the SIA, Mirvac RE is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Securityholders that it will observe and perform the obligations contemplated of it under the Scheme and the SIA.

It is declared as follows.

1. Definitions and Interpretation

1.1 Definitions

Terms defined in the SIA have the same meaning in this Deed Poll, unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the SIA form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this Agreement' in that clause are references to 'this Deed Poll'.

2. Nature of Deed Poll

Mirvac RE acknowledges and agrees that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Securityholder in accordance with its terms even though the Scheme Securityholders are not party to it; and
- (b) under the Scheme, each Scheme Securityholder appoints WFML as its agent and attorney to enforce this Deed Poll against Mirvac RE on behalf of that Scheme Securityholder.

3. Condition Precedent and Termination

3.1 Condition precedent

Mirvac RE's obligations under this Deed Poll are subject to the Supplemental WOT Deed becoming Effective.

3.2 Termination

The obligations of Mirvac RE under this Deed Poll will automatically terminate on termination of the SIA.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2 then, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Mirvac RE is released from its obligations under this Deed Poll, except those obligations under clause 9.6; and
- (b) each Scheme Securityholder retains any rights, powers or remedies that Scheme Securityholder has against Mirvac RE in respect of any breach by Mirvac RE of its obligations under this Deed Poll that occurred before termination of this Deed Poll.

4. Compliance with Scheme Obligations

Mirvac RE covenants in favour of each Scheme Securityholder that it will observe and perform all obligations contemplated of it under the Scheme and the SIA including, without limitation, the obligation to provide the Scheme Consideration in accordance with the terms of the Scheme.

5. Representations and Warranties

Mirvac RE makes the following representations and warranties in favour of Scheme Securityholders:

- (a) **(company status)** it is validly incorporated as a company limited by shares under the Corporations Act;

- (b) **(MIS status)** MPT is validly established and registered as a "registered scheme" under Chapter 5C of the Corporations Act;
- (c) **(capacity)** it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enters into this Deed Poll and to carry out the transactions that this Deed Poll contemplates;
- (d) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Deed Poll and its carrying out the transactions that this Deed Poll contemplates;
- (e) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this Deed Poll and to carry out the transactions that this Deed Poll contemplates;
 - (ii) ensure that this Deed Poll is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,
and it is complying with any conditions to which any Authorisation is subject;
- (f) **(document effective)** this Deed Poll constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (g) **(no contravention)** neither its execution of this Deed Poll nor the carrying out by it of the transactions that this Deed Poll contemplates does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Governmental Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene its constitution or the MPT constitution;
- (h) **(New Mirvac Securities)** except as provided under the Scheme, the New Mirvac Securities issued as Scheme Consideration will, on their issue:
 - (i) be fully paid and free from any mortgages, charges, liens, encumbrances, and other security interests; and
 - (ii) rank equally in all respects with all existing Mirvac Stapled Securities.

6. Continuing Obligations

This Deed Poll is irrevocable and remains in full force and effect until the earlier of:

- (a) Mirvac RE having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 3.2.

7. Further Assurances

Mirvac RE will, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Securityholder, do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8. Mirvac RE Limitation of liability

- (a) Mirvac RE enters into this Deed Poll only in its capacity as responsibly entity of MPT.
- (b) A liability arising under or in connection with this Deed Poll is limited to and can be enforced against Mirvac RE only to the extent to which it can be and is in fact satisfied out of property of MPT out of which Mirvac RE is actually indemnified for the liability. This limitation of Mirvac RE's liability applies despite any other provision of this Deed Poll and extends to all liabilities and obligations of Mirvac RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed Poll.
- (c) Each Scheme Securityholder may not sue Mirvac RE in any capacity other than as responsible entity of MPT, including seeking the appointment of a receiver (except in relation to property of MPT) a liquidator, an administrator or any similar person to Mirvac RE or proving in any liquidation, administration or arrangement of or affecting Mirvac RE (except in relation to property of MPT).
- (d) These provisions do not apply to any obligation or liability of Mirvac RE to the extent that it is not satisfied because under the constitution establishing MPT, or by operation of law, there is a reduction in the extent of Mirvac RE's indemnification out of the assets of MPT, as a result of Mirvac RE's failure to perform its duties as responsibly entity of MPT.
- (e) Nothing in this clause 8 shall make Mirvac RE liable to any claim for an amount greater than the amount which Mirvac RE would have been able to claim and recover from the assets of Mirvac Trust in relation to the relevant liability if Mirvac RE's right of indemnification out of the assets of MPT had not been prejudiced by failure to properly perform its duties.
- (f) Mirvac RE is not obliged to do or refrain from doing anything under this Deed Poll (including incur any liability) unless its liability is limited in the same manner as set out in this clause 8.

9. General

9.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made to Mirvac RE under or in connection with this Deed Poll:

- (a) must be in writing and signed by a person duly authorised by the sender;

- (b) must be delivered to Mirvac RE by pre-paid post (if posted to an address in another country, by registered airmail) or by hand to the address below or the address last requested by Mirvac RE in writing to the sender:

Level 26

60 Margaret Street

Sydney NSW 2000

Attention: Company Secretary; and

- (c) will be taken to be duly given or made:
- (i) in the case of delivery in person, when delivered; and
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country),

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 5pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

9.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Mirvac RE or by any Scheme Securityholder operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

9.3 Remedies cumulative

The rights, powers and remedies of Mirvac RE and of each Scheme Securityholder under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

9.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) the amendment or variation is agreed to in writing by WFML, and
- (b) Mirvac RE enters into a further deed poll in favour of the Scheme Securityholders giving effect to that amendment or variation.

9.5 Assignment

The rights and obligations of each of Mirvac RE and of each Scheme Securityholder under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so.

9.6 Costs and stamp duty

- (a) Mirvac RE must bear its own costs arising out of the negotiation, preparation and execution of this Deed Poll.
- (b) All stamp duty (including any related fines, penalties and interest) payable on or in connection with the transfer of Scheme Securities under the Scheme, this Deed Poll and any instrument executed under or any transaction evidenced by this Deed Poll must be borne by Mirvac RE. Mirvac RE must indemnify each Scheme Securityholder on demand against any liability for that stamp duty (including any related fines, penalties and interest).

9.7 Governing law and jurisdiction

This Deed Poll is governed by the laws of New South Wales. Mirvac RE submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed Poll.

Executed and delivered as a Deed in Sydney

Executed in accordance with section 127 of the *Corporations Act 2001* by **Mirvac Funds Limited** as responsible entity of the **Mirvac Property Trust**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Deed Poll

Mirvac Limited

Allens Arthur Robinson
Level 28
Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000
Tel +61 2 9230 4000
Fax +61 2 9230 5333
www.aar.com.au

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Date	[*] 2010
By	Mirvac Limited (ABN 93 003 280 699) of Level 26, 60 Margaret Street, Sydney NSW 2000 (<i>Mirvac Limited</i>).
In favour of	Each Scheme Securityholder.
Recitals	
A	Mirvac Limited has entered into a Scheme Implementation Agreement dated [*] with Mirvac Funds Limited (ACN 002 561 640) in its capacity as responsible entity of the Mirvac Property Trust (ARSN 086 780 645) (<i>MPT</i>) (<i>Mirvac RE</i>) and Westpac Funds Management Limited (ACN 085 352 405) (<i>WFML</i>) as responsible entity of Westpac Office Trust (ARSN 103 853 523) (the <i>SIA</i>).
B	WFML has agreed in the SIA to propose the Scheme, pursuant to which, subject to the satisfaction or waiver of certain conditions, Mirvac RE will acquire all of the Scheme Securities from Scheme Securityholders for the Scheme Consideration.
C	In accordance with the SIA, Mirvac Limited is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Securityholders that it will observe and perform the obligations contemplated of it under the Scheme and the SIA, and that it will procure that Mirvac RE observes and performs the obligations contemplated of Mirvac RE under the Scheme and the SIA.

It is declared as follows.

1. Definitions and Interpretation

1.1 Definitions

Terms defined in the SIA have the same meaning in this Deed Poll, unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the SIA form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this Agreement' in that clause are references to 'this Deed Poll'.

2. Nature of Deed Poll

Mirvac Limited acknowledges and agrees that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Securityholder in accordance with its terms even though the Scheme Securityholders are not party to it; and
- (b) under the Scheme, each Scheme Securityholder appoints WFML as its agent and attorney to enforce this Deed Poll against Mirvac Limited on behalf of that Scheme Securityholder.

3. Condition Precedent and Termination

3.1 Condition precedent

Mirvac Limited's obligations under this Deed Poll are subject to the Supplemental WOT Deed becoming Effective.

3.2 Termination

The obligations of Mirvac Limited under this Deed Poll will automatically terminate on termination of the SIA.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2 then, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Mirvac Limited is released from its obligations under this Deed Poll, except those obligations under clause 8.6; and
- (b) each Scheme Securityholder retains any rights, powers or remedies that Scheme Securityholder has against Mirvac Limited in respect of any breach by Mirvac Limited of its obligations under this Deed Poll that occurred before termination of this Deed Poll.

4. Compliance with Scheme Obligations

Mirvac Limited covenants in favour of each Scheme Securityholder that it will observe and perform all obligations contemplated of it under the Scheme and the SIA including, without limitation, the obligation to provide the Scheme Consideration in accordance with the terms of the Scheme.

5. Representations and Warranties

Mirvac Limited makes the following representations and warranties in favour of Scheme Securityholders:

- (a) **(company status)** it is validly incorporated as a company limited by shares under the Corporations Act;

- (b) **(MIS status)** MPT is validly established and registered as a "registered scheme" under Chapter 5C of the Corporations Act;
- (c) **(capacity)** it has full legal capacity and power to:
 - (i) own its property and to carry on its business; and
 - (ii) enter into this Deed Poll and to carry out the transactions that this Deed Poll contemplates;
- (d) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Deed and its carrying out the transactions that this Deed Poll contemplates;
- (e) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this Deed and to carry out the transactions that this Agreement contemplates;
 - (ii) ensure that this Deed is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,and it is complying with any conditions to which any Authorisation is subject;
- (f) **(document effective)** this Deed Poll constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (g) **(no contravention)** neither its execution of this Deed Poll nor the carrying out by it of the transactions that this Deed Poll contemplates does or will:
 - (i) contravene any law to which it or any of its property is subject or any order of any Governmental Agency that is binding on it or any of its property;
 - (ii) contravene any Authorisation;
 - (iii) contravene any undertaking or instrument binding on it or any of its property; or
 - (iv) contravene its constitution or the MPT constitution; and
- (h) **(New Mirvac Securities)** except as provided under the Scheme, the New Mirvac Securities issued as Scheme Consideration will, on their issue:
 - (i) be fully paid and free from any mortgages, charges, liens, encumbrances, and other security interests; and
 - (ii) rank equally in all respects with all existing Mirvac Stapled Securities.

6. Continuing Obligations

This Deed Poll is irrevocable and remains in full force and effect until the earlier of:

- (a) Mirvac Limited having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 3.2.

7. Further Assurances

Mirvac Limited will, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Securityholder, do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8. General

8.1 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made to Mirvac Limited under or in connection with this Deed Poll:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to Mirvac Limited by pre-paid post (if posted to an address in another country, by registered airmail) or by hand to the address below or the address last requested by Mirvac Limited in writing to the sender:

Level 26

60 Margaret Street

Sydney NSW 2000

Attention: Company Secretary; and

- (c) will be taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered; and
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country),

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 5pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

8.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Mirvac Limited or by any Scheme Securityholder operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

8.3 Remedies cumulative

The rights, powers and remedies of Mirvac Limited and of each Scheme Securityholder under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

8.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) the amendment or variation is agreed to in writing by WFML; and
- (b) Mirvac Limited enters into a further deed poll in favour of the Scheme Securityholders giving effect to that amendment or variation.

8.5 Assignment

The rights and obligations of Mirvac Limited and of each Scheme Securityholder under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so.

8.6 Costs and stamp duty

- (a) Mirvac Limited must bear its own costs arising out of the negotiation, preparation and execution of this Deed Poll.
- (b) All stamp duty (including any related fines, penalties and interest) payable on or in connection with the transfer of Scheme Securities under the Scheme, this Deed Poll and any instrument executed under or any transaction evidenced by this Deed Poll must be borne by Mirvac Limited. Mirvac Limited must indemnify each Scheme Securityholder on demand against any liability for that stamp duty (including any related fines, penalties and interest).

8.7 Governing law and jurisdiction

This Deed Poll is governed by the laws of New South Wales. Mirvac Limited submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed Poll.

Executed and delivered as a Deed in Sydney

Executed in accordance with section 127 of
the *Corporations Act 2001* by **Mirvac
Limited:**

Director Signature

Director/Secretary Signature

Print Name

Print Name



Schedule 2 – Timetable

Event	Date
Scheme is announced	Wednesday, 28 April 2010
Draft Scheme Booklet is provided to ASIC and ASX for review	Friday, 14 May 2010
File documents (including verified draft Scheme Booklet) with Court	Wednesday, 2 June 2010
First Court Hearing (Judicial Advice)	Friday, 4 June 2010
Westpac Deed Poll to be signed by Westpac	Friday, 11 June 2010
Mirvac Deed Polls to be signed by Mirvac	Friday, 11 June 2010
Scheme Booklet is publicly released and despatched to Scheme Securityholders	Friday, 11 June 2010
Scheme Meeting	Tuesday, 13 July 2010
Suspension of trading of WOT Units at close of trading on ASX	Tuesday, 13 July 2010
Deadline for submission of Election Forms	Tuesday, 13 July 2010
Second Court Hearing (Judicial Advice)	Thursday, 15 July 2010
New Mirvac Securities commence trading on a deferred settlement basis	Friday, 16 July 2010
Supplemental WOT Deed to be signed by WFML to amend WOT Constitution	Wednesday, 21 July 2010
Effective Date (being the date on which the Supplemental Deed is lodged with ASIC, whereupon it becomes Effective)	Wednesday, 21 July 2010
Record Date (being the date and time for determining entitlements to Scheme Consideration)	Wednesday, 21 July 2010
Implementation Date	Wednesday, 21 July 2010

Annexure A – Certificate

[Issuer Letterhead]

Certificate (Clause 3.1(o))

Westpac Funds Management Limited
as responsible entity of Westpac Office Trust
Level 15, 90 Collins Street
Melbourne
VIC 2000

Date: **2010**

Scheme Implementation Agreement

We refer to the scheme implementation agreement dated _____ 2010 between Mirvac Limited (**Company**), Mirvac Funds Limited (**Responsible Entity**) as responsible entity of the Mirvac Property Trust (the Responsible Entity and the Company together **Mirvac**) and Westpac Funds Management Limited as responsible entity for Westpac Office Trust (**Agreement**). Terms defined in the Agreement have the same meaning when used in this Certificate.

Mirvac certifies that as at 9am on the date of the Certificate:

- (a) the sections of the Scheme Booklet that comprise Mirvac Information are in a form appropriate for despatch to Scheme Securityholders;
- (b) the Company and the Responsible Entity have undertaken and completed appropriate verification processes in relation to the Mirvac Information in the Scheme Booklet;
- (c) the boards of the Company and the Responsible Entity have given their written consent to the despatch of that information in that form to Scheme Securityholders; and
- (d) the boards of the Company and the Responsible Entity has approved the issue of the Scheme Consideration in accordance with the Scheme.

Execution Page

Executed as an agreement.

Each attorney executing this Agreement states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Executed in accordance with section 127 of the *Corporations Act 2001* by **Westpac Funds Management Limited** (ABN 28 085 352 405) as responsible entity of Westpac Office Trust:




Director Signature



Print Name



~~Director~~ Secretary Signature



Print Name

Execution Page

Executed as an agreement.

Each attorney executing this Agreement states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Signed for Westpac Funds Management Limited (ABN 28 085 352 405) as responsible entity of Westpac Office Trust by its attorney under power of attorney dated [*] in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name

Executed by Mirvac Limited (ABN 92 003 280 699):



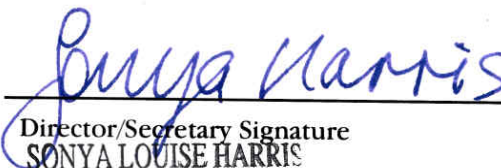
Director Signature
Nicholas Roland Collishaw

Director/Secretary Signature
SONYA LOUISE HARRIS

Print Name

Print Name

Executed by Mirvac Funds Limited (ABN 70 002 561 640) as responsible entity of Mirvac Property Trust:



Director Signature
Nicholas Roland Collishaw

Director/Secretary Signature
SONYA LOUISE HARRIS

Print Name

Print Name