

## ASX ANNOUNCEMENT

6 July 2022

### Irongate Group (ASX: IAP)

#### Schemes become effective

Irongate Funds Management Limited (**IAP RE**) as responsible entity of Irongate Property Fund I (**IPF I**) and Irongate Property Fund II (**IPF II**) (together, **IAP**) announces that copies of the executed supplemental deeds poll amending the IPF I and IPF II constitutions, as approved at the scheme meetings on 29 June 2022 (**Supplemental Deeds Poll**), were lodged with the Australian Securities and Investments Commission (**ASIC**) today.

The proposed acquisition of 100% of the units in IPF I by Charter Hall PGGM Industrial Partnership No.2 (**CHPIP**) and the acquisition of 100% of the units in IPF II by Charter Hall Holdings Pty Limited by way of inter-conditional trust schemes (**Proposal**) has accordingly become effective and is scheduled to be implemented on Friday, 15 July 2022.

Attached to this announcement are copies of the Supplemental Deeds Polls that were lodged with ASIC today, as well as copies of the consolidated constitutions of each of IPF I and IPF II.

#### Further information

IAP securityholders can obtain further information in relation to the Proposal by visiting IAP's website ([www.irongategroup.com.au](http://www.irongategroup.com.au)) or calling the IAP securityholder information line on 1300 620 419 (within Australia) or +613 9415 4314 (outside Australia) between 8.30am and 5.00pm (Sydney time) Monday to Friday, excluding public holidays.

IAP securityholders holding IAP securities on the South African Register should direct their queries to their broker or CSDP.

This announcement has been authorised for release by the Company Secretary.

#### FOR FURTHER INFORMATION, PLEASE CONTACT:

##### Lucy Spenceley

Investor Relations and Company Secretary

T +61 2 7906 2006

E [ir@irongategroup.com.au](mailto:ir@irongategroup.com.au)

# Supplemental Deed Poll - Irongate Property Fund I

Dated 06 JULY 2022

Irongate Funds Management Limited (ACN 071 514 246)  
("Responsible Entity")

**King & Wood Mallesons**  
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# Supplemental Deed Poll - Irongate Property Fund I

## Details

<b>Responsible Entity</b>	<b>Name</b>	<b>Irongate Funds Management Limited</b>
	<b>ACN</b>	071 514 246
	<b>Address</b>	Level 13, 95 Pitt Street, Sydney NSW 2000
<hr/>		
<b>Governing law</b>	New South Wales, Australia	
<hr/>		
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the Irongate Property Fund I (ARSN 162 067 736) (" <b>Trust</b> "), constituted under a trust deed dated 12 December 2012, as amended from time to time (" <b>Constitution</b> ").
	<b>B</b>	The Trust is registered as a managed investment scheme pursuant to section 601EB of the Corporations Act (" <b>Registered Scheme</b> ").
	<b>C</b>	The units of the Trust are stapled to the units of Irongate Property Fund II (ARSN 644 081 309) (" <b>IPF II</b> ") and are quoted and traded on ASX and JSE as stapled securities of Irongate Group (ASX and JSE: IAP).
	<b>D</b>	The Responsible Entity, CHPIP and CHPIP Guarantor have agreed, by executing the Scheme Implementation Agreement, to propose and implement the Trust Scheme.
	<b>E</b>	The Constitution must be amended to facilitate the Trust Scheme.
	<b>F</b>	Section 601GC(1)(a) of the Corporations Act provides that the constitution of a managed investment scheme may be modified, or repealed and replaced with a new constitution by special resolution of the members of the scheme.
	<b>G</b>	Clauses 24.1 and 24.2 of the Constitution provide that while the Trust is a Registered Scheme, the Constitution may be modified, or repealed and replaced with a new deed by Special Resolution (as that term is defined in the Constitution) of the Unitholders, subject to any approval required by any applicable law, the approval of the JSE and compliance with any applicable Listing Requirements in relation to such modification or repeal and replacement.
	<b>H</b>	The Responsible Entity proposes to execute this supplemental deed poll and lodge it with ASIC to modify the Constitution, as set out in this supplemental deed poll, to

give effect to the Special Resolution to modify the Constitution that was passed by Unitholders at a meeting held on 29 June 2022.

# General terms

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## 1 Definitions and interpretation

### 1.1 Terms defined in the Constitution

Capitalised terms used in this supplemental deed poll have the meaning given in the Constitution, unless the contrary intention appears.

### 1.2 Definitions

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGM Industrial Partnership No.2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGM Industrial Partnership (ABN 29 250 100 507).

**Constitution** means the trust deed constituting the Trust, as approved by unitholders on 12 December 2012, as amended from time to time.

**Details** means the section of this supplemental deed poll entitled "Details".

**Effective** means in relation to the Trust Scheme, the coming into effect of the amendments to the Constitution (which will occur on the date and at the time a copy of the amended Constitution, or of the amendments, is lodged with ASIC under section 601GC(2) of the Corporations Act).

**Effective Date** means the date on which the Trust Scheme has become Effective.

**IPF II** means the trust known as 'Irongate Property Fund II' (ARSN 644 081 309).

**Scheme Implementation Agreement** means the document of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Trust** means the trust known as 'Irongate Property Fund I' (ARSN 162 067 736).

**Trust Scheme** means the arrangement set out in the Scheme Implementation Agreement and facilitated by the amendments to the Constitution set out in this supplemental deed poll.

**Unitholders** means the unitholders of the Trust.

### 1.3 Headings

Headings are inserted for convenience only and do not affect the interpretation of this supplemental deed poll.

#### **1.4 Benefit of this supplemental deed poll**

This document is made by the Responsible Entity with the intent that the benefit of this supplemental deed poll shall enure to the benefit of the Unitholders jointly and severally.

---

### **2 Conditions**

- (a) This document is conditional upon and will have no force or effect until, the satisfaction or waiver of each of the conditions precedent stipulated in clause 3.1 ("Conditions Precedent") of the Scheme Implementation Agreement.
- (b) This supplemental deed poll is binding on the Responsible Entity, each Unitholder and any other person claiming through any of them as if each was a party to this supplemental deed poll.

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### **3 Amendments to the Constitution**

Subject to clause 2, the Responsible Entity declares with effect on and from the Effective Date, that by this supplemental deed poll the Constitution is modified in the manner set out in Schedule 1 of this supplemental deed poll.

---

### **4 No redeclaration etc**

The Responsible Entity declares that it is not, by this supplemental deed poll:

- (a) redeclaring the Trust or declaring any trust;
- (b) settling or resettling any trust;
- (c) causing the transfer, vesting or accruing of any property comprising the assets of the Trust in any person;
- (d) rescinding any trust; or
- (e) entering into a new constitution.

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### **5 Governing law**

This document is governed by the laws in force in the place specified in the Details. Each person affected by it irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

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### **6 Effective Date**

In accordance with section 601GC(2) of the Corporations Act, the amendments to the Constitution contained in this supplemental deed poll will take effect when a copy of this supplemental deed poll is lodged with ASIC.

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## **7 No merger**

Each obligation set out in this supplemental deed poll which is capable of having future operation continues in force after the Effective Date (as defined in Schedule 1) although this supplemental deed poll has otherwise been fully performed.

**EXECUTED** as a deed poll

# Supplemental Deed Poll - Irongate Property Fund I

## Schedule 1 Amendments to the Constitution

The Constitution is amended as follows:

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### 1 Clause 28 - Trust Scheme

A new clause 28 is inserted immediately after clause 27 of the Constitution, as set out below:

#### 28 Trust Scheme

##### 28.1 Definitions

The following definitions apply in this clause 28 unless the context requires otherwise:

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership No. 2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership (ABN 29 250 100 507).

**Deed Poll** means the deed poll dated 18 May 2022 executed by CHPIP and CHPIP Guarantor in favour of the Scheme Unitholders.

**Effective** means, in relation to the Trust Scheme, the supplemental deed poll making amendments to this Constitution to facilitate the Trust Scheme, including the insertion of clause 28, taking effect pursuant to section 601GC(2) of the Corporations Act.

**Effective Date** means the date on which the Trust Scheme becomes Effective.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or 12(2) of the PPSA or any agreement to create any of them or allow them to exist.

**Implementation Date** means the 5th Business Day following the Record Date, or such other date as may be agreed in writing between CHPIP, CHPIP Guarantor and the Responsible Entity.

**Record Date** means 7.00 pm (Sydney time) on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between the IAP RE and CHPIP.

**Registered Address** means, in relation to a Scheme Unitholder, the address of that Scheme Unitholder shown on the Register as at the Record Date.



**Registry** means such suitably qualified person that is from time to time appointed by the Responsible Entity to operate the Register.

**Scheme Consideration** means an amount equal to \$1.90 in aggregate for each Scheme Unit and Scheme IPF II Unit.

**Scheme Implementation Agreement** means the agreement of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Scheme Meeting** means the meeting of Unitholders held on 29 June 2022 to consider the Scheme Resolutions, and includes any adjournment of that meeting.

**Scheme Resolutions** means the resolutions of the Unitholders to approve the Trust Scheme, including:

- (a) an ordinary resolution approving for the purpose of item 7 of section 611 of the Corporations Act the acquisition by CHPIP of all of the Scheme Units;
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to this Constitution to facilitate the implementation of the Trust Scheme; and
- (c) a special resolution approving the Responsible Entity to determine that the Stapling provisions of this deed will cease to apply and the Unstapling Date for the purpose of item 3.5 of Schedule 2 of this deed.

**Scheme IPF II Unit** means each Attached Security on issue as at the Record Date.

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

**Scheme Unitholders** means each person who is registered on the Register as a holder of Units as at the Record Date.

**Trust Scheme** means the arrangement by which all of the Scheme Units will be transferred to CHPIP, as set out in this clause 28.

## **28.2 Implementation of Trust Scheme**

- (a) Each Scheme Unitholder and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as the Responsible Entity considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.
- (b) Each Scheme Unitholder, without the need for any further act by that Holder, irrevocably appoints the Responsible Entity as that Holder's attorney and agent for the purpose of:
  - (1) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it, including executing and delivering any transfer of the Scheme Units; and

- (2) enforcing the Deed Poll against CHPIP and CHPIP Guarantor,

and the Responsible Entity accepts such appointment. The Responsible Entity, as attorney and as agent of each Holder, may sub-delegate its functions, authorities or powers under this clause 28(b) to all or any of its directors and officers (jointly, severally, or jointly and severally). Each Holder indemnifies the Responsible Entity and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 28.2(b).

- (c) Without limiting the Responsible Entity's other powers under this clause 28, the Responsible Entity has power to do all things that it considers necessary, desirable or reasonably incidental to give effect to the Trust Scheme, the Scheme Implementation Agreement and the transactions contemplated by them.
- (d) Subject to the Corporations Act, the Responsible Entity, CHPIP or any of their directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 28 even if they have an interest (financial or otherwise) in the outcome of such exercise.
- (e) Each Scheme Unitholder will be entitled to receive the Scheme Consideration for each Scheme Unit and Scheme IPF II Unit held by that Scheme Unitholder.
- (f) Without limiting the Responsible Entity's powers under this clause 28, subject to CHPIP and the CHPIP Guarantor having complied with their obligations under clause 4.2(b) of the Deed Poll:
- (1) on the Implementation Date, the Responsible Entity must determine in accordance with item 3.5(a) of Schedule 2 that the Stapling provisions of the Constitution will cease to apply on the Implementation Date and that the Implementation Date is to be the "Unstapling Date" for the purpose of item 3.5(a) of Schedule 2 of the Constitution;
  - (2) on the Effective Date, the Responsible Entity, as the Scheme Unitholder's agent and attorney under clause 28.2(b)(1) above, is empowered to transfer the Scheme Units and the Scheme IPF II Units on the Implementation Date for a price equal to the Scheme Consideration, in accordance with the terms of the Scheme Implementation Agreement and the Deed Poll; and
  - (3) by no later than the Implementation Date, the Responsible Entity must execute a transfer of the Scheme Units on behalf of each Scheme Unitholder as agent and attorney appointed under clause 28.2(b)(1) above in the manner and form which the Responsible Entity considers necessary and deliver the transfer to the Registry for registration.
  - (4) immediately after receipt of the transfer in accordance with clause 28.2(f)(3), but subject to the stamping of the transfer (if required), or the transfer being effected

under section 1074D of the *Corporations Act* (as the case may be), entering, or procuring the entry of, the name and address of CHPIP in the Register as the holder of all of the Scheme Units transferred to CHPIP in accordance with the Trust Scheme.

- (g) This clause 28:
- (1) binds the Responsible Entity and all of the Holders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (2) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act, the Listing Rules and the Listing Requirements).

### **28.3 Warranty by Scheme Unitholders**

Each Scheme Unitholder warrants to CHPIP and is deemed to have authorised the Responsible Entity to warrant to CHPIP as agent and attorney for the Scheme Unitholder by virtue of this clause 28.3, that:

- (a) all their Scheme Units (including any rights and entitlements attaching to those securities) transferred to CHPIP under the Trust Scheme, will, as at the date of the transfer, be fully paid and free from all Encumbrances;
- (b) they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those securities) to CHPIP under the Trust Scheme; and
- (c) they have agreed to the variation, cancellation or modification of the rights attached to their Scheme Units (if any) in accordance with the Trust Scheme without the need for any further act by the Scheme Unitholder.

### **28.4 Transfer free of Encumbrances**

To the extent permitted by law, all Scheme Units (including any rights and entitlements attaching to those securities) which are transferred to CHPIP under the Trust Scheme will, at the date of the transfer of them to CHPIP, vest in CHPIP free from all Encumbrances.

### **28.5 Appointment of CHPIP as sole proxy**

Subject to the provision of the Scheme Consideration for the Scheme Units, on and from the Implementation Date until the Responsible Entity registers CHPIP as the holder of all the Scheme Units in the Register, each Scheme Unitholder:

- (a) irrevocably appoints the Responsible Entity as attorney and agent (and directs the Responsible Entity in such capacity) to appoint CHPIP and each of CHPIP's directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable, corporate representative, to attend Unitholder meetings, exercise the votes attaching to Units registered in its name and sign any Unitholder resolution, and no Scheme Unitholder may itself attend or vote at any of those meetings or

sign any resolutions, whether in person, by proxy, or by corporate representative (other than pursuant to this clause 28.5(a); and

- (b) must take all other actions in the capacity of the registered holder of Units as CHPIP directs.

The Responsible Entity undertakes in favour of each Scheme Unitholder that it will appoint CHPIP and each of CHPIP's directors from time to time (jointly and each of them individually) as that Scheme Unitholder's proxy or, where applicable, corporate representative, in accordance with clause 28.5(a).

## **28.6 Payment to Scheme Unitholders**

- (a) On the Implementation Date, subject to CHPIP having satisfied its obligations under clause 4.2(b) of the Deed Poll, the Responsible Entity must pay or procure the payment from the Trust Account to each Scheme Unitholder the Scheme Consideration as that Scheme Unitholder is entitled under clause 28.2(e).
- (b) The obligations of the Responsible Entity under clause 28.6(a) will be satisfied by the Responsible Entity (in its absolute discretion):
  - (1) where a Scheme Unitholder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Responsible Entity by electronic funds transfer to a bank account nominated by the Scheme Unitholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (2) otherwise, whether or not the Scheme Unitholder has made an election referred to in paragraph (1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unitholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unitholder (or in the case of Joint Holders, in accordance with the procedures set out in clause 28.7).
- (c) Notwithstanding anything to the contrary in this deed, the Scheme Consideration paid to Scheme Unitholders included in the Register maintained by, or on behalf of, the Responsible Entity in South Africa (as a sub-register of the Register), will be paid to such Scheme Unitholders in a ZAR (Rand) equivalent of the Scheme Consideration determined by the ZAR (Rand) / AUD (Australian Dollar) spot rate quoted by Reuters as at the date and time determined by the Responsible Entity provided that CHPIP shall have no obligation to make available to the Responsible Entity funds denominated in ZAR (Rand) and no obligation to gross-up for any conversion costs or rounding differences.

### **28.7 Joint Holders**

In the case of Scheme Units held by Joint Holders:

- (a) any cheque required to be sent under the Trust Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date.

### **28.8 Fractional entitlements**

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

### **28.9 Unclaimed monies**

- (a) The *Unclaimed Money Act 1995 (NSW)* will apply in relation to any amount payable to a Scheme Unitholder under the Trust Scheme which becomes 'unclaimed money' (as defined in section 7 of that Act).
- (b) The Responsible Entity may cancel a cheque issued on account of the Scheme Consideration if the cheque:
  - (1) is returned to the Responsible Entity; or
  - (2) has not been presented for payment within 12 months after the date on which the cheque was sent.

### **28.10 Orders of a court or Government Agency**

- (a) The Responsible Entity may deduct and withhold from any Scheme Consideration which would otherwise be payable to a Scheme Unitholder any amount which CHPIP or the Responsible Entity determine is required to be deducted and withheld from that consideration under any applicable law, including any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency.
- (b) To the extent that amounts are so deducted or withheld, such deducted or withheld amounts will be treated for all purposes under the Trust Scheme as having been paid to the person in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Government Agency on or before the Implementation Date.
- (c) If written notice is given to the Responsible Entity (or the Registry) of an order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency that

- (i) requires consideration which would otherwise be payable or provided to a Scheme Unitholder under the Trust Scheme must instead be paid or provided to a Government Agency or other third party (either through payment of a sum or the issuance of a security), then, the Responsible Entity shall be entitled to procure that payment or provision of that consideration is made in accordance with that order, direction or notice (and payment or provision of that consideration in accordance with that order, direction or notice will be treated for all purposes under the Trust Scheme as having been paid or provided to that Scheme Unitholder); or
- (ii) prevents the Responsible Entity from providing consideration to any particular Scheme Unitholder under the Trust Scheme, or the payment or provision of such consideration is otherwise prohibited by applicable law, the Responsible Entity shall be entitled to retain the Scheme Consideration to which that Scheme Unitholder would otherwise be entitled to under the Trust Scheme, until such time as payment or provision of the Scheme Consideration under the Trust Scheme is permitted by that order or direction or otherwise by law.

#### **28.11 No disposals after the Effective Date**

- (a) If the Trust Scheme becomes Effective, a holder of Scheme Units (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them after the Effective Date in any way except pursuant to the Trust Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) The Responsible Entity will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Units received after the Record Date (except a transfer to CHPIP pursuant to the Trust Scheme or any subsequent transfer by CHPIP or its successors in title).

#### **28.12 Lapsing**

Clause 28 will lapse and have no further force or effect if the Trust Scheme lapses in accordance with the Scheme Implementation Agreement.

# Supplemental Deed Poll - Irongate Property Fund I

## Signing page

DATED: 06 JULY 2022

EXECUTED by IRONGATE FUNDS  
MANAGEMENT LIMITED (ACN 071  
514 246) as responsible entity of  
IRONGATE PROPERTY FUND I  
(ARSN 162 067 736) in accordance  
with section 127(1) of the *Corporations  
Act 2001* (Cth) by authority of its  
directors:

Signature of director

Graeme Anthony Katz

Name of director (block letters)

Signature of director/company  
secretary\*

\*delete whichever is not applicable

Lucy Spenceley

Name of director/company secretary\*  
(block letters)

\*delete whichever is not applicable

# Supplemental Deed Poll - Irongate Property Fund II

Dated 06 JULY 2022

Irongate Funds Management Limited (ACN 071 514 246)  
("Responsible Entity")

**King & Wood Mallesons**  
Level 61  
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Sydney NSW 2000  
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DX 113 Sydney  
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# Supplemental Deed Poll - Irongate Property Fund II

## Details

<b>Responsible Entity</b>	<b>Name</b>	<b>Irongate Funds Management Limited</b>
	<b>ACN</b>	071 514 246
	<b>Address</b>	Level 13, 95 Pitt Street, Sydney NSW 2000
<hr/>		
<b>Governing law</b>	New South Wales, Australia	
<hr/>		
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the Irongate Property Fund II (ARSN 644 081 309) (" <b>Trust</b> "), constituted under a trust deed dated 3 September 2020, as amended from time to time (" <b>Constitution</b> ").
	<b>B</b>	The Trust is registered as a managed investment scheme pursuant to section 601EB of the Corporations Act (" <b>Registered Scheme</b> ").
	<b>C</b>	The units of the Trust are stapled to the units of Irongate Property Fund I (ARSN 162 067 736) (" <b>IPF I</b> ") and are quoted and traded on ASX and JSE as stapled securities of Irongate Group (ASX and JSE: IAP).
	<b>D</b>	The Responsible Entity, CHPIP and CHPIP Guarantor have agreed, by executing the Scheme Implementation Agreement, to propose and implement the Trust Scheme.
	<b>E</b>	The Constitution must be amended to facilitate the Trust Scheme.
	<b>F</b>	Section 601GC(1)(a) of the Corporations Act provides that the constitution of a managed investment scheme may be modified, or repealed and replaced with a new constitution by special resolution of the members of the scheme.
	<b>G</b>	Clauses 24.1 and 24.2 of the Constitution provide that while the Trust is a Registered Scheme, the Constitution may be modified, or repealed and replaced with a new deed by Special Resolution (as that term is defined in the Constitution) of the Unitholders, subject to any approval required by any applicable law, the approval of the JSE and compliance with any applicable Listing Requirements in relation to such modification or repeal and replacement.
	<b>H</b>	The Responsible Entity proposes to execute this supplemental deed poll and lodge it with ASIC to modify the Constitution, as set out in this supplemental deed poll, to

give effect to the Special Resolution to modify the Constitution that was passed by Unitholders at a meeting held on 29 June 2022.

# General terms

---

## 1 Definitions and interpretation

### 1.1 Terms defined in the Constitution

Capitalised terms used in this supplemental deed poll have the meaning given in the Constitution, unless the contrary intention appears.

### 1.2 Definitions

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGM Industrial Partnership No.2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGM Industrial Partnership (ABN 29 250 100 507).

**Constitution** means the trust deed constituting the Trust, as approved by unitholders on 3 September 2020, as amended from time to time.

**Details** means the section of this supplemental deed poll entitled "Details".

**Effective** means in relation to the Trust Scheme, the coming into effect of the amendments to the Constitution (which will occur on the date and at the time a copy of the amended Constitution, or of the amendments, is lodged with ASIC under section 601GC(2) of the Corporations Act).

**Effective Date** means the date on which the Trust Scheme has become Effective.

**IPF I** means the trust known as 'Irongate Property Fund I' (ARSN 162 067 736).

**Scheme Implementation Agreement** means the document of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Trust** means the trust known as 'Irongate Property Fund I' (ARSN 162 067 736).

**Trust Scheme** means the arrangement set out in the Scheme Implementation Agreement and facilitated by the amendments to the Constitution set out in this supplemental deed poll.

**Unitholders** means the unitholders of the Trust.

### 1.3 Headings

Headings are inserted for convenience only and do not affect the interpretation of this supplemental deed poll.

#### **1.4 Benefit of this supplemental deed poll**

This document is made by the Responsible Entity with the intent that the benefit of this supplemental deed poll shall enure to the benefit of the Unitholders jointly and severally.

---

## **2 Conditions**

- (a) This document is conditional upon and will have no force or effect until the satisfaction or waiver of each of the conditions precedent stipulated in clause 3.1 ("Conditions Precedent") of the Scheme Implementation Agreement.
- (b) This supplemental deed poll is binding on the Responsible Entity, each Unitholder and any other person claiming through any of them as if each was a party to this supplemental deed poll.

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## **3 Amendments to the Constitution**

Subject to clause 2, the Responsible Entity declares with effect on and from the Effective Date, that by this supplemental deed poll the Constitution is modified in the manner set out in Schedule 1 of this supplemental deed poll.

---

## **4 No redeclaration etc**

The Responsible Entity declares that it is not, by this supplemental deed poll:

- (a) redeclaring the Trust or declaring any trust;
- (b) settling or resettling any trust;
- (c) causing the transfer, vesting or accruing of any property comprising the assets of the Trust in any person;
- (d) rescinding any trust; or
- (e) entering into a new constitution.

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## **5 Governing law**

This document is governed by the laws in force in the place specified in the Details. Each person affected by it irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

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## **6 Effective Date**

In accordance with section 601GC(2) of the Corporations Act, the amendments to the Constitution contained in this supplemental deed poll will take effect when a copy of this supplemental deed poll is lodged with ASIC.

---

**7      No merger**

Each obligation set out in this supplemental deed poll which is capable of having future operation continues in force after the Effective Date (as defined in Schedule 1) although this supplemental deed poll has otherwise been fully performed.

**EXECUTED** as a deed poll

# Supplemental Deed Poll - Irongate Property Fund II

## Schedule 1 Amendments to the Constitution

The Constitution is amended as follows:

---

### 1 Clause 28 - Trust Scheme

A new clause 28 is inserted immediately after clause 27 of the Constitution, as set out below:

#### 28 Trust Scheme

##### 28.1 Definitions

The following definitions apply in this clause 28 unless the context requires otherwise:

**CHH** means Charter Hall Holdings Pty. Limited (ACN 051 363 547).

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership No.2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership (ABN 29 250 100 507).

**Deed Poll** means the deed poll dated 18 May 2022 executed by CHPIP and CHPIP Guarantor in favour of the Scheme Unitholders.

**Effective** means, in relation to the Trust Scheme, the supplemental deed poll making amendments to this Constitution to facilitate the Trust Scheme, including the insertion of clause 28, taking effect pursuant to section 601GC(2) of the Corporations Act.

**Effective Date** means the date on which the Trust Scheme becomes Effective.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or 12(2) of the PPSA or any agreement to create any of them or allow them to exist.

**Implementation Date** means the 5th Business Day following the Record Date, or such other date as may be agreed in writing between CHPIP, CHPIP Guarantor and the Responsible Entity.

**Record Date** means 7.00 pm (Sydney time) on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between the IAP RE and CHPIP.

**Registered Address** means, in relation to a Scheme Unitholder, the address of that Scheme Unitholder shown on the Register as at the Record Date.

**Registry** means such suitably qualified person that is from time to time appointed by the Responsible Entity to operate the Register.

**Scheme Consideration** means an amount equal to \$1.90 in aggregate for each Scheme Unit and Scheme IPF I Unit.

**Scheme Implementation Agreement** means the agreement of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Scheme Meeting** means the meeting of Unitholders held on 29 June 2022 to consider the Scheme Resolutions, and includes any adjournment of that meeting.

**Scheme Resolutions** means the resolutions of the Unitholders to approve the Trust Scheme, including:

- (a) an ordinary resolution approving for the purpose of item 7 of section 611 of the Corporations Act the acquisition by CHH of all of the Scheme Units;
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to this Constitution to facilitate the implementation of the Trust Scheme; and
- (c) a special resolution approving the Responsible Entity to determine that the Stapling provisions of this deed will cease to apply and the Unstapling Date for the purpose of item 3.5 of Schedule 2 of this deed.

**Scheme IPF I Unit** means each Attached Security on issue as at the Record Date.

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

**Scheme Unitholders** means each person who is registered on the Register as a holder of Units as at the Record Date.

**Trust Scheme** means the arrangement by which all of the Scheme Units will be transferred to CHH, as set out in this clause 28.

## **28.2 Implementation of Trust Scheme**

- (a) Each Scheme Unitholder and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as the Responsible Entity considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.
- (b) Each Scheme Unitholder, without the need for any further act by that Holder, irrevocably appoints the Responsible Entity as that Holder's attorney and agent for the purpose of:
  - (1) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it, including executing and delivering any transfer of the Scheme Units; and

- (2) enforcing the Deed Poll against CHPIP and CHPIP Guarantor,

and the Responsible Entity accepts such appointment. The Responsible Entity, as attorney and as agent of each Holder, may sub-delegate its functions, authorities or powers under this clause 28(b) to all or any of its directors and officers (jointly, severally, or jointly and severally). Each Holder indemnifies the Responsible Entity and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 28.2(b).

- (c) Without limiting the Responsible Entity's other powers under this clause 28, the Responsible Entity has power to do all things that it considers necessary, desirable or reasonably incidental to give effect to the Trust Scheme, the Scheme Implementation Agreement and the transactions contemplated by them.
- (d) Subject to the Corporations Act, the Responsible Entity, CHH or any of their directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 28 even if they have an interest (financial or otherwise) in the outcome of such exercise.
- (e) Each Scheme Unitholder will be entitled to receive the Scheme Consideration for each Scheme Unit and Scheme IPF I Unit held by that Scheme Unitholder.
- (f) Without limiting the Responsible Entity's powers under this clause 28, subject to CHPIP and the CHPIP Guarantor having complied with their obligations under clause 4.2(b) of the Deed Poll:
- (1) on the Implementation Date, the Responsible Entity must determine in accordance with item 3.5(a) of Schedule 2 that the Stapling provisions of the Constitution will cease to apply on the Implementation Date and that the Implementation Date is to be the "Unstapling Date" for the purpose of item 3.5(a) of Schedule 2 of the Constitution;
  - (2) on the Effective Date, the Responsible Entity, as the Scheme Unitholder's agent and attorney under clause 28.2(b)(1) above, is empowered to transfer the Scheme Units and the Scheme IPF I Units on the Implementation Date for a price equal to the Scheme Consideration, in accordance with the terms of the Scheme Implementation Agreement and the Deed Poll; and
  - (3) by no later than the Implementation Date, the Responsible Entity must execute a transfer of the Scheme Units on behalf of each Scheme Unitholder as agent and attorney appointed under clause 28.2(b)(1) above in the manner and form which the Responsible Entity considers necessary and deliver the transfer to the Registry for registration.
  - (4) immediately after receipt of the transfer in accordance with clause 28.2(f)(3), but subject to the stamping of the transfer (if required), or the transfer being effected



under section 1074D of the *Corporations Act* (as the case may be), entering, or procuring the entry of, the name and address of CHH in the Register as the holder of all of the Scheme Units transferred to CHH in accordance with the Trust Scheme.

- (g) This clause 28:
- (1) binds the Responsible Entity and all of the Holders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (2) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act, the Listing Rules and the Listing Requirements).

### **28.3 Warranty by Scheme Unitholders**

Each Scheme Unitholder warrants to CHH and is deemed to have authorised the Responsible Entity to warrant to CHH as agent and attorney for the Scheme Unitholder by virtue of this clause 28.3, that:

- (a) all their Scheme Units (including any rights and entitlements attaching to those securities) transferred to CHH under the Trust Scheme, will, as at the date of the transfer, be fully paid and free from all Encumbrances;
- (b) they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those securities) to CHH under the Trust Scheme; and
- (c) they have agreed to the variation, cancellation or modification of the rights attached to their Scheme Units (if any) in accordance with the Trust Scheme without the need for any further act by the Scheme Unitholder.

### **28.4 Transfer free of Encumbrances**

To the extent permitted by law, all Scheme Units (including any rights and entitlements attaching to those securities) which are transferred to CHH under the Trust Scheme will, at the date of the transfer of them to CHH, vest in CHH free from all Encumbrances.

### **28.5 Appointment of CHH as sole proxy**

Subject to the provision of the Scheme Consideration for the Scheme Units, on and from the Implementation Date until the Responsible Entity registers CHH as the holder of all the Scheme Units in the Register, each Scheme Unitholder:

- (a) irrevocably appoints the Responsible Entity as attorney and agent (and directs the Responsible Entity in such capacity) to appoint CHH and each of CHH's directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable, corporate representative, to attend Unitholder meetings, exercise the votes attaching to Units registered in its name and sign any Unitholder resolution, and no Scheme Unitholder may itself attend or vote at any of those meetings or

sign any resolutions, whether in person, by proxy, or by corporate representative (other than pursuant to this clause 28.5(a)); and

- (b) must take all other actions in the capacity of the registered holder of Units as CHH directs.

The Responsible Entity undertakes in favour of each Scheme Unitholder that it will appoint CHH and each of CHH's directors from time to time (jointly and each of them individually) as that Scheme Unitholder's proxy or, where applicable, corporate representative, in accordance with clause 28.5(a).

## **28.6 Payment to Scheme Unitholders**

- (a) On the Implementation Date, subject to CHPIP having satisfied its obligations under clause 4.2(b) of the Deed Poll, the Responsible Entity must pay or procure the payment from the Trust Account to each Scheme Unitholder the Scheme Consideration as that Scheme Unitholder is entitled under clause 28.2(e).
- (b) The obligations of the Responsible Entity under clause 28.6(a) will be satisfied by the Responsible Entity (in its absolute discretion):
  - (1) where a Scheme Unitholder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Responsible Entity by electronic funds transfer to a bank account nominated by the Scheme Unitholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (2) otherwise, whether or not the Scheme Unitholder has made an election referred to in paragraph (1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unitholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unitholder (or in the case of Joint Holders, in accordance with the procedures set out in clause 28.7).
- (c) Notwithstanding anything to the contrary in this deed, the Scheme Consideration paid to Scheme Unitholders included in the Register maintained by, or on behalf of, the Responsible Entity in South Africa (as a sub-register of the Register), will be paid to such Scheme Unitholders in a ZAR (Rand) equivalent of the Scheme Consideration determined by the ZAR (Rand) / AUD (Australian Dollar) spot rate quoted by Reuters as at the date and time determined by the Responsible Entity provided that CHPIP shall have no obligation to make available to the Responsible Entity funds denominated in ZAR (Rand) and no obligation to gross-up for any conversion costs or rounding differences.

### **28.7 Joint Holders**

In the case of Scheme Units held by Joint Holders:

- (a) any cheque required to be sent under the Trust Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date.

### **28.8 Fractional entitlements**

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

### **28.9 Unclaimed monies**

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any amount payable to a Scheme Unitholder under the Trust Scheme which becomes 'unclaimed money' (as defined in section 7 of that Act).
- (b) The Responsible Entity may cancel a cheque issued on account of the Scheme Consideration if the cheque:
  - (1) is returned to the Responsible Entity; or
  - (2) has not been presented for payment within 12 months after the date on which the cheque was sent.

### **28.10 Orders of a court or Government Agency**

- (a) The Responsible Entity may deduct and withhold from any Scheme Consideration which would otherwise be payable to a Scheme Unitholder any amount which CHPIP or the Responsible Entity determine is required to be deducted and withheld from that consideration under any applicable law, including any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency.
- (b) To the extent that amounts are so deducted or withheld, such deducted or withheld amounts will be treated for all purposes under the Trust Scheme as having been paid to the person in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Government Agency on or before the Implementation Date.
- (c) If written notice is given to the Responsible Entity (or the Registry) of an order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency that

- (i) requires consideration which would otherwise be payable or provided to a Scheme Unitholder under the Trust Scheme must instead be paid or provided to a Government Agency or other third party (either through payment of a sum or the issuance of a security), then, the Responsible Entity shall be entitled to procure that payment or provision of that consideration is made in accordance with that order, direction or notice (and payment or provision of that consideration in accordance with that order, direction or notice will be treated for all purposes under the Trust Scheme as having been paid or provided to that Scheme Unitholder); or
- (ii) prevents the Responsible Entity from providing consideration to any particular Scheme Unitholder under the Trust Scheme, or the payment or provision of such consideration is otherwise prohibited by applicable law, the Responsible Entity shall be entitled to retain the Scheme Consideration to which that Scheme Unitholder would otherwise be entitled to under the Trust Scheme, until such time as payment or provision of the Scheme Consideration under the Trust Scheme is permitted by that order or direction or otherwise by law.

#### **28.11 No disposals after the Effective Date**

- (a) If the Trust Scheme becomes Effective, a holder of Scheme Units (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them after the Effective Date in any way except pursuant to the Trust Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) The Responsible Entity will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Units received after the Record Date (except a transfer to CHH pursuant to the Trust Scheme or any subsequent transfer by CHH or its successors in title).

#### **28.12 Lapsing**

Clause 28 will lapse and have no further force or effect if the Trust Scheme lapses in accordance with the Scheme Implementation Agreement.

# Supplemental Deed Poll - Irongate Property Fund II

Signing page

DATED: 06 JULY 2022

EXECUTED by IRONGATE FUNDS  
MANAGEMENT LIMITED (ACN 071  
514 246) as responsible entity of  
IRONGATE PROPERTY FUND II  
(ARSN 644 081 309) in accordance  
with section 127(1) of the *Corporations  
Act 2001* (Cth) by authority of its  
directors:

Signature of director

Graine Anthony Katz

Name of director (block letters)

Signature of director/company  
secretary\*

\*delete whichever is not applicable

Lucy Spenceley

Name of director/company secretary\*  
(block letters)

\*delete whichever is not applicable

# Consolidated Constitution as at 6 July 2022

## Irongate Property Fund I (formerly known as Investec Australia Property Fund)\*

ARSN 162 067 736

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Responsible Entity: Irongate Funds Management  
Limited (formerly known as Investec Property Limited)\*\*  
ACN 071 514 246

Original dated 12 December 2012

And incorporating amendments made by the:

Amending Deed dated 22 January 2013

Second Amending Deed dated 5 February 2013

Registered as the constitution for a Managed Investment Scheme  
on 6 February 2013

Third Amending Deed dated 25 July 2013 (lodged with ASIC 29  
July 2013)

Fourth Amending Deed dated 8 March 2018 (lodged with ASIC 13  
March 2018)

Fifth Amending Deed dated 5 September 2018 (lodged with ASIC 6  
September 2018)

Sixth Amending Deed dated 5 September 2018 (lodged with ASIC 6  
September 2018)

Seventh Amending Deed dated 13 August 2020 (lodged with ASIC  
17 August 2020)

Name changed on 7 December 2020

Eighth Amending Deed dated 6 July 2022 (lodged with ASIC 6 July  
2022)

\* Effective on 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund I' pursuant to clause 24.4(b) of this deed.

\*\* Effective on 30 November 2020, the Responsible Entity changed its name to 'Irongate Funds Management Limited'.

# Contents

## Table of contents

---

<b>1</b>	<b>Definitions and interpretation</b>	<b>2</b>
1.1	Deed components.....	2
1.2	Definitions .....	2
1.3	Interpretation.....	19
1.4	Interpretation of inclusive expressions.....	20
1.5	Business Day .....	20
1.6	Financial Year .....	20
1.7	General compliance .....	20
1.8	Inconsistency with Listings Requirements and Listing Rules .....	20
1.9	Record dates.....	21
1.10	Corporations Act while not registered.....	21
1.11	Managed investment trust .....	22
<b>2</b>	<b>Declaration of Trust</b>	<b>22</b>
2.1	Trustee.....	22
2.2	Name of Trust .....	22
2.3	Vesting of Assets in Trustee .....	22
<b>3</b>	<b>Interest of Unitholders</b>	<b>22</b>
3.1	Division into Units .....	22
3.2	No issue of fractional Units .....	23
3.3	Consolidation and split of Units .....	23
3.5	Classes of Units .....	23
3.6	Benefits and obligations of Unitholders .....	24
3.7	No further liability .....	24
<b>4</b>	<b>Forfeiture</b>	<b>24</b>
4.1	Forfeiture of Units .....	24
4.2	Sale of Forfeited Unit .....	25
4.3	Cancellation of forfeiture .....	25
4.4	Consequences of sale and continuing liability.....	25
4.5	Proceeds of sale of Forfeited Unit .....	26
<b>5</b>	<b>Rights of Optionholders</b>	<b>27</b>
5.1	Terms of Offer and subscription .....	27
5.2	Options bind the Responsible Entity.....	27
5.3	Exercise .....	27
5.4	Expiry .....	27
5.5	Cancellation or purchase .....	27
5.6	Benefits and obligations of Optionholders .....	28
<b>6</b>	<b>Power to issue Units and grant Options</b>	<b>28</b>
6.1	Powers Cumulative .....	28
6.2	Issue of Units at fixed price.....	28
6.3	Issue of Options at fixed price .....	29
6.4	Placements .....	29
6.5	Rights issues.....	30
6.6	Distribution reinvestment issues .....	31
6.7	Other issues of Units or Options.....	32

# Contents

6.8	Fractions of Units .....	32
6.9	Currency .....	32
6.10	Underwriting .....	32
6.11	Foreign Holders .....	33
<b>7</b>	<b>Issue of Units and of Options</b> .....	<b>34</b>
7.1	Pre-emptive rights .....	34
7.2	Terms of Issue and Terms of Offer .....	35
7.3	Number of Units issued .....	35
7.4	Application for Units or for Options .....	35
7.5	Payments to the Responsible Entity .....	36
7.6	Responsible Entity's discretion on Application .....	37
7.7	Allotment of Units or grant of Options .....	37
7.8	Register .....	37
<b>8</b>	<b>Registers and transfers of Units and Options</b> .....	<b>38</b>
8.1	Recognition of registered Holder .....	38
8.2	Joint Holders .....	38
8.3	Transfer .....	38
8.4	Transaction advice .....	39
8.5	No general restriction on transfer .....	39
8.6	Transmission of Units and Options .....	40
8.7	Participation in transfer systems .....	41
8.8	Indemnity for transfer causing Duty liability .....	41
8.9	US Sale Facility .....	42
8.10	Odd Lots .....	43
8.11	Restricted Securities .....	44
<b>9</b>	<b>Redemption</b> .....	<b>45</b>
9.1	Redemption offer .....	45
9.2	Redemption of Units .....	46
9.3	Compulsory redemption .....	47
9.4	Allowable deductions .....	48
9.5	Redemption Price .....	48
9.6	Liquid or non-liquid trust .....	48
9.7	Buy-backs .....	48
<b>10</b>	<b>Responsible Entity's powers</b> .....	<b>49</b>
10.1	General powers of Responsible Entity .....	49
10.2	Exercise of powers .....	49
10.3	Delegation by Responsible Entity .....	49
10.4	Manager .....	49
10.5	Custodian .....	50
10.6	Independent Party .....	50
10.7	No issue of debt Securities with special privileges .....	50
10.8	Borrowing restriction .....	51
10.9	Responsibility for compliance .....	51
10.10	AMIT Powers .....	51
<b>11</b>	<b>Responsible Entity's liability</b> .....	<b>52</b>
11.1	No limitation of other undertakings .....	52
11.2	Limitation of liability of Responsible Entity .....	52
11.3	Circumstances where Responsible Entity is not liable .....	52



# Contents

11.4	Responsible Entity may rely on advice .....	52
11.5	Interested dealings by Responsible Entity .....	53
<b>12</b>	<b>Valuation and currency conversion</b>	<b>53</b>
12.1	Valuation of Assets .....	53
12.2	Responsible Entity to determine Current Unit Value .....	54
12.3	Valuation of Application Money .....	54
12.4	Currency Conversion .....	54
<b>13</b>	<b>Income and distributions</b>	<b>54</b>
13.1	Determining Distributable Income and reserves .....	54
13.2	Power to accumulate or defer amounts .....	55
13.3	Income Distribution Entitlements .....	56
13.4	Present entitlement .....	58
13.5	Distributions .....	58
13.6	Payment .....	59
13.7	Retention of fractions .....	59
13.8	Separate accounts .....	59
13.9	Attribution under AMIT Regime – basis for attribution .....	60
13.10	Attribution under AMIT Regime – AMIT Class Election .....	60
13.11	Attribution under AMIT Regime – Unitholder objections .....	61
13.12	AMIT Regime – Unders and Overs .....	61
13.13	AMIT Regime – exercise of Responsible Entity's powers .....	61
13.14	Reinvestment .....	62
13.15	Capitalisation of amounts .....	62
13.16	Trust taxed as a company .....	62
13.17	Change in taxation .....	63
<b>14</b>	<b>Meetings</b>	<b>63</b>
14.1	Meetings .....	63
14.2	Passing of resolution .....	63
<b>15</b>	<b>Proposal approved by Holders</b>	<b>63</b>
15.1	Power to implement a Proposal and limitation of liability .....	63
15.2	Paramountcy .....	64
<b>16</b>	<b>Stapling</b>	<b>64</b>
16.1	Stapling provisions .....	64
16.2	Paramountcy .....	64
<b>17</b>	<b>Takeovers</b>	<b>64</b>
<b>18</b>	<b>Complaints</b>	<b>64</b>
18.1	General .....	64
18.2	Complaints handling .....	65
18.3	Holder Complaints .....	65
18.4	Handling of Complaints .....	65
18.5	Assistance and information .....	66
<b>19</b>	<b>Remuneration of Responsible Entity</b>	<b>66</b>
19.1	Fee .....	66
19.2	Waiver or deferral of remuneration .....	66
19.3	Priority of Responsible Entity's remuneration .....	66

# Contents

<b>20</b>	<b>Responsible Entity's indemnity</b>	<b>67</b>
20.1	Responsible Entity's indemnity for Costs and liabilities .....	67
20.2	Waiver or deferral of Costs and liabilities .....	68
20.3	Proper performance of duties .....	68
<b>21</b>	<b>Compliance Committee's indemnity and insurance</b>	<b>68</b>
21.1	Indemnified persons .....	68
21.2	Indemnity in favour of member of Compliance Committee .....	69
21.3	Extent of indemnity .....	69
21.4	Insurance .....	69
21.5	Savings .....	69
<b>22</b>	<b>Retirement or removal of Responsible Entity</b>	<b>69</b>
22.1	Retirement and removal of Responsible Entity .....	69
22.2	Name of Trust to be changed .....	70
<b>23</b>	<b>Term of Trust and termination of Trust</b>	<b>70</b>
23.1	Term of Trust .....	70
23.2	Procedure on winding up of Trust.....	71
23.3	Audit of accounts of Trust .....	72
<b>24</b>	<b>Amendments</b>	<b>72</b>
24.1	Amendments generally .....	72
24.2	JSE approval.....	72
24.3	Class rights .....	72
24.4	Change of name .....	73
<b>25</b>	<b>Goods and Services Tax</b>	<b>73</b>
25.1	Definition and interpretation.....	73
25.2	Adjustment for GST .....	73
25.3	GST on transfers of Assets of the Fund .....	73
25.4	Tax invoice.....	73
25.5	Reimbursements.....	74
<b>26</b>	<b>Notices</b>	<b>74</b>
26.1	How to give notice.....	74
26.2	Receipt of notice .....	75
26.3	Reliance .....	75
26.4	Notices to Joint Holders.....	75
26.5	Addressees .....	75
<b>27</b>	<b>General</b>	<b>76</b>
27.1	Governing law and jurisdiction.....	76
27.2	Method of payment or repayment by Responsible Entity to Holders .....	76
27.3	Binding conditions.....	77
27.4	Other documents .....	77
27.5	Cumulative rights .....	77
27.6	Survival of indemnities .....	77
27.7	Attorney's rights and powers .....	77
27.8	Severability .....	78
<b>28</b>	<b>Trust Scheme</b>	<b>81</b>
28.1	Definitions .....	81

# Contents

	28.2 Implementation of Trust Scheme .....	82
	28.3 Warranty by Scheme Unitholders .....	84
	28.4 Transfer free of Encumbrances .....	84
	28.5 Appointment of CHPIP as sole proxy .....	84
	28.6 Payment to Scheme Unitholders .....	85
	28.7 Joint Holders .....	86
	28.8 Fractional entitlements .....	86
	28.9 Unclaimed monies .....	86
	28.10 Orders of a court or Government Agency .....	86
	28.11 No disposals after the Effective Date .....	87
	28.12 Lapsing .....	87
	<b>Schedule 1</b>	<b>89</b>
	<b>Meetings of Holders</b>	<b>89</b>
	<b>Schedule 2</b>	<b>96</b>
	<b>Stapling provisions</b>	<b>96</b>
<b>1</b>	<b>Definitions</b>	<b>96</b>
	1.1 Definitions in Schedule .....	96
	1.2 Clause references .....	97
	1.3 References to the deed .....	97
<b>2</b>	<b>Stapling</b>	<b>97</b>
	2.1 Operation of Stapling provisions .....	97
	2.2 Units and Options to be Stapled .....	98
	2.3 Issue of Securities .....	98
	2.4 Issue at fixed price .....	99
	2.5 Placements .....	99
	2.6 Rights issues .....	100
	2.7 Distribution reinvestment issues .....	100
	2.8 Allocation of Issue Price .....	100
	2.9 Exercise of Options .....	100
	2.10 Dealings in Securities .....	101
	2.11 Forfeiture .....	102
	2.12 Stapled Security Register .....	103
	2.13 Certificates and transfers .....	103
	2.14 US Sale Facility .....	103
	2.15 Meetings .....	104
	2.16 Duties .....	104
	2.17 Dealings between Stapled Entities .....	104
	2.18 Variation of Stapling provisions .....	105
<b>3</b>	<b>Corporate actions</b>	<b>105</b>
	3.1 Stapling .....	105
	3.2 Ineligible Foreign Holders .....	106
	3.3 Capital Reallocation .....	108
	3.4 Interposition of Head Trust .....	108
	3.5 Unstapling .....	109
	3.6 Appointment of attorney .....	109

# Contents

	<b>Schedule 3</b>	<b>111</b>
	<b>Takeover provisions</b>	<b>111</b>
<b>1</b>	<b>Definitions</b>	<b>111</b>
	1.1 Definitions in Schedule .....	111
	1.2 Clause references.....	114
	1.3 References to the deed .....	114
	1.4 Purpose.....	114
	1.5 Disclosure to Securities Exchange .....	114
<b>2</b>	<b>Prohibited acquisitions</b>	<b>115</b>
	2.1 20% maximum .....	115
	2.2 Responsibility .....	115
	2.3 Situations not giving rise to a Relevant Interest .....	115
	2.4 Relevant interest disregarded .....	116
<b>3</b>	<b>Exceptions to the prohibition</b>	<b>117</b>
	3.1 Acquisitions approved by the Responsible Entity .....	117
	3.2 Acquisitions approved by Holders .....	117
	3.3 Takeover Bids and On-Market Transactions .....	117
	3.4 Exchange offer .....	118
	3.5 Issues.....	118
	3.6 Other corporate actions .....	119
<b>4</b>	<b>Takeover Bids</b>	<b>119</b>
	4.1 General principles .....	119
	4.2 Bidders statement.....	121
	4.3 Regulated Bid .....	122
	4.4 Target statement.....	122
	4.5 Providing Holder details .....	123
<b>5</b>	<b>Substantial Holder notices</b>	<b>123</b>
	5.1 Requirement to give notice .....	123
	5.2 Information that must be given .....	123
	5.3 Additional documents .....	124
	5.4 When information must be given .....	124
<b>6</b>	<b>Tracing beneficial ownership</b>	<b>124</b>
	6.1 Disclosure notice.....	124
	6.2 Further disclosure notice .....	125
	6.3 Knowledge .....	125
<b>7</b>	<b>Remedies and enforcement</b>	<b>125</b>
	7.1 Remedies.....	125
	7.2 Conditions to exercise of remedies.....	125
	7.3 Appointment of Independent Counsel .....	126
	7.4 Independent Counsel's costs.....	126
	7.5 Obligation to impose remedies .....	126
	7.6 Enforcement.....	127
	7.7 Requests for information.....	127
	7.8 Liability .....	127

## Contents

**Signing page**

**128**

## Constitution

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Date ►

By

---

Responsible Entity

**Investec Property Limited\***

ABN 93 071 514 246 of Level 23, Chifley Tower, 2 Chifley Square,  
Sydney, NSW, 2000

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Recitals

- 1 The Responsible Entity intends that this deed will be the constitution for a unit trust known as the Investec Australia Property Fund\*\*.
  - 2 The Trust has been established to acquire and hold direct or indirect interests in Australian and New Zealand real property assets.
  - 3 The Trust has been registered as a managed investment scheme under section 601EB(1) of the Corporations Act.
  - 4 The Responsible Entity intends that the Trust will be registered in South Africa as a foreign Collective Investment Scheme under section 65 of the CISC Act, and that Units will be inward listed on the JSE in accordance with the Listings Requirements.
- 

This deed witnesses as follows:

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\* Effective on 30 November 2020, the Responsible Entity changed its name to 'Irongate Funds Management Limited'.

\*\* Effective on 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund I' pursuant to clause 24.4(b) of this deed.

# 1 Definitions and interpretation

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## 1.1 Deed components

This deed includes any schedule.

## 1.2 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
<b>Accounting Standards</b>	<ol style="list-style-type: none"><li>1 the accounting standards required under the Corporations Act (including the Approved Accounting Standards issued by the Australian Accounting Standards Board) and other mandatory professional reporting requirements issued by the joint accounting bodies (including the Australian Accounting Standards issued either jointly by CPA Australia and the Institute of Chartered Accountants in Australia or by the Australian Accounting Research Foundation on behalf of CPA Australia and the Institute of Chartered Accountants in Australia) from time to time; and</li><li>2 if no accounting standard applies under the Corporations Act or other mandatory professional reporting requirements, the principles set out in Australian Statements of Accounting Concepts from time to time.</li></ol>
<b>AMIT</b>	a trust which is an attribution managed investment trust under section 276-10 of the Tax Act.
<b>AMIT Class Election</b>	an election by the Responsible Entity for each Class of Units in the Trust to be treated as a separate AMIT for the purposes of the AMIT Regime, as provided for under section 276-20 of the Tax Act.
<b>AMIT Income Year</b>	means an income year in which the Trust is an AMIT.

<b>Term</b>	<b>Meaning</b>
<b>AMIT Regime</b>	the regime for the taxation of AMITs.
<b>AMMA Statement</b>	has the meaning given to that phrase in section 276-460 of the Tax Act.
<b>Application</b>	any of the following, as the context requires: <ol style="list-style-type: none"> <li>1 an application for Units;</li> <li>2 an application for Options; or</li> <li>3 a notification of the exercise of Options.</li> </ol>
<b>Application Money</b>	the property required to be transferred by an applicant to the Responsible Entity, or as otherwise directed by the Responsible Entity, on the making of an Application, which property may comprise Cash, property other than Cash or both.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASIC Relief</b>	A class order, instrument, exemption or declaration issued by ASIC.
<b>Assets</b>	in relation to the Fund, include: <ol style="list-style-type: none"> <li>1 direct interests in real property assets;</li> <li>2 interests in Sub Trusts;</li> <li>3 Securities of, and interests in, real property funds or real estate investment trusts which are listed on any securities exchange;</li> <li>4 participatory interests in Collective Investment Schemes which invest in real property; and</li> <li>5 Securities of, and interests in, trusts, managed investment schemes, partnerships or other entities which derive income from real property-related investments.</li> </ol>
<b>Associate</b>	has the meaning given to that term in sections 11, 15 and 16 of the Corporations Act.
<b>ASX</b>	ASX Limited (a company registered and incorporated with limited liability under the company laws of the Commonwealth of Australia)



Term	Meaning
	and, where relevant, the market for trading securities operated by the ASX.
<b>ASX Listed</b>	<ol style="list-style-type: none"> <li>1 in the case of the Trust, the Trust being listed on the ASX; and</li> <li>2 in the case of Units, Options or Stapled Securities, the Units, Options or Stapled Securities being ASX Quoted, and <b>ASX Listing</b> has a corresponding meaning.</li> </ol>
<b>ASX Quoted</b>	aspect of Units, Options or Stapled Securities, admitted to quotation by ASX under the Listing Rules.
<b>Attached Security</b>	<p>a Security which is from time to time Stapled together with other Securities to form a Stapled Security, and:</p> <ol style="list-style-type: none"> <li>1 in relation to a Unit, a share, debenture, note, bond, unit, interest or legal or equitable right referred to in the definition of Security which is from time to time Stapled to the Unit; and</li> <li>2 in relation to an Option, an option or similar Security which is from time to time Stapled to the Option.</li> </ol>
<b>Auditor</b>	the auditor from time to time appointed by the Responsible Entity to audit the financial reports of the Trust.
<b>Bank</b>	<ol style="list-style-type: none"> <li>1 an ADI (authorised deposit-taking institution) within the meaning given to that term in the <i>Banking Act 1959</i> (Cth);</li> <li>2 a person who carries on State banking within the meaning of paragraph 51(xiii) of the Commonwealth Constitution; or</li> <li>3 a public company registered as a bank in terms of the <i>Banks Act 94 of 1990</i> (South Africa).</li> </ol>
<b>Business Day</b>	a day other than a Saturday or Sunday on which banks are open for general business in Sydney and Johannesburg.
<b>Bookbuild</b>	a bookbuild arranged by a reputable investment bank with experience in arranging bookbuilds in the market in the place where the bookbuild is conducted, provided that the Auditor has provided written certification that the bookbuild was conducted in accordance with normal market standards.
<b>Cash</b>	money in Australian or South African currency and includes cheques and bank cheques in Australian or South African currency.

<b>Term</b>	<b>Meaning</b>
<b>CISCA</b>	<i>Collective Investment Schemes Control Act</i> No 45 of 2002 (South Africa).
<b>Collective Investment Scheme</b>	has the meaning given to that term in the CISCA.
<b>Companies Act</b>	<i>Companies Act</i> No 71 of 2008 (South Africa).
<b>Complaint</b>	an expression of dissatisfaction made to the Responsible Entity, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.
<b>Compliance Committee</b>	the compliance committee (if any) for the Trust as required by section 601JA of the Corporations Act.
<b>Compliance Plan</b>	the compliance plan for the Trust as required by section 601HA of the Corporations Act.
<b>Constituent Document</b>	the constituent documents of each Stapled Entity and the documents setting out the terms of each Attached Security, including this deed and any Terms of Issue and Terms of Offer applicable to Units and Options from time to time.
<b>Corporations Act</b>	<i>Corporations Act</i> 2001(Cth) (including as modified in its operation by any applicable ASIC Relief).
<b>Costs</b>	costs, charges, fees, expenses, commissions, losses, damages, Taxes and loss of Tax benefits and all amounts payable in respect of any of them or like payments.
<b>CS Facility</b>	has the same meaning as clearing and settlement facility in the Corporations Act.
<b>CS Facility Operator</b>	the operator of the CS Facility.
<b>Current Unit Value</b>	the amount calculated as follows:

Term	Meaning
	$CUV = \frac{NAV}{NU}$ <p>where:</p> <p><b>CUV</b> is Current Unit Value</p> <p><b>NAV</b> is Net Asset Value</p> <p><b>NU</b> is the number of Units on Issue</p>
<b>Custodian</b>	<p>Perpetual Corporate Trust Limited ABN 99 000 341 533 or such other independent person, who:</p> <ol style="list-style-type: none"> <li>1 is not, in relation to the Responsible Entity or Manager, either a holding company or subsidiary company within the meaning of those terms as defined in the Companies Act; and</li> <li>2 is appointed from time to time under a Custody Agreement to hold title to the Assets of the Fund as custodian for the Trust.</li> </ol>
<b>Custody Agreement</b>	<p>the Custody Agreement between the Responsible Entity (in its capacity as trustee of the Trust) and Perpetual Corporate Trust Limited ABN 99 000 341 533 dated 2 April 2013, and such other agreement under which a person may be appointed, from time to time, to hold title to the Assets of the Fund as custodian for the Trust.</p>
<b>Determined Member Component</b>	<p>has the meaning given to that phrase in section 276-205 of the Tax Act.</p>
<b>Determined Trust Component</b>	<p>has the meaning given to that phrase in section 276-255 of the Tax Act.</p>
<b>Distributable Income</b>	<p>in relation to a Distribution Period, the distributable income for that period determined in accordance with clause 13.1 subject to clauses 13.16 and 13.17.</p>
<b>Distribution Date</b>	<p>either:</p> <ol style="list-style-type: none"> <li>1 a day not more than 3 calendar months after the Distribution Period End Date for the relevant Distribution Period; or</li> <li>2 if the Responsible Entity determines that it is in the interests of Unitholders to delay the Distribution Date for a particular Distribution Period, the date determined by the Responsible Entity as being the appropriate Distribution Date for the Distribution Period.</li> </ol>

<b>Term</b>	<b>Meaning</b>
<b>Distribution Entitlement</b>	in respect of a Unitholder, an Income Distribution Entitlement or entitlement to participate in any other distribution (including a distribution of capital, previous reserves or previous provisions).
<b>Distribution Period</b>	<ol style="list-style-type: none"> <li>1 for the first Distribution Period, the period beginning on the date of establishment of the Trust to the next occurring Distribution Period End Date;</li> <li>2 for the last Distribution Period, the period beginning on the day after the preceding Distribution Period End Date to the date of termination of the Trust; and</li> <li>3 in all other circumstances, the period beginning on the day after the preceding Distribution Period End Date to the next occurring Distribution Period End Date.</li> </ol>
<b>Distribution Period End Date</b>	the last day in each Financial Year, the last day in each Half Year and such other dates as the Responsible Entity may determine.
<b>Duty</b>	any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of the above.
<b>Enterprise Value</b>	<p>as at the date on which Enterprise Value is to be determined, is the sum of:</p> <ol style="list-style-type: none"> <li>1 the Market Price of a Unit as at the relevant date multiplied by the average number of Units on Issue over the period of 30 consecutive business days (as defined in the Listings Requirements or Listing Rules, as applicable) immediately before the relevant date (whether or not a sale was recorded on a particular day); and</li> <li>2 the total amount of debt owing by the Trust and all Sub Trusts (other than amounts owing by the Trust to a Sub Trust, by a Sub Trust to the Trust or by a Sub Trust to another Sub Trust) as at the relevant date,</li> </ol> <p>less the total amount of Cash and cash equivalents (including money market instruments, short-term government bonds, treasury bills, bank certificates of deposit, bankers' acceptances and commercial paper) held by the Trust and all Sub Trusts as at the relevant date.</p>
<b>Escrow Period</b>	has the same meaning as in the Listing Rules.
<b>Excluded US Person</b>	a person that the Responsible Entity determines to be an Excluded US Person under clause 8.9(b).

<b>Term</b>	<b>Meaning</b>
<b>Excluded Securities</b>	Units, Options and Stapled Securities held by an Excluded US Person, subject to any determination by the Responsible Entity under clause 8.9(d).
<b>Exercise Price</b>	in relation to an Option, the dollar or rand value of the total consideration payable in respect of the exercise of that Option determined in accordance with the applicable provision in clause 6 pursuant to which the Option was granted.
<b>Financial Year</b>	<ol style="list-style-type: none"> <li>1 for the first Financial Year, the period beginning on the date of establishment of the Trust to the next 31 March;</li> <li>2 for the last Financial Year, the period beginning on 1 April before the date the Trust terminates to the date the Trust terminates; and</li> <li>3 in all other circumstances, the 12 month period ending on 31 March in each year.</li> </ol> <p>However, if the Australian Commissioner of Taxation grants the Trust a substituted accounting period, the Responsible Entity may elect to replace the time reference points in this definition with references to the new substituted accounting period.</p>
<b>FMA</b>	<i>Financial Markets Act 19 of 2012 (South Africa)</i>
<b>Foreign Holder</b>	a Unitholder or Optionholder (as the context may require) whose address appearing in the Register is a country other than Australia or South Africa.
<b>Foreign Interests</b>	the rights to subscribe for Units or Options to which a Foreign Holder is entitled or would be entitled but for the application of clause 6.11.
<b>Forfeited Unit</b>	a Unit which is deemed to be a Forfeited Unit in accordance with this deed.
<b>FSCA</b>	the Financial Sector Conduct Authority of the Republic of South Africa.
<b>Fund</b>	all the Cash, investments, rights and other property of the Trust held by the Responsible Entity pursuant to this deed, or by the Custodian for the Responsible Entity under the Custody Agreement.

<b>Term</b>	<b>Meaning</b>
<b>Government Agency</b>	any government or governmental, semi- governmental, administrative, fiscal or judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world.
<b>GST</b>	goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply.
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth).</i>
<b>Half Year</b>	the period beginning on the first day of a Financial Year and ending on the last day of the sixth calendar month after the end of the preceding Financial Year.
<b>Holder</b>	a Unitholder, Optionholder or Stapled Securityholder (as the context may require).
<b>Income Distribution Entitlement</b>	in respect of a Unitholder and Distribution Period, the amount calculated in respect of the Unitholder in accordance with clause 13.3.
<b>Income Tax Act</b>	<i>Income Tax Act No 58 of 1962 (South Africa).</i>
<b>Independent Expert</b>	an expert appointed by the Responsible Entity for the purpose of carrying out a valuation who is independent of the Responsible Entity.
<b>Independent Party</b>	<p>FirstRand Bank Limited (Registration number 1929/001225/06) or such other independent person, who:</p> <ol style="list-style-type: none"> <li>1 is not, in relation to the Responsible Entity or Manager, either a holding company or subsidiary or fellow subsidiary company within the meaning of those terms as defined in the Companies Act; and</li> <li>2 is appointed from time to time under a Review Services Agreement to carry out certain operational functions which the Cisca requires independent trustees to provide.</li> </ol>
<b>Issue Price</b>	in relation to a Unit or Option, the dollar or rand value of the total consideration payable at any time in respect of the issue of that Unit or the grant of that Option determined in accordance with the applicable provision in clause 6 pursuant to which the Unit was issued or the Option was granted.

<b>Term</b>	<b>Meaning</b>
<b>Joint Holders</b>	2 or more persons recorded in the Register as the holders of a Unit or Option.
<b>JSE</b>	JSE Limited (a company registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06, and licensed as an exchange under the FMA) and, where relevant, a market for trading Securities offered by the JSE.
<b>JSE Listed</b>	admitted to the 'Main Board' of the list of securities maintained by the JSE. For purposes of this deed, where a Unit or Option is Stapled, and the Stapled Security is Listed, the Unit or Option will be regarded as Listed as well as the Stapled Security.
<b>Liabilities</b>	<p>the liabilities of the Trust, including:</p> <ol style="list-style-type: none"> <li>1 unpaid Costs including administrative costs and expenses and including fees of the Responsible Entity;</li> <li>2 accrued charges in respect of or owing in relation to any Assets of the Fund;</li> <li>3 amounts required to meet present liabilities;</li> <li>4 amounts of all borrowings;</li> <li>5 any provision for Tax which in the opinion of the Responsible Entity should be taken into account; and</li> <li>6 any other amounts required to meet liabilities or other expenditure (including deferred liabilities) which in the opinion of the Responsible Entity should be taken into account in determining the amount of liabilities in any of the preceding items having regard to the Accounting Standards,</li> </ol> <p>but excludes liabilities:</p> <ol style="list-style-type: none"> <li>7 to applicants for Units in respect of application money or property in respect of which Units have not yet been issued; or</li> <li>8 to Unitholders, arising in connection with the Unitholders' right to request redemption or buy-back of their Units or to participate in the distribution of the Assets of the Fund on winding up of the Trust.</li> </ol>
<b>Liquid Scheme</b>	has the meaning given to that term in section 601KA(4) of the Corporations Act.
<b>Listed</b>	JSE Listed or ASX Listed, or both, or ASX Quoted, as the context requires, and <b>Listing</b> has a corresponding meaning.

<b>Term</b>	<b>Meaning</b>
<b>Listings Requirements</b>	the Listings Requirements of the JSE as amended from time to time by the JSE, whether by way of amendment, practice note, confirmation, waiver or otherwise.
<b>Listing Rules</b>	the listing rules of ASX and any other applicable rules of ASX as amended from time to time by ASX, or modified to the extent of any express written waiver, or confirmation or guidance note by ASX.
<b>Main Trading Exchange</b>	<ol style="list-style-type: none"> <li>1 before the Trust is Listed on ASX, the JSE; and</li> <li>2 after Listing on ASX, the JSE, unless in respect of a particular Trading Period (<b>Current Period</b>) more Units, by volume, were traded on the ASX than on the JSE during the immediately preceding Trading Period, in which case the Main Trading Exchange for the Current Period will be the ASX.</li> </ol>
<b>Managed Investment Scheme</b>	has the same meaning given to that term in the Corporations Act.
<b>Management Agreement</b>	<ol style="list-style-type: none"> <li>1 the management agreement between the Responsible Entity (in its capacity as trustee of the Trust) and Investec Property Management Pty Limited ACN 161 587 391 entered into before Units were JSE Listed, as amended from time to time; or</li> <li>2 a management agreement entered into between the Responsible Entity and a company which is a related body corporate of Investec plc or Investec Limited which replaces the agreement referred to in 1.</li> </ol>
<b>Manager</b>	Investec Property Management Pty Limited ACN 161 587 391, or such other person as is appointed from time to time under the Management Agreement to manage the Assets of the Fund including the provision of property management, property leasing, lease administration and development management services.
<b>Market Price</b>	<p>of a Unit on a particular day is:</p> <ol style="list-style-type: none"> <li>1 the volume weighted average traded price per Unit at which Units are traded on the Main Trading Exchange for the 30 most recent business days (as defined in the Listings Requirements or Listing Rules, as applicable) immediately before the relevant day, provided that, in determining such volume weighted average traded price, trades which: <ol style="list-style-type: none"> <li>a. are effected other than through the normal trading systems of the Main Trading Exchange; but</li> <li>b. are nevertheless settled through the settlement systems of the Main Trading Exchange;</li> </ol> </li> </ol>



Term	Meaning
	<p>are disregarded; or</p> <p>2</p> <p>a if Units have not been Listed on the Main Trading Exchange for at least 30 consecutive business days (as defined in the Listings Requirements or Listing Rules, as applicable) before the relevant day; or</p> <p>b if in the Responsible Entity's opinion a determination under item 1 above would not reflect the fair market value of the Unit having regard to the proposed offer or issue of Units, the Unit's Terms of Issue, and the circumstances in which the offer or issue is made or the Market Price is being determined (including because the Unit is Listed as part of a Stapled Security),</p> <p>the price per Unit that the Responsible Entity or an Independent Expert determines to be the market value of a Unit on the relevant day (including having regard to the matters referred to in item 2b above); or</p> <p>3 the price for a Unit obtained under a Bookbuild, which may be subject to a minimum price determined by the Responsible Entity.</p> <p>The Market Price of an Option or other Security on a particular day is determined in the same manner.</p>
<b>Market Value</b>	<p>1 for Cash or a deposit with a Bank, its face value (plus any accrued interest that is not included in its face value);</p> <p>2 for an interest in real estate, the amount most recently determined by an Independent Expert which the interest would realise if sold on the date of the valuation in the open market by a willing seller to a willing buyer;</p> <p>3 for Securities in, or of, an entity that are listed or quoted for trading on a financial market, the latest sale price for that Security on the relevant financial market which is readily available to the Responsible Entity, or if the Responsible Entity reasonably believes that it does not represent the fair market value of the Securities, the fair and reasonable value of the Securities determined by an Independent Expert having regard to the volume weighted average price of the Securities over such period as the Independent Expert considers appropriate;</p> <p>4 for interests in a Managed Investment Scheme that are not listed or quoted for trading on a financial market:</p> <p>a until the underlying assets in the Managed Investment Scheme are first valued, the cost of acquisition (including all related Costs and liabilities); and</p> <p>b following this, its market value quoted by the responsible entity, trustee, general partner or other applicable manager of the Managed Investment Scheme on the relevant date or the nearest earlier date,</p> <p>except that, if the Responsible Entity reasonably believes that such prices do not represent the fair market value of the</p>

<b>Term</b>	<b>Meaning</b>
	<p>interests, the fair and reasonable value of the interests determined by an Independent Expert; and</p> <p>5 for any other asset – the value of the asset determined in accordance with the Accounting Standards or, if the Responsible Entity reasonably believes that this does not represent the fair market value of the interests, the fair and reasonable value of the assets determined by an Independent Expert.</p>
<b>Meeting</b>	a meeting of Holders convened in accordance with this deed.
<b>Member Component</b>	has the meaning given to that phrase in section 276-210 of the Tax Act.
<b>Member Objection Choice</b>	a choice made by a Unitholder under the AMIT Regime for the Unitholder's Determined Member Component to be the Unitholder's Member Component, including a choice made by a Unitholder under sub-section 276-205(5) of the Tax Act.
<b>Net Asset Value</b>	<p>the sum of the values of Assets of the Fund including Assets that relate to derivative instruments used for hedging determined in accordance with clause 12.2 less:</p> <ol style="list-style-type: none"> <li>1 all amounts required to repay borrowings and to meet Liabilities (including the amount of any provisions the Responsible Entity determines, in consultation with the Auditor, should be made, and including Liabilities relating to derivative instruments used for hedging); and</li> <li>2 following any Distribution Period End Date, the amount of any Distribution Entitlements payable but not paid to Unitholders on the day on which the Net Asset Value is determined, except to the extent that Distribution Entitlements have already been accounted for as a Liability for the purposes of paragraph 1 above.</li> </ol>
<b>Non-AMIT Income Year</b>	a Financial Year which is not an AMIT Income Year.
<b>Odd Lot</b>	while the Trust is JSE Listed, the number of Units referred to in paragraph 5.123 of the Listings Requirements, and while the Trust is ASX Listed, the number of Units which comprise a marketable parcel under the Listing Rules, and if the Trust is both JSE Listed and ASX Listed, the lesser of those two amounts.

<b>Term</b>	<b>Meaning</b>
<b>Operating Rules</b>	the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated Securities as amended from time to time (whether in respect of the Trust or generally).
<b>Option</b>	an option granted by the Responsible Entity in respect of unissued Units giving the holder of the option the right, but not the obligation, to subscribe for Units.
<b>Optionholder</b>	a person recorded in the Register as a holder of an Option from time to time, including any persons jointly registered.
<b>Over</b>	has the meaning given to that term in section 276-345 of the Tax Act.
<b>PDS</b>	a product disclosure statement as required by Part 7.9 of the Corporations Act in respect of an offer or an issue of Units or of Options (as the context requires).
<b>Placement Resolution</b>	<p>a Special Resolution approving an issue of Securities where votes are only permitted to be cast in respect of interests:</p> <ol style="list-style-type: none"> <li>1 that are held by a Holder in the relevant class who will not acquire any of the Securities that are to be issued or an interest in those Securities; and</li> <li>2 that are held by a Holder in the relevant class who does not hold the Securities on trust for or on behalf of another person, unless that person will not acquire any of the Securities that are to be issued or an interest in those Securities.</li> </ol>
<b>Pre-Listing Statement</b>	a pre-listing statement/prospectus/listing particulars as required under the Listings Requirements.
<b>Proposal</b>	a proposal approved by an ordinary resolution of Holders, except to the extent that the Corporations Act requires the proposal to be approved by Special Resolution.
<b>QIB-QP</b>	<p>a US Person that is both:</p> <ol style="list-style-type: none"> <li>1 a Qualified Institutional Buyer as defined in Rule 144A under the US <i>Securities Act</i> of 1933, as amended; and</li> <li>2 a Qualified Purchaser as defined in Section 2(a)(51) of the US <i>Investment Company Act</i> of 1940, as amended and the rules</li> </ol>

<b>Term</b>	<b>Meaning</b>
	and regulations of the Securities and Exchange Commission promulgated under that Act.
<b>Record Date</b>	in relation to a Distribution Period, the date the Responsible Entity determines (subject to clause 1.9, as applicable) as the record date for that Distribution Period.
<b>Redemption Offer Period</b>	has the meaning given in clause 9.1(a)(1)
<b>Redemption Price</b>	the redemption price for Units, calculated on the basis set out in clause 9.5.
<b>Register</b>	the register of Unitholders or Optionholders maintained by, or on behalf of, the Responsible Entity pursuant to Chapter 2C of the Corporations Act and in accordance with the Listings Requirements and the Listing Rules, as applicable, or the register of Stapled Securities maintained as contemplated by Schedule 2, as the context requires.
<b>Registrar</b>	the person or persons responsible for keeping the Register.
<b>Registered Foreign Scheme</b>	a scheme registered as a foreign Collective Investment Scheme under section 65 of the CISCA.
<b>Registered Scheme</b>	a scheme registered by ASIC as a managed investment scheme under Chapter 5C of the Corporations Act.
<b>Responsible Entity</b>	<ol style="list-style-type: none"> <li>1 initially, Investec Property Limited;</li> <li>2 while the Trust is not a Registered Scheme, the trustee of the Trust from time to time; and</li> <li>3 while the Trust is a Registered Scheme, any other body corporate named in ASIC's record of registration for the Trust from time to time as the responsible entity of the Trust.</li> </ol>
<b>Restricted Securities</b>	me meaning as in the Listing Rules.
<b>Review Services Agreement</b>	the Review Services Agreement between the Responsible Entity (in its capacity as trustee of the Trust) and FirstRand Bank Limited (Registration number 1929/001225/06) to be entered into before Units are Listed, and such other agreement under which a person

<b>Term</b>	<b>Meaning</b>
	may be appointed, from time to time, to carry out certain operational functions which the Cisca requires independent trustees to provide.
<b>Securities</b>	<ol style="list-style-type: none"> <li>1 shares, debentures, notes, bonds, units in a trust, interests in a Registered Scheme;</li> <li>2 legal or equitable rights or interests in securities referred to in item 1 above; and</li> <li>3 options to acquire (whether by way of issue or transfer) securities referred to in item 1 or 2 above.</li> </ol>
<b>Special Resolution</b>	has the meaning given to that term in the Corporations Act.
<b>Specific Issue of Units for Cash</b>	the specific issue of Units for cash of up to [180 million Units] as authorised at the general meeting of Unitholders held in connection with an ASX Listing proposal in 2018, on the basis that the issue of those Units must be completed within 12 months after the date of the general meeting.
<b>Stapled</b>	the linking together of Securities so that one may not be dealt with without the other or others, and in relation to a Unit or Option and another Attached Security or other Attached Securities, being linked together so that one may not be dealt with without the other or others.
<b>Stapled Entity</b>	<ol style="list-style-type: none"> <li>1 If Units or Options are Stapled to Securities of another Australian or overseas trust, managed investment scheme, partnership, body corporate or other entity the Trust and each other such entity; and</li> <li>2 if Units or Options are Stapled to other Securities issued by the Responsible Entity in its capacity as trustee of the Trust (even if they are not they are Stapled to securities of any other entity), the Trust.</li> </ol>
<b>Stapled Security</b>	the Security created by Stapling Units or Options together with other Securities.
<b>Stapled Securityholder</b>	a person recorded in the Register of Stapled Securities as the holder of a Stapled Security from time to time, including any persons jointly registered.

<b>Term</b>	<b>Meaning</b>
<b>Sub Trust</b>	each trust through which the Trust indirectly holds an interest in any real property, from time to time.
<b>Tangible Assets</b>	all assets other than goodwill, patents, trademarks, design rights, franchises, future Tax benefits, underwriting and formation expenses, capitalised exploration and development expenditure and all other assets and items which according to the Accounting Standards are regarded as intangible assets.
<b>Tax</b>	any Duty, tax, levy, charge, impost, fee, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed in respect of any of the above.
<b>Tax Act</b>	<i>Income Tax Assessment Act 1936 (Cth)</i> and <i>Income Tax Assessment Act 1997 (Cth)</i> , as applicable.
<b>Terms of Issue</b>	in relation to a Unit or Option, the terms and conditions on which that Unit or Option is issued (other than those contained in this deed).
<b>Terms of Offer</b>	in relation to an offer to acquire an Option, the terms and conditions on which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option.
<b>Trading Period</b>	<p>a period beginning on the first day:</p> <ol style="list-style-type: none"> <li>1 of a Financial Year and ending on the last day of the corresponding Half Year; or</li> <li>2 after the last day of a Half Year and ending on the last day of the corresponding Financial Year,</li> </ol> <p>as applicable.</p>
<b>Transmission Event</b>	<p>in respect of a Holder who is an individual:</p> <ol style="list-style-type: none"> <li>1 the death of the Holder;</li> <li>2 the bankruptcy of the Holder; or</li> <li>3 the Holder becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or</li> </ol> <p>in respect of a Holder who is body corporate, the deregistration or dissolution of the Holder or the succession by another body corporate to the assets and liabilities of the Holder.</p>

<b>Term</b>	<b>Meaning</b>
<b>Trust</b>	the trust constituted under this deed.
<b>Trust Component</b>	has the meaning given to that phrase in section 276-260 of the Tax Act.
<b>Trust Group</b>	the Trust and each Sub Trust which forms part of the same consolidated group as the Trust under the Accounting Standards, and, where applicable, each responsible entity or trustee of the Trust and each Sub Trust (but solely in their respective capacities as such).
<b>Trustee</b>	the Responsible Entity.
<b>Under</b>	has the meaning given to that term in section 276-345 of the Tax Act.
<b>Unit</b>	an undivided participatory interest in the Fund as provided for in this deed.
<b>Unitholder</b>	a person recorded in the Register as the holder of a Unit from time to time, including any persons jointly registered.
<b>Units on Issue</b>	the number of Units created under this deed from time to time and not cancelled.
<b>US Person</b>	has the meaning given in Rule 902 of Regulation S under the US <i>Securities Act</i> of 1933, as amended.
<b>US Sale Facility</b>	the facility described in clause 8.9, under which Excluded US Persons are required to transfer Excluded Securities to a sale nominee to sell the Excluded Securities and pay the net sale proceeds to the relevant person.

### 1.3 Interpretation

In this deed, unless the context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this deed;
- (b) words importing the singular include the plural and vice versa;

- (c) words importing a gender include any gender;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental or semi-governmental agency;
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.3(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party or schedule is a reference to a clause or party of, and a schedule to, this deed and a reference to this deed includes any schedule;
- (h) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (i) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (j) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (k) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (l) reference to an asset includes all property of any nature, including a business, and all rights, revenues and benefits;
- (m) a reference to dollars and \$ is a reference to the lawful currency of the Commonwealth of Australia;
- (n) a reference to rand and R is a reference to the lawful currency of the Republic of South Africa;
- (o) a reference to a body, other than a party to this deed, including a commission or an exchange, whether statutory or not, which ceases to exist or whose functions or powers are transferred to another body, is a reference to the body which replaces it or substantially succeeds to its powers and functions; and
- (p) a reference to the proper performance of a duty is a reference to the proper performance of the duty after all available appeals from each judgment in respect of the matter have been exhausted.

#### **1.4 Interpretation of inclusive expressions**

Specifying anything in the deed after the words 'include' or 'for example' or similar expressions does not limit what else is included.

#### **1.5 Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding Business Day.



## **1.6 Financial Year**

The definition of Financial Year in this deed is not a determination of the Trust's financial year under section 323D of the Corporations Act.

## **1.7 General compliance**

- (a) While the Trust remains a Registered Scheme, subject to any declarations made by or exemptions granted by ASIC which are current in respect of or applicable to this deed, a provision of this deed which is inconsistent with a provision of the Corporations Act does not operate to the extent of the inconsistency. This clause 1.7(a) prevails over all other provisions of this deed including any that are expressed to prevail over it.
- (b) On and from the date of the Trust becomes a Registered Foreign Scheme, subject to any declarations made by or exemptions granted by the FSB which are current in respect of or applicable to this deed, a provision of this deed which is inconsistent with an applicable provision of the CISCA does not operate to the extent of the inconsistency. Subject to clause 1.7(a), this clause 1.7(b) prevails over all other provisions of this deed including any that are expressed to prevail over it.

## **1.8 Inconsistency with Listings Requirements and Listing Rules**

- (a) Subject to this clause 1.8, while any Units or Options are JSE Listed:
  - (1) despite anything in this deed, if the Listings Requirements prohibit an act being done, the act must not be done and Holders cannot, by resolution, authorise or ratify such act unless the JSE agrees otherwise;
  - (2) nothing in this deed prevents an act being done that the Listings Requirements require to be done; and
  - (3) if the Listings Requirements require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (b) Subject to this clause 1.8, while the Trust is ASX Listed:
  - (1) despite anything in this deed, if the Listing Rules prohibit an act being done, the act will not be done and Holders cannot, by resolution, authorise or ratify such act unless the ASX agrees otherwise;
  - (2) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;
  - (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
  - (4) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is taken to contain that provision;
  - (5) if the Listing Rules require this deed not to contain a provision and it contains the provision, this deed is taken not to contain that provision; and

- (6) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is taken not to contain that provision to the extent of the inconsistency.
- (c) If it is not possible for the Responsible Entity to comply with both the Listings Requirements and the Listing Rules with respect to a particular act, matter or thing concerning the Trust, the Responsible Entity must comply with the rule or requirement of the Main Trading Exchange at the relevant time.
- (d) Despite anything to the contrary in this clause 1.8, this clause 1.8 has effect subject to clause 1.7.
- (e) A reference in this deed to a thing that must be done or not done because of:
  - (1) the Listings Requirements, applies only while the Trust is JSE Listed; and
  - (2) the Listing Rules, applies only while the Trust is ASX Listed.

## 1.9 Record dates

Subject to clause 1.8(c), while any Units or Options are Listed, in determining any record date in relation to an entitlement to vote at a Meeting, distribution or transaction, except to the extent that the JSE and ASX (as applicable) permit otherwise, the Responsible Entity must ensure that the record date is set in compliance with both the Listings Requirements and the Listing Rules.

## 1.10 Corporations Act while not registered

While the Trust is not a Registered Scheme, the Responsible Entity must comply with the following provisions of the Corporations Act as far as the circumstances allow as if the Trust was a Registered Scheme and the Responsible Entity was the responsible entity of that Managed Investment Scheme:

- (a) Chapter 2C (Registers);
- (b) Part 2G.4 (Meetings of Members of Registered Managed Investment Schemes) other than sections 252F, 252G, 252H, 252T and 253E; and
- (c) Chapter 2M (Financial Reports and Audit).

## 1.11 Managed investment trust

- (a) The Responsible Entity must use its reasonable endeavours to ensure that for any Assets comprising the Fund that are located in Australia, a substantial amount of the investment management activities in relation to those Assets are carried out in Australia so that the Trust qualifies as, and continues to qualify from time to time as, a managed investment trust (**MIT**) as defined in section 12-400 of Schedule 1 to the *Tax Administration Act* 1953 (Cth) (**TAA**).
- (b) Despite any other provision of this deed, if at any time there is a requirement to amend this deed so that the Trust does not lose its MIT concessional taxation status, the Responsible Entity and each Unitholder must use all reasonable endeavours to amend this deed accordingly.

## 2 Declaration of Trust

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### 2.1 Trustee

Investec Property Limited\* is appointed and agrees to act as trustee of the Trust.

### 2.2 Name of Trust

The name of the Trust is 'Investec Australia Property Fund'\*\*. The Responsible Entity may change the name of the Trust.

### 2.3 Vesting of Assets in Trustee

Each Asset of the Fund is vested in, and is held by, the Trustee on behalf of the Unitholders.

\* Effective on 30 November 2020, the Responsible Entity changed its name to 'Irongate Funds Management Limited'

\*\* Effective on 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund I' pursuant to clause 24.4(b) of this deed.

## 3 Interest of Unitholders

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### 3.1 Division into Units

- (a) The beneficial interest in the Fund is divided into Units. No Unit confers on a Unitholder an interest in a particular part of the Fund.
- (b) A Unitholder may not:
  - (1) interfere with or question, or seek to interfere with or question, the rights, powers, authority or discretion of the Responsible Entity;
  - (2) claim or exercise any right in respect of any Asset of the Fund or lodge any caveat or other notice affecting any Asset of the Fund; or
  - (3) require that any Asset of the Fund be transferred to a Unitholder.
- (c) Unitholders may not give any directions to the Responsible Entity (whether at a meeting convened pursuant to sections 252B, 252C and 252D of the Corporations Act or otherwise) if it would require the Responsible Entity to do, or omit doing, anything which may result in the exercise of any discretion expressly conferred on the Responsible Entity by this deed or the determination of any matter which under this deed requires the agreement of the Responsible Entity.

### 3.2 No issue of fractional Units

The Responsible Entity must not issue Units in fractions.

### 3.3 Consolidation and split of Units

- (a) Subject to clauses 3.3(b) and 3.3(c), the Responsible Entity may consolidate or split the Units and in acquiring Units, each Unitholder is taken to have consented to any such consolidation or split.
- (b) While any Units or Options are Listed, the Responsible Entity may only consolidate or split Units with the approval of a Special Resolution of Holders, and otherwise in accordance with the Listings Requirements and the Listing Rules, each as applicable.
- (c) In respect of any consolidation or split of Units, the Responsible Entity must:
  - (1) promptly amend the Register to record the consolidation or split;
  - (2) notify the Unitholder within 30 days of the consolidation or split; and
  - (3) ensure that each Unit in a class is consolidated or split on the same basis as each other Unit in that class.
- (d) While any Units or Options are Listed, where any consolidation or split of Units under clause 3.3(c) would otherwise result in a Unitholder holding a

fraction of one Unit, the Responsible Entity must consolidate or split the Units on a basis which allows the Responsible Entity to round the number of Units downwards or upwards to the nearest whole number at the Responsible Entity's discretion. Any excess Application Money or other money or property which results from a rounding becomes an Asset of the Fund.

### **3.4 No issue of partly paid Units**

The Responsible Entity must not offer any Units for subscription other than as fully paid Units.

### **3.5 Classes of Units**

- (a) Subject to clause 3.5(b)(2), the Listings Requirements and the Listing Rules, the Responsible Entity may at any time issue Units in 2 or more classes with rights, obligations and restrictions as it determines and which may be preferential or subordinated to the rights, obligations and restrictions of any other class.
- (b) While any Units or Options are Listed:
  - (1) the Responsible Entity may only create a new class of Units with the approval of a Special Resolution of Holders and otherwise in accordance with the Listings Requirements and the Listing Rules; and
  - (2) in any event, Units must not be issued with any special rights, or privileges, in relation to voting at general Meetings in addition to the voting rights that the relevant Unitholder has in respect of its interest in the Trust under the Corporations Act.
- (c) Units in class must:
  - (1) be in all respects identical;
  - (2) carry the same rights as to unrestricted transfer, attendance and voting at Meetings and in all other respects; and
  - (3) be entitled to distributions at the same rate and for the same period, so that at the next ensuing distribution, the distribution payable in respect of each Unit in the class is the same amount.
- (d) The Responsible Entity may convert any Units from one class to another class or reclassify Units from one class to another.
- (e) The Responsible Entity must enter on the Register the class or Terms of Issue of Units held by a Unitholder.

### **3.6 Benefits and obligations of Unitholders**

- (a) A Unitholder holds Units subject to this deed and such Terms of Issue as apply to those Units. Except where expressly provided in this deed, or any applicable Terms of Issue, to the contrary, all benefits and obligations contained in this deed apply for the benefit of and bind each Unitholder to the extent provided in this deed.

- (b) Where the interests of Optionholders and Unitholders conflict the Responsible Entity must prefer the interests of Unitholders.

### **3.7 No further liability**

- (a) This clause 3.7 is subject to any separate agreement between a Unitholder and the Responsible Entity.
- (b) The liability of each Unitholder in its capacity as such is limited to the Holder's investment in the Trust.
- (c) A Unitholder is not required to indemnify the Responsible Entity or a creditor of the Responsible Entity against any liability of the Responsible Entity in respect of the Trust.
- (d) The recourse of the Responsible Entity and any creditor of the Responsible Entity is limited to the Assets of the Fund.
- (e) Except where expressly provided in this deed, nothing in this deed makes the Responsible Entity the agent of a Holder, nor does it create any relationship other than (as between a Unitholder and the Responsible Entity) that of beneficiary and Responsible Entity.

## **4 Forfeiture**

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### **4.1 Forfeiture of Units**

- (a) If the Responsible Entity deems a Unit to be a Forfeited Unit under this deed, the Responsible Entity, the forfeiture takes effect on the date which the Responsible Entity determines.
- (b) Promptly after deeming a Unit to be a Forfeited Unit, the Responsible Entity must give a notice of the forfeiture to the holder of that Unit setting out:
  - (1) that the Unit has been forfeited; and
  - (2) the date of forfeiture.

The Responsible Entity's omission to give such notice, or the non-receipt of such notice by the holder of the Unit does not in any way affect the forfeiture of the Unit.

- (c) The forfeiture includes all distributions, interest and other money payable in respect of a Forfeited Unit and not actually paid before the forfeiture. Any such amounts that are subsequently paid must be applied in accordance with clause 4.5 as if they formed part of the proceeds of sale of a Forfeited Unit.
- (d) With effect from the date of forfeiture, a person whose Units have been forfeited ceases to have any further rights or interest as the holder of those Units, even though that person may remain recorded in the Register as the holder of those Units. However, the person remains liable to pay, and must immediately pay to the Responsible Entity, all amounts that remain outstanding in respect of the Units at the time of the forfeiture.

## 4.2 Sale of Forfeited Unit

- (a) The Responsible Entity may offer a Forfeited Unit for sale. If the Responsible Entity does so, it does so as agent for the holder of the Forfeited Unit.
- (b) Subject to clause 4.2(d) if the Responsible Entity sells the Forfeited Unit, it must sell it by public auction in a manner and at a price determined by the Responsible Entity.
- (c) At least 14 days, but no more than 21 days, before the date appointed for sale under clause 4.2(b), the Responsible Entity must:
  - (1) give a notice of the sale of a Forfeited Unit to all Unitholders; and
  - (2) and place advertisements of the sale in a daily newspaper circulating generally throughout Australia and in a daily newspaper circulating generally throughout South Africa.
- (d) The Responsible Entity must ensure that the auction is in accordance with section 254Q of the Corporations Act (other than subsections 254Q(1), (10) and (13)) as if the Forfeited Unit were a share, the Trust was the company and the Responsible Entity was the directors of the company.
- (e) The Responsible Entity is not liable to the Unitholder for any loss suffered by the Unitholder as a result of the sale.

## 4.3 Cancellation of forfeiture

At any time before a Forfeited Unit has been sold or otherwise disposed of, the Responsible Entity may:

- (a) exempt a Unitholder, or a Forfeited Unit, from all or any part of clause 4; or
- (b) waive or compromise all or any part of any payment due to the Trustee.
- (c) cancel the forfeiture on any terms it thinks fit.

## 4.4 Consequences of sale and continuing liability

- (a) On completion of the sale of the Forfeited Unit, the former holder of the Forfeited Unit (**Forfeited Unitholder**) ceases to be the holder of the Forfeited Unit but remains liable to the Responsible Entity for all amounts that remain outstanding in respect of the Units at the time of the forfeiture.
- (b) The liability of a Forfeited Unitholder under this clause 4.4 ceases as soon as the Responsible Entity receives payment in full of all amounts that remain outstanding in respect of the Units at the time of the forfeiture (excluding any amount paid by an underwriter pursuant to an underwriting agreement entered into under clause 6.10, in respect of which amounts the Forfeited Unitholder remains liable to the Responsible Entity, or any assignee of the Responsible Entity's right in respect of such amount).
- (c) On completion of the sale, the Responsible Entity must apply the consideration paid for a Forfeited Unit in accordance with clause 4.5. The Responsible Entity must execute a transfer of a Forfeited Unit as agent for the holder of the Forfeited Unit to the purchaser of that Forfeited Unit and register the transferee as the holder of the Forfeited Unit.

- (d) For the purposes of transferring Forfeited Units under this clause 4.4, each Unitholder irrevocably appoints the Responsible Entity as the Unitholder's agent and attorney to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable transfer the Forfeited Units:
- (e) A statement signed by a director or secretary of the Responsible Entity setting out:
  - (1) that a Unit has been forfeited; and
  - (2) the date of forfeiture,
 is conclusive evidence against any person claiming entitlement to the Forfeited Unit.
- (f) The transferee of the Forfeited Unit is not required to verify the application of the purchase money.
- (g) The title to a Forfeited Unit is not affected by any irregularity or invalidity in the proceedings relating to the sale or disposal of a Forfeited Unit.

#### **4.5 Proceeds of sale of Forfeited Unit**

- (a) If a Forfeited Unit is sold under clause 4.2, the Responsible Entity must apply the proceeds of the sale in the following order and manner:
  - (1) by paying (or reimbursing the Trustee for) any Costs and liabilities incurred by the Responsible Entity in relation to the sale or disposal of the Forfeited Unit including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation the non-payment or late payment of amounts outstanding in respect of the Units at the time of the forfeiture, including all Costs and liabilities associated with the forfeiture and any proceedings to recover the amount due from the holder of the Forfeited Unit;
  - (3) by holding as an Asset of the Fund, an amount equal to the balance of all amounts due and payable in respect of the Forfeited Units; and
  - (4) by paying the balance to the person whose Units have been forfeited.
- (b) If more than one Forfeited Unit is sold in a single sale process, the Responsible Entity must allocate the expenses listed in clause 4.5(a)(1) and (2) proportionally across all of the Forfeited Units being sold.
- (c) Joint holders of Units are jointly and severally liable for all amounts due and payable on their Units.



## **5 Rights of Optionholders**

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### **5.1 Terms of Offer and subscription**

- (a) The Responsible Entity must notify each person being offered Options of the Terms of Offer and the Terms of Issue of any Options which may be granted at the time of the offer.
- (b) A person may subscribe for an Option in accordance with the Terms of Offer. An Option may be subscribed for by a nominee of the person entitled to subscribe for the Option unless the Terms of Offer provide otherwise.

### **5.2 Options bind the Responsible Entity**

Upon creation, an Option binds the Responsible Entity until expiry in accordance with its Terms of Issue.

### **5.3 Exercise**

An Optionholder may only exercise an Option in accordance with the Terms of Issue. An Option may be exercised by a nominee of the Optionholder unless the Terms of Issue provide otherwise.

### **5.4 Expiry**

On the termination or winding up of the Trust, all Options lapse and, subject to any amounts specifically expressed to be payable to the Optionholder on the termination or winding up of the Trust, the liabilities of the Responsible Entity cease in respect of each Option.

### **5.5 Cancellation or purchase**

- (a) The Responsible Entity may cancel or purchase an Option, or any of the rights of an Option, in accordance with the Terms of Issue. Options and rights may only be cancelled or purchased under this clause 5.5(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Responsible Entity and the Responsible Entity may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).
- (b) Options and rights purchased under clause 5.5(a) form part of the Fund, and the Responsible Entity is recognised as the Holder and may exercise, resell or otherwise deal with them as it sees fit. The Responsible Entity retains title in law to every such Option and right until the Option or right is resold or expires and such title in law will not merge into such obligations as are constituted by the grant of such Options and rights.

### **5.6 Benefits and obligations of Optionholders**

- (a) An Optionholder holds Options subject to this deed and such Terms of Issue and Terms of Offer as apply to those Options. Except where expressly provided in this deed, or any applicable Terms of Issue or Terms of Offer, to the contrary:

- (1) all obligations in this deed bind each Optionholder to the extent provided in this deed; and
  - (2) the benefits in this deed only apply for the benefit of Optionholders where expressly provided in this deed.
- (b) Optionholders have only those rights expressly conferred on them by this deed and the Options' Terms of Offer and Terms of Issue.
- (c) An Option does not confer on the Optionholder any interest in the Fund or its Assets or any entitlement to any distribution of income or capital, or any distribution on winding up or termination of the Trust.
- (d) Optionholders are entitled:
  - (1) to inspect any document which may be inspected by; and
  - (2) to be sent any document which is sent to,
 Unitholders in similar circumstances.

## 6 Power to issue Units and grant Options

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### 6.1 Powers Cumulative

The Responsible Entity may issue Units and Options only in accordance with this clause 6 and other relevant provisions of this deed. Subject to clause 1.7, no provision in this clause 6 limits any other provision in this clause, and nothing in this clause 6 or this deed limits or is taken to limit the Responsible Entity's power to issue Units in compliance with any applicable ASIC Relief (and the Listing Rules and Listings Requirements, as applicable) whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 6 or otherwise.

### 6.2 Issue of Units at fixed price

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at any time to any person at an Issue Price as follows:

- (a) if Units are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX:
  - (1) at the Market Price of such Units immediately before the date on which the Unit is issued or offered for issue; and
  - (2) in respect of Units issued on exercise of an Option, at an Exercise Price equal to the Market Price of a Unit immediately before the date on which the Option was offered or granted, less the Issue Price of the Option specified in the Terms of Offer or Terms of Issue for that Option; and
- (b) if Units have been suspended from Listing (other than temporarily) on both the JSE and the ASX, or have otherwise ceased to be Listed, at the Current Unit Value calculated as at a date not less than 20 Business Days before the date of issue.

### **6.3 Issue of Options at fixed price**

In addition to any other power the Responsible Entity has to grant Options under this deed, the Responsible Entity may grant Options at any time to any person at an Issue Price as follows:

- (a) at the Issue Price as is specified in the Terms of Offer or Terms of Issue for that Option: or
- (b) if Options of the same class are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX:
  - (1) at the Market Price for those Options immediately before the date upon which the Option is offered or granted; and
  - (2) in respect of Units issued on exercise of any such Options, at the Exercise Price for those Options determined in accordance with their Terms of Issue.

### **6.4 Placements**

- (a) While Units or Options (as the case may be) are Listed on the ASX (and have not been suspended from Listing other than temporarily), whether or not they are Listed on any other foreign market including the JSE, in addition to any other power the Responsible Entity has to issue Units or grant Options under this deed, the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if it complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the issue under the placement; and
  - (2) the Listing Rules and the Listings Requirements, to the extent those rules or requirements apply to the issue.
- (b) Where the Units or Options (as the case may be) are not ASX Listed but are JSE Listed or listed on any other foreign market (and have not been suspended from Listing other than temporarily on the relevant market) then the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 if:
  - (1) the issue, together with any related issue (as defined in ASIC Class Order [CO 13/655]) in the previous year, immediately before the issue, does not comprise more than 15% of the Units or Options in the relevant class; or
  - (2) Holders who hold Units or Options in the same class approve the issue by a Placement Resolution, and each of the other conditions and restrictions of any applicable ASIC Relief if any on which the Responsible Entity relies for the issue under the placement are met.

## 6.5 Rights issues

- (a) In addition to any other power the Responsible Entity has to issue Units under this deed, subject to compliance with:
- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,
- the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if:
- (A) the Units have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date; and
  - (B) all the Units offered are in the same class.
- (b) In addition to any other power the Responsible Entity has to grant Options under this deed, subject to compliance with:
- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,
- the Responsible Entity may grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if:
- (A) the Options have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date;
  - (B) all the Options offered are in the same class; and
  - (C) the means of calculating the Exercise Price is set out in the Terms of Issue.

## 6.6 Distribution reinvestment issues

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, pursuant to a distribution reinvestment arrangement referred to in clause 13.14 where:

- (a) all or part of a Unitholder's Distribution Entitlement is applied in payment for the subscription for Units; and
- (b) the Responsible Entity complies with:

- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the distribution reinvestment; and
- (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply in respect of the distribution reinvestment.

## **6.7 Other issues of Units or Options**

In addition to any other power the Responsible Entity has to issue Units or Options under this deed, the Responsible Entity may issue Units or Options at an Issue Price determined by the Responsible Entity, being a price other than the issue price calculated in accordance with clauses 6.2, 6.3 or 6.10 in any circumstances where the Corporations Act does not restrict the Responsible Entity from doing so.

## **6.8 Fractions of Units**

Where an issue would otherwise result in a Unitholder holding a fraction of one Unit:

- (a) while the Listings Requirements apply, the Responsible Entity must round down the number of Units and account to the Unitholders concerned for the net proceeds of disposal of the fractions of Units (unless the JSE Listings Requirements state otherwise); and
- (b) while the Listings Requirements do not apply, the Responsible Entity may round the number of Units issued downwards or upwards to the nearest whole number at the Responsible Entity's discretion, and any excess Application Money or other money or property which results from a rounding becomes an Asset of the Fund.

## **6.9 Currency**

Without limiting the Responsible Entity's discretion as to the Terms of Issue and Terms of Offer, Units and Options may be issued with an Issue Price and (as applicable Exercise Price) denominated in dollars or rand.

## **6.10 Underwriting**

- (a) The Responsible Entity may arrange for:
  - (1) an offer for sale, subscription, issue or grant of Units or of Options; or
  - (2) the exercise of Options; or
  - (3) an issue of Units pursuant to an arrangement for distribution reinvestment established by the Responsible Entity under clause 13.14,

to be underwritten by an underwriter on terms determined by the Responsible Entity.
- (b) The underwriter may:
  - (1) be the Responsible Entity, the Manager or an Associate of the Responsible Entity or Manager; and
  - (2) take up any Units or Options not subscribed for.

- (c) The Responsible Entity may issue Units and grant Options pursuant to this clause 6.10 at an Issue Price equal to the Issue Price at which the Units or Options in relation to the underwritten issue or grant were, or would have been, issued or granted to persons other than the underwriter or underwriters.

## 6.11 Foreign Holders

- (a) The Responsible Entity may determine that Foreign Holders are not to be offered Units or Options which are otherwise offered to Holders (or a class of Holders) where it considers that it would be in the best interests of Holders, including having regard to matters such as:
- (1) the number of Foreign Holders in the relevant jurisdiction and the number and value of Units or Options held by such Foreign Holders; and
  - (2) the cost of complying with legal and regulatory requirements for the offer, issue or transfer of Securities in the relevant jurisdiction,
- or on any other basis permitted under the Corporations Act.
- (b) If the Responsible Entity makes such a determination, and it is practicable to do so, the Responsible Entity may, or may appoint a nominee to, sell the Foreign Interests and pay each Foreign Holder the amount calculated as follows:

$$A = NP \times \frac{NF}{N}$$

Where:

- A** is the amount to be paid to that Foreign Holder;
- NP** is the net proceeds of sale of the Foreign Interests being the amount (if any) remaining after deducting from the proceeds of sale of the Foreign Interests the total of:
- the Costs of the sale;
  - the amounts (if any) payable by the Responsible Entity to any nominee appointed under this clause 6.11 in respect of the Foreign Interest; and
  - any amounts the Responsible Entity would be required by law or otherwise entitled to deduct or withhold under this deed;
- NF** is the number of Foreign Interests to which that Foreign Holder would otherwise have been entitled; and
- N** is the aggregate number of Foreign Interests.

## 6.12 Specific Issue of Units for Cash in connection with the 2018 ASX Listing proposal

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity is authorised to issue Units under the Specific Issue of Units for Cash at the price obtained under a Bookbuild, but subject to a minimum Issue Price calculated as the greater of:

- (a) the Net Asset Value of the Trust most recently reported to the JSE and based on the most recent financial statements for the Trust adjusted if appropriate by any independent third party valuation, expressed in Australian dollars, and divided by the number of Units on issue at the time the Bookbuild closes; and
- (b) the equivalent in Australian dollars of the volume weighted average trading price per Unit on the JSE calculated for the 30 most recent business days (as defined in the Listings Requirements of the JSE) immediately before the date of lodgement of the PDS under which the Units are offered, less a 3% discount, provided that in determining such volume weighted averaged traded price, trades which:
  - (1) are effected other than through the normal trading systems of the JSE; but
  - (2) are nevertheless settled through the settlement systems of the JSE,
 are disregarded.

## 7 Issue of Units and of Options

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### 7.1 Pre-emptive rights

- (a) While Units are JSE Listed, the Responsible Entity must exercise its powers to issue Units and Options only in the situations permitted in this clause 7.1.
- (b) **Situation 1 - pro rata offer**

If the Responsible Entity conducts an offer of Units or Options to all Unitholders (or to all holders of a class of Units) on a pro rata basis (whether rights or entitlements to participate in such offer are renounceable or non-renounceable), the Responsible Entity may issue Units or Options:

  - (1) to Unitholders who apply for the relevant Units or Options pursuant to such offer, or their assignees or nominees; or
  - (2) to the extent that relevant Units or Options are not taken up by Unitholders (or their assignees, or nominees) pursuant to such offer, to any underwriter or sub-underwriter of any such offer.

For these purposes:

  - an offer of Units or Options includes an invitation to apply to subscribe for Units or Options; and
  - an offer will be regarded as having been conducted on a pro rata basis even if the Responsible Entity excludes any Foreign Holders (or class of Foreign Holders) from participation in the offer.
- (c) **Situation 2 - issue to acquire an asset**

The Responsible Entity may issue Units or Options for purposes of the acquisition of an asset by:

- (1) the Trust or any Sub Trust;
- (2) any trust, managed investment scheme, partnership, body corporate or other entity controlled by the Responsible Entity in its capacity as responsible entity of the Trust, or by the trustee of any Sub Trust in its capacity as trustee of such Sub Trust; or
- (3) any Stapled Entity.

Such issue may be to the person disposing of the relevant asset, or their assignee or nominee, or as the Responsible Entity otherwise determines for purposes of funding the acquisition.

For these purposes, **control**, in relation to an entity, means the possession, direct or indirect of the power to direct or cause the direction of the management, policies or activities of the entity, whether through the ownership of securities, by contract or agency or otherwise.

(d) **Situation 3 - issue approved by Holders**

The Responsible Entity may issue Units or Options if such issue is:

- (1) authorised or approved by a resolution of Holders;
- (2) approved by the JSE; and
- (3) otherwise conducted subject to the Listings Requirements.

(e) **Situation 4 – other issues permitted by the Listings Requirements**

The Responsible Entity may otherwise issue Units or Options in any circumstances where the Listings Requirements do not prohibit the Responsible Entity from doing so.

## 7.2 Terms of Issue and Terms of Offer

Subject to the other provisions of this deed, the Responsible Entity may determine:

- (a) in relation to a Unit or Option, the Terms of Issue (if any) for that Unit or Option; and
- (b) in relation to an offer to acquire an Option, the Terms of Offer (if any) for that Option.

## 7.3 Number of Units issued

- (a) If the Responsible Entity accepts an Application for Units in whole or in part, subject to clause 7.3(b) the number of Units issued is the number determined by the Responsible Entity by dividing the relevant Application Money by the Issue Price.
- (b) Where the calculation under clauses 7.3(a) would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may deal with the fraction that would otherwise result in accordance with clause 6.8.
- (c) The number of Units issued upon the exercise of an Option is to be determined in accordance with the Terms of Issue and Terms of Offer.

## 7.4 Application for Units or for Options

A person who wishes to subscribe for Units or for Options must:



- (a) complete or make an Application in the form or manner determined by the Responsible Entity;
- (b) lodge or make the Application at the place or address and in the manner determined by the Responsible Entity; and
- (c) include with the Application the Application Money in the form and manner specified by the Responsible Entity and, if the person is to transfer property other than Cash to the Responsible Entity, all things that the Applicant has to give the Responsible Entity under clause 7.5(a).

## **7.5 Payments to the Responsible Entity**

- (a) If an applicant is to transfer property other than Cash to the Responsible Entity, the Responsible Entity must not accept the Application unless:
  - (1) the Responsible Entity has received from the applicant an effective transfer of the title to the property in favour of the Responsible Entity; and
  - (2) unless the Responsible Entity has elected to determine the value of the property in accordance with clause 12.3, a valuation or other statement of the current market value of the property acceptable to the Responsible Entity.
- (b) Unless the applicant has paid all amounts payable in respect of the issue of Units, or transfer of property (if any) to the Responsible Entity, before the Responsible Entity accepts the Application, the Responsible Entity must deduct those amounts before determining the number of Units to be issued under clause 7.3.
- (c) If Units or Options are issued or purported to be issued and:
  - (1) the Responsible Entity has not received the Application Money in accordance with any applicable Terms of Issue or Terms of Offer; or
  - (2) any payment for Units or for Options is not cleared or property is not effectively transferred to the Responsible Entity,

the Units or Options are void as from their date of issue, or such other date as the Responsible Entity determines (unless the Responsible Entity has otherwise received payment of an amount equal to the Application Money for the Units or Options).
- (d) All income in respect of the payment or property received on an Application for Units or Options (which has been accepted by the Responsible Entity) before the issue of those Units or Options forms part of the Fund.
- (e) The Responsible Entity must hold the Cash received or other property transferred to the Responsible Entity on an Application in accordance with the Corporations Act (to the extent it applies to such receipt or transfer). Application Money for Units or Options issued pursuant to a PDS must be paid to the Responsible Entity, to be placed by the Responsible Entity in a special trust account until the earlier of:
  - (1) the minimum subscription, if any (to be specified in the PDS) has been reached and the Responsible Entity decides to proceed to allotment of Units or Options; or

- (2) the date by which the Application Money would need to be repaid under the Corporations Act.

Until the Responsible Entity decides to proceed to the allotment of Units or Options in accordance with this clause 7, it holds such Application Money in accordance with the Corporations Act and the Responsible Entity must comply with all obligations imposed by the Corporations Act in relation to the Application Money.

## **7.6 Responsible Entity's discretion on Application**

The Responsible Entity may accept or refuse to accept in whole or in part any Application for Units or Options (other than an Application for Units on the exercise of an Option). The Responsible Entity does not have to give any reason or ground for such refusal.

Without limiting the Responsible Entity's discretion, the Responsible Entity may refuse to accept any Application if the Responsible Entity reasonably believes that:

- (a) there may be adverse Tax consequences for the Trust or Holders as a result of accepting the Application, or the issue of Units or grant of Options pursuant to the Application;
- (b) an approval or authorisation under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) may be required in relation to the applicant's subscription for Units or Options and the Responsible Entity has not received evidence satisfactory to the Responsible Entity that either no approval or authorisation is required, or that all necessary approvals and authorisations have been obtained; or
- (c) the applicant is a US Person who is not a QIB-QP or will hold Units or Options for the account or benefit of any US Person who is not a QIB-QP (whether or not the Responsible Entity has determined that person to be an Excluded US Person).

## **7.7 Allotment of Units or grant of Options**

- (a) A Unit or an Option is regarded as issued or granted to the person entitled to it if and when that person's name is recorded in the Register as the holder of that Unit or Option, and that person becomes a Unitholder or Optionholder. No rights attach to a Unit until it is issued, or to an Option until it is granted.
- (b) When a Unit is issued to a Unitholder or an Option is granted to an Optionholder, the Cash or other property comprising the Application Money in relation to that Unit or Option becomes part of the Fund.

## **7.8 Register**

While the Trust is JSE Listed, a Register of Units and Unitholders will be administered and maintained by or on behalf of a participant, as defined in the FMA, as required in accordance with the provisions of that Act and in accordance with the system for administering and maintaining records of dematerialized Units operated and used by the JSE, or in such place and manner as the JSE may permit. While the Trust is ASX Listed, subject to the Corporations Act and the Listing Rules (if the Listing Rules apply), a Register of Units and Unitholders will be kept by or on behalf of the Responsible Entity in such place and manner as the Responsible Entity determines. The records of Units and Unitholders may be kept in a single

Register or multiple Registers, as relevant law and regulatory requirements permit.

## **8 Registers and transfers of Units and Options**

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### **8.1 Recognition of registered Holder**

- (a) Except as otherwise provided by law or this deed, the Responsible Entity:
  - (1) must treat the person entered on the Register as the Holder of a Unit or an Option as the absolute owner of that Unit or that Option (as the context requires); and
  - (2) need not recognise any other equitable, contingent, future or partial claim or interest in any Unit or Option by any other person, even if the Responsible Entity has notice of that claim or interest.
- (b) With the consent of the Responsible Entity, Units or Options held by a trustee may be marked in the Register in such a way as to identify them as being held subject to the relevant trust. However, this does not limit the operation of clause 8.1(a).

### **8.2 Joint Holders**

Where 2 or more persons are recorded in the Register as the holders of a Unit or Option, for the purposes of the administration of the Trust and not otherwise, they are deemed to hold the Unit or Option as joint tenants, on the following terms:

- (a) the Responsible Entity is not bound to record in the Register more than 3 persons as the Joint Holders of the Unit or Option;
- (b) the Joint Holders are jointly and severally liable in respect of all amounts, including Tax, payable in respect of the Unit or Option;
- (c) on the death of a Joint Holder, the survivor or survivors are the only person or persons whom the Responsible Entity will recognise as having any title to the Unit or Option, but the Responsible Entity may require any evidence of death which it thinks fit;
- (d) any one of the Joint Holders may give an effective receipt which will discharge the Responsible Entity in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the Joint Holders is entitled to delivery of any notices, cheques or other communications from the Responsible Entity, and any notice, cheque or other communication given to that person is deemed to be given to all the Joint Holders.

### **8.3 Transfer**

- (a) While Units or Options are not Listed, subject to clauses 8.3(b) and 8.7, all transfers of Units or Options must be implemented by a proper instrument of transfer and in a manner approved by the Responsible Entity. The Responsible Entity may decline to register a transfer of Units or Options under this clause 8.3(a) unless the instrument of transfer:

- (1) is duly stamped (if applicable);
  - (2) is accompanied by such evidence as the Responsible Entity requires to prove the title of the transferor; and
  - (3) complies with any requirements prescribed by the Responsible Entity from time to time.
- (b) While Units or Options are Listed, all transfers of such Units or Options (as applicable) must be given effect in accordance with the Listings Requirements and the Listing Rules (each as applicable) and the requirements of any applicable depository system or computerised or electronic system of transfer or registration and other applicable rules made as contemplated by clause 8.7.
- (c) Except as provided by any applicable Operating Rules of a CS Facility while the Trust is ASX Listed, a transferor of a Unit or Option remains the Holder until the transfer is registered and the name of the transferee is entered in the Register in respect of that Unit or Option or the transfer is otherwise implemented in accordance with the Listings Requirements.
- (d) Distributable Income to which a Unitholder is entitled when a transfer or transmission of Units is recorded in the Register remains credited to the transferor.

## **8.4 Transaction advice**

If the Responsible Entity accepts a transfer under clause 8.3, the Responsible Entity may issue a transaction advice for the Units or Options which have been transferred and the balance of any Units or Options which were not transferred.

## **8.5 No general restriction on transfer**

- (a) Except to the extent that the relevant Holder agrees otherwise, subject to clauses 8.5(b) and 8.5(c), while Units or Options are Listed, there is no restriction on the transfer of such Units or Options (as applicable) and the Responsible Entity may not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of such Units or Options (as applicable) under clause 8.3.
- (b) While the Trust is ASX Listed, and if permitted to do so by the Listing Rules, the Responsible Entity may:
  - (1) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Units or Options from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
  - (2) refuse to register a transfer of Units or Options to which paragraph (a) does not apply.
- (c) While the Trust is ASX Listed, the Responsible Entity must:
  - (1) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Units or Options from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or

- (2) refuse to register a transfer of Units to which paragraph (a) does not apply,

if the Corporations Act or Listing Rules require the Responsible Entity to do so or the transfer is in breach of clause 8.11.

- (d) If, in the exercise of its rights under clauses 8.5(b) or 8.5(c), the Responsible Entity requests the application of a holding lock to prevent a transfer of Units or Options or refuses to register a transfer of Units or Options, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to:
  - (1) the holder of the Units or Options;
  - (2) the purported transferee; and
  - (3) the broker lodging the transfer, if any.

Failure to give notice does not, however, invalidate the decision of the Responsible Entity.

- (e) Except as otherwise set out in this clause 8, there is no restriction on any other transfer of Units or Options.

## **8.6 Transmission of Units and Options**

- (a) If a Transmission Event occurs in respect of a Holder, the only persons who will be recognised as having any title to the Units or Options registered in the Unitholder's name or any benefits accruing in respect of those Units or Options are:
  - (1) where the Holder is a Joint Holder, the survivor or survivors of the Holder;
  - (2) where the Holder is an individual, the legal personal representative of the Holder or the person entitled to the Units or Options as a result of bankruptcy; or
  - (3) where the Holder is a body corporate, the person entitled to the Units or Options as a result of the deregistration, dissolution or succession.
- (b) Nothing in clause 8.6(a) releases the Holder or the estate of a deceased Holder from any liability in respect of the Units or Options held whether that Unit or Option was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a Unit or Option as a result of a Transmission Event may, upon producing such evidence as the Responsible Entity may require to prove that person's entitlement to the Unit or Option, elect:
  - (1) to be registered as the Holder of the Unit or Option by signing and serving on the Responsible Entity a notice stating that election; or
  - (2) to have some other person nominated by that person registered as the transferee of the Unit or Option by executing a transfer to that other person that complies with clause 8.3.

- (d) The Responsible Entity need not register any transfer or transmission pursuant to this clause 8.6 unless the transferee provides an indemnity in favour of the Responsible Entity in a form determined by the Responsible Entity in respect of any consequence arising from the transfer or transmission.
- (e) The provisions of this deed relating to the right to transfer, and the registration of transfers of, Units and Options apply, so far as they can and with such changes as are necessary, to any transfer under clause 8.6(c) as if the relevant Transmission Event had not occurred and the transfer was signed by the Holder of the Unit or Option.
- (f) For the purposes of this deed, where 2 or more persons are jointly entitled to any Unit or Option in consequence of a Transmission Event they will, upon being registered as a Unitholder of the Unit or Option, be taken to hold the Unit or Option as joint tenants and clause 8.2 will apply to them.
- (g) Despite clause 8.6(a), the Responsible Entity may register a transfer of Units or Options signed by a Unitholder before a Transmission Event even though the Responsible Entity has notice of the Transmission Event.

## 8.7 Participation in transfer systems

The Responsible Entity may determine that Units or Options which are Listed will participate in:

- (a) the central securities depository prescribed for purposes of the JSE under the FMA and the computer system or systems and associated network or networks operated or used by the JSE for purposes of settling transactions in equity securities;
- (b) the CS Facility; or
- (c) any other depository system or computerised or electronic system of transfer or registration.

The Responsible Entity may, with the approval of the JSE, create rules to facilitate participation which may be additional to or may override this clause 8.

Nothing in this clause 8 prevents the transfer of a Unit or Option by any other method which is required or permitted by the Corporations Act, ASX, ASIC or the JSE.

## 8.8 Indemnity for transfer causing Duty liability

- (a) If:
  - (1) the transfer of a Unit results in the Unitholder (which is the transferee of the Unit) (**Transferee**) being liable to pay Duty on the transfer; and
  - (2) the Transferee does not pay some or all of the Duty, and as a result the Responsible Entity or another Holder, other than the transferor, (**Indemnified Party**) is liable to pay some or all of the Duty or any other amount resulting from the Transferee's non-payment of the Duty,

the Transferee must indemnify the Indemnified Party for any amount paid or payable by the Indemnified Party as contemplated by paragraph (2) above.

- (b) If an Indemnified Party pays any amount under clause 8.8(a)(2) without having been indemnified for the payment in advance by the Transferee, until the Indemnified Party is repaid in full all amounts paid by it under clause 8.8(a)(2) the Responsible Entity:
  - (1) may withhold all or part of any amount (including any distribution) payable to the Transferee under this deed and pay the amount to the Indemnified Party; and
  - (2) may deem to be Forfeited Units any number of the Transferee's Units as the Responsible Entity reasonably determines are required to repay to the Indemnified any amount paid by the Indemnified Party under clause 8.8(a)(2). The Responsible Entity may deal with those Units in accordance with clause 4, with such changes as are necessary, except that instead of applying the proceeds of sale of those Units in accordance with clause 4.5(a), the Responsible Entity must apply the proceeds of the sale in accordance with clause 8.8(c).
- (c) For the purposes of clause 8.8(b)(2), the order and manner of application of proceeds of sale is as follows:
  - (1) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation to the sale or disposal of the Forfeited Units including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation to the Transferee's non-payment, including all Costs and liabilities associated with the forfeiture and any proceedings to recover the amount due from the holder of the Forfeited Unit;
  - (3) by paying each Indemnified Party any amount paid by the Indemnified Party under clause 8.8(a)(2) for which the Indemnified Party has not previously been reimbursed; and
  - (4) by paying the balance to the Transferee.

## 8.9 US Sale Facility

- (a) Each Holder acknowledges that Units and Options may not be held by, or for the account or benefit of, any US Person who is not a QIB-QP.
- (b) Subject to the Corporations Act, at any time the Responsible Entity may determine that a Holder (or person seeking to be recorded in the Register as a Holder) is an 'excluded US Person' if it reasonably believes that the person is a US Person who is not a QIB-QP or holds or will hold Units or Options for the account or benefit of any US Person who is not a QIB-QP. Subject to clause 8.9(d), all of the Excluded US Person's Units and Options become Excluded Securities on such determination being made.

- (c) Without limiting the Responsible Entity's discretion under clause 8.9(b), the Responsible Entity may:
  - (1) at any time require a Holder (or person seeking to be recorded in the Register as a Holder) to complete a statutory declaration stating whether or not that person, or any person on whose account or benefit it holds or will hold Units or Options, is a US Person who is not a QIB-QP and specifying the number of Units or Options affected; and
  - (2) treat any person who does not comply with the request as an Excluded US Person.
- (d) Where a person is determined to be an Excluded US Person because the person holds or will hold Units or Options for the account or benefit of a US Person who is not a QIB-QP the Responsible Entity may determine that some of the Units or Options held by the Excluded US Person are not Excluded Securities.
- (e) The Responsible Entity may at any time:
  - (1) refuse to register a transfer of Units or Options to an Excluded US Person; or
  - (2) give a notice to a Holder who is an Excluded US Person requiring the disposal of their Excluded Securities (free of encumbrances) either to a person appointed by the Responsible Entity to sell the Excluded Securities (**US Sale Nominee**) or to a person who is not an Excluded US Person within 30 days of receiving the notice.
- (f) Each Holder who is an Excluded US Person must comply with a notice given under clause 8.9(e)(2). If a Holder does not do so, at any time after the end of the period specified in that clause 8.9(e)(2):
  - (1) the Responsible Entity, as agent for the Holder, may transfer the Excluded US Person's Excluded Securities (free of encumbrances) to the US Sale Nominee or to the person to whom the US Sale Nominee sells the relevant Excluded Securities; and
  - (2) the Responsible Entity may enter the US Sale Nominee, or person to whom the US Sale Nominee sells the relevant Excluded Securities, as holder of the Excluded Securities in the relevant Register whether or not the Responsible Entity has received a transfer or other document in respect of those Securities, in which case the US Sale Nominee or relevant person becomes the holder of those Excluded Securities with effect from the date its name is recorded in the relevant Register as holder of those Units or Options.
- (g) Each Holder who is an Excluded US Person consents to the sale, and directs, the US Sale Nominee:
  - (1) to sell the relevant Excluded Securities; and
  - (2) to pay the net proceeds of the sale of the Holder's Excluded Securities after deducting the sale Costs (**Sale Proceeds**) to the Holder as soon as practicable



after completion of the sale of the relevant Excluded Securities.

- (h) The Responsible Entity must ensure that the US Sale Nominee pays the Sale Proceeds to which the relevant Holder is entitled as soon as practicable after completion of the sale of the relevant Excluded Securities.
- (i) Each Holder who is an Excluded US Person irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement the US Sale Facility, including:
  - (1) executing transfers and other documents, and receiving, holding and paying money; and
  - (2) transferring any Units or Options to the US Sale Nominee, any person to whom the US Sale Nominee sells Units or Options or as otherwise contemplated by the US Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

- (j) Each Holder acknowledges that the exercise of the powers in this clause 8.9 may materially adversely affect individual Holders (including having potentially adverse tax or financial consequences) but that this is necessary to enable the US Sale Facility to be implemented.

## **8.10 Odd Lots**

- (a) This clause 8.10 applies while the Units are Listed. If the Trust is JSE Listed but not ASX Listed, no part of this clause 8.10 will apply to the extent that the Listings Requirements specifically allow the Responsible Entity to act in a manner contrary to this clause 8.10.
- (b) Subject to the provisions of this clause 8.10, and to comply with the Listings Requirements, the Responsible Entity may, in its discretion from time to time, sell or redeem any Units held by a Holder without request by the Holder where those Units comprise an Odd Lot. The Responsible Entity may only sell or redeem Units on one occasion in any 12 month period and must only do so in respect of all Holders who hold Odd Lots except those Holders who have advised the Responsible Entity, in accordance with clause 8.10(e) that they wish to retain the Units.
- (c) The Responsible Entity must notify the relevant Holder whose Units it proposes to sell or redeem of its intention to sell or redeem Units under this clause 8.10, and give the Holder at least 6 weeks from the date of the notice in which to tell the Responsible Entity that the Holder wishes to retain the Units. The notice must be given to all Holders whose Units comprise Odd Lots.
- (d) The Responsible Entity will not sell or redeem the relevant Units before the expiry of 6 weeks from the date of the notice given under clause 8.10(c);
- (e) If, within the 6 weeks allowed by clause 8.10(c):
  - (1) the Holder advises the Responsible Entity that the Holder wishes to retain the Units; or

- (2) the market value or number of Units held by the Holder increases so that they no longer hold an Odd Lot,

the Responsible Entity will not sell or redeem the relevant Units.

- (f) The power to sell Units under this clause 8.10 lapses following the announcement of a takeover, but the procedure may be started again after the close of offers made under the takeover.
- (g) The Responsible Entity or the purchaser of the Units must pay the Costs of the sale or redemption as the Responsible Entity decides.
- (h) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units under this clause 8.10.
- (i) Each Holder whose Units comprise an Odd Lot from time to time irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement any transfer of Units under this clause 8.10, including executing transfers and other documents, and receiving, holding and paying money. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (j) Where a Unit forms part of a Stapled Security, the Responsible Entity may only redeem Units under this clause 8.10 if the Securities to which those Units are Stapled are the subject of a contemporaneous redemption and may only sell Units under this clause 8.10 if the Securities to which those Units are Stapled are the subject of a contemporaneous sale.

## **8.11 Restricted Securities**

- (a) While the Trust is ASX Listed, if the Listing Rules require, Restricted Securities cannot be disposed of during the Escrow Period and the Responsible Entity must not register a transfer of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.
- (b) During a breach of a restriction agreement or the Listing Rule relating to Units which are Restricted Securities the Unitholder who holds those Restricted Securities is not entitled to any distribution from the Fund nor any voting rights, in respect of those Restricted Securities.

# **9 Redemption**

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## **9.1 Redemption offer**

- (a) Before the termination of the Trust, subject to the Listing Rules and the Listings Requirements to the extent those rules and requirements apply, the Responsible Entity may, by notice to a Unitholder, offer to redeem all or some of the Units held by the Unitholder as specified in the notice. The notice must set out:
  - (1) the period (being a period not shorter than 15 Business Days and not longer than 3 months from the date the notice is given) within which the Unitholder

- may accept the offer (the **Redemption Offer Period**); and
  - (2) whether the redemption offer relates to all or some of the Units held by the Unitholder (and if to some only, the proportion or number of Units to which it relates);
  - (3) whether the Unitholder can only request redemption of all of the Units to which the redemption offer relates, or whether the Unitholder may also request redemption of less than all of the Units to which the redemption offer relates; and
  - (4) any other terms to apply to the redemption offer.
- (b) Following receipt of a notice given under clause 9.1(a), a Unitholder may request that the Responsible Entity redeem all (or, if contemplated in the notice, some only) of the Units to which the notice relates. The request must be:
  - (1) made in such form and manner, and subject to such terms, as the Responsible Entity determines when making the redemption offer; and
  - (2) lodged or made at the such place or address, and in such manner, as the Responsible Entity determines when making the redemption offer before the end of the Redemption Offer Period.

A Unitholder may not withdraw a redemption request except with the Responsible Entity's consent.
- (c) If:
  - (1) a Unitholder makes a redemption request in accordance with clause 9.1(b);
  - (2) the Responsible Entity accepts the redemption request; and
  - (3) the Unitholder continues to hold the number of Units to which the redemption request relates,

subject to clause 9.1(d), the Responsible Entity will:

  - (4) send a notice to the Unitholder that the redemption request has been accepted by the Responsible Entity within 21 days of accepting the redemption request; and
  - (5) redeem the relevant Units within 3 months after the end of the Redemption Offer Period.
- (d) If the Responsible Entity determines to not accept the redemption request, the Responsible Entity will, within 21 days of such a determination, send a notice to the Unitholder informing them that the request for redemption has not been accepted.
- (e) At any time before Units are redeemed pursuant to a redemption offer, the Responsible Entity:
  - (1) may cancel the redemption offer if the redemption offer contains a material error; and

- (2) must cancel the redemption offer if required by law, or if the Responsible Entity otherwise considers that it is in the best interest of Unitholders to do so.

Notice of the cancellation must be given to the Unitholders to whom the redemption offer was made.

- (f) Except as provided in this clause 9, the Responsible Entity has no obligation:
  - (1) to offer to redeem or accept a redemption of Units, to repurchase Units;
  - (2) to pay any part of the Redemption Price out of its own funds; or
  - (3) to redeem any Units or cause any Units to be redeemed.

## **9.2 Redemption of Units**

- (a) Any redemption of Units will take effect on payment of the Redemption Price for those Units.
- (b) The Responsible Entity may pay the Redemption Price in Cash, or with the consent of the relevant Unitholder, by transferring an Asset of the Fund to the Unitholder rather than paying Cash in satisfaction of all or part of a redemption. Any Asset of the Fund transferred together with any Cash paid must be of value equal to the amount due to the Unitholder in respect of the redemption. The Responsible Entity must determine the value of the Asset to be transferred and the Responsible Entity's determination is final. To the extent they are not paid before the transfer takes effect, the Costs and liabilities incurred in the transfer of the Asset will be taken into account as a deduction under clause 9.4 for purposes of calculating the Redemption Price for the Units.
- (c) Where a redemption would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may round the number of units issued downwards or upwards to the nearest whole number at the Responsible Entity's discretion. Any excess money which results from the rounding becomes an Asset of the Fund.
- (d) On redemption of Units, the Responsible Entity:
  - (1) must cancel the Units redeemed and immediately remove the name of the Unitholder from the Register in respect of the redeemed Units; and
  - (2) may give the Unitholder a confirmation advice.
- (e) The Responsible Entity must notify the relevant Unitholder of that portion (if any) of the Redemption Price paid to a Unitholder which represents Distributable Income of the Trust and the extent to which the Redemption Price is composed of capital and income. For this purpose, the Distributable Income component of the amount paid to that Unitholder will be determined in accordance with clause 13 as if the relevant Distribution Period ended on the date of the redemption.
- (f) For the purposes of section 601KA of the Corporations Act, the period for satisfying a redemption offer that has been accepted is 3 months.

### 9.3 Compulsory redemption

- (a) Subject to the Corporations Act and the Listing Rules and the Listings Requirements to the extent those rules and requirements apply, and complying with clause 9.3(f), the Responsible Entity may at any time, on notice to a Unitholder, compulsorily redeem a some or all of a Unitholder's Units where the Responsible Entity reasonably believes:
  - (1) that there are, or are reasonably likely to be, material adverse Tax consequences for the Trust or any other Holder arising from the Unitholder remaining a holder of the relevant Units;
  - (2) that the Unitholder continuing to hold such Units would, or would be reasonably likely to, result in the Responsible Entity, the Trust, or any other Holder, incurring any material Tax liability or suffering any other material financial disadvantage;
  - (3) that this is the most efficient means for returning capital of the Fund to Unitholders having regard to Tax, legal and regulatory considerations; or
  - (4) the Responsible Entity has determined that the Unitholder is an Excluded US Person, and the relevant Units are Excluded Securities.
- (b) In considering whether any of the circumstances contemplated in clause 9.3(a) have arisen, the Responsible Entity may request additional information from a Unitholder. Where requested information is not provided, the Responsible Entity will be entitled to exercise its discretion in a fair and reasonable manner having regard to information available to it and the risks of any material adverse consequences for any Unitholder.
- (c) Subject to complying with clause 9.3(f), the Responsible Entity may redeem any Units in order to satisfy Taxes paid or payable by the Responsible Entity in respect of a Unitholder's Units or any other unpaid amounts due by the Unitholder to the Responsible Entity, including amounts payable to the Responsible Entity under clause 20.1.
- (d) Alternatively, subject to complying with clause 9.3(f), the Responsible Entity may, in the circumstances contemplated by clause 9.3(a), deem some or all of the Unitholder's Units to be Forfeited Units. The Responsible Entity may deal with those Units in accordance with clause 4, with such changes as are necessary, except that instead of applying the proceeds of sale of those Units in accordance with clause 4.5(a), the Responsible Entity must apply the proceeds of the sale in accordance with clause 9.3(e).
- (e) For the purposes of clause 9.3(d), the order and manner of application of proceeds of sale is as follows:
  - (1) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as Responsible Entity of the Trust, in relation to the sale or disposal of the Forfeited Units including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation

- the forfeiture and any proceedings to recover any amount due from the holder of the Forfeited Unit;
  - (3) by holding as an Asset of the Fund, an amount equal to the total amount of any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units and of any other unpaid amounts due by the Unitholder to the Responsible Entity; and
  - (4) by paying the balance to the relevant Unitholder.
- (f) Before exercising its rights in the circumstances contemplated by clauses 9.3(a)(1) to 9.3(a)(3) and 9.3(c), the Responsible Entity must consult the affected Unitholder.

## 9.4 Allowable deductions

On any redemption of Units under clauses 9.2 or 9.3, the Responsible Entity may deduct from the price to be paid to the Unitholder:

- (a) any Costs and liabilities incurred by the Responsible Entity in relation to the redemption of Units under clauses 9.2 or 9.3, fairly allocated to the Units, including Costs and liabilities incurred in relation to the transfer of any Asset as contemplated by clause 9.2(b), and in the case of a compulsory redemption, any Costs associated with sourcing funding to pay the Redemption Price for the compulsory redemption;
- (b) an amount equal to the total amount of any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units (including in respect of the redemption); and
- (c) any other unpaid amounts due by the Unitholder to the Responsible Entity.

The Unitholder indemnifies and must reimburse the Responsible Entity for any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units (including in respect of their redemption).

## 9.5 Redemption Price

Any redemption of Units will occur at a price equal to:

- (a) the Current Unit Value determined on the Business Day preceding the relevant redemption; less
- (b) any amounts which may be deducted under this deed, including clause 9.4, rounded as determined by the Responsible Entity to the nearest whole cent.

## 9.6 Liquid or non-liquid trust

While the Trust is a Registered Scheme:

- (a) clauses 9.1 and 9.2 only apply while the Trust is a Liquid Scheme; and
- (b) while the Trust is not a Liquid Scheme, the Responsible Entity may only offer, and a Unitholder may only request the Responsible Entity, to redeem any Units held by the Unitholder in accordance with:
  - (1) Part 5C.6 of the Corporations Act; and

- (2) clauses 9.1 and 9.2, to the extent that those clauses are not inconsistent with Part 5C.6 of the Corporations Act.

## **9.7 Buy-backs**

The Responsible Entity may buy back and cancel Units, subject to and in accordance with the Corporations Act (including subject to the conditions of any applicable ASIC relief from time to time) and, while Units are Listed, any applicable requirements of the Listing Rules and the Listings Requirements. A buy-back may occur on or off market, and on repurchase of the Units, the Responsible Entity may cause the Units to be cancelled. No Redemption Price is payable on cancellation of the Units.

# **10 Responsible Entity's powers**

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## **10.1 General powers of Responsible Entity**

- (a) Subject to this deed, the Responsible Entity has all the powers that it is possible to confer on a trustee, and has all the powers that are incidental to ownership of the Fund as though the Responsible Entity were the absolute and beneficial owner of the Fund.
- (b) In the exercise of its powers the Responsible Entity may, without limitation, acquire or dispose of any real property or personal property, borrow or raise money, encumber any Asset of the Fund, incur any liability, guarantee any obligations of any person, enter into joint venture arrangements or fetter any power.

## **10.2 Exercise of powers**

Subject to the requirements of the Corporations Act and any other applicable law, except as expressly provided otherwise in this deed (including clause 10.4), the Responsible Entity:

- (a) may make any determination, election or other decision under this deed, whether as responsible entity, trustee, agent, attorney or otherwise, in the Responsible Entity's absolute discretion; and
- (b) may otherwise decide how and when to exercise its powers, including its powers as responsible entity, trustee, attorney, agent or otherwise arising under or in relation to this deed, in its absolute discretion.

## **10.3 Delegation by Responsible Entity**

The Responsible Entity may:

- (a) appoint a person, including an Associate of the Responsible Entity, as its delegate, attorney or agent to exercise its powers and perform its obligations; and
- (b) appoint an agent, custodian or other person, including an Associate of the Responsible Entity (each of whom may, with the approval of the Responsible Entity, sub-delegate to any person any of its functions as it thinks fit), to acquire, hold title to, dispose of or otherwise deal with any Asset of the Fund

on behalf of the Responsible Entity and perform any action incidental or ancillary thereto or otherwise approved by the Responsible Entity.

#### **10.4 Manager**

- (a) The Responsible Entity must appoint the Manager to manage the Assets of the Fund under the Management Agreement.
- (b) The Management Agreement binds the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of the Management Agreement from time to time are held and owed in relation to the Managed Investment Scheme constituted by the Trust.
- (c) The Responsible Entity is authorised to, and must, pay all fees and Costs and other amounts payable under the Management Agreement out of the Fund.
- (d) On and from the time the Trust becomes ASX Listed, if the Management Agreement is amended to provide that it is to automatically terminate upon a change of Responsible Entity of the Trust under Division 2 of Part 5C.2 of the Corporations Act, paragraphs (a) to (c) of this clause 10.4 will cease to apply, and the following provisions will apply in their place:
  - (1) the Responsible Entity may appoint a manager to manage the Assets of the Fund under a management agreement;
  - (2) any such management agreement will bind the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of that management agreement from time to time will be held and owed in relation to the Managed Investment Scheme constituted by the Trust; and
  - (3) the Responsible Entity will be authorised to, and must, pay all fees and Costs and other amounts payable under that management agreement out of the Fund.

#### **10.5 Custodian**

- (a) The Responsible Entity must appoint a Custodian to hold title to the Assets of the Fund for the Responsible Entity under a Custody Agreement.
- (b) The Custody Agreement binds the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of the Custody Agreement from time to time are held and owed in relation to the Managed Investment Scheme constituted by the Trust.
- (c) The Responsible Entity is authorised to, and must, pay all fees and Costs and other amounts payable under the Custody Agreement out of the Fund.



## 10.6 Independent Party

- (a) The Responsible Entity must appoint an Independent Party to carry out certain operational functions which the CISCA requires independent trustees to provide, under a Review Services Agreement.
- (b) The Review Services Agreement binds the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of the Review Services Agreement from time to time are held and owed in relation to the Managed Investment Scheme constituted by the Trust.
- (c) The Responsible Entity is authorised to, and must, pay all fees and Costs and other amounts payable under the Review Services Agreement out of the Fund.

## 10.7 No issue of debt Securities with special privileges

The Responsible Entity must not issue debt Securities in relation to the Trust on terms which confer (or, in the case of convertible debt Securities, which before conversion confer) on the holders of the debt Securities rights to attend or vote at Meetings, or to nominate or appoint directors of the Responsible Entity.

For the avoidance of doubt, where a debt Security is Stapled to a Unit any voting or other rights conferred by the Unit are not taken to be conferred by the debt Security itself.

## 10.8 Borrowing restriction

While the Trust is JSE Listed, the Responsible Entity must ensure that the Fund's gearing ratio, calculated in accordance with the following formula, does not exceed 60% at any time:

$$GR = \frac{GTL}{GTA} \times 100\%$$

Where:

**GR** is the gearing ratio at the relevant time

**GTL** is the total amount of the liabilities, in respect of money borrowed or raised or any financial accommodation, of the Trust Group as shown on a consolidated basis in the most recently issued statutory financial statements of the Trust Group (adding back Trust Group members' share of any liabilities for any equity accounted investments and, for the avoidance of doubt, excluding any liabilities owing by one member of the Trust Group to another)

**GTA** is the total book value of all Tangible Assets of the Trust Group on an aggregated basis shown by the most recently issued statutory financial statements of the Trust Group, less any such amounts attributable to equity accounted assets (but adding back the Trust Group members' interest in such assets)

## 10.9 Responsibility for compliance

Subject to the requirements of the Corporations Act and any other applicable law, the Responsible Entity must take all reasonable steps to ensure that the trustees of

each Sub Trust that forms part of the Trust Group, when acting in their capacity as such, comply with:

- (a) all applicable laws;
- (b) the constituent documents of the relevant Sub Trust; and
- (c) their duties to the beneficiaries of the relevant Sub Trust imposed on them by law as trustees of the relevant Sub Trust.

## **10.10 AMIT Powers**

The Responsible Entity has, in addition to its other rights and powers provided for under the Constitution all of the powers and rights which are necessary or desirable to enable the Trust to:

- (a) be eligible to apply the AMIT Regime;
- (b) comply with the requirements of the AMIT Regime;
- (c) be properly administered and operated under the AMIT Regime;
- (d) maintain equity between the Unitholders as a result of the operation of the AMIT Regime; and
- (e) make an AMIT Class Election.

## **11 Responsible Entity's liability**

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### **11.1 No limitation of other undertakings**

This clause 11 does not limit or affect any limitations of liability or indemnities given to the Responsible Entity in this deed or under any law.

### **11.2 Limitation of liability of Responsible Entity**

Except where the Corporations Act expressly provides otherwise:

- (a) the Responsible Entity, and each director and officer of the Responsible Entity, are not personally liable to a Holder, or any other person, in connection with the office of the Responsible Entity or director or officer of the Responsible Entity; and
- (b) the Responsible Entity will not be liable to any Holder to any greater extent than the extent to which it is entitled to be indemnified, and is in fact indemnified, out of the Assets of the Fund actually vested in the Responsible Entity in respect of the Trust.

### **11.3 Circumstances where Responsible Entity is not liable**

Except where the Corporations Act expressly provides otherwise, the Responsible Entity is not responsible for:

- (1) any Costs and liabilities incurred by any fraud, negligence, breach of duty or breach of trust or otherwise, by any agent, delegate, attorney or custodian and any of their agents or delegates;

- (2) any Costs and liabilities incurred by relying on any notice, resolution, information, documents, forms or lists unless it reasonably believes such item not to be genuine or not to have been passed, executed or signed by the proper parties; or
  - (3) Costs and liabilities if a person fails to carry out an agreement with the Responsible Entity or an agent or delegate of the Responsible Entity.
- (b) The Responsible Entity will not be liable to anyone in respect of any failure to perform any act or do any thing which by reason of:
  - (1) any provision of any present or future law; or
  - (2) of any decree, order or judgment of any competent court; or
  - (3) any document or agreement binding on the Responsible Entity (including the Management Agreement, Custody Agreement and Review Services Agreement),

the Responsible Entity is prevented, forbidden or hindered from performing or doing.

#### **11.4 Responsible Entity may rely on advice**

The Responsible Entity may take and act upon:

- (a) the opinion or advice of counsel or solicitors instructed by the Responsible Entity in relation to the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust; and
- (b) the opinion, advice, statements or information from any bankers, accountants, auditors, valuers, architects, engineers and other persons consulted by the Responsible Entity who are in each case believed by the Responsible Entity in good faith to be expert in relation to the matters upon which they are consulted,

and the Responsible Entity will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statements or information.

#### **11.5 Interested dealings by Responsible Entity**

The Responsible Entity, or an officer, employee or Associate of the Responsible Entity, may:

- (a) be a Holder;
- (b) be the Manager;
- (c) act in any fiduciary, vicarious, professional or other capacity, including as a banker, accountant, auditor, valuer, solicitor, independent contractor or other consultant or adviser to or representative, delegate, attorney or agent of the Responsible Entity or any Holder or as an executor, administrator, receiver or trustee;
- (d) have an interest in or enter into a contract or transaction with:

- (1) the Responsible Entity or an Associate of the Responsible Entity;
  - (2) any Holder; or
  - (3) any other person, including one whose shares or other securities form an Asset of the Fund; or
- (e) hold or deal in or have any other interest in an Asset of the Fund, and may retain, and is not required to account for, any benefit derived by doing so.

## 12 Valuation and currency conversion

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### 12.1 Valuation of Assets

- (a) At any time, the Responsible Entity may cause any Asset of the Fund to be valued, and may appoint an Independent Expert (at the expense of the Trust) for these purposes.
- (b) The Responsible Entity must cause the Assets and liabilities of the Fund to be valued at least once every 36 months on a rolling basis, or as otherwise required by the Listings Requirements, and the valuation to be publicly announced promptly after the valuation is completed.
- (c) In determining whether a valuation accurately reflects the value of an Asset of the Fund, the Responsible Entity is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of Assets of the Fund.
- (d) Except for purposes of determining Current Unit Value, each Asset of the Fund must be valued at its Market Value unless the Responsible Entity determines that:
  - (1) there is no market in respect of the Asset; or
  - (2) the Market Value does not represent the fair value of the Asset,
 in which case the Responsible Entity must determine the method of valuation for the Asset.
- (e) Except for purposes of determining Current Unit Value, where any Asset of the Fund is to be valued, or the Net Asset Value or Enterprise Value of the Trust and the number of Units on Issue is to be determined, the valuation or determination is to be as at a time determined by the Responsible Entity.
- (f) Where the calculation of the Current Unit Value and Issue Price is to be made as at a particular date, the Responsible Entity need not cause a valuation of the Fund to be performed as at that date but may rely on the most recent valuations for the purposes of that calculation.
- (g) Where a valuation is conducted for purposes required by the Listings Requirements, the Responsible Entity must ensure that the valuation is conducted in accordance with the valuation methodology prescribed by, and otherwise in accordance with, the Listings Requirements.

## 12.2 Responsible Entity to determine Current Unit Value

- (a) The Responsible Entity may determine the Current Unit Value at any time, including more than once on each day.
- (b) Subject to clause 12.2(c), if the Responsible Entity has to determine the Current Unit Value, the value of Assets for purposes of calculating Net Asset Value must be their Market Value.
- (c) If ASIC provides relief from the requirements of the Corporations Act to allow the Responsible Entity to determine in its discretion whether an item should be recognised and the value or amount attributable to that particular item for the purposes of calculating Net Asset Value, the Responsible Entity may make those determinations (subject to the conditions of the relief, if any).

## 12.3 Valuation of Application Money

If Application Money comprises property other than Cash:

- (a) the Responsible Entity must determine the value of the property to be transferred by an applicant to the Responsible Entity; and
- (b) the value of that property must be its market value as determined by the Responsible Entity.

## 12.4 Currency Conversion

Where it is necessary or desirable for any purposes to convert one currency to another, the conversion will be made at a time and at such rates quoted by one or more Banks or other financial institutions that the Responsible Entity nominates in its absolute discretion.

# 13 Income and distributions

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## 13.1 Determining Distributable Income and reserves

- (a) The Responsible Entity must determine the distributable income of the Trust for each Financial Year (**Distributable Income**) before the end of the relevant Financial Year. The Responsible Entity may do this by making a standing determination of principles for calculating Distributable Income, and may change the principles from time to time.
- (b) For a Financial Year of the Trust which is not an AMIT Income Year, to the extent that the Responsible Entity does not make a determination under clause 13.1(a) before the end of a Financial Year, the Distributable Income for the Financial Year will be the greater of:
  - (1) the net income of the Trust calculated in accordance with the Accounting Standards excluding for these purposes any unrealised gains or losses; and
  - (2) the net income of the Trust calculated in accordance with the principles applicable under section 95(1) of the Tax Act, reduced by the amount of any franking credits or other notional income included in the assessable income of the Trust.

- (c) For any Financial Year for the Trust that is an AMIT Income Year, unless the Responsible Entity determines otherwise under clause 13.1(a), the standing principles for calculating the Distributable Income for the Financial Year and any Distribution Period will be that the Distributable Income of the Trust or the relevant class (where there is an AMIT Class Election in effect in relation to the Trust) will be the amount determined by the Responsible Entity as being the aggregate of:
  - (1) the amount determined by the Responsible Entity to be the aggregate of all Trust Components for the Trust or the relevant class (where there is an AMIT Class Election in effect in relation to the Trust) for the period that have an assessable income character, determined as if the period is a year of income for the purposes of the Tax Act and excluding any amounts of a tax offset character; and
  - (2) any additional amount that the Responsible Entity considers appropriate for distribution in relation to the Trust or the relevant class (where there is an AMIT Class Election in effect in relation to the Trust) for the relevant period, including:
    - (A) amounts referable to the discount capital gains concession; and
    - (B) any other Trust Components that have the character of exempt income or non-assessable non-exempt income.
- (d) The standing principles made by the Responsible Entity under clause 13.1(c) may be changed or revoked at any time in accordance with clause 13.1(a).
- (e) In making the determinations under this clause 13.1:
  - (1) the Responsible Entity may determine whether any item is income or capital and the extent to which reserves or provisions need to be made; and
  - (2) the Responsible Entity does not have to take into account the Accounting Standards or generally accepted accounting principles and practices which apply to trusts.
- (f) The preparation of the accounts of the Trust in accordance with current Australian or South African accounting standards and generally accepted accounting principles is not to be regarded as a determination of the method for calculating the Distributable Income.

## **13.2 Power to accumulate or defer amounts**

- (a) The Responsible Entity may, in respect of a Distribution Period in a Financial Year for the Trust that is an AMIT Income Year for the Trust, determine prior to the end of that Distribution Period that all or part of the Distributable Income of the Trust for the period from the commencement of the Financial Year until the end of the Distribution Period that has not already been distributed to Unitholders under clause 13.3 or former Unitholder under clause 9.2(e) will:
  - (1) be accumulated; or

- (2) not be distributed in respect of the Distribution Period and will be distributed to Unitholders of the Trust later in the Financial Year.
- (b) The effect of the Responsible Entity exercising its power to accumulate or carry forward an amount pursuant to clause 13.2(a) is, in accordance with clause 13.3, to:
  - (1) exclude the relevant amount from the Income Distribution Entitlements for Unitholders for:
    - (A) the Distribution Period; and
    - (B) in the case of an accumulation pursuant to clause 13.2(a)(1), all future Distribution Periods; and
  - (2) in the case of amounts which are carried forward for distribution later in the Financial Year under clause 13.2(a)(2), include the relevant amount in the Income Distribution Entitlements for a subsequent Distribution Period in the Financial Year unless the Responsible Entity determines to distribute the relevant amount earlier under clause 13.3.
- (c) For the purposes of identifying the Unitholders to whom any Determined Trust Components that are reflected in Distributable Income that is accumulated under clause 13.2(a)(1) are to be attributed under the AMIT Regime, the amounts accumulated are to be treated for the purposes of the AMIT Regime as having been accumulated for the benefit of the Unitholders at the time specified by the Responsible Entity. This time must be on or after the time the Responsible Entity determines to accumulate the relevant amount, but at or before the end of the relevant Financial Year.
- (d) Amounts which are:
  - (1) accumulated pursuant to clause 13.2(a)(1); or
  - (2) carried forward for distribution later in the Financial Year pursuant to clause 13.2(a)(2), but only until the time at which the amount is distributed under clause 13.3;

continue to form part of the Assets and no Unitholder has any particular right to or interest in those amounts.

### 13.3 Income Distribution Entitlements

Subject to the Terms of Issue for any Unit and entitlements to distributions of each class of Units:

- (a) each Unitholder's Income Distribution Entitlement for a Distribution Period other than a Distribution Period ending on the last day of a Financial Year is to be determined in accordance with the following formula:

$$DE = DIA \times \frac{UH}{UI}$$

Where:

- DE** is the Income Distribution Entitlement for that Distribution Period
- DIA** is the Responsible Entity's estimate of the Distributable Income for the Distribution Period (calculated in the same manner as determinations of Distributable Income for a Financial Year) reduced by any amounts which the Responsible Entity has determined to accumulate or carry forward for the Distribution Period under clause 13.2(a)
- UH** is the total of the number of Units which are entitled to participate fully in Distributable Income for that Distribution Period held by the Unitholder as at the close of business on the Record Date for that Distribution Period, plus the total number of each category of Units carrying a proportional entitlement to participate in distributions of Distributable Income held by the Unitholder as at the close of business on the relevant Record Date multiplied by the relevant proportion
- UI** is the total number of all Units which are entitled to participate fully in Distributable Income for that Distribution Period as at the close of business on the Record Date for that Distribution Period, plus the total number of Units in each category of Units carrying a proportional entitlement to participate in distributions of Distributable Income as at the close of business on the relevant Record Date multiplied by the relevant proportion;

- (b) each Unitholder's Income Distribution Entitlement for a Distribution Period ending on the last day of a Financial Year is to be determined in accordance with the following formula:

$$DE = (DIA_{fy} - DIA_p) \times \frac{UH}{UI}$$

Where:

- DE** is the Income Distribution Entitlement for that Distribution Period
- DIA<sub>fy</sub>** is the Distributable Income for the Financial Year calculated in accordance with clause 13.1
- DIA<sub>p</sub>** is the total amount of Distributable Income amounts estimated by the Responsible Entity for previous Distribution Periods in the Financial Year, including (without double-counting) any amounts of the Redemption Price paid to a Unitholder in respect of any redemptions during the Financial Year that the Responsible Entity has determined represent Distributable Income in accordance with clause 9.2(e) and any amounts which the Responsible Entity has determined to accumulate for any Distribution Period in the Financial Year under clause 13.2(a)(1).
- UH** is the total of the number of Units which are entitled to participate fully in Distributable Income for that Distribution Period held by the Unitholder as at the close of business on the Record Date for that Distribution Period, plus the total number of each category of Units carrying a proportional entitlement to participate in distributions of Distributable



Income held by the Unitholder as at the close of business on the relevant Record Date multiplied by the relevant proportion

**UI** is the total number of all Units which are entitled to participate fully in Distributable Income for that Distribution Period as at the close of business on the Record Date for that Distribution Period, plus the total number of Units in each category of Units carrying a proportional entitlement to participate in distributions of Distributable Income as at the close of business on the relevant Record Date multiplied by the relevant proportion.

- (c) For the purposes of undertaking the calculation in clauses 13.3(a) and 13.3(b), variables “**DIA**”, “**DIAfy**”, “**DIAp**”, “**UH**” and “**UI**” should be with reference to the Trust or if an AMIT Class Election in respect of the Trust, the relevant class.

### 13.4 Present entitlement

Unless the Responsible Entity determines otherwise before the end of the Financial Year, a person who at any time during the Financial Year is or has been a Unitholder, is presently entitled as at 11:59pm on the last day of the Financial Year to the Distributable Income for the Financial Year other than in an AMIT Income Year, any amounts which the Responsible Entity has determined to accumulate for any Distribution Period in the Financial Year under clause 13.2(a)(1), in the proportion that the Income Distribution Entitlements distributed (or which would be allocated under clause 13.3 if the Record Date were the last day of the Financial Year) to the Unitholder or former Unitholder in respect of the Financial Year and any Distributable Income determined by the Responsible Entity under clause 9.2(e) to represent Distributable Income paid by a former Unitholder bears to the Distributable Income for the Financial Year.

### 13.5 Distributions

- (a) The Responsible Entity must have distributed all of the Distributable Income for a Financial Year on or before the Distribution Date for that Financial Year.
- (b) Subject to this clause 13.5 and the Terms of Issue for any Unit and entitlements to distributions of each class of Units, the Responsible Entity must distribute Distributable Income in respect of a Distribution Period comprising the first 6 calendar months of each Financial Year to Unitholders in the proportions determined for that Distribution Period in accordance with clause 13.3.
- (c) Subject to the Terms of Issue for any Unit and entitlements to distributions of each class of Units, at any time the Responsible Entity may distribute:
- (1) Distributable Income in respect of a Distribution Period to Unitholders in the proportions determined for that Distribution Period in accordance with clause 13.2 and subject to complying with clause 13.5(a); and
  - (2) any other amounts (including capital, previous reserves, previous provisions) to Unitholders pro rata according to the number of Units held as at a time that the Responsible Entity determines.

- (d) The Responsible Entity may distribute or transfer capital to enable distribution to Unitholders of the minimum amount necessary to avoid the Responsible Entity becoming liable to pay tax on income of the Trust under the Tax Act.
- (e) The Unitholders agree that if the Responsible Entity is entitled to be indemnified by a Unitholder or a former Unitholder under clause 13.11(3) or under the AMIT Regime, the Responsible Entity may, in order to satisfy that indemnity deduct from any amounts owing to the particular Unitholder or Former Unitholder the aggregate of any amounts which the Responsible Entity is entitled to be indemnified under clause 13.11(3), or under the AMIT Regime.

## 13.6 Payment

- (a) The Responsible Entity must pay to each Unitholder its Income Distribution Entitlement on or before the Distribution Date. The Responsible Entity may otherwise determine the date for payment of Distribution Entitlements.
- (b) The Responsible Entity may pay a Distribution Entitlement by one or more of the following:
  - (1) Cash payment made accordance with clause 27.2;
  - (2) retention of amounts in accordance with clause 13.7; or
  - (3) issue of Units or reinvestment in accordance with clause 13.8.

Such payment will be good and complete discharge of the Responsible Entity in respect of any liability to any person in respect of an entitlement to such Distributable Entitlements.
- (c) The Responsible Entity may establish a special account (the **Distribution Account**) in the name of the Responsible Entity or its agent and transfer into that account amounts to be distributed to Unitholders, including amounts withheld pursuant to clause 7.1(c) of Schedule 3. Any amounts transferred to that account will not be part of the Fund and will be held by the Responsible Entity on a separate trust for distribution to Unitholders entitled to that distribution. The Responsible Entity has the same powers to manage and invest the money in the Distribution Account as the Responsible Entity has in respect of the Fund. All interest and other income earned from the investment is income of the Trust and the relevant Unitholders will not be entitled to such interest or income.

## 13.7 Retention of fractions

- (a) The Responsible Entity may retain from amounts distributable to Unitholders all amounts which are necessary to avoid distributing a fraction of a cent or which the Responsible Entity determines it is not practical to distribute on a Distribution Date. Any sum so retained will for all purposes be treated as income for the next following Distribution Period.
- (b) The Responsible Entity may retain from all amounts distributable to a Unitholder an amount in or towards satisfaction of any amount:
  - (1) payable by the Unitholder to the Responsible Entity under this deed or the Terms of Issue for the relevant Units;

- (2) required to be deducted by law; or
- (3) which the Responsible Entity has a right to retain under any agreement between the Unitholder and the Responsible Entity.

### 13.8 Separate accounts

The Responsible Entity may keep separate accounts of different categories or sources (or both) of income or gains, or deductions, losses or credits for tax purposes, and if such accounts are kept, they must be kept in accordance with the requirements of the Tax Act. The Responsible Entity may allocate income or gains from a particular category or source or both to particular Unitholders, provided that the allocation is not inconsistent with the entitlements of Unitholders to Income Distribution Entitlements under clause 13.3 or the Responsible Entity's obligation to attribute amounts to Unitholders under clause 13.9. For a Financial Year for the Trust which is not an AMIT Income Year, if such allocation is made on any basis other than pro rata with all other Unitholders of a class, the Responsible Entity must notify the Unitholder.

### 13.9 Attribution under AMIT Regime – basis for attribution

- (a) The Responsible Entity must, for an AMIT Income Year, following the end of the Financial Year, attribute all of the Determined Trust Components of the Trust, or each Class in the Trust where there is an AMIT Class Election in force for the Trust, for the Financial Year to Unitholders or former Unitholders under the AMIT Regime.
- (b) The Responsible Entity must perform the attribution under clause 13.9(a) in accordance with the Tax Act and the following principles:
  - (1) the amount of each Unitholder's Determined Member Components of a particular character is so much of the Trust's Determined Trust Component of that particular character as is attributable to the Units held by the Unitholder, having regard to the provisions of this deed; and
  - (2) if there is more than one Class on issue in the Trust and the Responsible Entity has made an AMIT Class Election for the Trust, each Class will be treated as a separate AMIT for the purposes of the attribution under clause 13.9(a).
- (c) Subject to clause 13.9(d), but without limiting clause 13.9(b)(2), following the end of an AMIT Income Year, the Responsible Entity must determine for and attribute to each Unitholder or former Unitholder, all of the Determined Trust Components of the Trust or relevant Class (where there is an AMIT Class Election in effect for the Trust) for the Financial Year that are reflected in:
  - (1) any amounts of Distributable Income that the Unitholder or former Unitholder has become entitled to at or before the end of each Distribution Period in the Financial Year under clause 13.3 or clause 9.2(e);
  - (2) any Income Distribution Entitlements that would arise for the Unitholder or former Unitholder at a time specified in clause 13.3 ("**Relevant Time**") if the Relevant Time was the end of a Distribution Period

and variable “UI” in the formula set out in that clause for the Distribution Period was the amount accumulated under clause 13.2(a)(1).

- (d) The Responsible Entity may, during an AMIT Income Year, make estimates of the extent to which particular amounts of Distributable Income that have been distributed for the Trust as an Income Distribution Entitlement under clause 13.3 or clause 9.2(e) are referable to Determined Trust Components of the Trust or the relevant Class (where there is an AMIT Class Election in effect in relation to the Trust) for the Financial Year of a particular character. These estimates are not binding on the Responsible Entity when undertaking the process provided for under clause 13.9(a).

### **13.10 Attribution under AMIT Regime – AMIT Class Election**

Where there is an AMIT Class Election in effect, then without limiting clause 13.9:

- (a) in calculating the Determined Trust Components of each Class for the Trust, the Responsible Entity must only include in the Determined Trust Components of a Class the Determined Trust Components of the Trust that are referable to the Class, in accordance with the methodology used to determine the Income Distribution Entitlements of Unitholders of the Class, having regard to clause 3.5(a); and
- (b) the Responsible Entity must only attribute Determined Trust Components of a particular Class to Unitholders or former Unitholders of that Class (and not any other Class).

### **13.11 Attribution under AMIT Regime – Unitholder objections**

If the Trust is an AMIT and a Unitholder or former Unitholder makes an objection or proposed objection to how the Responsible Entity attributes the Determined Trust Components of the Trust or a Class (where the Responsible Entity has made an AMIT Class Election for the Trust) to the Unitholder or former Unitholder under the AMIT Regime, including by making a Member Objection Choice:

- (a) the Unitholder or former Unitholder must:
  - (1) provide the Responsible Entity with a copy of the objection notice including the basis for objection, within the time the Unitholder is required to do so under the Tax Act for the objection to be effective;
  - (2) provide to the Responsible Entity within a reasonable period, any information the Responsible Entity reasonably requests in relation to the Unitholder's or former Unitholder's objection or proposed objection;
  - (3) indemnify the Responsible Entity against all costs and Liabilities incurred by the Responsible Entity as a result of the objection. This paragraph (3) does not limit the Responsible Entity's other rights to indemnification under this deed.
- (b) the Responsible Entity may take such actions as it considers necessary, appropriate or reasonable to provide for the rights and interests of other Unitholder or former Unitholders to be protected, including in dealings with the Commissioner of Taxation; and

- (c) the Responsible Entity may amend its attribution of Determined Trust Components to Unitholders or former Unitholders based on the Responsible Entity's determination of what attribution is appropriate, and take such actions as the Responsible Entity determines are necessary to give effect to the amended attribution, including issuing or reissuing AMMA Statements to Unitholders or former Unitholders.

### **13.12 AMIT Regime – Unders and Overs**

For any Financial Year that is an AMIT Income Year, the Responsible Entity may determine how any Unders or Overs that arise for the Trust are to be dealt with in accordance with the AMIT Regime. The Responsible Entity is not liable to any Unitholder or former Unitholder with respect to how it addresses any Unders or Overs, provided that the Responsible Entity addresses the Unders or Overs in accordance with the AMIT Regime, and irrespective of whether the choices made result in an attribution outcome for a Unitholder or former Unitholder that is different from the attribution outcome if the Responsible Entity had not made the choice, or had made the choice differently.

### **13.13 AMIT Regime – exercise of Responsible Entity's powers**

Notwithstanding the status of the Trust as an AMIT for a Financial Year, and without limiting clauses 10.1 or 10.2, any power exercised or any act, matter or thing done by the Responsible Entity which is based on the Responsible Entity's reasonable belief at the relevant time that the Trust will or will not be an AMIT for the Financial Year, will be valid and binding on all Unitholders.

### **13.14 Reinvestment**

- (a) From time to time, subject to clause 7.1, the Responsible Entity may notify Unitholders that Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may request that all or a portion of specified Distribution Entitlements due to them be satisfied by the issue of further Units.
- (b) The Responsible Entity may hold money on behalf of a Unitholder for purposes of reinvestment and aggregate such amounts until the total reaches the amount required to pay the Issue Price of a whole Unit.

### **13.15 Capitalisation of amounts**

- (a) Subject to the Listings Requirements, any rights or restrictions attached to any Units or class of Units, from time to time the Responsible Entity may capitalise and distribute among Unitholders pro rata according to the number of Units held as at a time that the Responsible Entity determines, any amount forming part of the income, reserves or provisions of the Trust.
- (b) The Responsible Entity may determine that the capitalised amount is to be applied, subject to clause 7.1, in paying the Issue Price of new Units to be issued to the relevant Unitholders. Each Unitholder entitled to receive the distribution must accept that application in full satisfaction of their interest in the capitalised amount.
- (c) Subject to clause 13.15(d) and the Listings Requirements, the Responsible Entity may notify Unitholders entitled to receive a distribution that the Responsible Entity has determined to capitalise that the relevant Unitholders may on terms specified in the notice participate in an arrangement under

which Unitholders may request that all or a portion of the capitalised amount to be paid to them in Cash.

- (d) The Responsible Entity may only make such arrangement for payment of capitalised amounts to Unitholders in cash, if it is satisfied that, if it paid the maximum amount of Cash payable under such arrangement, such payment would not cause the Trust to become insolvent within the meaning of section 95A of the Corporations Act (as if references in that section to a person were references to the Trust).
- (e) Where in accordance with the Terms of Issue or Terms of Offer of Options existing at the time referred to in clause 13.15(a), a Holder of those Options will be entitled to an issue of Units under this clause 13.15, the Responsible Entity may in determining the number of Units to be so issued, allow in an appropriate manner for the future issue of Units to such Optionholders.

### **13.16 Trust taxed as a company**

Despite anything in clause 13.1, if in any Financial Year the Responsible Entity in its capacity as trustee becomes taxable as if it were a company under the Tax Act, the Responsible Entity has complete discretion as to how much, if any, of:

- (a) the income for each Distribution Period during that Financial Year and each subsequent Financial Year for which the Trust is taxed as if it were a company; or
  - (b) in Distribution Periods subsequent to that Financial Year, the income from previous Distribution Periods which has not previously been distributed,
- is to form part of the Distributable Income for purposes of calculating Income Distribution Entitlements for such Distribution Periods

### **13.17 Change in taxation**

- (a) Despite anything in clause 13.1, if there is any amendment to the Tax Act or Income Tax Act, or a change in the administration of the Tax Act or Income Tax Act, whether resulting from judicial determination or otherwise and as a consequence the Responsible Entity believes that it is in the best interests of Unitholders that the Distributable Income should be determined otherwise than in accordance with clause 13.1, the Responsible Entity may change the basis on which it calculates Distributable Income accordingly.
- (b) The change takes effect from the first Distribution Period End Date after the Responsible Entity gives Unitholders a notice setting out the proposed changes (or such later Distribution Period End Date as the Responsible Entity specifies in the notice).

## **14 Meetings**

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### **14.1 Meetings**

The Responsible Entity may convene a Meeting at any time. Part 2G.4 of the Corporations Act (other than sections 252F, 252G, 252H, 252T and 253E, while the Trust is not a Registered Scheme) and the provisions of Schedule 1 apply to Meetings. The provisions of paragraph 10.11 of Schedule 10 of the Listings

Requirements also apply to Meetings to the extent they are not inconsistent with Part 2G.4 of the Corporations Act.

## **14.2 Passing of resolution**

A resolution passed at a Meeting held in accordance with this deed and not inconsistent with the Listings Requirements is binding on all Holders.

## **15 Proposal approved by Holders**

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### **15.1 Power to implement a Proposal and limitation of liability**

- (a) Having regard to the functions of the Responsible Entity and without limiting anything else in this clause 15, the Responsible Entity has power to do all things which it reasonably considers are necessary, incidental or desirable to implement a Proposal and those powers apply despite, and are not limited by, any provision of this deed other than clause 1.7.
- (b) Subject to the Corporations Act, the Responsible Entity will not have any liability of any nature beyond the Assets of the Fund to Holders arising, directly or indirectly, from the Responsible Entity doing or refraining from doing any act (including the execution of a document), pursuant to or in connection with the implementation of a Proposal.
- (c) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers are necessary, incidental or desirable to be executed or done on behalf of the Holder to effect a Proposal, including:
  - (1) executing applications, withdrawals, transfers and other documents, and receiving, holding and paying money;
  - (2) applying for and acquiring (whether by subscription, purchase or otherwise) Securities;
  - (3) applying distributions, redemption proceeds or other payments to pay for the subscription for or purchase of Securities or other assets;
  - (4) accepting an issue or transfer of Securities;
  - (5) agreeing that the Holder will become a member of another entity; and
  - (6) transferring any Securities to another person.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

### **15.2 Paramountcy**

This clause 15 has effect despite any other provision of this deed and any provision of this deed which is inconsistent with this clause 15 does not operate to the extent of any inconsistency.

## 16 Stapling

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### 16.1 Stapling provisions

The Stapling provisions in Schedule 2 apply in relation to any Stapling or proposed Stapling of Units or Options and to the associated matters referred to in that Schedule 2.

### 16.2 Paramountcy

Schedule 2 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with Schedule 2 does not operate to the extent of any inconsistency.

## 17 Takeovers

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The takeover provisions in Schedule 3 apply while any Units or Options are Listed, except while Chapter 6 of the Corporations Act applies in relation to the Trust.

## 18 Complaints

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### 18.1 General

The provisions of this clause 18 only apply while the Trust is a Registered Scheme.

### 18.2 Complaints handling

The Responsible Entity must establish and maintain a procedure for dealing with Complaints by Holders in relation to the Trust which is consistent with AS 10002-2006 Australian Standard on Complaints Handling or such other standard which satisfies the requirements (if any) of the Corporations Act, Listings Requirements, Listing Rules or any Government Agency from time to time.

### 18.3 Holder Complaints

- (a) A Holder may lodge a Complaint in relation to the Trust:
  - (1) by notice to the Responsible Entity;
  - (2) by phone, by calling the number set out in clause 26.1, or such other number (or numbers) as the Responsible Entity from time to time notifies to Holders, between the hours of 9.00am and 5.00pm on Business Days;
  - (3) by email, to such email address as the Responsible Entity from time to time notifies to Holders; or



- (4) in person, at the Responsible Entity's address set out in clause 26.1 between the hours of 9.00am and 5.00pm on Business Days,

or by such other additional method as the Responsible Entity from time to time approves.

- (b) The Responsible Entity must:

- (1) record the Complaint and the date it was received in a register maintained for that purpose; and
- (2) send the Holder an acknowledgment of receipt of the Complaint [as soon as possible and in any event within 14 days from receipt].

#### **18.4 Handling of Complaints**

- (a) The Responsible Entity must deal with a Complaint by a Holder under clause 18.3 in accordance with this clause 18, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) Subject to clause 18.4(c), the Responsible Entity must use reasonable endeavours to deal with the Complaint within 45 days from the date of receipt of the Complaint, or within such other period specified:
  - (1) by the Corporations Act; or
  - (2) in a standard or requirement relating to dispute resolution that is issued by ASIC pursuant to the Corporations Act,from time to time.
- (c) As soon as practicable, the Responsible Entity must, notify the Holder of:
  - (1) its decision in relation to the Complaint;
  - (2) the remedies available to the Holder in relation to the Complaint; and
  - (3) any avenues of appeal that may be available to the Holder if the Holder is dissatisfied with the decision.
- (d) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle Complaints.
- (e) The Responsible Entity must act in good faith to deal with the Complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties.
- (f) The Responsible Entity may in its discretion give any of the following remedies to the Holder:
  - (1) information or an explanation regarding the which resulted in the Complaint;
  - (2) an apology; or
  - (3) compensation to the Holder for loss incurred by it as a direct result of the breach (if any) of the Responsible Entity's obligations.

- (g) The Responsible Entity is not required to give the Holder the reasons for its decision in relation to a Complaint.

## **18.5 Assistance and information**

- (a) The Responsible Entity must provide a Holder with all reasonable assistance and information that the Holder may require for the purpose of making a Complaint and understanding the complaints handling procedures adopted by the Responsible Entity.
- (b) A Holder lodging a Complaint in relation to a Trust must provide the Responsible Entity with all information the Responsible Entity may require in order to properly deal with and resolve the Complaint.

## **19 Remuneration of Responsible Entity**

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### **19.1 Fee**

- (a) The Responsible Entity is entitled to receive out of the Fund an annual management fee, being 0.025% of Enterprise Value.
- (b) The Responsible Entity's fee accrues daily, is calculated as at the end of each calendar month, is payable in arrears and must be paid within 10 Business Days after the end of the relevant calendar month.
- (c) The right of the Responsible Entity under this clause 19.1 to be paid fees out of the Fund is available only in relation to the proper performance of its duties.

### **19.2 Waiver or deferral of remuneration**

The Responsible Entity may waive or defer the whole or any part of the remuneration to which it would otherwise be entitled. Where payment is deferred, the deferred remuneration continues to accrue daily until paid.

### **19.3 Priority of Responsible Entity's remuneration**

The remuneration of the Responsible Entity has priority over the payment of all other amounts payable from the Fund.

## **20 Responsible Entity's indemnity**

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### **20.1 Responsible Entity's indemnity for Costs and liabilities**

- (a) In addition to the Responsible Entity's right of remuneration under clause 19.1 and any other right of indemnity which the Responsible Entity may have under this deed or any law, the Responsible Entity is indemnified and entitled to be reimbursed out of, or have paid from, the Fund all:
  - (1) Costs and liabilities incurred at law or under this deed in the performance of its duties or the exercise of its

powers, the course of its office or in relation to the administration or management of the Trust;

- (2) Costs and liabilities necessarily incurred by the Responsible Entity in relation to its acting as Responsible Entity of the Trust; and
- (3) Costs and liabilities associated with the raising of capital for the Fund including the payment of any fees payable to a broker in respect of an Application for Units,

including any Costs and liabilities incurred as a result of any act or omission of a delegate or agent or attorney appointed by the Responsible Entity.

- (b) The indemnity in clause 20.1(a) includes all Costs and liabilities connected with:

- (1) this deed, the Management Agreement, Custody Agreement and Review Services Agreement;
- (2) the formation of the Trust and registration of the Trust as a Registered Scheme;
- (3) the preparation, review, distribution and promotion of any PDS, Pre-Listing Statement or other offering document in respect of Units or Options and other promotion of the Fund;
- (4) the Listing of the Trust on ASX; and
- (5) the Responsible Entity's internal running, administration and operating costs attributable to its role as Responsible Entity of the Trust (such as overheads, internal staff costs, including travel costs, amounts payable to directors, compliance costs, computer systems etc).

- (c) In calculating the amount to be indemnified and reimbursed to the Responsible Entity under this clause 20.1, and in particular under clause 20.1(b)(5), while the Responsible Entity is the trustee or responsible entity of one or more trusts or registered schemes in addition to this Trust, the amount calculated and payable to the Responsible Entity for the internal running, administration and operating costs as expenses incurred in acting as Responsible Entity of the Trust will be an amount determined by the Responsible Entity to be a fair and reasonable proportion of the Responsible Entity's total running, administration and operating costs and expenses having regard to:

- (1) the Enterprise Value of the Trust compared with the gross asset value of the other trusts or Registered Schemes for which the Trustee acts as trustee, calculated at comparable points in time;
- (2) whether or not the other trusts are Registered Schemes; and
- (3) any other Costs or liabilities of the Responsible Entity that are separate and in addition to its role as trustee or responsible entity for any trust or Registered Scheme.

- (d) Notwithstanding clause 20.1(c) any Costs and liabilities that are incurred by the Responsible Entity solely in relation to its role as Responsible Entity of this Trust may be fully recovered by the Responsible Entity out of the Fund in accordance with the indemnity in this clause 20.1.
- (e) Without limiting any other provision of this clause 20.1 or any other provision of this deed (including clause 13.11(a)(3)), the Responsible Entity is entitled to be indemnified by a Unitholder or former Unitholder for:
  - (1) any Tax (or an estimate of it) payable by the Responsible Entity under or in connection with the AMIT Regime and which the Responsible Entity determines is properly referable to the Unitholder or former Unitholder; and
  - (2) any other costs, expenses or liabilities incurred by the Responsible Entity as a result of being liable to such Tax, and claiming on the indemnity provided by the Unitholder or former Unitholder under clause 20.1(a) in the circumstances contemplated in clause 20.1(e) or clause 13.11(a)(3).
- (f) To the extent they are not paid at the time the relevant Costs or liabilities are incurred, the amounts payable under this clause 20.1 are payable monthly.
- (g) If there is any dispute relating to the amount payable under this clause 20.1, the amount will be the amount as determined by the Responsible Entity's auditor, or by such person who is independent of the Responsible Entity as the auditor nominates.

## **20.2 Waiver or deferral of Costs and liabilities**

The Responsible Entity may waive or defer the whole or any part of the indemnity for Costs and liabilities to which it would otherwise be entitled. Where payment is deferred, the deferred Costs or liabilities continue to accrue daily until paid.

## **20.3 Proper performance of duties**

- (a) The rights of the Responsible Entity to be indemnified out of the Fund for Costs and liabilities incurred in relation to the performance of its duties, are available only in relation to the proper performance of those duties.
- (b) The Responsible Entity may exercise any of its rights of indemnification or reimbursement out of the Fund to satisfy a liability to any creditor of the Responsible Entity (as trustee of the Trust) even though the Fund may have suffered a loss or may have diminished in value as a consequence of any unrelated act, omission or breach of trust by the Responsible Entity or by any delegate or agent or attorney appointed by the Responsible Entity.

# **21 Compliance Committee's indemnity and insurance**

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## **21.1 Indemnified persons**

Clauses 21.2 and 21.4 apply to each person who is or has been a member of the Compliance Committee (if any).

## **21.2 Indemnity in favour of member of Compliance Committee**

The Responsible Entity must, from the Fund, indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 21.2 applies for all Costs and liabilities (other than Taxes) incurred by the person as a member of the Compliance Committee (if any) including a liability for negligence or for reasonable Costs and liabilities incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

## **21.3 Extent of indemnity**

The indemnity in clause 21.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 21.2 applies even though that person may have ceased to be a member of the Compliance Committee (if any); and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

## **21.4 Insurance**

The Responsible Entity may, from the Fund and to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 21.4 applies against any liability incurred by the person as a member of the Compliance Committee (if any) including a liability for negligence or for reasonable Costs and liabilities incurred in defending proceedings, whether civil or criminal and whatever their outcome.

## **21.5 Savings**

Nothing in clauses 21.2 or 21.4:

- (a) affects any other right or remedy that a person to whom those provisions apply may have in respect of any loss or liability referred to in those provisions; or
- (b) limits the capacity of the Responsible Entity to indemnify or provide insurance for any person to whom those provisions do not apply.

# **22 Retirement or removal of Responsible Entity**

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## **22.1 Retirement and removal of Responsible Entity**

- (a) While the Trust is not a Registered Scheme:
  - (1) the Responsible Entity may retire on not less than 30 days' notice to the Holders. On retirement, the

- Responsible Entity may appoint another person to be the Responsible Entity; and
  - (2) the Responsible Entity must retire if directed to do so by a Special Resolution of Holders or a written notice of a Holder or Holders holding all of the Units on Issue and Options.
- (b) While the Trust is a Registered Scheme:
  - (1) despite any other law, the Responsible Entity may only retire as responsible entity of the Trust in accordance with section 601FL of the Corporations Act; and
  - (2) the Responsible Entity may only be removed as responsible entity of the Trust in accordance with section 601FM of the Corporations Act.
- (c) On retirement or removal the Responsible Entity must give the incoming trustee or responsible entity all books, documents and records relating to the Trust.
- (d) If the Trust is not a Registered Scheme at the time the Responsible Entity is to retire, any proposed replacement trustee or responsible entity must execute a deed by which it covenants to be bound by this deed as if it had originally been a party to it.
- (e) The Responsible Entity is entitled to agree with an incoming trustee or responsible entity to be remunerated by, or receive a benefit from, the incoming trustee or responsible entity in relation to:
  - (1) entering into an agreement to submit a proposal for its retirement to a meeting of Holders and nominating the incoming trustee or responsible entity as its replacement; or
  - (2) its retirement as Responsible Entity,
 and is not required to account to Holders for such remuneration or benefit.

## 22.2 Name of Trust to be changed

- (a) If Investec Property Limited has retired or is removed as the Responsible Entity, and a new Responsible Entity is appointed that is not an Associate of at least one of Investec Property Limited, Investec Limited (a company incorporated in South Africa) or Investec plc (a company incorporated in England), the new trustee or responsible entity must promptly take all action that may be necessary (including, if applicable, obtaining any approvals required under the CISCA) to remove any words or any other letters, words or expressions which might express or imply an association with Investec Property Limited, or any of its Associates, from the name of the Trust and this deed and such letters, words or expressions must not be used in any connection with the Trust and this deed.
- (b) Clause 22.2(a) does not apply to the extent that the new trustee or responsible entity of the Trust obtains the consent of Investec Property Limited not to take the action set out in that clause.

## 23 Term of Trust and termination of Trust

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### 23.1 Term of Trust

The term of the Trust ends on the earlier of:

- (a) the date determined by the Responsible Entity as the date on which the Trust is to be terminated; and
- (b) the date on which the Trust is terminated under this deed or by law.

### 23.2 Procedure on winding up of Trust

- (a) In winding up the Trust, the Responsible Entity must:
  - (1) realise the Fund;
  - (2) pay any amount due to it under clause 23.2(c);
  - (3) pay all Costs and liabilities of the Responsible Entity in its capacity as Responsible Entity of the Trust including liabilities owed to any Unitholder who is a creditor of the Trust otherwise than in their capacity as a Unitholder; and
  - (4) subject to the Terms of Issue of any Unit or the direction in writing of all Unitholders, distribute the net proceeds of realisation among the Unitholders pro rata in accordance with the proportion of Units held by Unitholders.
- (b) The Responsible Entity may distribute an Asset of the Fund to a Unitholder in specie. The Responsible Entity must determine the value of the Asset to be distributed in specie. Any Costs payable on an in specie distribution must be paid by the Unitholder before the distribution is made.
- (c) The Responsible Entity is entitled to:
  - (1) be paid from the proceeds of realisation of the Trust before any payment is made to the Unitholders all Costs and liabilities incurred or which it establishes will be incurred:
    - (A) by it before the winding up of the Trust which it has not recouped;
    - (B) by it in connection with the winding up of the Trust and the realisation of the Fund;
    - (C) by or on behalf of any creditor of the Responsible Entity in relation to the Trust;
    - (D) by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Responsible Entity in connection with the winding up of the Trust;
  - (2) an indemnity against the amounts referred to in clause 23.2(c)(1) which may be satisfied out of those proceeds before any distribution under clause 23.2(a)(4) is made; and

- (3) following the termination of the Trust and until the winding up is completed, its remuneration (if any) provided for in clause 19.
- (d) The Responsible Entity may postpone the realisation of the Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
- (e) The Responsible Entity may retain for as long as it thinks fit any part of the Fund which in its opinion, may be required to meet any actual or contingent liability of the Responsible Entity or any amounts payable actually or contingently to the Responsible Entity under this deed, including under clause 23.2(c).
- (f) The Responsible Entity must distribute among the Unitholders in accordance with this clause 23.2 anything retained under clause 23.2(e) which is subsequently not required.

### **23.3 Audit of accounts of Trust**

The Responsible Entity must ensure that the final accounts of the Trust following the winding-up are audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Responsible Entity.

## **24 Amendments**

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### **24.1 Amendments generally**

Subject to clause 24.2 and to any approval required by any applicable law:

- (a) while the Trust is a Registered Scheme, this deed (including this clause 24) may be modified, or repealed and replaced with a new deed:
  - (1) by Special Resolution of the Holders; or
  - (2) by the Responsible Entity (by deed), if the Responsible Entity reasonably considers the change will not adversely affect Holders' rights; and
- (b) while the Trust is not a Registered Scheme, the Responsible Entity may, by deed, modify, or repeal and replace, this deed (including this clause 24).

### **24.2 JSE approval**

While any Units or Options are Listed, this deed may only be modified, or repealed and replaced with a new deed, with the approval of the JSE, and subject to compliance with any applicable Listings Requirements in relation to such modification or repeal and replacement.

### **24.3 Class rights**

- (a) If at any time more than one class of Units is on issue, the rights attached to any class of Units may only be varied (including in connection with the conversion of Units of one class into Units of another class) with the approval of both:



- (1) a Special Resolution of the Holders; and
  - (2) a Special Resolution passed at a separate meeting of the Holders of Units of the relevant class.
- (b) For purposes of the approval requirements in clause 24.3(a), if the rights attached to only some of the Units in a class are varied:
  - (1) Holders of the Units whose rights are varied are taken to comprise a class of Holders whose rights are varied; and
  - (2) Holders of the other Units in that class whose rights were not varied are taken to comprise a separate class of Holders whose rights are varied.
- (c) For purposes of clause 24.3(a), the rights conferred on the holders of any class of Units are to be taken as not having been varied by the creation or issue of further Units ranking equally with them, or by issuing another class of Units.

## **24.4 Change of name**

While any Units or Options are Listed, the Responsible Entity may only change the name of the Trust:

- (a) with the approval of a Special Resolution of the Holders; or
- (b) if Investec Property Limited has retired or is removed as the Responsible Entity, and a new Responsible Entity is appointed, or if the Responsible Entity is transferred to an entity, that is not an Associate of at least one of Investec Property Limited, Investec Limited (a company incorporated in South Africa) or Investec plc (a company incorporated in England), the Responsible Entity may change the name of the Trust to remove references to the word 'Investec' (and must do so where required under clause 22.2) without requiring Holder approval.

## **25 Goods and Services Tax**

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### **25.1 Definition and interpretation**

In this clause 25 terms used (other than the term 'GST') which have a defined meaning in the GST Act have the same meaning as in the GST Act unless the context otherwise indicates.

### **25.2 Adjustment for GST**

- (a) Unless expressly included, the consideration for any supply made by the Responsible Entity under or in connection with this deed does not include GST.
- (b) To the extent that any supply made by the Responsible Entity under or in connection with this deed is a taxable supply, the Responsible Entity is entitled to receive out of the Fund, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of the supply.

## 25.3 GST on transfers of Assets of the Fund

Without limiting clause 25.2, if the Responsible Entity exercises a power to transfer any Asset of the Fund to a Unitholder as a distribution, redemption or otherwise under this deed or any applicable the Terms of Issue, the Responsible Entity may either:

- (a) require the Unitholder receiving the Asset (**First Unitholder**), or a Unitholder which is the First Unitholder's associate, to pay some or all of any GST on any supply arising from the transfer and any Unitholder so required must indemnify the Responsible Entity against that GST, and pay the Responsible Entity on demand an amount equal to that GST; or
- (b) pay some or all of that GST and recover the amount of that GST out of the Fund.

## 25.4 Tax invoice

The Responsible Entity must issue a tax invoice or adjustment note to the Fund in respect of each taxable supply referred to in clauses 25.2 or 25.3 (except where the recipient is required to issue the tax invoice or adjustment note) no later than 7 days following receipt of the GST inclusive consideration for that supply.

## 25.5 Reimbursements

Where the Responsible Entity is entitled to be reimbursed or indemnified out of the Fund for a cost or expense pursuant to clause 20, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Responsible Entity.

# 26 Notices

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## 26.1 How to give notice

Any application, notice or other communication to or by the Responsible Entity or a Holder must be:

- (a) in legible writing;
- (b) signed by the sender, or if the sender is a body corporate, by a director, secretary of the sender or other person duly authorised to sign notices on behalf of the sender in accordance with the law governing the body corporate (or in the case of a notice or communication sent by e-mail, sent from the sender's, director's, secretary's or authorised person's e-mail address);
- (c) addressed in English to the person to whom it is to be given; and
- (d) either:
  - (1) delivered to the addressee in person;
  - (2) sent by pre-paid mail (by airmail, if the addressee is overseas) to any of the addressee's addresses;

- (3) sent by fax to the addressee's fax number and the machine from which it is sent produces a report that states that it was sent in full; or
- (4) sent by e-mail to the addressee's e-mail address and the sender receives confirmation of receipt of the e-mail from the addressee's server.

The Responsible Entity's addresses and fax numbers are those specified for the Responsible Entity below, the address from time to time of the Responsible Entity's registered office, or such other addresses and fax numbers as the Responsible Entity may prescribe from time to time.

Australian Address	Level 23, Chifley Tower 2 Chifley Square SYDNEY NSW 2000 AUSTRALIA
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Phone	+61 2 9293 2000
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Fax	+61 2 9293 2323
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South African Address	2nd Floor 100 Grayston Drive Sandown Sandton 2196 SOUTH AFRICA
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Phone	+27 11 286 9175
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Fax	+27 11 291 1218
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A Holder's address and fax number is that specified for the Holder in the Register of Unitholders or Register of Optionholders as applicable, or such other addresses and fax number as the Holder may prescribe from time to time by notice given to the Responsible Entity.

## 26.2 Receipt of notice

Any application, notice or other communication to or by the Responsible Entity or a Holder is regarded as being given by the sender and received by the addressee:

- (a) if by delivery in person, then when delivered to the addressee;
- (b) if by prepaid post, then on the fifth Business Day (or while the Trust is not JSE Listed, the second Business Day) after the day of postage to the addressee; or
- (c) if by facsimile transmission, when transmitted to the addressee but where the sender's machine indicates a malfunction in transmission or the addressee notifies the sender of an incomplete transmission within 4 hours after transmission is received, the facsimile transmission is regarded as not given or received; or
- (d) if by email, when the email (including any attachment) comes to the attention of the addressee or a person acting on the addressee's behalf.

but if the delivery, receipt or transmission is on a day which is not a Business Day or is after 5.00pm (addressee's time) it is regarded as received at 9.00 am (addressee's time) on the following Business Day.

### **26.3 Reliance**

An addressee can rely on an application, notice or other communication that complies with clause 26.1, and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

### **26.4 Notices to Joint Holders**

A notice or other communication to Joint Holders is validly given if it is given only to the joint Holder whose name appears first on the Register.

### **26.5 Addressees**

In clause 26, a reference to an addressee includes a reference to an addressee's directors, secretaries, employees or agents.

## **27 General**

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### **27.1 Governing law and jurisdiction**

The rights, liabilities and obligations of the Responsible Entity and the Holders are governed by the law of New South Wales.

### **27.2 Method of payment or repayment by Responsible Entity to Holders**

- (a) Subject to clauses 27.2(c), 27.2(f) and 27.2(g) the Responsible Entity will pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by electronic transfer to an account with a Bank nominated by the Holder from time to time in accordance with clause 27.2(b).
  - (b) A Holder may, with the consent of the Responsible Entity, nominate (or in such manner approved by the Responsible Entity) that money owing to it under this deed be paid by electronic transfer, cheque or otherwise into a designated account with a Bank or other nominated person.
  - (c) The Responsible Entity may pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by cheque if:
    - (1) the Holder is a Foreign Holder; and
    - (2) the Holder has failed to nominate an account with a Bank in accordance with clause 27.2(b),or the Holder has nominated that money payable or repayable to the Holder is to be paid by cheque.
  - (d) A cheque issued to a Holder which is presented and paid, or where the payment is to a Bank or nominated person, payment to the Bank or
-

nominated person, discharges the Responsible Entity in respect of the payment.

- (e) If money is payable or repayable by the Responsible Entity to a Holder under this deed and either:

- (1) the Holder fails to nominate an account under clause 27.2(b);
- (2) the Responsible Entity cannot make an electronic transfer to an account nominated by a Holder under clause 27.2(b); or
- (3) the Responsible Entity determines that a cheque not presented within 9 months is cancelled,

subject to any applicable law relating to unclaimed money or property, the Responsible Entity must hold such money on trust (whether in an account established under clause 13.6(c) or otherwise) for the relevant Holder, or former Holder, for not less than 3 years from the date on which such money became due and payable. Any such money will not be part of the Fund and will be held by the Responsible Entity on a separate trust for the relevant Holders or former Holders entitled to that distribution. The Responsible Entity has the same powers to manage and invest such money as the Responsible Entity has in respect of the Fund. All interest and other income earned from the investment is income of the Trust and the relevant Holders will not be entitled to such interest or income.

- (f) Despite anything else in this clause 27.2 all payments by the Responsible Entity to a Unitholder arising from the transfer of dematerialized Units must be given effect in accordance with the system operated and used by the JSE for such payments.
- (g) Any payment from South Africa by the Responsible Entity to a Holder who is a non-South African resident must comply with the applicable exchange control regulations of the Financial Surveillance Department of the South African Reserve Bank.

### **27.3 Binding conditions**

The terms and conditions of this deed and any amending deed are binding on the Responsible Entity, each relevant Holder and any other person claiming through any of them, as if each was a party to this deed and each supplemental deed.

### **27.4 Other documents**

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

### **27.5 Cumulative rights**

The parties' rights, powers and remedies under this deed are cumulative and do not exclude any other right, power, authority, discretion or remedy of the parties.

### **27.6 Survival of indemnities**

Each indemnity in this deed:

- (a) is a principal obligation and not ancillary to any security or other obligation;

- (b) is an additional, separate and independent obligation and does not limit the general nature of any other indemnity or obligation;
- (c) is unconditional and is not released, discharged or otherwise affected by anything which but for this provision might have that effect; and
- (d) continues despite any settlement of account, termination of this or any other agreement or any other thing occurring, remaining in full force until:
  - (1) all monetary and other obligations under this deed, contingent or otherwise, have been performed in full; and
  - (2) the indemnified party finally discharges the indemnity.

The indemnified party may make a demand under any indemnity even if an event occurs that releases, discharges or otherwise affects the indemnifying party's obligations. The indemnified party does not have to enforce any other security or obligation, give any notice or take any steps against any other person before making a demand.

## 27.7 Attorney's rights and powers

In respect of each appointment by a party (the **appointor**) of another party (the **appointee**) as the appointor's agent or attorney under this deed:

- (a) the appointee may exercise its powers as agent or attorney in the appointee's own name or in the appointor's name;
- (b) the appointee may exercise any of its powers as agent or attorney even if the appointee benefits from the exercise of the power;
- (c) the appointor must ratify anything that the appointee does in exercise of its powers as agent or attorney other than things that the appointee does in breach of its duties as agent or attorney;
- (d) at any time, the appointee may appoint or remove any substitute, delegate, sub-agent or sub-attorney;
- (e) in favour of any third party, a certificate signed by any director or secretary of the appointee that any instrument or act falls within the appointee's authority is conclusive evidence that this is the case; and
- (f) the appointor must indemnify the appointee against all Costs and liability on a full indemnity basis, in respect of any claims in connection with the appointee's lawful exercise of all or any of its powers as agent or attorney in accordance with this deed.

## 27.8 Severability

If any provision of this deed is held or found to be void, invalid or otherwise unenforceable so much of this deed as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this deed will remain in full force and effect.

## 28 Trust Scheme

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### 28.1 Definitions

The following definitions apply in this clause 28 unless the context requires otherwise:

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership No.2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership (ABN 29 250 100 507).

**Deed Poll** means the deed poll dated 18 May 2022 executed by CHPIP and CHPIP Guarantor in favour of the Scheme Unitholders.

**Effective** means, in relation to the Trust Scheme, the supplemental deed poll making amendments to this Constitution to facilitate the Trust Scheme, including the insertion of clause 28, taking effect pursuant to section 601GC(2) of the Corporations Act.

**Effective Date** means the date on which the Trust Scheme becomes Effective.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any “security interest” as defined in sections 12(1) or 12(2) of the PPSA or any agreement to create any of them or allow them to exist.

**Implementation Date** means the 5th Business Day following the Record Date, or such other date as may be agreed in writing between CHPIP, CHPIP Guarantor and the Responsible Entity.

**Record Date** means 7.00 pm (Sydney time) on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between the IAP RE and CHPIP.

**Registered Address** means, in relation to a Scheme Unitholder, the address of that Scheme Unitholder shown on the Register as at the Record Date.

**Registry** means such suitably qualified person that is from time to time appointed by the Responsible Entity to operate the Register.

**Scheme Consideration** means an amount equal to \$1.90 in aggregate for each Scheme Unit and Scheme IPF II Unit.

**Scheme Implementation Agreement** means the agreement of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Scheme Meeting** means the meeting of Unitholders held on 29 June 2022 to consider the Scheme Resolutions, and includes any adjournment of that meeting.

**Scheme Resolutions** means the resolutions of the Unitholders to approve the Trust Scheme, including:

- (a) an ordinary resolution approving for the purpose of item 7 of section 611 of the Corporations Act the acquisition by CHPIP of all of the Scheme Units;
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to this Constitution to facilitate the implementation of the Trust Scheme; and
- (c) a special resolution approving the Responsible Entity to determine that the Stapling provisions of this deed will cease to apply and the Unstapling Date for the purpose of item 3.5 of Schedule 2 of this deed.

**Scheme IPF II Unit** means each Attached Security on issue as at the Record Date.

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

**Scheme Unitholders** means each person who is registered on the Register as a holder of Units as at the Record Date.

**Trust Scheme** means the arrangement by which all of the Scheme Units will be transferred to CHPIP, as set out in this clause 28.

## 28.2 Implementation of Trust Scheme

- (a) Each Scheme Unitholder and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as the Responsible Entity considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.
- (b) Each Scheme Unitholder, without the need for any further act by that Holder, irrevocably appoints the Responsible Entity as that Holder's attorney and agent for the purpose of:
  - (1) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it, including executing and delivering any transfer of the Scheme Units; and
  - (2) enforcing the Deed Poll against CHPIP and CHPIP Guarantor,

and the Responsible Entity accepts such appointment. The Responsible Entity, as attorney and as agent of each Holder, may sub-delegate its functions, authorities or powers under this clause 28(b) to all or any of its directors and officers (jointly, severally, or jointly and severally). Each Holder indemnifies the Responsible Entity and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 28.2(b).

- (c) Without limiting the Responsible Entity's other powers under this clause 28, the Responsible Entity has power to do all things that it considers necessary, desirable or reasonably incidental to give effect to the Trust



Scheme, the Scheme Implementation Agreement and the transactions contemplated by them.

- (d) Subject to the Corporations Act, the Responsible Entity, CHPIP or any of their directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 28 even if they have an interest (financial or otherwise) in the outcome of such exercise.
- (e) Each Scheme Unitholder will be entitled to receive the Scheme Consideration for each Scheme Unit and Scheme IPF II Unit held by that Scheme Unitholder.
- (f) Without limiting the Responsible Entity's powers under this clause 28, subject to CHPIP and the CHPIP Guarantor having complied with their obligations under clause 4.2(b) of the Deed Poll:
  - (1) on the Implementation Date, the Responsible Entity must determine in accordance with item 3.5(a) of Schedule 2 that the Stapling provisions of the Constitution will cease to apply on the Implementation Date and that the Implementation Date is to be the "Unstapling Date" for the purpose of item 3.5(a) of Schedule 2 of the Constitution;
  - (2) on the Effective Date, the Responsible Entity, as the Scheme Unitholder's agent and attorney under clause 28.2(b)(1) above, is empowered to transfer the Scheme Units and the Scheme IPF II Units on the Implementation Date for a price equal to the Scheme Consideration, in accordance with the terms of the Scheme Implementation Agreement and the Deed Poll; and
  - (3) by no later than the Implementation Date, the Responsible Entity must execute a transfer of the Scheme Units on behalf of each Scheme Unitholder as agent and attorney appointed under clause 28.2(b)(1) above in the manner and form which the Responsible Entity considers necessary and deliver the transfer to the Registry for registration.
  - (4) immediately after receipt of the transfer in accordance with clause 28.2(f)(3), but subject to the stamping of the transfer (if required), or the transfer being effected under section 1074D of the Corporations Act (as the case may be), entering, or procuring the entry of, the name and address of CHPIP in the Register as the holder of all of the Scheme Units transferred to CHPIP in accordance with the Trust Scheme.
- (g) This clause 28:
  - (1) binds the Responsible Entity and all of the Holders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (2) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act, the Listing Rules and the Listing Requirements).

### **28.3 Warranty by Scheme Unitholders**

Each Scheme Unitholder warrants to CHPIP and is deemed to have authorised the Responsible Entity to warrant to CHPIP as agent and attorney for the Scheme Unitholder by virtue of this clause 28.3, that:

- (a) all their Scheme Units (including any rights and entitlements attaching to those securities) transferred to CHPIP under the Trust Scheme, will, as at the date of the transfer, be fully paid and free from all Encumbrances;
- (b) they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those securities) to CHPIP under the Trust Scheme; and
- (c) they have agreed to the variation, cancellation or modification of the rights attached to their Scheme Units (if any) in accordance with the Trust Scheme without the need for any further act by the Scheme Unitholder.

### **28.4 Transfer free of Encumbrances**

To the extent permitted by law, all Scheme Units (including any rights and entitlements attaching to those securities) which are transferred to CHPIP under the Trust Scheme will, at the date of the transfer of them to CHPIP, vest in CHPIP free from all Encumbrances.

### **28.5 Appointment of CHPIP as sole proxy**

Subject to the provision of the Scheme Consideration for the Scheme Units, on and from the Implementation Date until the Responsible Entity registers CHPIP as the holder of all the Scheme Units in the Register, each Scheme Unitholder:

- (a) irrevocably appoints the Responsible Entity as attorney and agent (and directs the Responsible Entity in such capacity) to appoint CHPIP and each of CHPIP's directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable, corporate representative, to attend Unitholder meetings, exercise the votes attaching to Units registered in its name and sign any Unitholder resolution, and no Scheme Unitholder may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy, or by corporate representative (other than pursuant to this clause 28.5(a); and
- (b) must take all other actions in the capacity of the registered holder of Units as CHPIP directs.

The Responsible Entity undertakes in favour of each Scheme Unitholder that it will appoint CHPIP and each of CHPIP's directors from time to time (jointly and each of them individually) as that Scheme Unitholder's proxy or, where applicable, corporate representative, in accordance with clause 28.5(a).

### **28.6 Payment to Scheme Unitholders**

- (a) On the Implementation Date, subject to CHPIP having satisfied its obligations under clause 4.2(b) of the Deed Poll, the Responsible Entity must pay or procure the payment from the Trust Account to each Scheme

Unitholder the Scheme Consideration as that Scheme Unitholder is entitled under clause 28.2(e).

- (b) The obligations of the Responsible Entity under clause 28.6(a) will be satisfied by the Responsible Entity (in its absolute discretion):
  - (1) where a Scheme Unitholder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Responsible Entity by electronic funds transfer to a bank account nominated by the Scheme Unitholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (2) otherwise, whether or not the Scheme Unitholder has made an election referred to in paragraph (1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unitholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unitholder (or in the case of Joint Holders, in accordance with the procedures set out in clause 28.7).
- (c) Notwithstanding anything to the contrary in this deed, the Scheme Consideration paid to Scheme Unitholders included in the Register maintained by, or on behalf of, the Responsible Entity in South Africa (as a sub-register of the Register), will be paid to such Scheme Unitholders in a ZAR (Rand) equivalent of the Scheme Consideration determined by the ZAR (Rand) / AUD (Australian Dollar) spot rate quoted by Reuters as at the date and time determined by the Responsible Entity provided that CHPIP shall have no obligation to make available to the Responsible Entity funds denominated in ZAR (Rand) and no obligation to gross-up for any conversion costs or rounding differences.

## **28.7 Joint Holders**

In the case of Scheme Units held by Joint Holders:

- (a) any cheque required to be sent under the Trust Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date.

## **28.8 Fractional entitlements**

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

## **28.9 Unclaimed monies**

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any amount payable to a Scheme Unitholder under the Trust Scheme which becomes 'unclaimed money' (as defined in section 7 of that Act).
- (b) The Responsible Entity may cancel a cheque issued on account of the Scheme Consideration if the cheque:
  - (1) is returned to the Responsible Entity; or
  - (2) has not been presented for payment within 12 months after the date on which the cheque was sent.

## **28.10 Orders of a court or Government Agency**

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

### **28.11 No disposals after the Effective Date**

- (a) If the Trust Scheme becomes Effective, a holder of Scheme Units (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them after the Effective Date in any way except pursuant to the Trust Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) The Responsible Entity will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Units received after the Record Date (except a transfer to CHPIP pursuant to the Trust Scheme or any subsequent transfer by CHPIP or its successors in title).

### **28.12 Lapsing**

Clause 28 will lapse and have no further force or effect if the Trust Scheme lapses in accordance with the Scheme Implementation Agreement.

# Schedule 1

## Meetings of Holders

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(Clause 14)

### 1 Calling a Meeting

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- (a) The Responsible Entity may, at any time, call a Meeting.
- (b) Subject to the Corporations Act, the Responsible Entity must call and arrange to hold a Meeting to consider a vote on a proposed resolution at the request of:
  - (1) Holders with at least 5% of the votes that may be cast on the resolution; or
  - (2) at least 100 Holders who are entitled to vote on the resolution.

The percentage of votes that Holders have is to be worked out at midnight before the request is given to the Responsible Entity.
- (c) Subject to the Corporations Act, Holders who hold interests carrying at least 5% of the votes that may be cast at a Meeting may call and arrange to hold a Meeting to consider and vote on a proposed resolution. The Holders calling the meeting must pay the expenses of calling and holding the Meeting. The percentage of votes that Holders have is to be worked out at midnight before the Meeting is called.

### 2 Notice of meeting

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- (a) If the Responsible Entity omits to give a Holder notice of a Meeting or if a Holder does not receive notice, the Meeting is still valid.
- (b) While any Units or Options are JSE Listed, the Responsible Entity must give notice of a Meeting to the JSE and announce the notice of Meeting through the Stock Exchange News Service, at the same time as it sends notices of Meeting to Holders.
- (c) Subject to clause 2(d) of this Schedule 1, the Responsible Entity must give at least 15 Business Days' notice of Meetings, and must comply with the requirements of the Corporations Act in relation to the giving of the notice.
- (d) While any Units or Options are JSE Listed, notwithstanding the requirements of paragraph 2(c) of this Schedule 1 and clause 26.2, if the Responsible Entity gives Holders notice of a Meeting (other than a notice in electronic form) that is sent by the Responsible Entity or its agent:
  - (1) from a place of business in Australia to Holders in South Africa; or

- (2) from a place of business in South Africa to Holders in Australia, such notice must be given at least 20 Business Days before the date scheduled for the relevant Meeting.

### 3 Who may attend and address Meetings

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The Responsible Entity, the directors of the Responsible Entity, the Auditor, the auditor of the Compliance Plan, the members of the Compliance Committee and any person invited by any of them is entitled to attend and address a Meeting, an adjourned Meeting, or a postponed Meeting..

### 4 Quorum

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- (a) No business may be transacted at any Meeting unless a quorum of Holders is present at the time when the Meeting proceeds to business and while the relevant business is being transacted.
- (b) Subject to clauses 4(c) and 12 of this Schedule 1, the quorum for any Meeting is:
  - (1) where the Trust has only 1 Holder, 1 Holder;
  - (2) where the Trust has only 2 Holders, 2 Holders; and
  - (3) where the Trust has 3 or more Holders, 3 Holders,
 present at the Meeting, either in person or by attorney, representative or proxy.
- (c) While any Units or Options are Listed, in addition to the requirements of clause 4(b) of this Schedule 1, a Meeting of Unitholders will only have a quorum if Unitholders holding not less than 25% of the Units on issue are present at the Meeting, either in person or by attorney, representative or proxy.
- (d) A Holder is counted towards a quorum even though the Holder may not be entitled to vote on the resolution at the Meeting.
- (e) If a quorum is not present within 30 minutes from the time appointed for the Meeting, the Meeting must be adjourned as the chairman directs.
- (f) Other than for a Meeting to consider an extraordinary resolution, at an adjourned Meeting the Holders with voting rights who are present either in person or by proxy constitute a quorum and are entitled to pass the resolutions.

### 5 Use of Technology

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- (a) A Meeting may be held by means of such telephone, electronic or other communications facilities as permit all persons in the Meeting to communicate with each other simultaneously and instantaneously. In these circumstances:

- (1) participation in such a Meeting via technology shall constitute presence in person at such Meeting for all purposes (including for the purposes of establishing quorum under clause 4 of this Schedule 1); and
  - (2) all the provisions in this deed relating to a Meeting apply, so far as they can and with such changes as are necessary, to a Meeting using that technology.
- (b) ; If the technology used in holding the Meeting encounters a technical difficulty, whether before or during the Meeting, which results in a Holder not being able to participate in the Meeting, subject to the Corporations Act the chairman may allow the Meeting to continue or may adjourn the Meeting either for such reasonable period as may be required to fix the technology or to such other time and location as the chairman considers appropriate.

## 6 Adjournment, cancellation and postponement

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- (a) The chairman may adjourn a Meeting for any reason to such time and place as the chairman thinks fit.
- (b) The Responsible Entity may, by notice given in accordance with paragraph (c) below, postpone, cancel or change the place of a Meeting, if it considers (acting reasonably) that the Meeting has become unnecessary, the venue would be unreasonable or impractical, a change is necessary in the interests of conducting the Meeting efficiently, or it is otherwise in the interests of Holders to do so, provided that:
  - (1) a Meeting which is called in accordance with a members' requisition under the Corporations Act; and
  - (2) any other Meeting which is not called by the board of the Responsible Entity,
 may not be postponed or cancelled without the prior written consent of the person or person who called or requisitioned the Meeting.
- (c) Notice of postponement, cancellation or change of place of a Meeting must state the reason for the postponement, cancellation or change of place (as applicable) and:
  - (1) while the Trust is ASX Listed, be given to ASX;
  - (2) while the Trust is JSE Listed, be given to the JSE at the same time as distributing the notice to any Unitholder, and be announced through the Stock Exchange News Service; or
  - (3) subject to the Corporations Act, the Listing Rules and the Listings Requirements (if applicable), be given in any other manner determined by the Responsible Entity.

## 7 Proxies

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- (a) Any person including a Holder may act as a proxy.



- (b) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.
- (c) If the appointer of a proxy is a corporation, the instrument of appointment must be:
  - (1) under its common seal (if any);
  - (2) under the hand of an officer or attorney who has been authorised by the corporation;
  - (3) under the hand of any 2 directors or a director and a secretary; or
  - (4) in the case of a corporation where the sole director and sole secretary are the same person, under the hand of that person.
- (d) The instrument appointing a proxy and the original or notarially certified copy of the power of attorney or authority under which it is signed must be deposited with the Responsible Entity, at either the Responsible Entity's Australian address or South African address (or at such other additional addresses as the Responsible Entity may prescribe from time to time as provided in clause 26.1), at least 48 hours, or any shorter period determined by the Responsible Entity from time to time, before the time appointed for the Meeting at which the proxy proposes to vote.
- (e) If clauses 7(d) and 7(d) of this Schedule 1 are not complied with, the proxy is invalid.
- (f) The Responsible Entity does not have to enquire whether a proxy has been validly given.
- (g) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (h) Clause 7(g) of this Schedule 1 does not apply if the Responsible Entity has notice of the death, insanity or revocation before the Meeting at which the proxy is to be used.
- (i) Where:
  - (1) by the terms of an instrument appointing a proxy or attorney or an appointment of a representative, the appointed person is authorised to attend and vote at a Meeting or Meetings to be held on or before a specified date; and
  - (2) the Meeting is adjourned to, or the date for holding the Meeting is postponed to, a date later than the date specified in the instrument of proxy or power of attorney or appointment of representative,

then, by force of this clause 7(i), that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney, or appointment or representative unless the Holder appointing the proxy, attorney, or representative gives to the Responsible Entity at either the Responsible Entity's Australian address or South African address (or at such other additional addresses as the Responsible Entity may prescribe from time to time as provided in clause 26.1), written notice to the contrary not less than 48 hours before the time to which the holding of the Meeting has been adjourned or postponed.

## 8 Chairman

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- (a) The Responsible Entity may elect a person to preside as chairman at a Meeting except for a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.
- (b) If the person elected by the Responsible Entity does not appear within 30 minutes from the time appointed for the Meeting, the Holders present must elect one of their number to preside as chairman.
- (c) The Holders present must by resolution elect any person to preside as chairman of a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.

## 9 Voting

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- (a) Subject to the Corporations Act, but despite anything in any Terms of Issue or Terms of Offer relating to any Units or Options:
  - (1) on a show of hands, each member has 1 vote; and
  - (2) on a poll, each member has 1 vote for each dollar value of the total interests they have in the Trust.

For these purposes of the value of an interest is calculated in accordance with the Corporations Act.
- (b) If a person present at a general Meeting is a member and also represents by proxy, attorney or representative 1 or more other members, on a show of hands the person is entitled to:
  - (1) if on a poll the person would have cast all votes in the same voting direction, one vote only; or
  - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,

even though he or she is a member and also represents 1 or more other members.
- (c) If a person present at a general Meeting represents by proxy, attorney or representative 2 or more members, on a show of hands the person is entitled to:
  - (1) if on a poll the person would have cast all votes in the same voting direction, one vote only ; or
  - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,

one vote only even though he or she represents 2 or more members.
- (d) A poll is to be conducted as directed by the chairman at the Meeting or any adjournment of the Meeting.
- (e) The demand for a poll may be withdrawn by the person who demanded it.
- (f) The demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded.
- (g) The result of the poll is regarded as the resolution of the Meeting.

- (h) A poll may not be demanded on any resolution concerning:
  - (1) the election of the chairman of a Meeting; or
  - (2) the adjournment of a Meeting.
- (i) If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or trustee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting as if the committee, trustee or other person were the Holder.

## 10 Joint Holders

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Joint Holders are counted as a single Holder for the purposes of calculating the number of Holders who have:

- (a) requested a Meeting under section 252B(1) of the Corporations Act;
- (b) given the Responsible Entity notice of a Special Resolution or extraordinary resolution they propose to move at a Meeting under section 252L(1) of the Corporations Act;
- (c) requested that a statement be distributed to members under section 252N of the Corporations Act; or
- (d) demanded a poll under section 253L of the Corporations Act.

## 11 Annual general meeting

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- (a) While any Units or Options are JSE Listed, the Responsible Entity must hold an annual general Meeting (**AGM**) at least once in each calendar year and within 5 months of the end of its Financial Year.
- (b) The business of an AGM may include the consideration of the annual financial report, directors' report and auditor's report in relation to the Trust, even if not referred to in the notice of meeting.
- (c) While any Units or Options are Listed, the Responsible Entity must report to Holders for a Financial Year by providing either of the following to the Holders in accordance with section 314 of the Corporations Act:
  - (1) all of the following reports:
    - the financial report for the Financial Year;
    - the directors' report for the Financial Year; and
    - the auditor's report on the financial report; or
  - (2) a concise report for the year,

by the deadline for reporting to Holders under clause 11(d) of this Schedule 1.
- (d) The deadline for reporting to Holders is the earlier of:

- (1) 20 Business Days before the next AGM after the end of the Financial Year; and
- (2) 3 months after the end of the Financial Year.

## 12 Class Meetings

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- (a) The relevant provisions of Part 2G.4 of the Corporations Act, clause 14 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Holders of different classes of Units except that:
  - (1) the quorum for any Meeting of Holders of a class of Units is:
    - where the Trust has only 1 Holder of Units of the relevant class, 1 Holder;
    - where the Trust has only 2 Holders of Units of the relevant class, 2 Holders; and
    - where the Trust has 3 or more Holders of Units of the relevant class, 3 Holders,

present at the Meeting, either in person or by attorney, representative or proxy; and
  - (2) any Holder of Units of the relevant class present at the Meeting, either in person or by attorney, representative or proxy, may demand a poll.
- (b) The relevant provisions of Part 2G.4 of the Corporations Act, clause 14 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Holders of different classes of Options except that:
  - (1) the quorum for any Meeting of Holders of a class of Options is:
    - where the Trust has only 1 Holder of Options of the relevant class, 1 Holder;
    - where the Trust has only 2 Holders of Options of the relevant class, 2 Holders; and
    - where the Trust has 3 or more Holders of Options of the relevant class, 3 Holders,

present at the Meeting, either in person or by attorney, representative or proxy; and
  - (2) any Holder of Options of the relevant class present at the Meeting, either in person or by attorney, representative or proxy, may demand a poll.

## Schedule 2

### Stapling provisions

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(Clause 16)

## 1 Definitions

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### 1.1 Definitions in Schedule

The meanings of the terms used in this Schedule 2 are set out below.

Term	Meaning
<b>Attached Option Security</b>	<p>in relation to an Option, an option or similar Security:</p> <ol style="list-style-type: none"><li>1 giving its holder the right, but not the obligation, to subscribe for Attached Securities which, on issue, will be Stapled to Units of the class to which the Option relates;</li><li>2 which may only be exercised, and which expires, at the same time and on the same basis as the Option; and</li><li>3 which is Stapled together with the Option (whether or not it is Stapled together with other Securities) to form a Stapled Security.</li></ol>
<b>Capital Reallocation Issue</b>	<p>an issue of Units in the circumstances contemplated by clause 3.3.</p>
<b>Corresponding Number</b>	<ol style="list-style-type: none"><li>1 in relation to an Attached Security other than a Unit or other than an Option, at any time the number of those Attached Securities that are Stapled to a Unit or to an Option (as applicable) at the relevant time;</li><li>2 in relation to a Unit, at any time the number of Units that are Stapled to the relevant Attached Security at the relevant time; and</li><li>3 in relation to an Option, at any time the number of Options that are Stapled to the relevant Attached Security at the relevant time</li></ol>
<b>Foreign Holder Sale Facility</b>	<p>the facility described in clause 3.2, under which Ineligible Foreign Holders are required to transfer Securities to a sale nominee to participate in a Stapling of the Securities, sell</p>

Term	Meaning
	the resulting Stapled Securities and pay the net sale proceeds to the relevant person.
<b>Ineligible Foreign Holder</b>	a person that the Responsible Entity determines to be an Ineligible Foreign Holder under clause 3.2(a).
<b>Stapled Security Register</b>	the register of Stapled Securities to be established and maintained by or on behalf of the Responsible Entity in accordance with clause 2.12.
<b>Stapling Date</b>	the date the Responsible Entity determines to be the first day on which Units or Options are Stapled to an Attached Security or Attached Securities.
<b>Unstapling Date</b>	the date the Responsible Entity determines to be the Unstapling Date under clause 3.5(a) or the date which is the Unstapling Date pursuant to clause 3.5(b).

Otherwise, unless expressly defined in this clause 1.1, expressions defined in the body of the deed have the same meaning in this Schedule 2.

## 1.2 Clause references

Unless expressly provided otherwise, a reference in this Schedule 2 to a clause is a reference to a clause of this Schedule 2.

## 1.3 References to the deed

In this Schedule 2, references to 'the deed' are references to the body of the deed to which this Schedule 2 is a schedule, and references to 'this deed' are references to this deed as a whole, including all schedules.

# 2 Stapling

## 2.1 Operation of Stapling provisions

- (a) This clause 2 applies only, and for so long as, a Unit or Option is a component of a Stapled Security.
- (b) Despite Stapling, each of the Stapled Entities remains a separate legal entity.

## 2.2 Units and Options to be Stapled

- (a) Each Unit and the Corresponding Number of each other Attached Security must be Stapled to form a Stapled Security.
- (b) Each Option and the Corresponding Number of each other Attached Option Security must be Stapled to form a Stapled Security.
- (c) For purposes of this Schedule 2, an option or similar Security giving its holder the right, but not the obligation, to subscribe for Stapled Securities will be regarded as a Stapled Security comprising Options and Attached Option Securities, whether or not it is expressed to comprise multiple Securities or instruments and regardless of whether it is granted by one, some or all of the Stapled Entities.

## 2.3 Issue of Securities

- (a) The Responsible Entity must not issue or sell Units, or offer or agree to do so, unless:
  - (1) in the case of an offer, an offer to issue or sell the Corresponding Number of each relevant Attached Security is made to the same person at the same time, and the offer requires the person to subscribe for or buy the Corresponding Number of each relevant Attached Security at the same time;
  - (2) in the case of an agreement, the same person agrees to subscribe for or buy the Corresponding Number of each relevant Attached Security at the same time;
  - (3) in the case of an issue or sale, the Corresponding Number of each relevant Attached Security is also issued or sold to the same person at the same time; and
  - (4) the Responsible Entity satisfied that each of the Units will be Stapled to the Corresponding Number of each Attached Security to form a Stapled Security,
 or the Units are issued as part of a Capital Reallocation Issue.
- (b) The Responsible Entity must not grant Options, or offer or agree to do so, unless:
  - (1) in the case of an offer, an offer is made to the same person of to grant the Corresponding Number of each relevant Attached Option Security at the same time, and the offer requires the person to subscribe for the Corresponding Number of each relevant Attached Option Security at the same time;
  - (2) in the case of an agreement, the same person agrees to subscribe for the Corresponding Number of each relevant Attached Option Security at the same time;
  - (3) in the case of a grant, the Corresponding Number of each relevant Attached Option Security is also granted to the same person at the same time; and
  - (4) the Responsible Entity satisfied that each of the Options will be Stapled to the Corresponding Number of each Attached Option Security to form a Stapled Security.

## 2.4 Issue at fixed price

In addition to any other power the Responsible Entity has to issue Units or Options under this deed, the Responsible Entity may issue Units or Options at any time to any person at an Issue Price as follows:

- (a) where Units are Stapled and the relevant Stapled Securities are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX, at a price that the Responsible Entity determines, but only if the total of the Issue Price of that Unit and the issue price of all Attached Securities to which that Unit will be Stapled is equal to the Market Price for the relevant Stapled Securities immediately before the date upon which the Unit is issued or offered for issue; and
- (b) where Options are Stapled and the relevant Stapled Securities are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX, at a price that the Responsible Entity determines, but only if the total of the Issue Price of that Option and the issue price of the Attached Security or Attached Securities to which that Option will be Stapled is equal to the Market Price for the relevant Stapled Securities immediately before the date upon which the Option is offered or granted; and
- (c) where Stapled Securities have been suspended from Listing (other than temporarily) or have otherwise ceased to be Listed on both the JSE and the ASX, Units at the Current Unit Value.

## 2.5 Placements

- (a) Where Stapled Securities are Listed on the ASX (and have not been suspended from Listing other than temporarily) whether or not they are Listed on any other foreign market including the JSE, in addition to any other power the Responsible Entity has to issue Units or grant Options under this deed, the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, if the Responsible Entity complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the issue under the placement; and
  - (2) the Listing Rules and the Listings Requirements, to the extent those rules or requirements apply to the issue.
- (b) Where Stapled Securities are not ASX Listed but are JSE Listed or listed on any other foreign market (and have not been suspended from Listing other than temporarily on the relevant market) then the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4 if:
  - (1) the issue, together with any related issue (as defined in ASIC Class Order [CO 13/655]) in the previous year, immediately before the issue, does not comprise more than 15% of the Units or Options in the relevant class; or
  - (2) Holders who hold Units or Options in the same class approve the issue by a Placement Resolution, and each of the other conditions



and restrictions of any applicable ASIC Relief if any on which the Responsible Entity relies for the issue under the placement are met.

## **2.6 Rights issues**

In addition to any other power the Responsible Entity has to issue Units under this deed, subject to compliance with:

- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and
- (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,

the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, if:

- (a) the Stapled Securities have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date; and
- (b) all the Stapled Securities offered are in the same class.

## **2.7 Distribution reinvestment issues**

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, pursuant to a distribution reinvestment arrangement referred to in clause 13.8 of the deed where:

- (a) all or part of a Holder's Distribution Entitlement is applied in payment for the subscription for Stapled Securities; and
- (b) the Responsible Entity complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the distribution reinvestment; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply in respect of the distribution reinvestment.

## **2.8 Allocation of Issue Price**

Where Units or Options are issued as a component of a Stapled Security, the Responsible Entity and each other Stapled Entity may agree how much of the issue price (if any) of the Stapled Security will be allocated to the Issue Price of the Unit or Option (as the case may be).

## **2.9 Exercise of Options**

- (a) The Responsible Entity must not give effect to the exercise of an Option unless the exercise of a Corresponding Number of each relevant Attached Option Security is given effect at the same time.

- (b) An exercise of an Option forming part of a Stapled Security will only be accepted as a proper exercise if it relates to or is accompanied by (or is taken to under clause 2.9(c) to authorise) the exercise of a Corresponding Number of each relevant Attached Option Security by the Optionholder;
- (c) An exercise of an Option which is not accompanied by an exercise of the Corresponding Number of each relevant Attached Option Security will be taken to authorise the Responsible Entity as agent for the Optionholder to exercise the Corresponding Number of each relevant Attached Option Security by the Optionholder;
- (d) An exercise of any Attached Option Security which is not accompanied by an exercise of the Corresponding Number of Options will be taken to authorise the Responsible Entity as agent for the Optionholder exercise a Corresponding Number of Options and any other Attached Option Securities to which the Attached Option Security is Stapled.
- (e) Each Optionholder irrevocably appoints the Responsible Entity as the agent and attorney of the Optionholder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous exercise of an Option and the relevant Attached Option Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

## 2.10 Dealings in Securities

- (a) The Responsible Entity and the Holders must neither take any action, nor omit to take any action, where such action or inaction (as applicable) would result, directly or indirectly, in any Unit or Option no longer being a component of a Stapled Security (other than unstapling in accordance with clause 3.5). In particular:
  - (1) the Responsible Entity must take all reasonable steps to ensure that Listed Stapled Securities remain Listed as a stapled security;
  - (2) the Responsible Entity must not register the transfer or transmission of Units or Options unless it or another Stapled Entity also causes the registration of the transfer or transmission (as the case may be) of a Corresponding Number of each relevant Attached Security at the same time;
  - (3) the Responsible Entity must not impose, or cause to be imposed, any holding lock or other restriction on transfer of Units or Options unless a holding lock or restriction on transfer is imposed on each other relevant Attached Security;
  - (4) the Responsible Entity must not give effect to the forfeiture of a Unit unless the Corresponding Number of each relevant Attached Security is forfeited at the same time, and on forfeiture (as applicable) is sold, reissued or otherwise disposed of to the same person at the same time, under this deed or corresponding provisions of any other Constituent Document; and
  - (5) the Responsible Entity must not consolidate, split, redeem, repurchase, cancel or otherwise reorganise any Units or Options unless at the same time there is a corresponding consolidation, split, forfeiture, redemption, cancellation or other reorganisation of all relevant Attached Securities.

- (b) A transfer of a Unit or Option forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if the transfer relates to or is accompanied by (or is taken under clause 2.10(c) to authorise) a transfer of the Corresponding Number of each relevant Attached Security from the same transferor in favour of the same transferee.
- (c) A transfer of a Unit or Option which is not accompanied by a transfer of the Corresponding Number of each relevant Attached Security will be taken to authorise the Responsible Entity as agent for the transferor to transfer of the Corresponding Number of each relevant Attached Security from the same transferor to the same transferee.
- (d) A transfer of any Attached Security which is not accompanied by a transfer of the Corresponding Number of Units or Options (as applicable) will be taken to authorise the Responsible Entity as agent for the transferor to transfer of a Corresponding Number of Units or Options (as applicable) and any other Attached Securities to which the Attached Security is Stapled to the same transferee.
- (e) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous transfer or transmission of a Unit and the relevant Attached Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (f) Nothing in this clause 2.10 prevents an acquisition of any Securities in accordance with clause 3.4.

## 2.11 Forfeiture

- (a) If a Unit or any of the other Attached Securities comprising a Stapled Security otherwise becomes liable to forfeiture under this deed or any other applicable Constituent Document, the Responsible Entity may apply the provisions of clause 4 of the deed, with such changes as are prescribed in the relevant Constituent Document in relation to such forfeiture or as are otherwise necessary, in respect of all of the Attached Securities constituting the relevant Stapled Security in order to ensure that each Attached Security is forfeited at the same time, and on forfeiture (as applicable) is sold, reissued or otherwise disposed of to the same person at the same time, pursuant to substantially similar procedures.
- (b) For these purposes:
  - (1) a forfeiture of a Unit will be taken to authorise the Responsible Entity as agent for the relevant Holder to transfer the Corresponding Number of each relevant Attached Security from the Holder as it sees fit for purposes of giving effect to the forfeiture and sale of the Forfeited Unit;
  - (2) a forfeiture of an Attached Security will be taken to authorise the Responsible Entity as agent for the relevant Holder to transfer the Corresponding Number of Units and any other Attached Securities from the Holder as it sees fit for purposes of giving effect to the forfeiture and sale of the forfeited Attached Security; and
  - (3) the Responsible Entity and other Stapled Entities may allocate the sale proceeds as between their respective Costs and liabilities and, where a Holder has failed to pay amounts in respect of more than

one Attached Security comprising the relevant Stapled Security, outstanding interest and amounts, as they may agree.

- (c) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous transfer of a Unit and the relevant Attached Securities for purposes of giving effect to the forfeiture and sale of the forfeited Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

## **2.12 Stapled Security Register**

The Responsible Entity must establish and maintain a Stapled Security Register which:

- (a) may incorporate or form part of the relevant Register;
- (b) records the names of the Holders, the number of Units or Options held, the number of the relevant Attached Securities to which each Holder's Units or Options are Stapled and any additional information required by the Corporations Act or the Listings Requirements (if applicable) or determined from time to time by the Responsible Entity.

Details of all Stapled Securities sufficient to identify the Attached Securities which comprise the Stapled Security and their relevant Corresponding Numbers must be registered in the Stapled Security Register.

## **2.13 Certificates and transfers**

The Responsible Entity and each other Stapled Entity may:

- (a) issue joint certificates or holding statements for all Attached Securities comprising a Stapled Security;
- (b) prescribe that a joint transfer form be used to transfer all Attached Securities comprising a Stapled Security; and
- (c) issue a joint transaction advice for all Attached Securities comprising a Stapled Security.

## **2.14 US Sale Facility**

The Responsible Entity may determine that a holder (or person seeking to be recorded in the Register as a holder) of Stapled Securities is an Excluded US Person, if it reasonably believes that the person is a US Person who is not a QIB-QP or holds or will hold Stapled Securities for the account or benefit of any US Person who is not a QIB-QP. If the Responsible Entity makes such a determination:

- (a) clause 8.9 of the deed will apply as if references to Units and Options included references to Stapled Securities; and
- (b) the Responsible Entity may determine the allocation of the net sale proceeds of the sale of the Stapled Securities as between the component Attached Securities comprising the relevant Stapled Securities as it sees fit.

## 2.15 Meetings

- (a) A Meeting may be held in conjunction with meetings of the holders of other Attached Securities and, subject to the Corporations Act, the Responsible Entity may make such rules for the conduct of such meetings as the Responsible Entity determines.
- (b) Subject to the Corporations Act, the same form may be used to appoint a proxy or corporate representative in respect of a Meeting and the meetings of holders of other Attached Securities held in conjunction with the Meeting.
- (c) Representatives and auditors of each Stapled Entity may attend and speak at any Meeting, and may invite any other person to attend and speak.

## 2.16 Duties

Subject to the Corporations Act, but despite anything to the contrary in any of the Constituent Documents or in any applicable law, in making any determination, election or decision, in exercising any right, power or remedy and in performing any function or obligation, the Responsible Entity may have regard to the interests of Holders of Stapled Securities as a whole and not only the interests of holders of the relevant Units or Options comprising the relevant Stapled Securities.

## 2.17 Dealings between Stapled Entities

- (a) The Responsible Entity, or an officer, employee or Associate of the Responsible Entity, may:
  - (1) act in any fiduciary, vicarious, professional or other capacity, including as a banker, accountant, auditor, valuer, solicitor, independent contractor or other consultant or adviser to or representative, delegate, attorney or agent of another Stapled Entity;
  - (2) have an interest in or enter into a contract or transaction with any Stapled Entity or an Associate of the Stapled Entity;
  - (3) hold or deal in or have any other interest in an asset of any other Stapled Entity,
 and may retain, and is not required to account for, any benefit derived by doing so.
- (b) Without limiting clause 2.17(a) or its powers under any other Constituent Documents, the Responsible Entity may, in its capacity as trustee or Responsible Entity of the Trust, and each other Stapled Entity may:
  - (1) provide loans, indemnities and other financial assistance to each other;
  - (2) provide guarantees and indemnities in favour of third parties in respect of each others' liabilities; and
  - (3) provide security to each other or to third parties in respect of such loans, indemnities, guarantees and other financial assistance.

**(Cross-Staple Assistance).**
- (c) Such Cross-Staple Assistance may be provided on such terms as the Stapled Entities consider appropriate, having regard to the interests of

Holders of Stapled Securities as a whole (including for no or nominal consideration).

- (d) Despite anything else in this clause 2, the Responsible Entity may issue Units or Options to another Stapled Entity, without such Units or Options having to be Stapled to Attached Securities. However, the Responsible Entity must not register the transfer or transmission of such Units or Options other than:
  - (1) a transfer or transmission to another Stapled Entity; or
  - (2) if a Corresponding Number of each relevant Attached Security are transferred, issued or granted to the transferee and Stapled to the Units or Options immediately on the Units or Options being transferred to the transferee.

## 2.18 Variation of Stapling provisions

The consent of each other Stapled Entity must be obtained to any amendment to this deed which:

- (a) directly affects the terms on which Units or Options are Stapled; or
- (b) removes any restriction on the transfer of a Stapled Unit or Option unless that restriction also is simultaneously removed for all relevant Attached Securities.

## 3 Corporate actions

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### 3.1 Stapling

- (a) Subject to clause 3.1(d), the Corporations Act, and if Units are Listed (whether alone or as a component part of a Stapled Security) the Listings Requirements, at any time the Responsible Entity may:
  - (1) determine that Securities of any class or type be Stapled to a Unit (including where the Unit is already a component of a Stapled Security); and
  - (2) determine when the Stapling is to take effect.
- (b) The Responsible Entity may Staple to a Unit (or to an existing Stapled Security):
  - (1) Securities of any class or type, including Securities issued by the Responsible Entity, another already-Stapled Entity or any other entity;
  - (2) more than one class or type of Securities; and
  - (3) a fraction of one, one, or more than one, Security of a class or type, so that different numbers of different classes or types of Securities may be Stapled together (in which case the relevant fraction or number will become the Corresponding Number in relation to a Unit).
- (c) Subject to clause 3.1(d), if the Responsible Entity determines to Staple a Unit to other Securities and there are Options in respect of such Units on issue, the Responsible Entity may take all steps which it reasonably

considers necessary, incidental or desirable to ensure that the Options are Stapled to other options or Securities so that on exercise of the resulting Stapled Security (of which the Option is a component) in accordance with its terms, the Holder will receive the Stapled Securities of which the Unit is a component.

- (d) The Responsible Entity may only cause a Stapling as contemplated by clauses 3.1(a) or 3.1(b) if:
  - (1) each other Stapled Entity (excluding the issuer of the Security to be Stapled) has agreed to the Stapling of the Security and that it is in the best interests of their investors as a whole and consistent with the Stapled Group's investment objectives;
  - (2) the Constituent Documents of the issuer of the Security to be Stapled have provisions giving effect to the Stapling (whether or not such provisions are in the same form as this Schedule 2);
  - (3) all approvals to implement the Stapling which are required under any law, by the Listings Requirements (if the Units are Listed) or by any Constituent Documents of any of the Stapled Entities have been obtained.
- (e) The Responsible Entity has the power to do all things which it reasonably considers necessary, incidental or desirable to implement a Stapling, including:
  - (1) consolidating or splitting any Securities;
  - (2) making a distribution or payment to a Holder;
  - (3) redeeming any Securities of a Holder;
  - (4) issuing or transferring Securities to a Holder by any means; or
  - (5) entering a Holder as holder of Securities in the relevant Register whether or not the Responsible Entity has received an application, transfer or other document in respect of those Securities, in which case the Holder becomes the holder of those Securities with effect from the date their name is recorded in the relevant Register as holder of those Securities.
- (f) This clause 3.1 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.1 does not operate to the extent of any inconsistency.

### 3.2 Ineligible Foreign Holders

- (a) Where a Stapling is proposed, the Responsible Entity may determine that a Foreign Holder is an Ineligible Foreign Holder if the Responsible Entity considers that it would be in the best interests of Holders to do so, including having regard to matters such as:
  - (1) the number of Foreign Holders in the relevant jurisdiction and the number and value of Units, Options or Stapled Securities held by such Foreign Holders; and
  - (2) the cost of complying with legal and regulatory requirements for the offer, issue or transfer of Securities in the relevant jurisdiction.
- (b) The Responsible Entity may at any time give a notice to a Holder who is an Ineligible Foreign Holder requiring the disposal of their Units, Options and

Stapled Securities (**Sale Securities**) (free of encumbrances) either to a person appointed by the Responsible Entity to sell the Sale Securities (**Sale Nominee**) or to a person who is not an Ineligible Foreign Holder before the Business Day preceding the relevant record date for Stapling.

- (c) Each Holder who is an Ineligible Foreign Holder must comply with a notice given under clause 3.2(b). If a Holder does not do so, at any time after the end of the period specified in that clause 3.2(b):
  - (1) the Responsible Entity, as agent for the Holder, may transfer the Ineligible Foreign Holder's Sale Securities (free of encumbrances) to the Sale Nominee; and
  - (2) the Responsible Entity may enter the Sale Nominee as holder of the Sale Securities in the relevant Register whether or not the Responsible Entity has received a transfer or other document in respect of those Securities, in which case the Sale Nominee becomes the holder of those Sale Securities with effect from the date its name is recorded in the relevant Register as holder of those Units, Options or Stapled Securities.
- (d) Each Holder who is an Ineligible Foreign Holder consents to the sale, and directs, the Sale Nominee:
  - (1) to participate in the Stapling in respect of the relevant Sale Securities
  - (2) to sell the Stapled Securities comprising the relevant Sale Securities; and
  - (3) to pay the net proceeds of the sale of such Stapled Securities after deducting the sale Costs (**Sale Proceeds**) to the Holder as soon as practicable after completion of the sale of the relevant Sale Securities.
- (e) The Responsible Entity must ensure that the Sale Nominee pays the Sale Proceeds to which the relevant Holder is entitled as soon as practicable after completion of the sale of the relevant Sale Securities.
- (f) Each Holder who is an Ineligible Foreign Holder irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement the Foreign Holder Sale Facility, including:
  - (1) executing transfers and other documents, and receiving, holding and paying money; and
  - (2) transferring any Units, Options or Stapled Securities to the Sale Nominee or as otherwise contemplated by the Foreign Holder Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (g) Each Holder acknowledges that the exercise of the powers in this clause 3.2 may materially adversely affect individual Holders (including having potentially adverse tax or financial consequences) but that this is necessary to enable the Foreign Holder Sale Facility to be implemented.
- (h) This clause 3.2 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other



Constituent Document which is inconsistent with this clause 3.2 does not operate to the extent of any inconsistency.

### 3.3 Capital Reallocation

- (a) At any time, the Responsible Entity may issue Units (**Capital Reallocation Units**) in either of the following circumstances:
  - (1) the Responsible Entity is satisfied that immediately following the issue of any Capital Reallocation Units, those Capital Reallocation Units will be distributed pro rata to the holders of Stapled Securities; or
  - (2) another Stapled Entity (or its trustee, responsible entity or general partner) makes an Application for Capital Reallocation Units as agent for the holders of Stapled Securities and applies a distribution of capital of that Stapled Entity towards payment of the Application Money for those Capital Reallocation Units.
- (b) Immediately following the distribution referred to in clause 3.3(a)(1), or the issue of Capital Reallocation Units referred to in clause 3.3(a)(2), the Responsible Entity must consolidate the Capital Reallocation Units with all other Units then on issue in the Trust so that the total number of Units on issue after the consolidation is equal to the total number of Units on issue immediately before the Capital Reallocation Issue took place.
- (c) The Responsible Entity does not need to notify the Holder of this consolidation of Units.
- (d) Without limiting any other provision in this clause 3.3, at any time, the Responsible Entity may:
  - (1) make a pro rata distribution of capital in respect of its Units to Holders, and apply the distribution on behalf of the relevant Holders towards payment to another Stapled Entity of additional subscription amounts in respect of Attached Securities issued by that Stapled Entity to those Holders; or
  - (2) receive any pro rata distributions applied by another Stapled Entity (or its trustee, responsible entity or general partner) as agent for the holders of the Attached Securities which are Stapled with Units towards payment of additional subscription amounts in respect of Units to which the Attached Securities are Stapled.
- (e) This clause 3.3 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.3 does not operate to the extent of any inconsistency.

### 3.4 Interposition of Head Trust

- (a) At any time, the Responsible Entity may establish a trust (**Head Trust**) of which the Responsible Entity or a related body corporate (as defined in the Corporations Act) of the Responsible Entity is the trustee (**Head Trustee**) and cause all of the Units and Options on issue (and if Stapling applies, the relevant other Attached Securities) to be held by or on behalf of the Head Trustee on the trusts of the constitution of the Head Trust if:
  - (1) the Responsible Entity is satisfied that to do so is in the best interests of Holders as a whole;

- (2) units and (if applicable) options in the Head Trust are issued only to the Holders in proportion to the number of Units and Options (or if Stapling applies, the number of the relevant Stapled Securities) held by each Holder; and
  - (3) immediately following such issue, the only assets of the Head Trust are the Units and Options on Issue at that time (and if Stapling applies, the relevant Attached Securities) and the only issued securities of the Head Trust are the units and options issued in accordance with clause 3.4(a)(2).
- (b) For these purposes, the Responsible Entity may:
- (1) acquire Attached Securities to be held as an Asset of the Fund; or
  - (2) transfer Units and Options to another Stapled Entity (or its trustee, responsible entity or general partner).
- (c) This clause 3.4 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.4 does not operate to the extent of any inconsistency.

### 3.5 Unstapling

- (a) Subject to approval by a Special Resolution of members of each Stapled Entity, the Responsible Entity may determine that the Stapling provisions of this deed will cease to apply and that a particular date is to be the Unstapling Date.
- (b) The Stapling provisions of this deed automatically cease to apply when all of the Units and Options on issue are held as assets of a Head Trust all Attached Securities become assets of the Head Trust as contemplated by clause 3.4 and that date is the Unstapling Date.
- (c) On and from the Unstapling Date, each Unit and Option ceases to be Stapled to the relevant Attached Securities and the Responsible Entity must do all things reasonably necessary to cause each Unit and Option to be Unstapled.
- (d) If the Responsible Entity determines to unstaple the Stapled Securities pursuant to this clause 3.5, that does not prevent the Responsible Entity:
  - (1) subsequently determining that the Stapling provisions should recommence; or
  - (2) Stapling an unstapled Unit or Option to any other Securities.
- (e) This clause 3.5 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.5 does not operate to the extent of any inconsistency.

### 3.6 Appointment of attorney

- (a) For the purposes of implementing a Stapling under clause 3.1, the Foreign Holder Sale Facility under clause 3.2, a Capital Reallocation Issue under clause 3.3, the interposition of a Head Trust under clause 3.4 or an unstapling under clause 3.5, and any other transactions referred to in those provisions (**Relevant Transactions**), each Holder irrevocably appoints the Responsible Entity as the Holder's agent and attorney to execute all

documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to implement the Relevant Transactions, including:

- (1) executing applications, withdrawals, transfers and other documents, and receiving, holding and paying money;
- (2) applying for and acquiring (whether by subscription, purchase or otherwise) Securities;
- (3) applying distributions, redemption proceeds or other payments to pay for the subscription for or purchase of Securities;
- (4) accepting an issue or transfer of Securities;
- (5) agreeing that the Holder will become a member of a Stapled Entity (or entity proposed to be become a Stapled Entity);
- (6) transferring any Securities to a sale nominee or as otherwise contemplated by the Foreign Holder Sale Facility; and
- (7) pay any distributions, redemption proceeds or other payments to the sale nominee or as otherwise contemplated by the Foreign Holder Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

- (b) For the purposes of implementing a Relevant Transaction, each Holder irrevocably appoints the Responsible Entity as the Holder's proxy to vote at any Meeting or any meeting of any other Stapled Entity or entity proposed to become a Stapled Entity in favour of any resolution to approve or implement a Stapling. The Holder must not direct the Responsible Entity or otherwise interfere with the Responsible Entity's exercise of its proxy.

## Schedule 3

### Takeover provisions

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(Clause 17)

## 1 Definitions

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### 1.1 Definitions in Schedule

The meanings of the terms used in this Schedule 3 are set out below.

Term	Meaning
<b>Associate</b>	has the meaning given in sections 12(2), (3), (4) and (5), subject to section 16(1), of the Corporations Act.
<b>Australian Law and Policy</b>	<ol style="list-style-type: none"><li>1 decisions of an Australian court;</li><li>2 published regulatory guides and other guidelines and public releases issued by ASIC; and</li><li>3 published decisions, rules, guidance notes and other guidelines and public releases issued by the Takeovers Panel,</li></ol> each in relation to the Corporations Act (and any predecessor legislation).
<b>Bid Securities</b>	the Units or Options being bid for under a Takeover Bid (including where such Units or Options are Stapled to other Securities).
<b>Control</b>	<p>in relation to an entity:</p> <ol style="list-style-type: none"><li>1 the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of the entity, whether through the ownership of securities, by contract or agency or otherwise; or</li><li>2 having a Relevant Interest in Securities which together carry the right to cast 20% or more of the total number of votes that may be cast at a general meeting of holders of Securities of that entity,</li></ol> <p>and <b>Common Control</b> has a corresponding meaning.</p>

Term	Meaning
<b>Independent Counsel</b>	<ol style="list-style-type: none"> <li>1 an Australian legal practitioner at the New South Wales or Victorian bar who has been appointed as a senior counsel or queen's counsel and who has practised in the commercial field for at least 15 years; or</li> <li>2 a partner experienced in Australian mergers and acquisitions of a major Australian commercial law firm,</li> </ol> <p>in either case, being independent of the Responsible Entity or any other interested party and not otherwise having a material personal interest in the matter.</p>
<b>On Market Transaction</b>	a transaction that is given effect on a Securities Exchange in the ordinary course of trading on that Securities Exchange.
<b>Regulated Bid</b>	<p>a bid for Units or Options made in compliance (so far as is possible) with Parts 6.4, 6.5, 6.6 and 6.8 of the Corporations Act in respect of off-market bids (as defined in the Corporations Act) as if the Trust were a Registered Scheme to which Chapter 6 of the Corporations Act applied (pursuant to section 604 of the Corporations Act) and were the target (as defined in the Corporations Act), subject to:</p> <ol style="list-style-type: none"> <li>1 any requirement in those provisions for a document to be lodged with ASIC being taken to be satisfied if the document is given to each Securities Exchange instead; and</li> <li>2 any other modifications or exemptions that the Responsible Entity and person making the bid agree in accordance with clause 4.3.</li> </ol>
<b>Related Entity</b>	<p>in relation to an entity:</p> <ol style="list-style-type: none"> <li>1 any entity, directly or indirectly, through one or more intermediaries that is a related body corporate of (as that term is defined in the Corporations Act) that entity; or</li> <li>2 any entity that, directly or indirectly, Controls, is Controlled by, or is under Common Control with, that entity.</li> </ol>
<b>Relevant Interest</b>	<p>subject to clause 2.3, a person has a <b>Relevant Interest</b> in Securities if they:</p> <ol style="list-style-type: none"> <li>1 are the holder of the Securities;</li> <li>2 have power to exercise, or control the exercise of, a right to vote attached to the Securities; or</li> <li>3 have power to dispose of, or control the exercise of a power to dispose of, the Securities.</li> </ol> <p>It does not matter how remote the relevant interest is or how it arises. If 2 or more people can jointly exercise one of these powers, each of them is taken to have that power.</p>

Term	Meaning
	<p>For these purposes, power or control includes:</p> <ol style="list-style-type: none"> <li>4 power or control that is indirect;</li> <li>5 power or control that is, or can be, exercised as a result of, by means of or by the revocation or breach of a trust, an agreement, a practice (or any combination of them), whether or not they are enforceable; and</li> <li>6 power or control that is, or can be made, subject to restraint or restriction.</li> </ol> <p>It does not matter whether the power or control is express or implied, formal or informal, exercisable alone or jointly with someone else. It does not matter that the power cannot be related to a particular Security.</p>
<b>Securities Exchange</b>	any securities exchange on which Units or Options are listed or quoted, including the JSE, and where Units or Options are listed or quoted on more than one securities exchange, the securities exchange nominated by the Responsible Entity as the primary securities exchange in relation to the Units or Options.
<b>Substantial Holder</b>	a person who has a Substantial Holding.
<b>Substantial Holding</b>	<p>a person has a Substantial Holding if the total votes attached to Units or Options in which the person or their Associates:</p> <ol style="list-style-type: none"> <li>1 have a Relevant Interest; or</li> <li>2 would have a Relevant Interest but for the operation of clause 2.3(f) or clause 2.3(g),</li> </ol> <p>is 5% or more of the total number of votes attached to all Units and Options on issue.</p>
<b>Takeover Bid</b>	a bid for Units or Options, or both, that at all relevant times is consistent with the purposes in clause 1.4 and complies with clauses 4.1 and 4.2.
<b>Voting Power</b>	<p>a person's <b>Voting Power</b> in the Trust calculated in accordance with the following formula:</p> $VP = \frac{V}{TV}$ <p>Where:</p> <p><b>VP</b> is the person's <b>Voting Power</b></p> <p><b>V</b> is the total number of votes attached to all the Units and Options (if any) in which the person or an</p>

Term	Meaning
	Associate directly or indirectly has a Relevant Interest
<b>TV</b>	is the total number of votes attached to all Units and Options on issue.

Unless expressly defined in this clause 1.1, expressions defined in the body of the deed have the same meaning in this Schedule 3.

## 1.2 Clause references

Unless expressly provided otherwise, a reference in this Schedule 3 to a clause is a reference to a clause of this Schedule 3.

## 1.3 References to the deed

In this Schedule 3, references to 'the deed' are references to the body of the deed to which this Schedule 3 is a schedule, and references to 'this deed' are references to this deed as a whole, including all schedules.

## 1.4 Purpose

The purpose of this Schedule 3 is to ensure that:

- (a) the acquisition of control over Units and Options takes place in an efficient, competitive and informed market; and
- (b) the Responsible Entity and each Holder:
  - (1) knows the identity of any person who proposes to acquire a substantial interest in the Trust;
  - (2) is given reasonable time to consider a proposal to acquire a substantial interest in the Trust; and
  - (3) is given enough information to assess the merits of a proposal to acquire a substantial interest in the Trust; and
- (c) as far as practicable, the Holders all have a reasonable and equal opportunity to participate in any benefits accruing to the Holders through any proposal under which a person would acquire a substantial interest in the Trust.

In interpreting this Schedule 3, a construction that would promote the purpose of these provisions is to be preferred to a construction that would not promote that purpose.

## 1.5 Disclosure to Securities Exchange

The Responsible Entity may give any document received under clauses 4, 5 and 6, to the Securities Exchange for purposes of announcement by the Securities Exchange, and may make such arrangements with the operator of the Securities Exchange for delivery and public announcement of such documents as it considers appropriate.

## 2 Prohibited acquisitions

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### 2.1 20% maximum

Subject to the exceptions in clause 3.3, a person must not acquire a Relevant Interest in a Security if, because of the acquisition, that person's or someone else's Voting Power in the Trust increases:

- (a) from 20% or below to more than 20%; or
- (b) from a starting point that is above 20% and below 90%.

Any holding of a Unit or an Option or acquisition of a Relevant Interest in breach of this clause 2.1 does not cause such acquisition or holding to be invalid.

### 2.2 Responsibility

- (a) A person holding or acquiring a Relevant Interest, together with their Related Entities, is considered as one person in respect of such Relevant Interest or exercise of Voting Power. Each of them, to the extent that they hold one or more Units or Options, is jointly and severally liable for each other's obligations under this Schedule 3, and may be made subject to the remedies referred to in clause 7.1(a).

- (b) If one or more persons pursuant to an agreement, arrangement or understanding act together for the purpose of:

- (1) acquiring or holding a Relevant Interest;
- (2) exercising Voting Power at a general meeting; or
- (3) circumventing the prohibition in clause 2.1 or the obligation in clause 5 or 6.1,

all of them are considered as one person in respect of such Relevant Interest, exercise of Voting Power or circumvention. Each of them, to the extent that they hold one or more Units or Options, is jointly and severally liable for each other's obligations under this Schedule 3, and may be made subject to the remedies referred to in clause 7.1(a).

### 2.3 Situations not giving rise to a Relevant Interest

A person does not have a Relevant Interest in relation to Securities, if the Relevant Interest arises merely because:

- (a) of a mortgage, charge, lien or other security interest taken for the purpose of a transaction entered into by the person, if:
  - (1) the mortgage, charge, lien or security interest is taken or acquired in the ordinary course of the person's business of providing financial services and on ordinary commercial terms; and
  - (2) the person whose property is subject to the mortgage, charge, lien or security interest is not an Associate of the person;
- (b) the person acquires a Relevant Interest solely as a nominee or trustee for a person who may direct the nominee or trustee as to the exercise of any power relating to the Relevant Interest;



- (c) the person is licensed to conduct a financial services business and holds the Securities on behalf of someone else in the ordinary course of that financial services business;
- (d) the issuer of the relevant Securities has entered into an agreement to buy-back, repurchase or redeem the relevant Securities;
- (e) the person has been appointed to vote as a proxy or representative of a holder of Securities if:
  - (1) the appointment is for one meeting of the relevant entity only; and
  - (2) neither the person nor any Associate gives valuable consideration for such appointment;
- (f) of a market traded option (as defined in the Corporations Act) over the Securities, or a right to acquire the Securities given by a derivative, until such time as the obligation to make or take delivery of the relevant Security arises under the market traded option or derivative;
- (g) of an agreement if the agreement:
  - (1) is conditional on a resolution referred to in clause 3.2;
  - (2) does not confer any control over, or power to substantially influence, the exercise of Voting Power attached to the Securities; and
  - (3) does not restrict the disposal of the Securities for more than 3 months from the date when the agreement was entered into;
- (h) this deed, the constitution of the issuer of the relevant Securities, or any applicable law gives all holders pre-emptive rights on the transfer of Securities if all holders have pre-emptive rights on the same terms;
- (i) the person is a director of an entity having a Relevant interest;
- (j) the person holds Securities as a custodian or depository to enable the Securities to be traded on a securities exchange, if such person is licensed to provide such custodial or depository services under applicable law; or
- (k) the person provides facilities for the clearing or settlement of transactions and the person holds Securities in connection with the provision of such facilities.

## 2.4 Relevant interest disregarded

When a person's Relevant Interest:

- (a) in a Unit or Option is disregarded pursuant to clause 2.3, for the purposes of clause 2.1 the person is taken not to be entitled to exercise its Voting Power; or
- (b) in another Security is disregarded pursuant to clause 2.3, for the purposes of the definition of Control the person is taken not to be entitled to exercise any votes attaching to that Security.

### 3 Exceptions to the prohibition

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#### 3.1 Acquisitions approved by the Responsible Entity

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the Responsible Entity has previously approved the acquisition, having in good faith determined that the acquisition:

- (a) is consistent with the purposes in clause 1.4; and
- (b) complies with the principles in clause 4.1 as they apply to the acquisition, subject to such adjustments as the Responsible Entity determines in good faith are appropriate having regard to the particular circumstances of the acquisition but without derogating from the purposes in clause 1.4.

#### 3.2 Acquisitions approved by Holders

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition has been approved previously at a Meeting by an ordinary resolution of Holders if:

- (a) no votes are cast in favour of the resolution by:
  - (1) the acquirer and its Associates; and
  - (2) except in the case where the acquirer is acquiring Units or Options from all other Holders (or all Holders other than one or more Associates of the acquirer), the persons from whom the acquisition is to be made and their Associates; and
- (b) the Holders were given all information known to the acquirer or its Associates, or known to the Responsible Entity, material to the decision on how to vote on the resolution, including:
  - (1) the identity of the acquirer and its Associates;
  - (2) the maximum extent of the increase in the acquirer's Relevant Interest in Units and Options, and the acquirer's Voting Power, that would result from the acquisition;
  - (3) the Relevant Interest in Units and Options, and Voting Power, that person would have as a result of the acquisition;
  - (4) the maximum extent of the increase in the Relevant Interest in Units and Options, and Voting Power, of each of the acquirer's Associates that would result from the acquisition; and
  - (5) the Relevant Interest in Units and Options, and Voting Power, that each of the acquirer's Associates would have as a result of the acquisition.

#### 3.3 Takeover Bids and On-Market Transactions

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) the acceptance of offers under a Takeover Bid; or
- (b) an On Market Transaction if:

- (1) the acquisition is by or on behalf of the bidder under a Takeover Bid;
- (2) the acquisition occurs during the bid period in respect of the Takeover Bid;
- (3) the Takeover Bid is for all the Bid Securities; and
- (4) the Takeover Bid is unconditional.

### 3.4 Exchange offer

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from the acceptance of offers made by the Responsible Entity for the Securities of another entity, where Units or Options, or Securities convertible into Units or Options, are included in the consideration for the acquisition of Securities under those offers.

### 3.5 Issues

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) an issue by the Trust under a PDS or prospectus (or similar disclosure document) to a person as underwriter or sub-underwriter to the issue where the relevant disclosure document disclosed the effect that the issue would have on the person's Relevant Interest in Units and Options, and Voting Power;
- (b) an issue (including to a person as underwriter or sub-underwriter to the issue) that satisfies all of the following conditions:
  - (1) the Responsible Entity offers to issue Units or Options of a particular class;
  - (2) offers are made either:
    - to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11 of the deed) as at a record date that the Responsible Entity determines (being a date not more than 20 Business Days before the date of the offer), in proportion to the value of each relevant Holder's interest in the Trust as at that record date; or
    - to all Holders of Units or Options in the same class (or, as the case may be, all such Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11 of the deed) as at a record date that the Responsible Entity determines (being a date not more than 20 Business Days before the date of the offer), in proportion to the value of each relevant Holder's percentage holding of Units or Options in the relevant class as at that record date;
  - (3) the Issue Price of all the Units or Options offered is the same;
  - (4) the Units or Options are offered to Holders at substantially the same time;
  - (5) agreements to issue are not entered into until the specified time for acceptance of offers has closed; and

- (6) the terms of all the offers are the same; or
- (c) an issue (including to a person as underwriter or sub-underwriter to the issue) of Units or Options under a distribution reinvestment arrangement referred to in clause 13.8 of the deed.

### 3.6 Other corporate actions

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) a buy-back, repurchase, redemption or cancellation of Units or Options conducted in accordance with this deed and any applicable law; or
- (b) a transaction contemplated by clause 3 of Schedule 2.

## 4 Takeover Bids

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### 4.1 General principles

In addition to fulfilling the purposes in clause 1.4, a Takeover Bid must comply with the following principles:

- (a) An offer for Bid Securities must be an offer to buy all of the Units or Options in the same class as the Bid Securities or a specified proportion of the Units or Options in the same class as the Bid Securities. The proportion specified must be the same for all Holders of the Bid Securities.
- (b) A person who holds one or more parcels of those Units or Options as trustee or nominee for, or otherwise on account of, another person may accept the offer as if a separate offer had been made in relation to:
  - (1) each of those parcels; and
  - (2) any parcel the person holds in the person's own right.
- (c) All the offers made must be the same, disregarding for these purposes:
  - (1) any differences in the offers attributable to the fact that the number of Bid Securities that may be acquired under each offer is limited by the number of Bid Securities held by the Holder;
  - (2) any differences in the offers attributable to the fact that the offers relate to Bid Securities having different accrued distribution entitlements;
  - (3) any differences in the offers attributable to the fact that the person making the offer may issue or transfer only whole numbers of Securities as consideration for the acquisition; and
  - (4) any additional cash amount offered to Holders instead of the fraction of a Security that would otherwise be offered.

However, if the consideration offered under the Takeover Bid includes an offer of Securities, the Securities do not need to be offered to Foreign Holders if under the terms of the Takeover Bid:

- (5) the offeror under the Takeover Bid must appoint a nominee for Foreign Holders approved by the Responsible Entity (such approval not to be unreasonably withheld or delayed);

- (6) the offeror under the Takeover Bid must issue or transfer to that nominee the Securities that would otherwise be issued or transferred to the Foreign Holders who accept the Takeover Bid for that consideration, or the right to acquire those Securities; and
  - (7) the nominee must sell the Securities, or those rights, and distribute to each of those Foreign Holders their proportion of the proceeds of the sale net of expenses.
- (d) The consideration offered for Bid Securities must equal or exceed the maximum consideration that the person making the offer (or any of its Associates) directly or indirectly provided, or agreed to provide, for Units or Options under any purchase or agreement during the 4 months before the first day of the period of the offer.
- (e) A person making an offer for Bid Securities must not directly or indirectly, during the period of the offer, give, offer to give or agree to give a benefit to a person if:
  - (1) the benefit is likely to induce the person directly or indirectly to accept the offer or dispose of Units or Options; and
  - (2) the benefit is not offered to all holders of Bid Securities.
- (f) Each offer must be in writing and have the same date. This date is the day the first offer is made. The period of the offer must:
  - (1) start on the date the first offer is made; and
  - (2) last for at least one month, and not more than 12 months.
- (g) If, within the last 7 days of the period of the offer:
  - (1) the offers are varied to improve the consideration offered (including by offering an alternative form of consideration); or
  - (2) the number of Units or Options in which the person making the offer holds a Relevant Interest, or both, increases to more than 50% of the Units or Options (as applicable) on issue,
 the period of the offer is extended so that it ends 14 days after the event referred to in paragraph (1) or (2) above.
- (h) Offers must not be subject to a maximum acceptance condition. A maximum acceptance condition is one that provides that the offers will terminate, or the maximum consideration offered will be reduced, if one or more of the following occurs:
  - (1) the number of Bid Securities for which the person making the offer receives acceptances reaches or exceeds a particular number;
  - (2) the number of Units or Options in which the person making the offer directly or indirectly holds a Relevant Interest, or both, reaches or exceeds a particular percentage of Units on issue in the Trust; or
  - (3) the percentage of Bid Securities the person making the offer has a Relevant Interest in reaches or exceeds a particular percentage of Bid Securities in that class.
- (i) Offers must not be subject to a discriminatory condition. A discriminatory condition is a condition that allows the person making the offer to acquire, or may result in that person acquiring, Bid Securities from some but not all of the people who accept the offers.

- (j) Offers must not be subject to a condition if the fulfilment of the condition depends on:
- (1) the opinion, belief or other state of mind of the person making the offer or an Associate of that person; or
  - (2) the happening of an event that is within the sole control of, or is a direct result of action by, any of the following:
    - the person making the offer (acting alone or together with an Associate); or
    - an Associate of the person making the offer (acting alone or together with the person making the offer or another Associate of that person).
- (k) The person making the offer may only vary the offer made by:
- (1) improving the consideration offered (including by offering an additional form of consideration); or
  - (2) extending the period of the offer.
- The terms of accepted offers must be varied in the same way. Any person who has already accepted an offer must be entitled to the improved consideration and, in the case of an addition of a new form of consideration, be entitled to make a fresh election.
- (l) A person making an offer that is unconditional may extend the period of the offer at any time before the end of the offer. A person making an offer that is still subject to conditions may only extend the period of the offer at least 7 days before the end of the period of the offer unless during that 7 day period another person announces a bid for Bid Securities or improves the consideration offered under another bid for Bid Securities.

## 4.2 Bidders statement

- (a) The person making the offer must, at the same time it gives its offer to Holders of Bid Securities, also give a document to those Holders setting out:
- (1) all information known to the person that is material to the making of the decision by a Holder of Bid Securities whether or not to accept the offer; and
  - (2) any areas in which the disclosure provided with its offer departs from the disclosure which would have otherwise been required to be provided to holders of Bid Securities if the Takeover Bid were an Regulated Bid.
- (b) The document referred to in clause 4.2(a) must be given to the Responsible Entity and the Securities Exchange at least 14 days before it is given to these Holders and must be dated the date on which the document is given to the Securities Exchange. If the person making the offer becomes aware of:
- (1) a misleading or deceptive statement in the document;
  - (2) an omission from the document of information required by clause 4.2(a); or
  - (3) a new circumstance that has arisen since the document was given to the Responsible Entity and would have been required by clause 4.2(a) to be included in the document if it had arisen before the document was given to the Responsible Entity,

that is material from the point of view of a Holder of Bid Securities, the person making the offer must prepare a supplementary document that remedies this defect. The person making the offer must give the supplementary document to the Responsible Entity and give a copy to the Securities Exchange. The supplementary document must be dated the date on which the supplementary document is given to the Securities Exchange.

#### **4.3 Regulated Bid**

A bid for Units or Options is taken to comply with the principles in clause 4.1 if it is a Regulated Bid at all relevant times. The Responsible Entity must act reasonably and in a timely manner in agreeing with a person making a Regulated Bid to any modifications or exemptions to the application of Parts 6.4, 6.5, 6.6 and 6.8 of the Corporations Act to a Regulated Bid having regard to the purposes in clause 1.4, the principles in clauses 4.1 and 4.2 and Australian Law and Policy.

#### **4.4 Target statement**

If a Takeover Bid is made, the Responsible Entity must:

- (a) give to all Holders of Bid Securities, the Securities Exchange and the person making the Takeover Bid a document in a timely manner setting out all information that the Holders and their professional advisers would reasonably require to make an informed assessment whether to accept an offer under the Takeover Bid. The document must contain such information:

- (1) only to the extent to which it is reasonable for investors and their professional advisers to expect to see the information in the document; and
- (2) only if the information is known to the Responsible Entity.

The document must also include a statement by each director of the Responsible Entity:

- (3) recommending that offers under the Takeover Bid be accepted or not accepted, and giving reasons for the recommendation; or
- (4) giving reasons why a recommendation is not made.

The document must be dated the date on which the document is given to the Securities Exchange.

- (b) If the Responsible Entity becomes aware of:

- (1) a misleading or deceptive statement in the document;
- (2) an omission from the document of information required by clause 4.4(a); or
- (3) a new circumstance that has arisen since the document was given to the person making the offer and would have been required by clause 4.4(a) to be included if it had arisen before the document was given to the person making the offer,

that is material from the point of view of a holder of Bid Securities, the Responsible Entity must prepare a supplementary document that remedies this defect and give it to the person making the offer and the Securities Exchange. The supplementary document must be dated. The date is the date on which the supplementary document is given to the Securities Exchange.

## 4.5 Providing Holder details

- (a) If it has been given a document in accordance with clause 4.2(b) and the person making the offer makes a request for information under this clause 4.5 for the purposes of satisfying the purposes under clause 1.4 and complying with the principles under clauses 4.1 and 4.2, the Responsible Entity must inform the person of the name and address of each Holder of Bid Securities and that person's holding, at the specified time by the person making the offer. The Responsible Entity must give the information to the person making the offer promptly and:
  - (1) in the form that the person reasonably requests; or
  - (2) if the Responsible Entity is unable to comply with the request – otherwise in writing.
- (b) Any information given in electronic form must be readable but the information need not be formatted for the preferred operating system of the person making the offer.
- (c) The Responsible Entity may charge a fee in relation to the provision of the information referred to in clause 4.5.

## 5 Substantial Holder notices

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### 5.1 Requirement to give notice

A person must give the Responsible Entity a notice setting out the information referred to in clause 5.2 if:

- (a) the person begins to have, or ceases to have, a Substantial Holding;
- (b) the person has a Substantial Holding and the person's Voting Power increases or decreases by 1 or more percentage points from the percentage they most recently disclosed pursuant to clause 5; or
- (c) the person makes a Takeover Bid.

If the Responsible Entity has prescribed a form for giving the information in clause 5.2, the notice must be in that form.

### 5.2 Information that must be given

The information to be given in accordance with clause 5.1 includes:

- (a) the person's name and address;
- (b) details of their Relevant Interest in Units or Options;
- (c) details of any agreement, arrangement or understanding through which the person would have a Relevant Interest in Units or Options; and
- (d) the name of each Associate who has a Relevant Interest in Units or Options, together with details of:
  - (1) the nature of the person's association with the Associate;
  - (2) the Relevant Interest of the Associate; and



- (3) any agreement, arrangement or understanding through which the Associate has the Relevant Interest.

### 5.3 Additional documents

Unless the transaction giving rise to the obligation to give information took place on the Securities Exchange, the notice under clause 5.1 must be accompanied by:

- (a) a copy of any document (including any agreement, arrangement or understanding) that:
  - (1) contributed to the situation giving rise to the person needing to provide the information; and
  - (2) is in writing and readily available to the person; or
- (b) a statement by the person giving full and accurate details of any contract, scheme or arrangement that:
  - (1) contributed to the situation giving rise to the person needing to provide the information; but
  - (2) is not in writing or is not readily available to the person.

### 5.4 When information must be given

The Substantial Holder (or former Substantial Holder, as applicable) must give the information referred to in clauses 5.2 and 5.3:

- (a) within 2 Business Days after they become aware of the circumstances referred to in clause 5.1(a) or clause 5.1(b); or
- (b) by 9.30am on the next Business Day after they become aware of the circumstances referred to in clause 5.1(c).

## 6 Tracing beneficial ownership

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### 6.1 Disclosure notice

At any time, the Responsible Entity may give a Holder a notice requiring the Holder to give to the Responsible Entity within 2 Business Days a notice setting out the following information:

- (a) full details of the Holder's Relevant Interest in Units and Options and of the circumstances giving rise to that Relevant Interest;
- (b) the name and address of each other person who has a Relevant Interest in the Units or Options held by the Holder together with full details of:
  - (1) the nature and extent of that Relevant Interest; and
  - (2) the circumstances that give rise to that person's Relevant Interest; and
- (c) the name and address of each person who has given the Holder or the person as referred to in paragraph (b) above instructions about:
  - (1) the acquisition or disposal of a Relevant Interest in Units or Options;
  - (2) the exercise of any Voting Power or other rights attached to a Unit or Option; or

- (3) any other matter relating to the Units or Options,  
together with full details of those instructions (including the date or dates on which those relevant instructions were given).

## 6.2 Further disclosure notice

Where the information given to the Responsible Entity includes any details referred to in clause 6.1(b) or 6.1(c), the Responsible Entity may give a further notice to the Holder requiring the Holder to provide, or procure that another person referred to in clause 6.1(b) or 6.1(c) provides, within 2 Business Days the information referred to in clause 6.1.

## 6.3 Knowledge

A matter referred to in clause 6.1(b) or 6.1(c) need only be disclosed to the extent to which it is known:

- (a) in the case of a disclosure notice given under clause 6.1, to the Holder; or
- (b) in the case of a disclosure notice given under clause 6.2, to the relevant person referred to in that notice.

# 7 Remedies and enforcement

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## 7.1 Remedies

Subject to clause 7.2 and the Corporations Act, but without limiting such other remedies as the Responsible Entity may exercise to enforce this deed, if a breach by a person of clause 2.1, 5 or 6 has occurred or is continuing, the Responsible Entity may exercise any one or more of the following remedies:

- (a) give the Holder a notice requiring the Holder to dispose of some or all of the Units or Options in which the person has a Relevant Interest within the time specified in the notice;
- (b) disregard the exercise of votes attaching to some or all of the Units or Options in which the person has a Relevant Interest; or
- (c) suspend the right to receive distributions (if any) attaching to some or all of the Units or Options in which the person has a Relevant Interest.

## 7.2 Conditions to exercise of remedies

- (a) The Responsible Entity may exercise the remedies referred to in clause 7.1 if it first obtains:
  - (1) a judgment from a court of competent jurisdiction in New South Wales, that a breach of clause 2.1, 5 or 6 has occurred and is continuing; or
  - (2) advice from Independent Counsel appointed in accordance with clause 7.3 that a breach of clause 2.1, 5 or 6 has occurred and is continuing, and acts in accordance with such advice.
- (b) Where the Responsible Entity has sought not yet obtained a judgment or advice under clause 7.2(a), the Responsible Entity may exercise the remedies

described in clause 7.1(b) or 7.1(c) by notice to the Holder in respect of the period starting on the date the notice is given and ending on the earlier of:

- (1) 30 days after the notice has been given; and
- (2) 1 day after the judgment or advice under clause 7.2(a) is obtained.

### **7.3 Appointment of Independent Counsel**

- (a) The Responsible Entity must notify any Holder likely to be aggrieved by the relevant exercise of its powers under clause 7.1 of its intention to appoint an Independent Counsel for the purpose of clause 7.2, at least 2 Business Days before making such appointment.
- (b) If the Holder so requests within the 2 Business Days referred to in clause 7.3(a), the Responsible Entity must request the President for the time being of the Law Society of New South Wales, or the President's nominee for the time being, to appoint an Independent Counsel for purposes of clause 7.2. Otherwise, the Responsible Entity may appoint the Independent Counsel.
- (c) The Responsible Entity must instruct the Independent Counsel, among other matters, to:
  - (1) advise within the shortest practicable time whether any breach of clause 2.1, 5 or 6 (as applicable) has occurred, and provide reasons for his or her advice;
  - (2) have regard to the purposes under clause 1.4 and to Australian Law and Policy in interpreting these provisions and giving this advice;
  - (3) in determining whether the exception under clause 3.3(a) applies to an acquisition of a Relevant Interest pursuant to a Takeover Bid that is not a Regulated Bid, have regard to the manner in which a bid for Units or Options would have been conducted under a Regulated Bid, including the information that would have been provided to Holders in connection with such bid; and
  - (4) give the Responsible Entity and any Holder likely to be aggrieved by the exercise of the Responsible Entity's powers under clause 7.1 the opportunity, with their legal advisers, to make submissions to the Independent Counsel, before Independent Counsel provides his or her advice.
- (d) The Responsible Entity must provide all information and assistance which the Independent Counsel reasonably requests for the purpose of preparing his or her advice.
- (e) The Responsible Entity must give a copy of the advice to the person who has breached or is alleged to have breached clause 2.1, 5 or 6.

### **7.4 Independent Counsel's costs**

The Responsible Entity must pay the cost of the Independent Counsel.

### **7.5 Obligation to impose remedies**

If there are reasonable grounds to believe that a breach of clause 2.1, 5 or 6 has occurred, the Responsible Entity must consider whether to exercise the remedies under clause 7.1 and take advice as to whether it should exercise those remedies. For that purpose, the Responsible Entity must give proper consideration to (and include within any

brief for advice) any submission that a breach has occurred from any Holder aggrieved by the alleged breach.

## **7.6 Enforcement**

If the requirements of any notice pursuant to clause 7.1(a) are not complied with by the person within the time specified in the notice, the Responsible Entity may:

- (a) deem a Unit referred to in the notice to be a Forfeited Unit for purposes of this deed and deal with the Unit in accordance with clause 4 of the deed; or
- (b) deem an Option referred to in the notice to be a forfeited options and deal with the Option in accordance with clause 4 of the deed as if references in that clause to Units were to Options and to Forfeited Units were to the forfeited Options.

## **7.7 Requests for information**

At any time, the Responsible Entity may give any Holder a notice requiring the Holder to provide any information or evidence (on oath or otherwise verified if the Responsible Entity reasonably requires) as the Responsible Entity considers likely to be of assistance in determining whether or not that person is eligible to remain a Holder with respect to all or some of their Units or Options.

## **7.8 Liability**

Despite anything in clause 7.6 and 7.7, the Responsible Entity has no liability (in any capacity) to any person in connection with:

- (a) any person holding Units or Options in circumstances which would result in or have the effect of causing a breach of clause 2.1, 5 or 6; or
- (b) any action taken in good faith under clause 7, or any decision not to take such action made in good faith, by the Responsible Entity.

## Signing page

Executed as a deed

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Signed sealed and delivered by  
**Investec Property Limited**  
by

*sign here ►* \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here ►* \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

---

# Consolidated Constitution as at 6 July 2022

## Irongate Property Fund II (formerly known as Investec Australia Property Fund II)\*

ARSN 644 081 309

Responsible Entity: Irongate Funds Management  
Limited (formerly known as Investec Property Limited)\*\*  
ACN 071 514 246

This document is a consolidated copy of the Constitution dated 3  
September 2020, as amended by the:

Supplemental Deed dated 18 November 2020

Name changed on 7 December 2020

Supplemental Deed dated 6 July 2022

\* Effective on 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund II' pursuant to clause 24.4 of this deed.

\*\* Effective on 30 November 2020, the Responsible Entity changed its name to 'Irongate Funds Management Limited'.

## Table of contents

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<b>1</b>	<b>Definitions and interpretation</b>	<b>2</b>
1.1	Deed components .....	2
1.2	Definitions .....	2
1.3	Interpretation .....	17
1.4	Interpretation of inclusive expressions .....	18
1.5	Business Day .....	18
1.6	Financial Year .....	18
1.7	General compliance .....	18
1.8	Inconsistency with Listings Requirements and Listing Rules .....	19
1.9	Record dates .....	20
1.10	Corporations Act while not registered .....	20
<b>2</b>	<b>Declaration of Trust</b>	<b>20</b>
2.1	Trustee .....	20
2.2	Name of Trust .....	20
2.3	Vesting of Assets in Trustee .....	20
<b>3</b>	<b>Interest of Unitholders</b>	<b>20</b>
3.1	Division into Units .....	20
3.2	No issue of fractional Units .....	21
3.3	Consolidation and split of Units .....	21
3.5	Classes of Units .....	21
3.6	Benefits and obligations of Unitholders .....	22
3.7	No further liability .....	22
3.8	Tax or User Pays Fees	
<b>4</b>	<b>Forfeiture</b>	<b>23</b>
4.1	Forfeiture of Units .....	23
4.2	Sale of Forfeited Unit .....	23
4.3	Cancellation of forfeiture .....	24
4.4	Consequences of sale and continuing liability .....	24
4.5	Proceeds of sale of Forfeited Unit .....	25
<b>5</b>	<b>Rights of Optionholders</b>	<b>25</b>
5.1	Terms of Offer and subscription .....	25
5.2	Options bind the Responsible Entity .....	25
5.3	Exercise .....	25
5.4	Expiry .....	26
5.5	Cancellation or purchase .....	26
5.6	Benefits and obligations of Optionholders .....	26
<b>6</b>	<b>Power to issue Units and grant Options</b>	<b>27</b>
6.1	Powers Cumulative .....	27
6.2	Issue of Units at fixed price .....	27
6.3	Issue of Options at fixed price .....	27
6.4	Placements .....	27
6.5	Rights issues .....	28
6.6	Distribution reinvestment issues .....	29
6.7	Other issues of Units or Options .....	29
6.8	Fractions of Units .....	29
6.9	Currency .....	30
6.10	Underwriting .....	30
6.11	Foreign Holders .....	30
6.12	Issue of Units upon establishment and automatic redemption	31

# Contents

<b>7</b>	<b>Issue of Units and of Options</b>	<b>31</b>
7.1	Pre-emptive rights.....	31
7.2	Terms of Issue and Terms of Offer.....	32
7.3	Number of Units issued .....	32
7.4	Application for Units or for Options .....	33
7.5	Payments to the Responsible Entity .....	33
7.6	Responsible Entity's discretion on Application .....	34
7.7	Allotment of Units or grant of Options.....	34
7.8	Register.....	34
<b>8</b>	<b>Registers and transfers of Units and Options</b>	<b>35</b>
8.1	Recognition of registered Holder .....	35
8.2	Joint Holders .....	35
8.3	Transfer.....	35
8.4	Transaction advice.....	36
8.5	No general restriction on transfer .....	36
8.6	Transmission of Units and Options.....	37
8.7	Participation in transfer systems .....	38
8.8	Indemnity for transfer causing Duty liability .....	38
8.9	US Sale Facility.....	39
8.10	Odd Lots .....	41
8.11	Restricted Securities .....	42
<b>9</b>	<b>Redemption</b>	<b>42</b>
9.1	Redemption offer .....	42
9.2	Redemption of Units .....	43
9.3	Compulsory redemption.....	44
9.4	Allowable deductions .....	45
9.5	Redemption Price .....	45
9.6	Liquid or non-liquid trust .....	45
9.7	Buy-backs .....	46
<b>10</b>	<b>Responsible Entity's powers</b>	<b>46</b>
10.1	General powers of Responsible Entity.....	46
10.2	Exercise of powers.....	46
10.3	Delegation by Responsible Entity .....	46
10.4	Manager.....	47
10.5	Custodian.....	47
10.6	Not used.....	47
10.7	No issue of debt Securities with special privileges .....	47
10.8	Borrowing restriction .....	48
10.9	Responsibility for compliance .....	48
<b>11</b>	<b>Responsible Entity's liability</b>	<b>48</b>
11.1	No limitation of other undertakings .....	48
11.2	Limitation of liability of Responsible Entity.....	48
11.3	Circumstances where Responsible Entity is not liable .....	49
11.4	Responsible Entity may rely on advice .....	49
11.5	Interested dealings by Responsible Entity.....	50
<b>12</b>	<b>Valuation and currency conversion</b>	<b>50</b>
12.1	Valuation of Assets .....	50



# Contents

12.2	Responsible Entity to determine Current Unit Value .....	51
12.3	Valuation of Application Money .....	51
12.4	Currency Conversion .....	51
<b>13</b>	<b>Income and distributions</b>	<b>51</b>
13.1	Determining Distributable Income and reserves.....	51
13.2	Distributions of capital.....	52
13.3	Payment.....	52
13.4	Retention of fractions .....	53
13.5	Separate accounts .....	53
13.6	Reinvestment .....	53
13.7	Capitalisation of amounts.....	54
13.8	Tax statements	54
<b>14</b>	<b>Meetings</b>	<b>54</b>
14.1	Meetings .....	54
14.2	Passing of resolution .....	54
<b>15</b>	<b>Proposal approved by Holders</b>	<b>55</b>
15.1	Power to implement a Proposal and limitation of liability.....	55
15.2	Paramountcy.....	55
<b>16</b>	<b>Stapling</b>	<b>55</b>
16.1	Stapling provisions.....	55
16.2	Paramountcy .....	56
<b>17</b>	<b>Takeovers</b>	<b>56</b>
<b>18</b>	<b>Complaints</b>	<b>56</b>
18.1	General .....	56
18.2	Complaints handling .....	56
18.3	Holder Complaints .....	56
18.4	Handling of Complaints.....	57
18.5	Assistance and information.....	57
<b>19</b>	<b>Remuneration of Responsible Entity</b>	<b>58</b>
19.1	Fee .....	58
19.2	Waiver or deferral of remuneration .....	58
19.3	Priority of Responsible Entity's remuneration .....	58
<b>20</b>	<b>Responsible Entity's indemnity</b>	<b>58</b>
20.1	Responsible Entity's indemnity for Costs and liabilities.....	58
20.2	Waiver or deferral of Costs and liabilities .....	60
20.3	Proper performance of duties .....	60
<b>21</b>	<b>Compliance Committee's indemnity and insurance</b>	<b>60</b>
21.1	Indemnified persons .....	60
21.2	Indemnity in favour of member of Compliance Committee .....	60
21.3	Extent of indemnity .....	60
21.4	Insurance .....	60
21.5	Savings .....	61

# Contents

<b>22</b>	<b>Retirement or removal of Responsible Entity</b>	<b>61</b>
	22.1 Retirement and removal of Responsible Entity .....	61
	22.2 Name of Trust to be changed .....	62
<b>23</b>	<b>Term of Trust and termination of Trust</b>	<b>62</b>
	23.1 Term of Trust .....	62
	23.2 Procedure on winding up of Trust.....	62
	23.3 Audit of accounts of Trust .....	63
<b>24</b>	<b>Amendments</b>	<b>63</b>
	24.1 Amendments generally .....	63
	24.2 JSE approval.....	64
	24.3 Class rights .....	64
	24.4 Change of name .....	64
<b>25</b>	<b>Goods and Services Tax</b>	<b>64</b>
	25.1 Definition and interpretation.....	64
	25.2 Adjustment for GST .....	64
	25.3 GST on transfers of Assets of the Fund .....	65
	25.4 Tax invoice.....	65
	25.5 Reimbursements.....	65
<b>26</b>	<b>Notices</b>	<b>65</b>
	26.1 How to give notice.....	65
	26.2 Receipt of notice .....	66
	26.3 Reliance .....	67
	26.4 Notices to Joint Holders.....	67
	26.5 Addressees .....	67
<b>27</b>	<b>General</b>	<b>67</b>
	27.1 Governing law and jurisdiction.....	67
	27.2 Method of payment or repayment by Responsible Entity to Holders .....	67
	27.3 Binding conditions.....	68
	27.4 Other documents .....	68
	27.5 Cumulative rights .....	68
	27.6 Survival of indemnities .....	68
	27.7 Attorney's rights and powers .....	69
	27.8 Severability .....	69
<b>28</b>	<b>Trust Scheme</b>	<b>70</b>
	28.1 Definitions .....	70
	28.2 Implementation of Trust Scheme .....	71
	28.3 Warranty by Scheme Unitholders .....	73
	28.4 Transfer free of Encumbrances .....	73
	28.5 Appointment of CHH as sole proxy.....	73
	28.6 Payment to Scheme Unitholders .....	74
	28.7 Joint Holders .....	74
	28.8 Fractional entitlements.....	75
	28.9 Unclaimed monies .....	75
	28.10 Orders of a court or Government Agency.....	75
	28.11 No disposals after the Effective Date.....	76
	28.12 Lapsing .....	76

# Contents

	<b>Schedule 1</b>	<b>77</b>
	<b>Meetings of Holders</b>	<b>77</b>
	<b>Schedule 2</b>	<b>84</b>
	<b>Stapling provisions</b>	<b>84</b>
<b>1</b>	<b>Definitions</b>	<b>84</b>
	1.1 Definitions in Schedule .....	84
	1.2 Clause references.....	85
	1.3 References to the deed .....	85
<b>2</b>	<b>Stapling</b>	<b>85</b>
	2.1 Operation of Stapling provisions.....	85
	2.2 Units and Options to be Stapled .....	85
	2.3 Issue of Securities.....	86
	2.4 Issue at fixed price .....	86
	2.5 Placements .....	87
	2.6 Rights issues.....	87
	2.7 Distribution reinvestment issues .....	88
	2.8 Allocation of Issue Price .....	88
	2.9 Exercise of Options.....	88
	2.10 Dealings in Securities .....	89
	2.11 Forfeiture.....	90
	2.12 Stapled Security Register .....	91
	2.13 Certificates and transfers.....	91
	2.14 US Sale Facility.....	91
	2.15 Meetings .....	91
	2.16 Duties .....	92
	2.17 Dealings between Stapled Entities .....	92
	2.18 Variation of Stapling provisions .....	93
<b>3</b>	<b>Corporate actions</b>	<b>93</b>
	3.1 Stapling .....	93
	3.2 Ineligible Foreign Holders .....	94
	3.3 Capital Reallocation .....	95
	3.4 Interposition of Head Trust .....	96
	3.5 Unstapling .....	97
	3.6 Appointment of attorney.....	97
	<b>Schedule 3</b>	<b>99</b>
	<b>Takeover provisions</b>	<b>99</b>
<b>1</b>	<b>Definitions</b>	<b>99</b>
	1.1 Definitions in Schedule .....	99
	1.2 Clause references.....	102
	1.3 References to the deed .....	102
	1.4 Purpose.....	102
	1.5 Disclosure to Securities Exchange .....	102

# Contents

<b>2</b>	<b>Prohibited acquisitions</b>	<b>103</b>
2.1	20% maximum .....	103
2.2	Responsibility .....	103
2.3	Situations not giving rise to a Relevant Interest .....	103
2.4	Relevant interest disregarded .....	104
<b>3</b>	<b>Exceptions to the prohibition</b>	<b>104</b>
3.1	Acquisitions approved by the Responsible Entity .....	104
3.2	Acquisitions approved by Holders .....	105
3.3	Takeover Bids and On-Market Transactions .....	105
3.4	Exchange offer .....	106
3.5	Issues .....	106
3.6	Other corporate actions .....	106
<b>4</b>	<b>Takeover Bids</b>	<b>107</b>
4.1	General principles .....	107
4.2	Bidders statement .....	109
4.3	Regulated Bid .....	110
4.4	Target statement .....	110
4.5	Providing Holder details .....	110
<b>5</b>	<b>Substantial Holder notices</b>	<b>111</b>
5.1	Requirement to give notice .....	111
5.2	Information that must be given .....	111
5.3	Additional documents .....	111
5.4	When information must be given .....	112
<b>6</b>	<b>Tracing beneficial ownership</b>	<b>112</b>
6.1	Disclosure notice .....	112
6.2	Further disclosure notice .....	113
6.3	Knowledge .....	113
<b>7</b>	<b>Remedies and enforcement</b>	<b>113</b>
7.1	Remedies .....	113
7.2	Conditions to exercise of remedies .....	113
7.3	Appointment of Independent Counsel .....	114
7.4	Independent Counsel's costs .....	114
7.5	Obligation to impose remedies .....	114
7.6	Enforcement .....	115
7.7	Requests for information .....	115
7.8	Liability .....	115
	<b>Signing page</b>	<b>116</b>

## Constitution

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Date ►

By

---

Responsible Entity

**Investec Property Limited\***

ABN 93 071 514 246 of Level 23, Chifley Tower, 2 Chifley Square,  
Sydney, NSW, 2000

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Recitals

- 1 The Responsible Entity intends that this deed will be the constitution for a unit trust known as the Investec Australia Property Fund II\*\* ("**Trust**").
  - 2 Units in the Trust will be issued to the existing holders of units in Investec Australia Property Fund ("**IAPF**") in the same proportion as their existing holding so that the units in the Trust can be stapled to units in IAPF.
  - 3 It is proposed that the Responsible Entity will apply for the Trust to be registered as a managed investment scheme under section 601EB(1) of the Corporations Act, and that applications will be made for the Units in the Trust to trade together with units in IAPF as stapled securities on each of the ASX and the JSE.
- 

This deed witnesses as follows:

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\* Effective on 30 November 2020, the Responsible Entity changed its name to 'Irongate Funds Management Limited'.

\*\* Effective on 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund II' pursuant to clause 24.4 of this deed.

# 1 Definitions and interpretation

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## 1.1 Deed components

This deed includes any schedule.

## 1.2 Definitions

The meanings of the terms used in this deed are set out below.

Term	Meaning
<b>Accept</b>	in respect of an application for Units, the doing of any act by the Responsible Entity or its agent that constitutes an acceptance of the application or evidence that the application has been accepted, including notifying the applicant or recording determination that the application is accepted, transferring the Application Money into an account other than an account held by the Responsible Entity for the purposes of section 1017E of the Corporations Act or applying the Application Money to the purchase of investments for the Trust.
<b>Accounting Standards</b>	<ol style="list-style-type: none"><li>1 the accounting standards required under the Corporations Act (including the Approved Accounting Standards issued by the Australian Accounting Standards Board) and other mandatory professional reporting requirements issued by the joint accounting bodies (including the Australian Accounting Standards issued either jointly by CPA Australia and the Institute of Chartered Accountants in Australia or by the Australian Accounting Research Foundation on behalf of CPA Australia and the Institute of Chartered Accountants in Australia) from time to time; and</li><li>2 if no accounting standard applies under the Corporations Act or other mandatory professional reporting requirements, the principles set out in Australian Statements of Accounting Concepts from time to time.</li></ol>
<b>Application</b>	any of the following, as the context requires: <ol style="list-style-type: none"><li>1 an application for Units;</li><li>2 an application for Options; or</li><li>3 a notification of the exercise of Options.</li></ol>
<b>Application Money</b>	the property required to be transferred by an applicant to the Responsible Entity, or as otherwise directed by the Responsible

Term	Meaning
	Entity, on the making of an Application, which property may comprise Cash, property other than Cash or both.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASIC Relief</b>	A class order, instrument, exemption or declaration issued by ASIC.
<b>Assets</b>	<p>in relation to the Fund, include:</p> <ol style="list-style-type: none"> <li>1 direct interests in real property assets;</li> <li>2 interests in Sub Trusts;</li> <li>3 Securities of, and interests in, real property funds or real estate investment trusts which are listed on any securities exchange;</li> <li>4 participatory interests in Collective Investment Schemes which invest in real property; and</li> <li>5 Securities of, and interests in, trusts, managed investment schemes, partnerships, companies or other entities which are involved in the operation of the Stapled Entities and derive income from managing investments or from real property-related equity or debt investments.</li> </ol>
<b>Associate</b>	has the meaning given to that term in sections 11, 15 and 16 of the Corporations Act.
<b>ASX</b>	ASX Limited (a company registered and incorporated with limited liability under the company laws of the Commonwealth of Australia) and, where relevant, the market for trading securities operated by the ASX.
<b>ASX Listed</b>	<ol style="list-style-type: none"> <li>1 in the case of the Trust, the Trust being listed on the ASX; and</li> <li>2 in the case of Units, Options or Stapled Securities, the Units, Options or Stapled Securities being ASX Quoted,</li> </ol> <p>and <b>ASX Listing</b> has a corresponding meaning.</p>
<b>ASX Quoted</b>	in respect of Units, Options or Stapled Securities, admitted to quotation by ASX under the Listing Rules.
<b>Attached Security</b>	a Security which is from time to time Stapled together with other Securities to form a Stapled Security, and:

Term	Meaning
	<ol style="list-style-type: none"> <li>1 in relation to a Unit, a share, debenture, note, bond, unit, interest or legal or equitable right referred to in the definition of Security which is from time to time Stapled to the Unit; and</li> <li>2 in relation to an Option, an option or similar Security which is from time to time Stapled to the Option.</li> </ol>
<b>Auditor</b>	the auditor from time to time appointed by the Responsible Entity to audit the financial reports of the Trust.
<b>Bank</b>	<ol style="list-style-type: none"> <li>1 an ADI (authorised deposit-taking institution) within the meaning given to that term in the <i>Banking Act</i> 1959 (Cth);</li> <li>2 a person who carries on State banking within the meaning of paragraph 51(xiii) of the Commonwealth Constitution; or</li> <li>3 a public company registered as a bank in terms of the <i>Banks Act</i> 94 of 1990 (South Africa).</li> </ol>
<b>Business Day</b>	a day other than a Saturday or Sunday on which banks are open for general business in Sydney and Johannesburg.
<b>Bookbuild</b>	a bookbuild arranged by a reputable investment bank with experience in arranging bookbuilds in the market in the place where the bookbuild is conducted, provided that the Auditor has provided written certification that the bookbuild was conducted in accordance with normal market standards.
<b>Books Closing Date</b>	has the meaning given in clause 13.1.
<b>Cash</b>	money in Australian or South African currency and includes cheques and bank cheques in Australian or South African currency.
<b>CISCA</b>	<i>Collective Investment Schemes Control Act</i> No 45 of 2002 (South Africa).
<b>Collective Investment Scheme</b>	has the meaning given to that term in the CISCA.
<b>Companies Act</b>	<i>Companies Act</i> No 71 of 2008 (South Africa).
<b>Complaint</b>	an expression of dissatisfaction made to the Responsible Entity, related to its products or services, or the complaints handling



Term	Meaning
	process itself, where a response or resolution is explicitly or implicitly expected.
<b>Compliance Committee</b>	the compliance committee (if any) for the Trust as required by section 601JA of the Corporations Act.
<b>Compliance Plan</b>	the compliance plan for the Trust as required by section 601HA of the Corporations Act.
<b>Constituent Document</b>	the constituent documents of each Stapled Entity and the documents setting out the terms of each Attached Security, including this deed and any Terms of Issue and Terms of Offer applicable to Units and Options from time to time.
<b>Corporations Act</b>	<i>Corporations Act</i> 2001(Cth) (including as modified in its operation by any applicable ASIC Relief).
<b>Costs</b>	costs, charges, fees, expenses, commissions, losses, damages, Taxes and loss of Tax benefits and all amounts payable in respect of any of them or like payments.
<b>CS Facility</b>	has the same meaning as clearing and settlement facility in the Corporations Act.
<b>CS Facility Operator</b>	the operator of the CS Facility.
<b>Current Unit Value</b>	<p>the amount calculated as follows:</p> $CUV = \frac{NAV}{NU}$ <p>where:</p> <p><b>CUV</b> is Current Unit Value</p> <p><b>NAV</b> is Net Asset Value</p> <p><b>NU</b> is the number of Units on Issue</p>
<b>Custodian</b>	Perpetual Corporate Trust Limited ABN 99 000 341 533 or such other independent person, who:

Term	Meaning
	<ol style="list-style-type: none"> <li>1 is not, in relation to the Responsible Entity or Manager, either a holding company or subsidiary company within the meaning of those terms as defined in the Companies Act; and</li> <li>2 is appointed from time to time under a Custody Agreement to hold title to the Assets of the Fund as custodian for the Trust.</li> </ol>
<b>Custody Agreement</b>	the Custody Agreement between the Responsible Entity (in its capacity as trustee of the Trust) and Perpetual Corporate Trust Limited ABN 99 000 341 533 dated 2 April 2013, and such other agreement under which a person may be appointed, from time to time, to hold title to the Assets of the Fund as custodian for the Trust.
<b>Distributable Amount</b>	has the meaning given in clause 13.1.
<b>Distribution Date</b>	<p>either:</p> <ol style="list-style-type: none"> <li>1 a day not more than 3 calendar months after the Distribution Period End Date for the relevant Distribution Period; or</li> <li>2 if the Responsible Entity determines that it is in the interests of Unitholders to delay the Distribution Date for a particular Distribution Period, the date determined by the Responsible Entity as being the appropriate Distribution Date for the Distribution Period.</li> </ol>
<b>Distribution Entitlement</b>	in respect of a Unitholder, entitlement to participate in a Distributable Amount or any other distribution (including a distribution of capital, previous reserves or previous provisions).
<b>Distribution Period</b>	<ol style="list-style-type: none"> <li>1 for the first Distribution Period, the period beginning on the date of establishment of the Trust to the next occurring Distribution Period End Date;</li> <li>2 for the last Distribution Period, the period beginning on the day after the preceding Distribution Period End Date to the date of termination of the Trust; and</li> <li>3 in all other circumstances, the period beginning on the day after the preceding Distribution Period End Date to the next occurring Distribution Period End Date.</li> </ol>
<b>Distribution Period End Date</b>	the last day in each Financial Year, the last day in each Half Year and such other dates as the Responsible Entity may determine.
<b>Duty</b>	any stamp, transaction or registration duty or similar charge imposed by any Government Agency and includes any interest, fine, penalty, charge or other amount imposed in respect of the

Term	Meaning
	above.
<b>Enterprise Value</b>	<p>as at the date on which Enterprise Value is to be determined, is the sum of:</p> <ol style="list-style-type: none"> <li>1 the Market Price of a Unit as at the relevant date multiplied by the average number of Units on Issue over the period of 30 consecutive business days (as defined in the Listings Requirements or Listing Rules, as applicable) immediately before the relevant date (whether or not a sale was recorded on a particular day); and</li> <li>2 the total amount of debt owing by the Trust and all Sub Trusts (other than amounts owing by the Trust to a Sub Trust, by a Sub Trust to the Trust or by a Sub Trust to another Sub Trust) as at the relevant date,</li> </ol> <p>less the total amount of Cash and cash equivalents (including money market instruments, short-term government bonds, treasury bills, bank certificates of deposit, bankers' acceptances and commercial paper) held by the Trust and all Sub Trusts as at the relevant date.</p>
<b>Escrow Period</b>	has the same meaning as in the Listing Rules.
<b>Excluded US Person</b>	a person that the Responsible Entity determines to be an Excluded US Person under clause 8.9(b).
<b>Excluded Securities</b>	Units, Options and Stapled Securities held by an Excluded US Person, subject to any determination by the Responsible Entity under clause 8.9(d).
<b>Exercise Price</b>	in relation to an Option, the dollar or rand value of the total consideration payable in respect of the exercise of that Option determined in accordance with the applicable provision in clause 6 pursuant to which the Option was granted.
<b>Financial Year</b>	<ol style="list-style-type: none"> <li>1 for the first Financial Year, the period beginning on the date of establishment of the Trust to the next 31 March;</li> <li>2 for the last Financial Year, the period beginning on 1 April before the date the Trust terminates to the date the Trust terminates; and</li> <li>3 in all other circumstances, the 12 month period ending on 31 March in each year.</li> </ol> <p>However, if</p>

<b>Term</b>	<b>Meaning</b>
	<p>(a) the Australian Commissioner of Taxation grants the Trust a substituted accounting period; or</p> <p>(b) the Responsible Entity determines to change the financial year, including to align the Trust with the financial year of a Stapled Entity,</p> <p>the Responsible Entity may elect to administer the Trust for the purposes of all provisions of this deed as if the time reference points in this definition were replaced with references that align with that different period.</p>
<b>FMA</b>	<i>Financial Markets Act 19 of 2012 (South Africa)</i>
<b>Foreign Holder</b>	a Unitholder or Optionholder (as the context may require) whose address appearing in the Register is a country other than Australia or South Africa.
<b>Foreign Interests</b>	the rights to subscribe for Units or Options to which a Foreign Holder is entitled or would be entitled but for the application of clause 6.11.
<b>Forfeited Unit</b>	a Unit which is deemed to be a Forfeited Unit in accordance with this deed.
<b>FSCA</b>	the Financial Sector Conduct Authority of the Republic of South Africa.
<b>Fund</b>	all the Cash, investments, rights and other property of the Trust held by the Responsible Entity pursuant to this deed, or by the Custodian for the Responsible Entity under the Custody Agreement.
<b>Government Agency</b>	any government or governmental, semi- governmental, administrative, fiscal or judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world.
<b>GST</b>	goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply.
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth).</i>

<b>Term</b>	<b>Meaning</b>
<b>Half Year</b>	the period beginning on the first day of a Financial Year and ending on the last day of the sixth calendar month after the end of the preceding Financial Year.
<b>Holder</b>	a Unitholder, Optionholder or Stapled Securityholder (as the context may require).
<b>Income Tax Act</b>	<i>Income Tax Act No 58 of 1962 (South Africa).</i>
<b>Independent Expert</b>	an expert appointed by the Responsible Entity for the purpose of carrying out a valuation who is independent of the Responsible Entity.
<b>Issue Price</b>	in relation to a Unit or Option, the dollar or rand value of the total consideration payable at any time in respect of the issue of that Unit or the grant of that Option determined in accordance with the applicable provision in clause 6 pursuant to which the Unit was issued or the Option was granted.
<b>Joint Holders</b>	2 or more persons recorded in the Register as the holders of a Unit or Option.
<b>JSE</b>	JSE Limited (a company registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06, and licensed as an exchange under the FMA) and, where relevant, a market for trading Securities offered by the JSE.
<b>JSE Listed</b>	admitted to the 'Main Board' of the list of securities maintained by the JSE. For purposes of this deed, where a Unit or Option is Stapled, and the Stapled Security is Listed, the Unit or Option will be regarded as Listed as well as the Stapled Security.
<b>Liabilities</b>	<p>the liabilities of the Trust, including:</p> <ol style="list-style-type: none"> <li>1 unpaid Costs including administrative costs and expenses and including fees of the Responsible Entity;</li> <li>2 accrued charges in respect of or owing in relation to any Assets of the Fund;</li> <li>3 amounts required to meet present liabilities;</li> <li>4 amounts of all borrowings;</li> </ol>

Term	Meaning
	<p>5 any provision for Tax which in the opinion of the Responsible Entity should be taken into account; and</p> <p>6 any other amounts required to meet liabilities or other expenditure (including deferred liabilities) which in the opinion of the Responsible Entity should be taken into account in determining the amount of liabilities in any of the preceding items having regard to the Accounting Standards,</p> <p>but excludes liabilities:</p> <p>7 to applicants for Units in respect of application money or property in respect of which Units have not yet been issued; or</p> <p>8 to Unitholders, arising in connection with the Unitholders' right to request redemption or buy-back of their Units or to participate in the distribution of the Assets of the Fund on winding up of the Trust.</p>
<b>Liquid Scheme</b>	has the meaning given to that term in section 601KA(4) of the Corporations Act.
<b>Listed</b>	JSE Listed or ASX Listed, or both, or ASX Quoted, as the context requires, and <b>Listing</b> has a corresponding meaning.
<b>Listings Requirements</b>	the Listings Requirements of the JSE as amended from time to time by the JSE, whether by way of amendment, practice note, confirmation, waiver or otherwise.
<b>Listing Rules</b>	the listing rules of ASX and any other applicable rules of ASX as amended from time to time by ASX, or modified to the extent of any express written waiver, or confirmation or guidance note by ASX.
<b>Main Trading Exchange</b>	the JSE, unless in respect of a particular Trading Period ( <b>Current Period</b> ) more Units, by volume, were traded on the ASX than on the JSE during the immediately preceding Trading Period, in which case the Main Trading Exchange for the Current Period will be the ASX.
<b>Managed Investment Scheme</b>	has the same meaning given to that term in the Corporations Act.
<b>Management Agreement</b>	1 the management agreement between the Responsible Entity (in its capacity as trustee of the Trust) and Investec Property Management Pty Limited ACN 161 587 391 entered into before Units were JSE Listed, as amended from time to time; or

Term	Meaning
	<p>2 a management agreement entered into between the Responsible Entity and a company selected by the Responsible Entity to perform management services which replaces the agreement referred to in 1.</p>
<b>Manager</b>	<p>Investec Property Management Pty Limited ACN 161 587 391, or such other person as is appointed from time to time under the Management Agreement to manage the Assets of the Fund including the provision of property management, property leasing, lease administration and development management services.</p>
<b>Market Price</b>	<p>of a Unit on a particular day is:</p> <ol style="list-style-type: none"> <li>1 the volume weighted average traded price per Unit at which Units are traded on the Main Trading Exchange for the 30 most recent business days (as defined in the Listings Requirements or Listing Rules, as applicable) immediately before the relevant day, provided that, in determining such volume weighted average traded price, trades which:             <ol style="list-style-type: none"> <li>a. are effected other than through the normal trading systems of the Main Trading Exchange; but</li> <li>b. are nevertheless settled through the settlement systems of the Main Trading Exchange;</li> </ol> <p>are disregarded; or</p> </li> <li>2             <ol style="list-style-type: none"> <li>a if Units have not been Listed on the Main Trading Exchange for at least 30 consecutive business days (as defined in the Listings Requirements or Listing Rules, as applicable) before the relevant day; or</li> <li>b if in the Responsible Entity's opinion a determination under item 1 above would not reflect the fair market value of the Unit having regard to the proposed offer or issue of Units, the Unit's Terms of Issue, and the circumstances in which the offer or issue is made or the Market Price is being determined (including because the Unit is Listed as part of a Stapled Security),</li> </ol> <p>the price per Unit that the Responsible Entity or an Independent Expert determines to be the market value of a Unit on the relevant day (including having regard to the matters referred to in item 2b above); or</p> </li> <li>3 the price for a Unit obtained under a Bookbuild, which may be subject to a minimum price determined by the Responsible Entity.</li> </ol> <p>The Market Price of an Option or other Security on a particular day is determined in the same manner.</p>

Term	Meaning
<b>Market Value</b>	<ol style="list-style-type: none"> <li>1 for Cash or a deposit with a Bank, its face value (plus any accrued interest that is not included in its face value);</li> <li>2 for an interest in real estate, the amount most recently determined by an Independent Expert which the interest would realise if sold on the date of the valuation in the open market by a willing seller to a willing buyer;</li> <li>3 for Securities in, or of, an entity that are listed or quoted for trading on a financial market, the latest sale price for that Security on the relevant financial market which is readily available to the Responsible Entity, or if the Responsible Entity reasonably believes that it does not represent the fair market value of the Securities, the fair and reasonable value of the Securities determined by an Independent Expert having regard to the volume weighted average price of the Securities over such period as the Independent Expert considers appropriate;</li> <li>4 for interests in a Managed Investment Scheme that are not listed or quoted for trading on a financial market: <ol style="list-style-type: none"> <li>a until the underlying assets in the Managed Investment Scheme are first valued, the cost of acquisition (including all related Costs and liabilities); and</li> <li>b following this, its market value quoted by the responsible entity, trustee, general partner or other applicable manager of the Managed Investment Scheme on the relevant date or the nearest earlier date,</li> </ol> <p>except that, if the Responsible Entity reasonably believes that such prices do not represent the fair market value of the interests, the fair and reasonable value of the interests determined by an Independent Expert; and</p> </li> <li>5 for any other asset – the value of the asset determined in accordance with the Accounting Standards or, if the Responsible Entity reasonably believes that this does not represent the fair market value of the interests, the fair and reasonable value of the assets determined by an Independent Expert,</li> </ol> <p>and, where the value of an asset is to be determined for the purpose of calculating the price for issue or redemption of Units, the value must be based on a valuation which is consistent with the range of ordinary commercial practice for valuation of assets of that type and is reasonably current, having regard to the type of asset involved and prevailing market conditions.</p>
<b>Meeting</b>	a meeting of Holders convened in accordance with this deed.
<b>Net Asset Value</b>	<p>the sum of the values of Assets of the Fund including Assets that relate to derivative instruments used for hedging determined in accordance with clause 12.2 less:</p> <ol style="list-style-type: none"> <li>1 all amounts required to repay borrowings and to meet Liabilities (including the amount of any provisions the Responsible Entity determines, in consultation with the Auditor, should be made,</li> </ol>



Term	Meaning
	<p>and including Liabilities relating to derivative instruments used for hedging); and</p> <p>2 following any Distribution Period End Date, the amount of any Distribution Entitlements payable but not paid to Unitholders on the day on which the Net Asset Value is determined, except to the extent that Distribution Entitlements have already been accounted for as a Liability for the purposes of paragraph 1 above.</p>
<b>Odd Lot</b>	while the Trust is JSE Listed, the number of Units referred to in paragraph 5.123 of the Listings Requirements, and while the Trust is ASX Listed, the number of Units which comprise a marketable parcel under the Listing Rules, and if the Trust is both JSE Listed and ASX Listed, the lesser of those two amounts.
<b>Operating Rules</b>	the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated Securities as amended from time to time (whether in respect of the Trust or generally).
<b>Option</b>	an option granted by the Responsible Entity in respect of unissued Units giving the holder of the option the right, but not the obligation, to subscribe for Units.
<b>Optionholder</b>	a person recorded in the Register as a holder of an Option from time to time, including any persons jointly registered.
<b>PDS</b>	a product disclosure statement as required by Part 7.9 of the Corporations Act in respect of an offer or an issue of Units or of Options (as the context requires).
<b>Placement Resolution</b>	<p>a Special Resolution approving an issue of Securities where votes are only permitted to be cast in respect of interests:</p> <ol style="list-style-type: none"> <li>1 that are held by a Holder in the relevant class who will not acquire any of the Securities that are to be issued or an interest in those Securities; and</li> <li>2 that are held by a Holder in the relevant class who does not hold the Securities on trust for or on behalf of another person, unless that person will not acquire any of the Securities that are to be issued or an interest in those Securities.</li> </ol>
<b>Pre-Listing Statement</b>	a pre-listing statement/prospectus/listing particulars as required under the Listings Requirements.

<b>Term</b>	<b>Meaning</b>
<b>Proposal</b>	a proposal approved by an ordinary resolution of Holders, except to the extent that the Corporations Act requires the proposal to be approved by Special Resolution.
<b>QIB-QP</b>	<p>a US Person that is both:</p> <ol style="list-style-type: none"> <li>1 a Qualified Institutional Buyer as defined in Rule 144A under the US <i>Securities Act</i> of 1933, as amended; and</li> <li>2 a Qualified Purchaser as defined in Section 2(a)(51) of the US <i>Investment Company Act</i> of 1940, as amended and the rules and regulations of the Securities and Exchange Commission promulgated under that Act.</li> </ol>
<b>Record Date</b>	in relation to a Distribution Period, the date the Responsible Entity determines (subject to clause 1.9, as applicable) as the record date for that Distribution Period.
<b>Redemption Offer Period</b>	has the meaning given in clause 9.1(a)(1)
<b>Redemption Price</b>	the redemption price for Units, calculated on the basis set out in clause 9.5.
<b>Register</b>	the register of Unitholders or Optionholders maintained by, or on behalf of, the Responsible Entity pursuant to Chapter 2C of the Corporations Act and in accordance with the Listings Requirements and the Listing Rules, as applicable, or the register of Stapled Securities maintained as contemplated by Schedule 2, as the context requires.
<b>Registrar</b>	the person or persons responsible for keeping the Register.
<b>Registered Foreign Scheme</b>	a scheme registered as a foreign Collective Investment Scheme under section 65 of the CISCA.
<b>Registered Scheme</b>	a scheme registered by ASIC as a managed investment scheme under Chapter 5C of the Corporations Act.
<b>Responsible Entity</b>	<ol style="list-style-type: none"> <li>1 initially, Investec Property Limited;</li> <li>2 while the Trust is not a Registered Scheme, the trustee of the Trust from time to time; and</li> </ol>

Term	Meaning
	<ol style="list-style-type: none"> <li>3 while the Trust is a Registered Scheme, any other body corporate named in ASIC's record of registration for the Trust from time to time as the responsible entity of the Trust.</li> </ol>
<b>Restricted Securities</b>	the same meaning as in the Listing Rules.
<b>Securities</b>	<ol style="list-style-type: none"> <li>1 shares, debentures, notes, bonds, units in a trust, interests in a Registered Scheme;</li> <li>2 legal or equitable rights or interests in securities referred to in item 1 above; and</li> <li>3 options to acquire (whether by way of issue or transfer) securities referred to in item 1 or 2 above.</li> </ol>
<b>Special Resolution</b>	has the meaning given to that term in the Corporations Act.
<b>Stapled</b>	the linking together of Securities so that one may not be dealt with without the other or others, and in relation to a Unit or Option and another Attached Security or other Attached Securities, being linked together so that one may not be dealt with without the other or others.
<b>Stapled Entity</b>	<ol style="list-style-type: none"> <li>1 If Units or Options are Stapled to Securities of another Australian or overseas trust, managed investment scheme, partnership, body corporate or other entity the Trust and each other such entity; and</li> <li>2 if Units or Options are Stapled to other Securities issued by the Responsible Entity in its capacity as trustee of the Trust (even if they are not they are Stapled to securities of any other entity), the Trust.</li> </ol>
<b>Stapled Security</b>	the Security created by Stapling Units or Options together with other Securities.
<b>Stapled Securityholder</b>	a person recorded in the Register of Stapled Securities as the holder of a Stapled Security from time to time, including any persons jointly registered.
<b>Sub Trust</b>	each trust through which the Trust indirectly holds an interest in any real property or other Assets, from time to time.

Term	Meaning
<b>Tangible Assets</b>	all assets other than goodwill, patents, trademarks, design rights, franchises, future Tax benefits, underwriting and formation expenses, capitalised exploration and development expenditure and all other assets and items which according to the Accounting Standards are regarded as intangible assets.
<b>Tax</b>	any Duty, tax, levy, charge, impost, fee, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed in respect of any of the above.
<b>Tax Act</b>	<i>Income Tax Assessment Act 1936 (Cth)</i> and <i>Income Tax Assessment Act 1997 (Cth)</i> , as applicable.
<b>Terms of Issue</b>	in relation to a Unit or Option, the terms and conditions on which that Unit or Option is issued determined under clause 7.2(a) (other than those contained in this deed).
<b>Terms of Offer</b>	in relation to an offer to acquire an Option, the terms and conditions on which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option.
<b>Trading Period</b>	<p>a period beginning on the first day:</p> <ol style="list-style-type: none"> <li>1 of a Financial Year and ending on the last day of the corresponding Half Year; or</li> <li>2 after the last day of a Half Year and ending on the last day of the corresponding Financial Year,</li> </ol> <p>as applicable.</p>
<b>Transmission Event</b>	<p>in respect of a Holder who is an individual:</p> <ol style="list-style-type: none"> <li>1 the death of the Holder;</li> <li>2 the bankruptcy of the Holder; or</li> <li>3 the Holder becoming of unsound mind or a person who is, or whose estate is, liable to be dealt with in any way under the law relating to mental health; or</li> </ol> <p>in respect of a Holder who is body corporate, the deregistration or dissolution of the Holder or the succession by another body corporate to the assets and liabilities of the Holder.</p>
<b>Trust</b>	the trust constituted under this deed.

<b>Term</b>	<b>Meaning</b>
<b>Trust Group</b>	the Trust and each Sub Trust which forms part of the same consolidated group as the Trust under the Accounting Standards, and, where applicable, each responsible entity or trustee of the Trust and each Sub Trust (but solely in their respective capacities as such).
<b>Unit</b>	an undivided participatory interest in the Fund as provided for in this deed.
<b>Unitholder</b>	a person recorded in the Register as the holder of a Unit from time to time, including any persons jointly registered.
<b>Units on Issue</b>	the number of Units created under this deed from time to time and not cancelled.
<b>User Pays Fees</b>	any cost incurred in relation to: <ol style="list-style-type: none"> <li>1 an entitlement to a payment or a payment to or from the Trust in respect of a Unitholder; or</li> <li>2 anything the Unitholder asks the Responsible Entity to do or omit to do,</li> </ol> which the Responsible Entity considers should be borne by that Unitholder.
<b>US Person</b>	has the meaning given in Rule 902 of Regulation S under the US <i>Securities Act</i> of 1933, as amended.
<b>US Sale Facility</b>	the facility described in clause 8.9, under which Excluded US Persons are required to transfer Excluded Securities to a sale nominee to sell the Excluded Securities and pay the net sale proceeds to the relevant person.

### 1.3 Interpretation

In this deed, unless the context otherwise requires:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this deed;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;

- (e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental or semi-governmental agency;
- (f) a reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.3(f) implies that performance of part of an obligation constitutes performance of the obligation;
- (g) a reference to a clause, party or schedule is a reference to a clause or party of, and a schedule to, this deed and a reference to this deed includes any schedule;
- (h) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (i) a reference to an agreement other than this deed includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (j) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (k) a reference to a document includes any agreement in writing, or any certificate, notice, instrument or other document of any kind;
- (l) reference to an asset includes all property of any nature, including a business, and all rights, revenues and benefits;
- (m) a reference to dollars and \$ is a reference to the lawful currency of the Commonwealth of Australia;
- (n) a reference to rand and R is a reference to the lawful currency of the Republic of South Africa;
- (o) a reference to a body, other than a party to this deed, including a commission or an exchange, whether statutory or not, which ceases to exist or whose functions or powers are transferred to another body, is a reference to the body which replaces it or substantially succeeds to its powers and functions; and
- (p) a reference to the proper performance of a duty is a reference to the proper performance of the duty after all available appeals from each judgment in respect of the matter have been exhausted.

#### **1.4 Interpretation of inclusive expressions**

Specifying anything in the deed after the words 'include' or 'for example' or similar expressions does not limit what else is included.

#### **1.5 Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding Business Day.

#### **1.6 Financial Year**

The definition of Financial Year in this deed is not a determination of the Trust's financial year under section 323D of the Corporations Act.

## 1.7 General compliance

- (a) While the Trust remains a Registered Scheme, subject to any declarations made by or exemptions granted by ASIC which are current in respect of or applicable to this deed, a provision of this deed which is inconsistent with a provision of the Corporations Act does not operate to the extent of the inconsistency. This clause 1.7(a) prevails over all other provisions of this deed including any that are expressed to prevail over it.
- (b) On and from the date of the Trust becomes a Registered Foreign Scheme, subject to any declarations made by or exemptions granted by the FSB which are current in respect of or applicable to this deed, a provision of this deed which is inconsistent with an applicable provision of the CISCA does not operate to the extent of the inconsistency. Subject to clause 1.7(a), this clause 1.7(b) prevails over all other provisions of this deed including any that are expressed to prevail over it.

## 1.8 Inconsistency with Listings Requirements and Listing Rules

- (a) Subject to this clause 1.8, while any Units or Options are JSE Listed:
  - (1) despite anything in this deed, if the Listings Requirements prohibit an act being done, the act must not be done and Holders cannot, by resolution, authorise or ratify such act unless the JSE agrees otherwise;
  - (2) nothing in this deed prevents an act being done that the Listings Requirements require to be done; and
  - (3) if the Listings Requirements require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
- (b) Subject to this clause 1.8, while the Trust is ASX Listed:
  - (1) despite anything in this deed, if the Listing Rules prohibit an act being done, the act will not be done and Holders cannot, by resolution, authorise or ratify such act unless the ASX agrees otherwise;
  - (2) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;
  - (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
  - (4) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is taken to contain that provision;
  - (5) if the Listing Rules require this deed not to contain a provision and it contains the provision, this deed is taken not to contain that provision; and
  - (6) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is taken not to contain that provision to the extent of the inconsistency.

- (c) If it is not possible for the Responsible Entity to comply with both the Listings Requirements and the Listing Rules with respect to a particular act, matter or thing concerning the Trust, the Responsible Entity must comply with the rule or requirement of the Main Trading Exchange at the relevant time.
- (d) Despite anything to the contrary in this clause 1.8, this clause 1.8 has effect subject to clause 1.7.
- (e) A reference in this deed to a thing that must be done or not done because of:
  - (1) the Listings Requirements, applies only while the Trust is JSE Listed; and
  - (2) the Listing Rules, applies only while the Trust is ASX Listed.

## 1.9 Record dates

Subject to clause 1.8(c), while any Units, Stapled Securities or Options are Listed, in determining any record date in relation to an entitlement to vote at a Meeting, distribution or transaction, except to the extent that the JSE and ASX (as applicable) permit otherwise, the Responsible Entity must ensure that the record date is set in compliance with both the Listings Requirements and the Listing Rules.

## 1.10 Corporations Act while not registered

While the Trust is not a Registered Scheme, the Responsible Entity must comply with the following provisions of the Corporations Act as far as the circumstances allow as if the Trust was a Registered Scheme and the Responsible Entity was the responsible entity of that Managed Investment Scheme:

- (a) Chapter 2C (Registers);
- (b) Part 2G.4 (Meetings of Members of Registered Managed Investment Schemes) other than sections 252F, 252G, 252H, 252T and 253E; and
- (c) Chapter 2M (Financial Reports and Audit).

## 2 Declaration of Trust

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### 2.1 Trustee

The Responsible Entity is appointed and agrees to act as trustee of the Trust.

### 2.2 Name of Trust

The name of the Trust is 'Investec Australia Property Fund II'\*. The Responsible Entity may change the name of the Trust.

### 2.3 Vesting of Assets in Responsible Entity

Each Asset of the Fund is vested in, and is held by, the Responsible Entity as trustee on behalf of the Unitholders.

\* On 7 December 2020, the Responsible Entity changed the name of the Trust to 'Irongate Property Fund II' pursuant to clause 24.4 of this deed.



### 3 Interest of Unitholders

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#### 3.1 Division into Units

- (a) The beneficial interest in the Fund is divided into Units. No Unit confers on a Unitholder an interest in a particular part of the Fund.
- (b) A Unitholder may not:
  - (1) interfere with or question, or seek to interfere with or question, the rights, powers, authority or discretion of the Responsible Entity;
  - (2) claim or exercise any right in respect of any Asset of the Fund or lodge any caveat or other notice affecting any Asset of the Fund; or
  - (3) require that any Asset of the Fund be transferred to a Unitholder.
- (c) Unitholders may not give any directions to the Responsible Entity (whether at a meeting convened pursuant to sections 252B, 252C and 252D of the Corporations Act or otherwise) if it would require the Responsible Entity to do, or omit doing, anything which may result in the exercise of any discretion expressly conferred on the Responsible Entity by this deed or the determination of any matter which under this deed requires the agreement of the Responsible Entity.

#### 3.2 No issue of fractional Units

The Responsible Entity must not issue Units in fractions.

#### 3.3 Consolidation and split of Units

- (a) Subject to clauses 3.3(b) and 3.3(c), the Responsible Entity may consolidate or split the Units and in acquiring Units, each Unitholder is taken to have consented to any such consolidation or split.
- (b) While any Units or Options are Listed, the Responsible Entity may only consolidate or split Units with the approval of a Special Resolution of Holders, and otherwise in accordance with the Listings Requirements and the Listing Rules, each as applicable.
- (c) In respect of any consolidation or split of Units, the Responsible Entity must:
  - (1) promptly amend the Register to record the consolidation or split;
  - (2) notify the Unitholder within 30 days of the consolidation or split; and
  - (3) ensure that each Unit in a class is consolidated or split on the same basis as each other Unit in that class.
- (d) While any Units or Options are Listed, where any consolidation or split of Units under clause 3.3(c) would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity must consolidate or split the Units on a basis which allows the Responsible Entity to round the number of Units downwards or upwards to the nearest whole number at the Responsible Entity's discretion. Any excess Application Money or other money or property which results from a rounding becomes an Asset of the Fund.

### 3.4 No issue of partly paid Units

The Responsible Entity must not offer any Units for subscription other than as fully paid Units.

### 3.5 Classes of Units

- (a) Subject to clause 3.5(b)(2), the Listings Requirements and the Listing Rules, the Responsible Entity may at any time issue Units in 2 or more classes with rights, obligations and restrictions as it determines and which may be preferential or subordinated to the rights, obligations and restrictions of any other class.
- (b) While any Units or Options are Listed:
  - (1) the Responsible Entity may only create a new class of Units with the approval of a Special Resolution of Holders and otherwise in accordance with the Listings Requirements and the Listing Rules; and
  - (2) in any event, Units must not be issued with any special rights, or privileges, in relation to voting at general Meetings in addition to the voting rights that the relevant Unitholder has in respect of its interest in the Trust under the Corporations Act.
- (c) Units in class must:
  - (1) be in all respects identical;
  - (2) carry the same rights as to unrestricted transfer, attendance and voting at Meetings and in all other respects; and
  - (3) be entitled to distributions at the same rate and for the same period, so that at the next ensuing distribution, the distribution payable in respect of each Unit in the class is the same amount.
- (d) The Responsible Entity may convert any Units from one class to another class or reclassify Units from one class to another.
- (e) The Responsible Entity must enter on the Register the class or Terms of Issue of Units held by a Unitholder.

### 3.6 Benefits and obligations of Unitholders

- (a) A Unitholder holds Units subject to this deed and such Terms of Issue as apply to those Units. Except where expressly provided in this deed, or any applicable Terms of Issue, to the contrary, all benefits and obligations contained in this deed apply for the benefit of and bind each Unitholder to the extent provided in this deed.
- (b) Where the interests of Optionholders and Unitholders conflict the Responsible Entity must prefer the interests of Unitholders.

### 3.7 No further liability

- (a) This clause 3.7 is subject to clause 3.8 and to any separate agreement between a Unitholder and the Responsible Entity.
- (b) The liability of each Unitholder in its capacity as such is limited to the Holder's investment in the Trust.

- (c) A Unitholder is not required to indemnify the Responsible Entity or a creditor of the Responsible Entity against any liability of the Responsible Entity in respect of the Trust.
- (d) The recourse of the Responsible Entity and any creditor of the Responsible Entity is limited to the Assets of the Fund.
- (e) Except where expressly provided in this deed, nothing in this deed makes the Responsible Entity the agent of a Holder, nor does it create any relationship other than (as between a Unitholder and the Responsible Entity) that of beneficiary and Responsible Entity.

### 3.8 Tax or User Pays Fees

The Responsible Entity is entitled to be indemnified by a present or former Unitholder to the extent that the Responsible Entity incurs any liability for Tax or User Pays Fees as a result of:

- (a) that person's action or inaction; or
- (b) an act or omission requested by that person; or
- (c) any other matter arising in connection with Units held by that person,

but, in the absence of a separate agreement with the Unitholders, is not otherwise entitled to be indemnified by them.

## 4 Forfeiture

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### 4.1 Forfeiture of Units

- (a) If the Responsible Entity deems a Unit to be a Forfeited Unit under this deed, the Responsible Entity, the forfeiture takes effect on the date which the Responsible Entity determines.
- (b) Promptly after deeming a Unit to be a Forfeited Unit, the Responsible Entity must give a notice of the forfeiture to the holder of that Unit setting out:
  - (1) that the Unit has been forfeited; and
  - (2) the date of forfeiture.

The Responsible Entity's omission to give such notice, or the non-receipt of such notice by the holder of the Unit does not in any way affect the forfeiture of the Unit.

- (c) The forfeiture includes all distributions, interest and other money payable in respect of a Forfeited Unit and not actually paid before the forfeiture. Any such amounts that are subsequently paid must be applied in accordance with clause 4.5 as if they formed part of the proceeds of sale of a Forfeited Unit.
- (d) With effect from the date of forfeiture, a person whose Units have been forfeited ceases to have any further rights or interest as the holder of those Units, even though that person may remain recorded in the Register as the holder of those Units. However, the person remains liable to pay, and must immediately pay to the Responsible Entity, all amounts that remain outstanding in respect of the Units at the time of the forfeiture.

## 4.2 Sale of Forfeited Unit

- (a) The Responsible Entity may offer a Forfeited Unit for sale. If the Responsible Entity does so, it does so as agent for the holder of the Forfeited Unit.
- (b) Subject to clause 4.2(d) if the Responsible Entity sells the Forfeited Unit, it must sell it by public auction in a manner and at a price determined by the Responsible Entity.
- (c) At least 14 days, but no more than 21 days, before the date appointed for sale under clause 4.2(b), the Responsible Entity must:
  - (1) give a notice of the sale of a Forfeited Unit to all Unitholders; and
  - (2) and place advertisements of the sale in a daily newspaper circulating generally throughout Australia and in a daily newspaper circulating generally throughout South Africa.
- (d) The Responsible Entity must ensure that the auction is in accordance with section 254Q of the Corporations Act (other than subsections 254Q(1), (10) and (13)) as if the Forfeited Unit were a share, the Trust was the company and the Responsible Entity was the directors of the company.
- (e) The Responsible Entity is not liable to the Unitholder for any loss suffered by the Unitholder as a result of the sale.

## 4.3 Cancellation of forfeiture

At any time before a Forfeited Unit has been sold or otherwise disposed of, the Responsible Entity may:

- (a) exempt a Unitholder, or a Forfeited Unit, from all or any part of clause 4; or
- (b) waive or compromise all or any part of any payment due to the Responsible Entity.
- (c) cancel the forfeiture on any terms it thinks fit.

## 4.4 Consequences of sale and continuing liability

- (a) On completion of the sale of the Forfeited Unit, the former holder of the Forfeited Unit (**Forfeited Unitholder**) ceases to be the holder of the Forfeited Unit but remains liable to the Responsible Entity for all amounts that remain outstanding in respect of the Units at the time of the forfeiture.
- (b) The liability of a Forfeited Unitholder under this clause 4.4 ceases as soon as the Responsible Entity receives payment in full of all amounts that remain outstanding in respect of the Units at the time of the forfeiture (excluding any amount paid by an underwriter pursuant to an underwriting agreement entered into under clause 6.10, in respect of which amounts the Forfeited Unitholder remains liable to the Responsible Entity, or any assignee of the Responsible Entity's right in respect of such amount).
- (c) On completion of the sale, the Responsible Entity must apply the consideration paid for a Forfeited Unit in accordance with clause 4.5. The Responsible Entity must execute a transfer of a Forfeited Unit as agent for the holder of the Forfeited Unit to the purchaser of that Forfeited Unit and register the transferee as the holder of the Forfeited Unit.
- (d) For the purposes of transferring Forfeited Units under this clause 4.4, each Unitholder irrevocably appoints the Responsible Entity as the Unitholder's agent

and attorney to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable transfer the Forfeited Units:

- (e) A statement signed by a director or secretary of the Responsible Entity setting out:
  - (1) that a Unit has been forfeited; and
  - (2) the date of forfeiture,
 is conclusive evidence against any person claiming entitlement to the Forfeited Unit.
- (f) The transferee of the Forfeited Unit is not required to verify the application of the purchase money.
- (g) The title to a Forfeited Unit is not affected by any irregularity or invalidity in the proceedings relating to the sale or disposal of a Forfeited Unit.

#### **4.5 Proceeds of sale of Forfeited Unit**

- (a) If a Forfeited Unit is sold under clause 4.2, the Responsible Entity must apply the proceeds of the sale in the following order and manner:
  - (1) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity in relation to the sale or disposal of the Forfeited Unit including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation the non-payment or late payment of amounts outstanding in respect of the Units at the time of the forfeiture, including all Costs and liabilities associated with the forfeiture and any proceedings to recover the amount due from the holder of the Forfeited Unit;
  - (3) by holding as an Asset of the Fund, an amount equal to the balance of all amounts due and payable in respect of the Forfeited Units; and
  - (4) by paying the balance to the person whose Units have been forfeited.
- (b) If more than one Forfeited Unit is sold in a single sale process, the Responsible Entity must allocate the expenses listed in clause 4.5(a)(1) and (2) proportionally across all of the Forfeited Units being sold.
- (c) Joint holders of Units are jointly and severally liable for all amounts due and payable on their Units.

## 5 Rights of Optionholders

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### 5.1 Terms of Offer and subscription

- (a) The Responsible Entity must notify each person being offered Options of the Terms of Offer and the Terms of Issue of any Options which may be granted at the time of the offer.
- (b) A person may subscribe for an Option in accordance with the Terms of Offer. An Option may be subscribed for by a nominee of the person entitled to subscribe for the Option unless the Terms of Offer provide otherwise.

### 5.2 Options bind the Responsible Entity

Upon creation, an Option binds the Responsible Entity until expiry in accordance with its Terms of Issue.

### 5.3 Exercise

An Optionholder may only exercise an Option in accordance with the Terms of Issue. An Option may be exercised by a nominee of the Optionholder unless the Terms of Issue provide otherwise.

### 5.4 Expiry

On the termination or winding up of the Trust, all Options lapse and, subject to any amounts specifically expressed to be payable to the Optionholder on the termination or winding up of the Trust, the liabilities of the Responsible Entity cease in respect of each Option.

### 5.5 Cancellation or purchase

- (a) The Responsible Entity may cancel or purchase an Option, or any of the rights of an Option, in accordance with the Terms of Issue. Options and rights may only be cancelled or purchased under this clause 5.5(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Responsible Entity and the Responsible Entity may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).
- (b) Options and rights purchased under clause 5.5(a) form part of the Fund, and the Responsible Entity is recognised as the Holder and may exercise, resell or otherwise deal with them as it sees fit. The Responsible Entity retains title in law to every such Option and right until the Option or right is resold or expires and such title in law will not merge into such obligations as are constituted by the grant of such Options and rights.

### 5.6 Benefits and obligations of Optionholders

- (a) An Optionholder holds Options subject to this deed and such Terms of Issue and Terms of Offer as apply to those Options. Except where expressly provided in this deed, or any applicable Terms of Issue or Terms of Offer, to the contrary:
  - (1) all obligations in this deed bind each Optionholder to the extent provided in this deed; and

- (2) the benefits in this deed only apply for the benefit of Optionholders where expressly provided in this deed.
- (b) Optionholders have only those rights expressly conferred on them by this deed and the Options' Terms of Offer and Terms of Issue.
- (c) An Option does not confer on the Optionholder any interest in the Fund or its Assets or any entitlement to any distribution of income or capital, or any distribution on winding up or termination of the Trust.
- (d) Optionholders are entitled:
  - (1) to inspect any document which may be inspected by; and
  - (2) to be sent any document which is sent to,
 Unitholders in similar circumstances.

## 6 Power to issue Units and grant Options

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### 6.1 Powers Cumulative

The Responsible Entity may issue Units and Options only in accordance with this clause 6 and other relevant provisions of this deed. Subject to clause 1.7, no provision in this clause 6 limits any other provision in this clause, and nothing in this clause 6 or this deed limits or is taken to limit the Responsible Entity's power to issue Units in compliance with any applicable ASIC Relief (and the Listing Rules and Listings Requirements, as applicable) whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 6 or otherwise.

### 6.2 Issue of Units at fixed price

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at any time to any person at an Issue Price as follows:

- (a) if Units are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX:
  - (1) at the Market Price of such Units immediately before the date on which the Unit is issued or offered for issue; and
  - (2) in respect of Units issued on exercise of an Option, at an Exercise Price equal to the Market Price of a Unit immediately before the date on which the Option was offered or granted, less the Issue Price of the Option specified in the Terms of Offer or Terms of Issue for that Option; and
- (b) if Units have been suspended from Listing (other than temporarily) on both the JSE and the ASX, or have otherwise ceased to be Listed, at the Current Unit Value calculated as at a date not less than 20 Business Days before the date of issue.

### 6.3 Issue of Options at fixed price

In addition to any other power the Responsible Entity has to grant Options under this deed, the Responsible Entity may grant Options at any time to any person at an Issue Price as follows:

- (a) at the Issue Price as is specified in the Terms of Offer or Terms of Issue for that Option: or
- (b) if Options of the same class are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX:
  - (1) at the Market Price for those Options immediately before the date upon which the Option is offered or granted; and
  - (2) in respect of Units issued on exercise of any such Options, at the Exercise Price for those Options determined in accordance with their Terms of Issue.

#### 6.4 Placements

- (a) While Units or Options (as the case may be) are Listed on the ASX (and have not been suspended from Listing other than temporarily), whether or not they are Listed on any other foreign market including the JSE, in addition to any other power the Responsible Entity has to issue Units or grant Options under this deed, the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if it complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the issue under the placement; and
  - (2) the Listing Rules and the Listings Requirements, to the extent those rules or requirements apply to the issue.
- (b) Where the Units or Options (as the case may be) are not ASX Listed but are JSE Listed or listed on any other foreign market (and have not been suspended from Listing other than temporarily on the relevant market) then the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 if:
  - (1) the issue, together with any related issue (as defined in ASIC Class Order [CO 13/655]) in the previous year, immediately before the issue, does not comprise more than 15% of the Units or Options in the relevant class; or
  - (2) Holders who hold Units or Options in the same class approve the issue by a Placement Resolution, and each of the other conditions and restrictions of any applicable ASIC Relief if any on which the Responsible Entity relies for the issue under the placement are met.

#### 6.5 Rights issues

- (a) In addition to any other power the Responsible Entity has to issue Units under this deed, subject to compliance with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,



the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if:

- (A) the Units have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date; and
  - (B) all the Units offered are in the same class.
- (b) In addition to any other power the Responsible Entity has to grant Options under this deed, subject to compliance with:
- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,

the Responsible Entity may grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, if:

- (A) the Options have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date;
- (B) all the Options offered are in the same class; and
- (C) the means of calculating the Exercise Price is set out in the Terms of Issue.

## 6.6 Distribution reinvestment issues

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10, pursuant to a distribution reinvestment arrangement referred to in clause 13.14 where:

- (a) all or part of a Unitholder's Distribution Entitlement is applied in payment for the subscription for Units; and
- (b) the Responsible Entity complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the distribution reinvestment; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply in respect of the distribution reinvestment.

## 6.7 Other issues of Units or Options

In addition to any other power the Responsible Entity has to issue Units or Options under this deed, the Responsible Entity may issue Units or Options at an Issue Price determined by the Responsible Entity, being a price other than the issue price calculated in accordance with clauses 6.2, 6.3 or 6.10 in any circumstances where the Corporations Act does not restrict the Responsible Entity from doing so.

## 6.8 Fractions of Units

Where an issue would otherwise result in a Unitholder holding a fraction of one Unit:

- (a) while the Listings Requirements apply, the Responsible Entity must round down the number of Units and account to the Unitholders concerned for the net proceeds of disposal of the fractions of Units (unless the JSE Listings Requirements state otherwise); and
- (b) while the Listings Requirements do not apply, the Responsible Entity may round the number of Units issued downwards or upwards to the nearest whole number at the Responsible Entity's discretion, and any excess Application Money or other money or property which results from a rounding becomes an Asset of the Fund.

## 6.9 Currency

Without limiting the Responsible Entity's discretion as to the Terms of Issue and Terms of Offer, Units and Options may be issued with an Issue Price and (as applicable Exercise Price) denominated in dollars or rand.

## 6.10 Underwriting

- (a) The Responsible Entity may arrange for:
  - (1) an offer for sale, subscription, issue or grant of Units or of Options; or
  - (2) the exercise of Options; or
  - (3) an issue of Units pursuant to an arrangement for distribution reinvestment established by the Responsible Entity under clause 13.14,

to be underwritten by an underwriter on terms determined by the Responsible Entity.
- (b) The underwriter may:
  - (1) be the Responsible Entity, the Manager or an Associate of the Responsible Entity or Manager; and
  - (2) take up any Units or Options not subscribed for.
- (c) The Responsible Entity may issue Units and grant Options pursuant to this clause 6.10 at an Issue Price equal to the Issue Price at which the Units or Options in relation to the underwritten issue or grant were, or would have been, issued or granted to persons other than the underwriter or underwriters.

## 6.11 Foreign Holders

- (a) The Responsible Entity may determine that Foreign Holders are not to be offered Units or Options which are otherwise offered to Holders (or a class of Holders)

where it considers that it would be in the best interests of Holders, including having regard to matters such as:

- (1) the number of Foreign Holders in the relevant jurisdiction and the number and value of Units or Options held by such Foreign Holders; and
- (2) the cost of complying with legal and regulatory requirements for the offer, issue or transfer of Securities in the relevant jurisdiction,

or on any other basis permitted under the Corporations Act.

- (b) If the Responsible Entity makes such a determination, and it is practicable to do so, the Responsible Entity may, or may appoint a nominee to, sell the Foreign Interests and pay each Foreign Holder the amount calculated as follows:

$$A = NP \times \frac{NF}{N}$$

Where:

**A** is the amount to be paid to that Foreign Holder;

**NP** is the net proceeds of sale of the Foreign Interests being the amount (if any) remaining after deducting from the proceeds of sale of the Foreign Interests the total of:

- the Costs of the sale;
- the amounts (if any) payable by the Responsible Entity to any nominee appointed under this clause 6.11 in respect of the Foreign Interest; and
- any amounts the Responsible Entity would be required by law or otherwise entitled to deduct or withhold under this deed;

**NF** is the number of Foreign Interests to which that Foreign Holder would otherwise have been entitled; and

**N** is the aggregate number of Foreign Interests.

## 6.12 Issue of Units upon establishment and automatic redemption

The Trust commences when a person subscribes A\$10 for Units, and the Responsible Entity issues Units to that person. The Issue Price of the Units will be \$1.00, and 10 Units (the “**Initial Units**”) will be issued to the person. The Initial Units will be automatically redeemed immediately upon the issue of further Units under any other provision of this deed, without the need for a redemption request, at a Redemption Price of \$1.00 per Unit and those redeemed Units will be cancelled. The Initial Units are not to be Stapled to any other Security.

## 7 Issue of Units and of Options

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### 7.1 Pre-emptive rights

- (a) While Units are JSE Listed, the Responsible Entity must exercise its powers to issue Units and Options only in the situations permitted in this clause 7.1.

## (b) Situation 1 - pro rata offer

If the Responsible Entity conducts an offer of Units or Options to all Unitholders (or to all holders of a class of Units) on a pro rata basis (whether rights or entitlements to participate in such offer are renounceable or non-renounceable), the Responsible Entity may issue Units or Options:

- (1) to Unitholders who apply for the relevant Units or Options pursuant to such offer, or their assignees or nominees; or
- (2) to the extent that relevant Units or Options are not taken up by Unitholders (or their assignees, or nominees) pursuant to such offer, to any underwriter or sub-underwriter of any such offer.

For these purposes:

- an offer of Units or Options includes an invitation to apply to subscribe for Units or Options; and
- an offer will be regarded as having been conducted on a pro rata basis even if the Responsible Entity excludes any Foreign Holders (or class of Foreign Holders) from participation in the offer.

## (c) Situation 2 - issue to acquire an asset

The Responsible Entity may issue Units or Options for purposes of the acquisition of an asset by:

- (1) the Trust or any Sub Trust;
- (2) any trust, managed investment scheme, partnership, body corporate or other entity controlled by the Responsible Entity in its capacity as responsible entity of the Trust, or by the trustee of any Sub Trust in its capacity as trustee of such Sub Trust; or
- (3) any Stapled Entity.

Such issue may be to the person disposing of the relevant asset, or their assignee or nominee, or as the Responsible Entity otherwise determines for purposes of funding the acquisition.

For these purposes, **control**, in relation to an entity, means the possession, direct or indirect of the power to direct or cause the direction of the management, policies or activities of the entity, whether through the ownership of securities, by contract or agency or otherwise.

## (d) Situation 3 - issue approved by Holders

The Responsible Entity may issue Units or Options if such issue is:

- (1) authorised or approved by a resolution of Holders;
- (2) approved by the JSE; and
- (3) otherwise conducted subject to the Listings Requirements.

## (e) Situation 4 – other issues permitted by the Listings Requirements

The Responsible Entity may otherwise issue Units or Options in any circumstances where the Listings Requirements do not prohibit the Responsible Entity from doing so.

## 7.2 Terms of Issue and Terms of Offer

Subject to the other provisions of this deed, the Responsible Entity may determine:

- (a) in relation to a Unit or Option, the Terms of Issue (if any) for that Unit or Option; and
- (b) in relation to an offer to acquire an Option, the Terms of Offer (if any) for that Option.

## 7.3 Number of Units issued

- (a) If the Responsible Entity accepts an Application for Units in whole or in part, subject to clause 7.3(b) the number of Units issued is the number determined by the Responsible Entity by dividing the relevant Application Money by the Issue Price.
- (b) Where the calculation under clauses 7.3(a) would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may deal with the fraction that would otherwise result in accordance with clause 6.8.
- (c) The number of Units issued upon the exercise of an Option is to be determined in accordance with the Terms of Issue and Terms of Offer.

## 7.4 Application for Units or for Options

A person who wishes to subscribe for Units or for Options must:

- (a) complete or make an Application in the form or manner determined by the Responsible Entity;
- (b) lodge or make the Application at the place or address and in the manner determined by the Responsible Entity; and
- (c) include with the Application the Application Money in the form and manner specified by the Responsible Entity and, if the person is to transfer property other than Cash to the Responsible Entity, all things that the Applicant has to give the Responsible Entity under clause 7.5(a).

## 7.5 Payments to the Responsible Entity

- (a) If an applicant is to transfer property other than Cash to the Responsible Entity, the Responsible Entity must not accept the Application unless:
  - (1) the Responsible Entity has received from the applicant an effective transfer of the title to the property in favour of the Responsible Entity; and
  - (2) unless the Responsible Entity has elected to determine the value of the property in accordance with clause 12.3, a valuation or other statement of the current market value of the property acceptable to the Responsible Entity.
- (b) Unless the applicant has paid all amounts payable in respect of the issue of Units, or transfer of property (if any) to the Responsible Entity, before the Responsible Entity accepts the Application, the Responsible Entity must deduct those amounts before determining the number of Units to be issued under clause 7.3.
- (c) If Units or Options are issued or purported to be issued and:

- (1) the Responsible Entity has not received the Application Money in accordance with any applicable Terms of Issue or Terms of Offer; or
- (2) any payment for Units or for Options is not cleared or property is not effectively transferred to the Responsible Entity,

the Units or Options are void as from their date of issue, or such other date as the Responsible Entity determines (unless the Responsible Entity has otherwise received payment of an amount equal to the Application Money for the Units or Options).

- (d) All income in respect of the payment or property received on an Application for Units or Options (which has been accepted by the Responsible Entity) before the issue of those Units or Options forms part of the Fund.
- (e) The Responsible Entity must hold the Cash received or other property transferred to the Responsible Entity on an Application in accordance with the Corporations Act (to the extent it applies to such receipt or transfer). Application Money for Units or Options issued pursuant to a PDS must be paid to the Responsible Entity, to be placed by the Responsible Entity in a special trust account until the earlier of:
  - (1) the minimum subscription, if any (to be specified in the PDS) has been reached and the Responsible Entity decides to proceed to allotment of Units or Options; or
  - (2) the date by which the Application Money would need to be repaid under the Corporations Act.

Until the Responsible Entity decides to proceed to the allotment of Units or Options in accordance with this clause 7, it holds such Application Money in accordance with the Corporations Act and the Responsible Entity must comply with all obligations imposed by the Corporations Act in relation to the Application Money.

## 7.6 Responsible Entity's discretion on Application

The Responsible Entity may accept or refuse to accept in whole or in part any Application for Units or Options (other than an Application for Units on the exercise of an Option). The Responsible Entity does not have to give any reason or ground for such refusal.

Without limiting the Responsible Entity's discretion, the Responsible Entity may refuse to accept any Application if the Responsible Entity reasonably believes that:

- (a) there may be adverse Tax consequences for the Trust or Holders as a result of accepting the Application, or the issue of Units or grant of Options pursuant to the Application;
- (b) an approval or authorisation under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) may be required in relation to the applicant's subscription for Units or Options and the Responsible Entity has not received evidence satisfactory to the Responsible Entity that either no approval or authorisation is required, or that all necessary approvals and authorisations have been obtained; or
- (c) the applicant is a US Person who is not a QIB-QP or will hold Units or Options for the account or benefit of any US Person who is not a QIB-QP (whether or not the Responsible Entity has determined that person to be an Excluded US Person).

## 7.7 Allotment of Units or grant of Options

- (a) A Unit or Option is issued to a person entitled to it on the earlier of:
- (1) the time the issue of Units or Options is recorded in the Register; and
  - (2) the later of the date:
    - (A) the Responsible Entity has Accepted an application for Units or Options; and
    - (B) the Responsible Entity or its agent receives the application moneys even if paid into an account held for the purpose of section 1017E of the Corporations Act.
- No rights attach to a Unit until it is issued, or to an Option until it is granted.
- (b) When a Unit is issued to a Unitholder or an Option is granted to an Optionholder, the Cash or other property comprising the Application Money in relation to that Unit or Option becomes part of the Fund.

## 7.8 Register

While the Trust is JSE Listed, a Register of Units and Unitholders will be administered and maintained by or on behalf of a participant, as defined in the FMA, as required in accordance with the provisions of that Act and in accordance with the system for administering and maintaining records of dematerialized Units operated and used by the JSE, or in such place and manner as the JSE may permit. While the Trust is ASX Listed, subject to the Corporations Act and the Listing Rules (if the Listing Rules apply), a Register of Units and Unitholders will be kept by or on behalf of the Responsible Entity in such place and manner as the Responsible Entity determines. The records of Units and Unitholders may be kept in a single Register or multiple Registers, as relevant law and regulatory requirements permit.

# 8 Registers and transfers of Units and Options

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## 8.1 Recognition of registered Holder

- (a) Except as otherwise provided by law or this deed, the Responsible Entity:
- (1) must treat the person entered on the Register as the Holder of a Unit or an Option as the absolute owner of that Unit or that Option (as the context requires); and
  - (2) need not recognise any other equitable, contingent, future or partial claim or interest in any Unit or Option by any other person, even if the Responsible Entity has notice of that claim or interest.
- (b) With the consent of the Responsible Entity, Units or Options held by a trustee may be marked in the Register in such a way as to identify them as being held subject to the relevant trust. However, this does not limit the operation of clause 8.1(a).

## 8.2 Joint Holders

Where 2 or more persons are recorded in the Register as the holders of a Unit or Option, for the purposes of the administration of the Trust and not otherwise, they are deemed to hold the Unit or Option as joint tenants, on the following terms:

- (a) the Responsible Entity is not bound to record in the Register more than 3 persons as the Joint Holders of the Unit or Option;
- (b) the Joint Holders are jointly and severally liable in respect of all amounts, including Tax, payable in respect of the Unit or Option;
- (c) on the death of a Joint Holder, the survivor or survivors are the only person or persons whom the Responsible Entity will recognise as having any title to the Unit or Option, but the Responsible Entity may require any evidence of death which it thinks fit;
- (d) any one of the Joint Holders may give an effective receipt which will discharge the Responsible Entity in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the Joint Holders is entitled to delivery of any notices, cheques or other communications from the Responsible Entity, and any notice, cheque or other communication given to that person is deemed to be given to all the Joint Holders.

## 8.3 Transfer

- (a) While Units or Options are not Listed, subject to clauses 8.3(b) and 8.7, all transfers of Units or Options must be implemented by a proper instrument of transfer and in a manner approved by the Responsible Entity. The Responsible Entity may decline to register a transfer of Units or Options under this clause 8.3(a) unless the instrument of transfer:
  - (1) is duly stamped (if applicable);
  - (2) is accompanied by such evidence as the Responsible Entity requires to prove the title of the transferor; and
  - (3) complies with any requirements prescribed by the Responsible Entity from time to time.
- (b) While Units or Options are Listed, all transfers of such Units or Options (as applicable) must be given effect in accordance with the Listings Requirements and the Listing Rules (each as applicable) and the requirements of any applicable depository system or computerised or electronic system of transfer or registration and other applicable rules made as contemplated by clause 8.7.
- (c) Except as provided by any applicable Operating Rules of a CS Facility while the Trust is ASX Listed, a transferor of a Unit or Option remains the Holder until the transfer is registered and the name of the transferee is entered in the Register in respect of that Unit or Option or the transfer is otherwise implemented in accordance with the Listings Requirements.
- (d) Distributable Income to which a Unitholder is entitled when a transfer or transmission of Units is recorded in the Register remains credited to the transferor.

## 8.4 Transaction advice

If the Responsible Entity accepts a transfer under clause 8.3, the Responsible Entity may issue a transaction advice for the Units or Options which have been transferred and the balance of any Units or Options which were not transferred.



## 8.5 No general restriction on transfer

- (a) Except to the extent that the relevant Holder agrees otherwise, subject to clauses 8.5(b) and 8.5(c), while Units or Options are Listed, there is no restriction on the transfer of such Units or Options (as applicable) and the Responsible Entity may not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of such Units or Options (as applicable) under clause 8.3.
- (b) While the Trust is ASX Listed, and if permitted to do so by the Listing Rules, the Responsible Entity may:
  - (1) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Units or Options from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
  - (2) refuse to register a transfer of Units or Options to which paragraph (a) does not apply.
- (c) While the Trust is ASX Listed, the Responsible Entity must:
  - (1) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Units or Options from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
  - (2) refuse to register a transfer of Units to which paragraph (a) does not apply,

if the Corporations Act or Listing Rules require the Responsible Entity to do so or the transfer is in breach of clause 8.11.
- (d) If, in the exercise of its rights under clauses 8.5(b) or 8.5(c), the Responsible Entity requests the application of a holding lock to prevent a transfer of Units or Options or refuses to register a transfer of Units or Options, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to:
  - (1) the holder of the Units or Options;
  - (2) the purported transferee; and
  - (3) the broker lodging the transfer, if any.

Failure to give notice does not, however, invalidate the decision of the Responsible Entity.

- (e) Except as otherwise set out in this clause 8, there is no restriction on any other transfer of Units or Options.

## 8.6 Transmission of Units and Options

- (a) If a Transmission Event occurs in respect of a Holder, the only persons who will be recognised as having any title to the Units or Options registered in the Unitholder's name or any benefits accruing in respect of those Units or Options are:
  - (1) where the Holder is a Joint Holder, the survivor or survivors of the Holder;

- (2) where the Holder is an individual, the legal personal representative of the Holder or the person entitled to the Units or Options as a result of bankruptcy; or
  - (3) where the Holder is a body corporate, the person entitled to the Units or Options as a result of the deregistration, dissolution or succession.
- (b) Nothing in clause 8.6(a) releases the Holder or the estate of a deceased Holder from any liability in respect of the Units or Options held whether that Unit or Option was held by the deceased solely or jointly with other persons.
- (c) A person who becomes entitled to a Unit or Option as a result of a Transmission Event may, upon producing such evidence as the Responsible Entity may require to prove that person's entitlement to the Unit or Option, elect:
  - (1) to be registered as the Holder of the Unit or Option by signing and serving on the Responsible Entity a notice stating that election; or
  - (2) to have some other person nominated by that person registered as the transferee of the Unit or Option by executing a transfer to that other person that complies with clause 8.3.
- (d) The Responsible Entity need not register any transfer or transmission pursuant to this clause 8.6 unless the transferee provides an indemnity in favour of the Responsible Entity in a form determined by the Responsible Entity in respect of any consequence arising from the transfer or transmission.
- (e) The provisions of this deed relating to the right to transfer, and the registration of transfers of, Units and Options apply, so far as they can and with such changes as are necessary, to any transfer under clause 8.6(c) as if the relevant Transmission Event had not occurred and the transfer was signed by the Holder of the Unit or Option.
- (f) For the purposes of this deed, where 2 or more persons are jointly entitled to any Unit or Option in consequence of a Transmission Event they will, upon being registered as a Unitholder of the Unit or Option, be taken to hold the Unit or Option as joint tenants and clause 8.2 will apply to them.
- (g) Despite clause 8.6(a), the Responsible Entity may register a transfer of Units or Options signed by a Unitholder before a Transmission Event even though the Responsible Entity has notice of the Transmission Event.

## 8.7 Participation in transfer systems

The Responsible Entity may determine that Units or Options which are Listed will participate in:

- (a) the central securities depository prescribed for purposes of the JSE under the FMA and the computer system or systems and associated network or networks operated or used by the JSE for purposes of settling transactions in equity securities;
- (b) the CS Facility; or
- (c) any other depository system or computerised or electronic system of transfer or registration.

The Responsible Entity may, with the approval of the JSE, create rules to facilitate participation which may be additional to or may override this clause 8.

Nothing in this clause 8 prevents the transfer of a Unit or Option by any other method which is required or permitted by the Corporations Act, ASX, ASIC or the JSE.

## 8.8 Indemnity for transfer causing Duty liability

- (a) If:
- (1) the transfer of a Unit results in the Unitholder (which is the transferee of the Unit) (**Transferee**) being liable to pay Duty on the transfer; and
  - (2) the Transferee does not pay some or all of the Duty, and as a result the Responsible Entity or another Holder, other than the transferor, (**Indemnified Party**) is liable to pay some or all of the Duty or any other amount resulting from the Transferee's non-payment of the Duty,
- the Transferee must indemnify the Indemnified Party for any amount paid or payable by the Indemnified Party as contemplated by paragraph (2) above.
- (b) If an Indemnified Party pays any amount under clause 8.8(a)(2) without having been indemnified for the payment in advance by the Transferee, until the Indemnified Party is repaid in full all amounts paid by it under clause 8.8(a)(2) the Responsible Entity:
- (1) may withhold all or part of any amount (including any distribution) payable to the Transferee under this deed and pay the amount to the Indemnified Party; and
  - (2) may deem to be Forfeited Units any number of the Transferee's Units as the Responsible Entity reasonably determines are required to repay to the Indemnified any amount paid by the Indemnified Party under clause 8.8(a)(2). The Responsible Entity may deal with those Units in accordance with clause 4, with such changes as are necessary, except that instead of applying the proceeds of sale of those Units in accordance with clause 4.5(a), the Responsible Entity must apply the proceeds of the sale in accordance with clause 8.8(c).
- (c) For the purposes of clause 8.8(b)(2), the order and manner of application of proceeds of sale is as follows:
- (1) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation to the sale or disposal of the Forfeited Units including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation to the Transferee's non-payment, including all Costs and liabilities associated with the forfeiture and any proceedings to recover the amount due from the holder of the Forfeited Unit;
  - (3) by paying each Indemnified Party any amount paid by the Indemnified Party under clause 8.8(a)(2) for which the Indemnified Party has not previously been reimbursed; and
  - (4) by paying the balance to the Transferee.

## 8.9 US Sale Facility

- (a) Each Holder acknowledges that Units and Options may not be held by, or for the account or benefit of, any US Person who is not a QIB-QP.
- (b) Subject to the Corporations Act, at any time the Responsible Entity may determine that a Holder (or person seeking to be recorded in the Register as a Holder) is an 'excluded US Person' if it reasonably believes that the person is a US Person who is not a QIB-QP or holds or will hold Units or Options for the account or benefit of any US Person who is not a QIB-QP. Subject to clause 8.9(d), all of the Excluded US Person's Units and Options become Excluded Securities on such determination being made.
- (c) Without limiting the Responsible Entity's discretion under clause 8.9(b), the Responsible Entity may:
  - (1) at any time require a Holder (or person seeking to be recorded in the Register as a Holder) to complete a statutory declaration stating whether or not that person, or any person on whose account or benefit it holds or will hold Units or Options, is a US Person who is not a QIB-QP and specifying the number of Units or Options affected; and
  - (2) treat any person who does not comply with the request as an Excluded US Person.
- (d) Where a person is determined to be an Excluded US Person because the person holds or will hold Units or Options for the account or benefit of a US Person who is not a QIB-QP the Responsible Entity may determine that some of the Units or Options held by the Excluded US Person are not Excluded Securities.
- (e) The Responsible Entity may at any time:
  - (1) refuse to register a transfer of Units or Options to an Excluded US Person; or
  - (2) give a notice to a Holder who is an Excluded US Person requiring the disposal of their Excluded Securities (free of encumbrances) either to a person appointed by the Responsible Entity to sell the Excluded Securities (**US Sale Nominee**) or to a person who is not an Excluded US Person within 30 days of receiving the notice.
- (f) Each Holder who is an Excluded US Person must comply with a notice given under clause 8.9(e)(2). If a Holder does not do so, at any time after the end of the period specified in that clause 8.9(e)(2):
  - (1) the Responsible Entity, as agent for the Holder, may transfer the Excluded US Person's Excluded Securities (free of encumbrances) to the US Sale Nominee or to the person to whom the US Sale Nominee sells the relevant Excluded Securities; and
  - (2) the Responsible Entity may enter the US Sale Nominee, or person to whom the US Sale Nominee sells the relevant Excluded Securities, as holder of the Excluded Securities in the relevant Register whether or not the Responsible Entity has received a transfer or other document in respect of those Securities, in which case the US Sale Nominee or relevant person becomes the holder of those Excluded

Securities with effect from the date its name is recorded in the relevant Register as holder of those Units or Options.

- (g) Each Holder who is an Excluded US Person consents to the sale, and directs, the US Sale Nominee:
  - (1) to sell the relevant Excluded Securities; and
  - (2) to pay the net proceeds of the sale of the Holder's Excluded Securities after deducting the sale Costs (**Sale Proceeds**) to the Holder as soon as practicable after completion of the sale of the relevant Excluded Securities.
- (h) The Responsible Entity must ensure that the US Sale Nominee pays the Sale Proceeds to which the relevant Holder is entitled as soon as practicable after completion of the sale of the relevant Excluded Securities.
- (i) Each Holder who is an Excluded US Person irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement the US Sale Facility, including:
  - (1) executing transfers and other documents, and receiving, holding and paying money; and
  - (2) transferring any Units or Options to the US Sale Nominee, any person to whom the US Sale Nominee sells Units or Options or as otherwise contemplated by the US Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

- (j) Each Holder acknowledges that the exercise of the powers in this clause 8.9 may materially adversely affect individual Holders (including having potentially adverse tax or financial consequences) but that this is necessary to enable the US Sale Facility to be implemented.

## 8.10 Odd Lots

- (a) This clause 8.10 applies while the Units are Listed. If the Trust is JSE Listed but not ASX Listed, no part of this clause 8.10 will apply to the extent that the Listings Requirements specifically allow the Responsible Entity to act in a manner contrary to this clause 8.10.
- (b) Subject to the provisions of this clause 8.10, and to comply with the Listings Requirements, the Responsible Entity may, in its discretion from time to time, sell or redeem any Units held by a Holder without request by the Holder where those Units comprise an Odd Lot. The Responsible Entity may only sell or redeem Units on one occasion in any 12 month period and must only do so in respect of all Holders who hold Odd Lots except those Holders who have advised the Responsible Entity, in accordance with clause 8.10(e) that they wish to retain the Units.
- (c) The Responsible Entity must notify the relevant Holder whose Units it proposes to sell or redeem of its intention to sell or redeem Units under this clause 8.10, and give the Holder at least 6 weeks from the date of the notice in which to tell the Responsible Entity that the Holder wishes to retain the Units. The notice must be given to all Holders whose Units comprise Odd Lots.
- (d) The Responsible Entity will not sell or redeem the relevant Units before the expiry of 6 weeks from the date of the notice given under clause 8.10(c);

- (e) If, within the 6 weeks allowed by clause 8.10(c):
  - (1) the Holder advises the Responsible Entity that the Holder wishes to retain the Units; or
  - (2) the market value or number of Units held by the Holder increases so that they no longer hold an Odd Lot,
 the Responsible Entity will not sell or redeem the relevant Units.
- (f) The power to sell Units under this clause 8.10 lapses following the announcement of a takeover, but the procedure may be started again after the close of offers made under the takeover.
- (g) The Responsible Entity or the purchaser of the Units must pay the Costs of the sale or redemption as the Responsible Entity decides.
- (h) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units under this clause 8.10.
- (i) Each Holder whose Units comprise an Odd Lot from time to time irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement any transfer of Units under this clause 8.10, including executing transfers and other documents, and receiving, holding and paying money. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (j) Where a Unit forms part of a Stapled Security, the Responsible Entity may only redeem Units under this clause 8.10 if the Securities to which those Units are Stapled are the subject of a contemporaneous redemption and may only sell Units under this clause 8.10 if the Securities to which those Units are Stapled are the subject of a contemporaneous sale.

## 8.11 Restricted Securities

- (a) While the Trust is ASX Listed, if the Listing Rules require, Restricted Securities cannot be disposed of during the Escrow Period and the Responsible Entity must not register a transfer of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.
- (b) During a breach of a restriction agreement or the Listing Rule relating to Units which are Restricted Securities the Unitholder who holds those Restricted Securities is not entitled to any distribution from the Fund nor any voting rights, in respect of those Restricted Securities.

## 9 Redemption

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### 9.1 Redemption offer

- (a) Before the termination of the Trust, subject to the Listing Rules and the Listings Requirements to the extent those rules and requirements apply, the Responsible Entity may, by notice to a Unitholder, offer to redeem all or some of the Units held by the Unitholder as specified in the notice. The notice must set out:
  - (1) the period (being a period not shorter than 15 Business Days and not longer than 3 months from the date the notice

- is given) within which the Unitholder may accept the offer (the **Redemption Offer Period**); and
- (2) whether the redemption offer relates to all or some of the Units held by the Unitholder (and if to some only, the proportion or number of Units to which it relates);
  - (3) whether the Unitholder can only request redemption of all of the Units to which the redemption offer relates, or whether the Unitholder may also request redemption of less than all of the Units to which the redemption offer relates; and
  - (4) any other terms to apply to the redemption offer.
- (b) Following receipt of a notice given under clause 9.1(a), a Unitholder may request that the Responsible Entity redeem all (or, if contemplated in the notice, some only) of the Units to which the notice relates. The Unitholder may do this by giving the Responsible Entity notice in writing of the request, specifying the number or value of Units to be redeemed and sufficient details to identify the Member, by completing an electronic or digital form of redemption request or otherwise meeting the requirements of a redemption process as determined by the Responsible Entity.
- (c) If:
- (1) a Unitholder makes a redemption request in accordance with clause 9.1(b);
  - (2) the Responsible Entity accepts the redemption request; and
  - (3) the Unitholder continues to hold the number of Units to which the redemption request relates,
- subject to clause 9.1(d), the Responsible Entity will:
- (4) send a notice to the Unitholder that the redemption request has been accepted by the Responsible Entity within 21 days of accepting the redemption request; and
  - (5) redeem the relevant Units within 3 months after the end of the Redemption Offer Period.
- (d) If the Responsible Entity determines to not accept the redemption request, the Responsible Entity will, within 21 days of such a determination, send a notice to the Unitholder informing them that the request for redemption has not been accepted.
- (e) At any time before Units are redeemed pursuant to a redemption offer, the Responsible Entity:
- (1) may cancel the redemption offer if the redemption offer contains a material error; and
  - (2) must cancel the redemption offer if required by law, or if the Responsible Entity otherwise considers that it is in the best interest of Unitholders to do so.
- Notice of the cancellation must be given to the Unitholders to whom the redemption offer was made.
- (f) Except as provided in this clause 9, the Responsible Entity has no obligation:
- (1) to offer to redeem or accept a redemption of Units, to repurchase Units;
  - (2) to pay any part of the Redemption Price out of its own funds; or

- (3) to redeem any Units or cause any Units to be redeemed.

## 9.2 Redemption of Units

- (a) Any redemption of Units will take effect on payment of the Redemption Price for those Units.
- (b) The Responsible Entity may pay the Redemption Price in Cash, or with the consent of the relevant Unitholder, by transferring an Asset of the Fund to the Unitholder rather than paying Cash in satisfaction of all or part of a redemption. Any Asset of the Fund transferred together with any Cash paid must be of value equal to the amount due to the Unitholder in respect of the redemption. The value of the Asset to be transferred must be its Market Value. To the extent they are not paid before the transfer takes effect, the Costs and liabilities incurred in the transfer of the Asset will be taken into account as a deduction under clause 9.4 for purposes of calculating the Redemption Price for the Units.
- (c) Where a redemption would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may round the number of units issued downwards or upwards to the nearest whole number at the Responsible Entity's discretion, unless otherwise required under the Listings Requirements. Any excess money which results from the rounding becomes an Asset of the Fund.
- (d) On redemption of Units, the Responsible Entity:
  - (1) must cancel the Units redeemed and immediately remove the name of the Unitholder from the Register in respect of the redeemed Units; and
  - (2) may give the Unitholder a confirmation advice.
- (e) The Responsible Entity must notify the relevant Unitholder of that portion (if any) of the Redemption Price paid to a Unitholder which represents Distributable Income of the Trust and the extent to which the Redemption Price is composed of capital and income. For this purpose, the Distributable Income component of the amount paid to that Unitholder will be determined in accordance with clause 13 as if the relevant Distribution Period ended on the date of the redemption.
- (f) For the purposes of section 601KA of the Corporations Act, the period for satisfying a redemption offer that has been accepted is 3 months.

## 9.3 Compulsory redemption

- (a) Subject to the Corporations Act and the Listing Rules and the Listings Requirements to the extent those rules and requirements apply, and complying with clause 9.3(f), the Responsible Entity may at any time, on notice to a Unitholder, compulsorily redeem some or all of a Unitholder's Units where the Responsible Entity reasonably believes:
  - (1) that there are, or are reasonably likely to be, material adverse Tax consequences for the Trust or any other Holder arising from the Unitholder remaining a holder of the relevant Units;
  - (2) that the Unitholder continuing to hold such Units would, or would be reasonably likely to, result in the Responsible Entity, the Trust, or any other Holder, incurring any material Tax liability or suffering any other material financial disadvantage;



- (3) that this is the most efficient means for returning capital of the Fund to Unitholders having regard to Tax, legal and regulatory considerations; or
  - (4) the Responsible Entity has determined that the Unitholder is an Excluded US Person, and the relevant Units are Excluded Securities.
- (b) In considering whether any of the circumstances contemplated in clause 9.3(a) have arisen, the Responsible Entity may request additional information from a Unitholder. Where requested information is not provided, the Responsible Entity will be entitled to exercise its discretion in a fair and reasonable manner having regard to information available to it and the risks of any material adverse consequences for any Unitholder.
- (c) Subject to complying with clause 9.3(f), the Responsible Entity may redeem any Units in order to satisfy Taxes paid or payable by the Responsible Entity in respect of a Unitholder's Units or any other unpaid amounts due by the Unitholder to the Responsible Entity, including amounts payable to the Responsible Entity under clause 20.1.
- (d) Alternatively, subject to complying with clause 9.3(f), the Responsible Entity may, in the circumstances contemplated by clause 9.3(a), deem some or all of the Unitholder's Units to be Forfeited Units. The Responsible Entity may deal with those Units in accordance with clause 4, with such changes as are necessary, except that instead of applying the proceeds of sale of those Units in accordance with clause 4.5(a), the Responsible Entity must apply the proceeds of the sale in accordance with clause 9.3(e).
- (e) For the purposes of clause 9.3(d), the order and manner of application of proceeds of sale is as follows:
  - (1) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as Responsible Entity of the Trust, in relation to the sale or disposal of the Forfeited Units including commission, Duty, transfer fees and advertising and postal charges;
  - (2) by paying (or reimbursing the Responsible Entity for) any Costs and liabilities incurred by the Responsible Entity, in its capacity as trustee of the Trust, in relation the forfeiture and any proceedings to recover any amount due from the holder of the Forfeited Unit;
  - (3) by holding as an Asset of the Fund, an amount equal to the total amount of any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units and of any other unpaid amounts due by the Unitholder to the Responsible Entity; and
  - (4) by paying the balance to the relevant Unitholder.
- (f) Before exercising its rights in the circumstances contemplated by clauses 9.3(a)(1) to 9.3(a)(3) and 9.3(c), the Responsible Entity must consult the affected Unitholder.

## 9.4 Allowable deductions

On any redemption of Units under clauses 9.2 or 9.3, the Responsible Entity may deduct from the price to be paid to the Unitholder:

- (a) any Costs and liabilities incurred by the Responsible Entity in relation to the redemption of Units under clauses 9.2 or 9.3, fairly allocated to the Units, including Costs and liabilities incurred in relation to the transfer of any Asset as contemplated by clause 9.2(b), and in the case of a compulsory redemption, any Costs associated with sourcing funding to pay the Redemption Price for the compulsory redemption;
- (b) an amount equal to the total amount of any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units (including in respect of the redemption); and
- (c) any other unpaid amounts due by the Unitholder to the Responsible Entity.

The Unitholder indemnifies and must reimburse the Responsible Entity for any Taxes paid or payable by the Responsible Entity in respect of the Unitholder's Units (including in respect of their redemption).

## 9.5 Redemption Price

Any redemption of Units will occur at a price equal to:

- (a) the Current Unit Value determined on the Business Day preceding the relevant redemption; less
- (b) any amounts which may be deducted under this deed, including clause 9.4, rounded as determined by the Responsible Entity to the nearest whole cent.

## 9.6 Liquid or non-liquid trust

While the Trust is a Registered Scheme:

- (a) clauses 9.1 and 9.2 only apply while the Trust is a Liquid Scheme; and
- (b) while the Trust is not a Liquid Scheme, the Responsible Entity may only offer, and a Unitholder may only request the Responsible Entity, to redeem any Units held by the Unitholder in accordance with:
  - (1) Part 5C.6 of the Corporations Act; and
  - (2) clauses 9.1 and 9.2, to the extent that those clauses are not inconsistent with Part 5C.6 of the Corporations Act.

## 9.7 Buy-backs

The Responsible Entity may buy back and cancel Units, subject to and in accordance with the Corporations Act (including subject to the conditions of any applicable ASIC relief from time to time) and, while Units are Listed, any applicable requirements of the Listing Rules and the Listings Requirements. A buy-back may occur on or off market, and on repurchase of the Units, the Responsible Entity may cause the Units to be cancelled. No Redemption Price is payable on cancellation of the Units.

# 10 Responsible Entity's powers

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## 10.1 General powers of Responsible Entity

- (a) Subject to this deed, the Responsible Entity has all the powers that it is possible to confer on a trustee, and has all the powers that are incidental to ownership of the

Fund as though the Responsible Entity were the absolute and beneficial owner of the Fund.

- (b) In the exercise of its powers the Responsible Entity may, without limitation, acquire or dispose of any real property or personal property, borrow or raise money, encumber any Asset of the Fund, incur any liability, guarantee any obligations of any person, enter into joint venture arrangements or fetter any power.

## 10.2 Exercise of powers

Subject to the requirements of the Corporations Act and any other applicable law, except as expressly provided otherwise in this deed (including clause 10.4), the Responsible Entity:

- (a) may make any determination, election or other decision under this deed, whether as responsible entity, trustee, agent, attorney or otherwise, in the Responsible Entity's absolute discretion; and
- (b) may otherwise decide how and when to exercise its powers, including its powers as responsible entity, trustee, attorney, agent or otherwise arising under or in relation to this deed, in its absolute discretion.

## 10.3 Delegation by Responsible Entity

The Responsible Entity may:

- (a) appoint a person, including an Associate of the Responsible Entity, as its delegate, attorney or agent to exercise its powers and perform its obligations; and
- (b) appoint an agent, custodian or other person, including an Associate of the Responsible Entity (each of whom may, with the approval of the Responsible Entity, sub-delegate to any person any of its functions as it thinks fit), to acquire, hold title to, dispose of or otherwise deal with any Asset of the Fund on behalf of the Responsible Entity and perform any action incidental or ancillary thereto or otherwise approved by the Responsible Entity.

## 10.4 Manager

- (a) The Responsible Entity must appoint the Manager to manage the Assets of the Fund under the Management Agreement.
- (b) The Management Agreement binds the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of the Management Agreement from time to time are held and owed in relation to the Managed Investment Scheme constituted by the Trust.
- (c) The Responsible Entity is authorised to pay all fees and Costs and other amounts payable under the Management Agreement out of the Fund.
- (d) On and from the time the Trust becomes ASX Listed, if the Management Agreement provides that it is to automatically terminate upon a change of Responsible Entity of the Trust under Division 2 of Part 5C.2 of the Corporations Act, paragraphs (a) to (c) of this clause 10.4 will cease to apply, and the following provisions will apply in their place:
  - (1) the Responsible Entity may appoint a manager to manage the Assets of the Fund under a management agreement;
  - (2) any such management agreement will bind the Responsible Entity in its capacity as trustee of the Trust and the

Responsible Entity's rights, obligations and liabilities in respect of that management agreement from time to time will be held and owed in relation to the Managed Investment Scheme constituted by the Trust; and

- (3) the Responsible Entity will be authorised to, and must, pay all fees and Costs and other amounts payable under that management agreement out of the Fund.

## 10.5 Custodian

- (a) The Responsible Entity must appoint a Custodian to hold title to the Assets which are directly held for the Fund for the Responsible Entity under a Custody Agreement.
- (b) The Custody Agreement binds the Responsible Entity in its capacity as trustee of the Trust and the Responsible Entity's rights, obligations and liabilities in respect of the Custody Agreement from time to time are held and owed in relation to the Managed Investment Scheme constituted by the Trust.
- (c) The Responsible Entity is authorised to, and must, pay all fees and Costs and other amounts payable under the Custody Agreement out of the Fund.

## 10.6 Not used

## 10.7 No issue of debt Securities with special privileges

The Responsible Entity must not issue debt Securities in relation to the Trust on terms which confer (or, in the case of convertible debt Securities, which before conversion confer) on the holders of the debt Securities rights to attend or vote at Meetings, or to nominate or appoint directors of the Responsible Entity.

For the avoidance of doubt, where a debt Security is Stapled to a Unit any voting or other rights conferred by the Unit are not taken to be conferred by the debt Security itself.

## 10.8 Borrowing restriction

While the Trust is JSE Listed, the Responsible Entity must ensure that the Fund's gearing ratio, calculated in accordance with the following formula, does not exceed 60% at any time:

$$GR = \frac{GTL}{GTA} \times 100\%$$

Where:

- GR** is the gearing ratio at the relevant time
- GTL** is the total amount of the liabilities, in respect of money borrowed or raised or any financial accommodation, of the Trust Group as shown on a consolidated basis in the most recently issued statutory financial statements of the Trust Group (adding back Trust Group members' share of any liabilities for any equity accounted investments and, for the avoidance of doubt, excluding any liabilities owing by one member of the Trust Group to another)
- GTA** is the total book value of all Tangible Assets of the Trust Group on an aggregated basis shown by the most recently issued statutory financial statements of the Trust Group, less any such amounts attributable to equity

accounted assets (but adding back the Trust Group members' interest in such assets)

## **10.9 Responsibility for compliance**

Subject to the requirements of the Corporations Act and any other applicable law, the Responsible Entity must take all reasonable steps to ensure that the trustees of each Sub Trust that forms part of the Trust Group, when acting in their capacity as such, comply with:

- (a) all applicable laws;
- (b) the constituent documents of the relevant Sub Trust; and
- (c) their duties to the beneficiaries of the relevant Sub Trust imposed on them by law as trustees of the relevant Sub Trust.

## **11 Responsible Entity's liability**

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### **11.1 No limitation of other undertakings**

This clause 11 does not limit or affect any limitations of liability or indemnities given to the Responsible Entity in this deed or under any law.

### **11.2 Limitation of liability of Responsible Entity**

Except where the Corporations Act expressly provides otherwise:

- (a) the Responsible Entity, and each director and officer of the Responsible Entity, are not personally liable to a Holder, or any other person, in connection with the office of the Responsible Entity or director or officer of the Responsible Entity; and
- (b) the Responsible Entity will not be liable to any Holder to any greater extent than the extent to which it is entitled to be indemnified, and is in fact indemnified, out of the Assets of the Fund actually vested in the Responsible Entity in respect of the Trust.

### **11.3 Circumstances where Responsible Entity is not liable**

Except where the Corporations Act expressly provides otherwise, the Responsible Entity is not responsible for:

- (1) any Costs and liabilities incurred by any fraud, negligence, breach of duty or breach of trust or otherwise, by any agent, delegate, attorney or custodian and any of their agents or delegates;
- (2) any Costs and liabilities incurred by relying on any notice, resolution, information, documents, forms or lists unless it reasonably believes such item not to be genuine or not to have been passed, executed or signed by the proper parties; or
- (3) Costs and liabilities if a person fails to carry out an agreement with the Responsible Entity or an agent or delegate of the Responsible Entity.

- (b) The Responsible Entity will not be liable to anyone in respect of any failure to perform any act or do any thing which by reason of:
- (1) any provision of any present or future law; or
  - (2) of any decree, order or judgment of any competent court; or
  - (3) any document or agreement binding on the Responsible Entity (including the Management Agreement and the Custody Agreement),
- the Responsible Entity is prevented, forbidden or hindered from performing or doing.

#### **11.4 Responsible Entity may rely on advice**

The Responsible Entity may take and act upon:

- (a) the opinion or advice of counsel or solicitors instructed by the Responsible Entity in relation to the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust; and
- (b) the opinion, advice, statements or information from any bankers, accountants, auditors, valuers, architects, engineers and other persons consulted by the Responsible Entity who are in each case believed by the Responsible Entity in good faith to be expert in relation to the matters upon which they are consulted,

and the Responsible Entity will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statements or information.

#### **11.5 Interested dealings by Responsible Entity**

The Responsible Entity, or an officer, employee or Associate of the Responsible Entity, may:

- (a) be a Holder;
  - (b) be the Manager;
  - (c) act in any fiduciary, vicarious, professional or other capacity, including as a banker, accountant, auditor, valuer, solicitor, independent contractor or other consultant or adviser to or representative, delegate, attorney or agent of the Responsible Entity or any Holder or as an executor, administrator, receiver or trustee;
  - (d) have an interest in or enter into a contract or transaction with:
    - (1) the Responsible Entity or an Associate of the Responsible Entity;
    - (2) any Holder; or
    - (3) any other person, including one whose shares or other securities form an Asset of the Fund; or
  - (e) hold or deal in or have any other interest in an Asset of the Fund,
- and may retain, and is not required to account for, any benefit derived by doing so.

## 12 Valuation and currency conversion

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### 12.1 Valuation of Assets

- (a) At any time, the Responsible Entity may cause any Asset of the Fund to be valued, and may appoint an Independent Expert (at the expense of the Trust) for these purposes.
- (b) The Responsible Entity must cause the Assets and liabilities of the Fund to be valued at regular intervals appropriate to the nature of the Assets, including at least once every 36 months on a rolling basis, or as otherwise required by the Listings Requirements, with the valuation to be publicly announced promptly after the valuation is completed.
- (c) In determining whether a valuation accurately reflects the value of an Asset of the Fund, the Responsible Entity is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of Assets of the Fund.
- (d) Except for purposes of determining Current Unit Value, each Asset of the Fund must be valued at its Market Value unless the Responsible Entity determines that:
  - (1) there is no market in respect of the Asset; or
  - (2) the Market Value does not represent the fair value of the Asset,
 in which case the Responsible Entity must determine the method of valuation for the Asset.
- (e) Except for purposes of determining Current Unit Value, where any Asset of the Fund is to be valued, or the Net Asset Value or Enterprise Value of the Trust and the number of Units on Issue is to be determined, the valuation or determination is to be as at a time determined by the Responsible Entity.
- (f) Where a calculation of the Current Unit Value, Issue Price or Redemption Price is to be made, the value of an Asset will be its Market Value.
- (g) Where a valuation is conducted for purposes required by the Listings Requirements, the Responsible Entity must ensure that the valuation is conducted in accordance with the valuation methodology prescribed by, and otherwise in accordance with, the Listings Requirements.

### 12.2 Responsible Entity to determine Current Unit Value

- (a) The Responsible Entity may determine the Current Unit Value at any time, including more than once on each day.
- (b) Subject to clause 12.2(c), if the Responsible Entity has to determine the Current Unit Value, the value of Assets for purposes of calculating Net Asset Value must be their Market Value.
- (c) If ASIC provides relief from the requirements of the Corporations Act to allow the Responsible Entity to determine in its discretion whether an item should be recognised and the value or amount attributable to that particular item for the purposes of calculating Net Asset Value, the Responsible Entity may make those determinations (subject to the conditions of the relief, if any).

### 12.3 Valuation of Application Money

If Application Money comprises property other than Cash:

- (a) the Responsible Entity must determine the value of the property to be transferred by an applicant to the Responsible Entity; and
- (b) the value of that property must be its market value as determined by the Responsible Entity.

## 12.4 Currency Conversion

Where it is necessary or desirable for any purposes to convert one currency to another, the conversion will be made at a time and at such rates quoted by one or more Banks or other financial institutions that the Responsible Entity nominates in its absolute discretion. Where the value of an Asset denominated in foreign currency is converted for the purposes of calculating the Redemption Price of a Unit, the currency valuation applied must be consistent with the range of ordinary commercial practice for valuing currency.

# 13 Income and distributions

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## 13.1 Trust taxed as company

- (a) As soon as practicable after the end of the Financial Year the Responsible Entity must determine the income of the Trust in respect of the Financial Year, for each of taxation purposes and accounting purposes (which may be different amounts).
- (b) The Responsible Entity must provide for, and pay from the assets of the Trust when appropriate, all taxation attributable to the income of the Trust.
- (c) The Responsible Entity may from time to time, including during the Financial Year, determine to pay distributions in respect of the Financial Year (each a "Distributable Amount") to the Unitholders on the Register on any date determined by the Trustee ("Books Closing Date").
- (d) In respect of a Distributable Amount being paid to Unitholders under this clause 13.1:
  - (i) the Responsible Entity may take all necessary or desirable steps in relation to distributions, including the franking of the distributions; and
  - (ii) the Responsible Entity must take any steps or actions as may reasonably be required in order to comply with the requirements of the Tax Act in relation to trusts which are taxed as if they were companies; and
- (e) Subject to any rights attaching to any Unit, a Unitholder is entitled to a portion of the Distributable Amount, calculated as follows:

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

where:

A = the aggregate of the number of Units held by the Unitholder at the Books Closing Date;



B = the aggregate of the number of Units in issue at the Books Closing Date;  
and

C = the Distributable Amount.

- (f) In making the determinations under this clause 13.1:
- (1) the Responsible Entity may determine whether any item is income or capital and the extent to which reserves or provisions need to be made; and
  - (2) the Responsible Entity does not have to take into account the Accounting Standards or generally accepted accounting principles and practices which apply to trusts.

### 13.2 Distributions of capital

Subject to the Terms of Issue for any Unit and entitlements to distributions of each class of Units, in addition to the payment of Distributable Amounts under clause 13.1, at any time the Responsible Entity may distribute any amount of capital, previous reserves or previous provisions to Unitholders pro rata according to the number of Units held as at a time that the Responsible Entity determines.

### 13.3 Payment

- (a) The Responsible Entity must pay to each Unitholder its Distributable Amount on or before the Distribution Date. The Responsible Entity may otherwise determine the date for payment of distributions.
- (b) The Responsible Entity may pay a Distributable Amount by one or more of the following:
  - (1) Cash payment made accordance with clause 27.2;
  - (2) retention of amounts in accordance with clause 13.7; or
  - (3) issue of Units or reinvestment in accordance with clause 13.8.

Such payment will be good and complete discharge of the Responsible Entity in respect of any liability to any person in respect of an entitlement to such Distributable Entitlements.

- (c) The Responsible Entity may establish a special account (the **Distribution Account**) in the name of the Responsible Entity or its agent and transfer into that account amounts to be distributed to Unitholders, including amounts withheld pursuant to clause 7.1(c) of Schedule 3. Any amounts transferred to that account will not be part of the Fund and will be held by the Responsible Entity on a separate trust for distribution to Unitholders entitled to that distribution. The Responsible Entity has the same powers to manage and invest the money in the Distribution Account as the Responsible Entity has in respect of the Fund. All interest and other income earned from the investment is income of the Trust and the relevant Unitholders will not be entitled to such interest or income.

### 13.4 Retention of fractions

- (a) The Responsible Entity may retain from amounts distributable to Unitholders all amounts which are necessary to avoid distributing a fraction of a cent or which the Responsible Entity determines it is not practical to distribute on a Distribution Date.

Any sum so retained will for all purposes be treated as income for the next following Distribution Period.

- (b) The Responsible Entity may retain from all amounts distributable to a Unitholder an amount in or towards satisfaction of any amount:
  - (1) payable by the Unitholder to the Responsible Entity under this deed or the Terms of Issue for the relevant Units;
  - (2) required to be deducted by law; or
  - (3) which the Responsible Entity has a right to retain under any agreement between the Unitholder and the Responsible Entity.

### 13.5 Separate accounts

The Responsible Entity may keep separate accounts of different categories or sources (or both) of income or gains, or deductions, losses or credits for tax purposes, and if such accounts are kept, they must be kept in accordance with the requirements of the Tax Act. For a Financial Year for the Trust, if such allocation is made on any basis other than pro rata with all other Unitholders of a class, the Responsible Entity must notify the Unitholder.

### 13.6 Reinvestment

- (a) From time to time, subject to clause 7.1, the Responsible Entity may notify Unitholders that Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may request that all or a portion of specified Distributable Amounts due to them be satisfied by the issue of further Units.
- (b) The Responsible Entity may hold money on behalf of a Unitholder for purposes of reinvestment and aggregate such amounts until the total reaches the amount required to pay the Issue Price of a whole Unit.

### 13.7 Capitalisation of amounts

- (a) Subject to the Listings Requirements, any rights or restrictions attached to any Units or class of Units, from time to time the Responsible Entity may capitalise and distribute among Unitholders pro rata according to the number of Units held as at a time that the Responsible Entity determines, any amount forming part of the income, reserves or provisions of the Trust.
- (b) The Responsible Entity may determine that the capitalised amount is to be applied, subject to clause 7.1, in paying the Issue Price of new Units to be issued to the relevant Unitholders. Each Unitholder entitled to receive the distribution must accept that application in full satisfaction of their interest in the capitalised amount.
- (c) Subject to clause 13.7(d) and the Listings Requirements, the Responsible Entity may notify Unitholders entitled to receive a distribution that the Responsible Entity has determined to capitalise that the relevant Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may request that all or a portion of the capitalised amount to be paid to them in Cash.
- (d) The Responsible Entity may only make such arrangement for payment of capitalised amounts to Unitholders in cash, if it is satisfied that, if it paid the maximum amount of Cash payable under such arrangement, such payment would not cause the Trust to become insolvent within the meaning of section 95A of the

Corporations Act (as if references in that section to a person were references to the Trust).

- (e) Where in accordance with the Terms of Issue or Terms of Offer of Options existing at the time referred to in clause 13.7(a), a Holder of those Options will be entitled to an issue of Units under this clause 13.7, the Responsible Entity may in determining the number of Units to be so issued, allow in an appropriate manner for the future issue of Units to such Optionholders.

### **13.8 Tax statements**

If relevant law or regulatory requirements in either Australia or South Africa require, the Responsible Entity must provide to Unitholders after the end of each Financial Year a statement of distributions they have received or to which they are entitled from the Trust. This statement may be included with any statements issued to Unitholders in respect of a Stapled Entity.

## **14 Meetings**

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### **14.1 Meetings**

The Responsible Entity may convene a Meeting at any time. Part 2G.4 of the Corporations Act (other than sections 252F, 252G, 252H, 252T and 253E, while the Trust is not a Registered Scheme) and the provisions of Schedule 1 apply to Meetings. The provisions of paragraph 10.11 of Schedule 10 of the Listings Requirements also apply to Meetings to the extent they are not inconsistent with Part 2G.4 of the Corporations Act.

### **14.2 Passing of resolution**

A resolution passed at a Meeting held in accordance with this deed and not inconsistent with the Listings Requirements is binding on all Holders.

## **15 Proposal approved by Holders**

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### **15.1 Power to implement a Proposal and limitation of liability**

- (a) Having regard to the functions of the Responsible Entity and without limiting anything else in this clause 15, the Responsible Entity has power to do all things which it reasonably considers are necessary, incidental or desirable to implement a Proposal and those powers apply despite, and are not limited by, any provision of this deed other than clause 1.7.
- (b) Subject to the Corporations Act, the Responsible Entity will not have any liability of any nature beyond the Assets of the Fund to Holders arising, directly or indirectly, from the Responsible Entity doing or refraining from doing any act (including the execution of a document), pursuant to or in connection with the implementation of a Proposal.
- (c) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers are necessary, incidental or desirable to be executed or done on behalf of the Holder to effect a Proposal, including:

- (1) executing applications, withdrawals, transfers and other documents, and receiving, holding and paying money;
- (2) applying for and acquiring (whether by subscription, purchase or otherwise) Securities;
- (3) applying distributions, redemption proceeds or other payments to pay for the subscription for or purchase of Securities or other assets;
- (4) accepting an issue or transfer of Securities;
- (5) agreeing that the Holder will become a member of another entity; and
- (6) transferring any Securities to another person.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

## **15.2 Paramountcy**

This clause 15 has effect despite any other provision of this deed and any provision of this deed which is inconsistent with this clause 15 does not operate to the extent of any inconsistency.

# **16 Stapling**

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## **16.1 Stapling provisions**

The Stapling provisions in Schedule 2 apply in relation to any Stapling or proposed Stapling of Units or Options and to the associated matters referred to in that Schedule 2.

## **16.2 Paramountcy**

Schedule 2 has effect despite any other provision of this deed (other than clause 1.7) or any other Constituent Document and any provision of this deed (other than clause 1.7) or other Constituent Document which is inconsistent with Schedule 2 does not operate to the extent of any inconsistency.

# **17 Takeovers**

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The takeover provisions in Schedule 3 apply while any Units or Options are Listed, except while Chapter 6 of the Corporations Act applies in relation to the Trust.

# **18 Complaints**

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## **18.1 General**

The provisions of this clause 18 only apply while the Trust is a Registered Scheme.

## 18.2 Complaints handling

The Responsible Entity must establish and maintain a procedure for dealing with Complaints by Holders or former Holders in relation to the Trust which is consistent with AS 10002-2006 Australian Standard on Complaints Handling or such other standard which satisfies the requirements (if any) of the Corporations Act, Listings Requirements, Listing Rules or any Government Agency from time to time.

## 18.3 Holder Complaints

- (a) A Holder or former Holder may lodge a Complaint in relation to the Trust:
- (1) by notice to the Responsible Entity;
  - (2) by phone, by calling the number set out in clause 26.1, or such other number (or numbers) as the Responsible Entity from time to time notifies to Holders, between the hours of 9.00am and 5.00pm on Business Days;
  - (3) by email, to such email address as the Responsible Entity from time to time notifies to Holders; or
  - (4) in person, at the Responsible Entity's address set out in clause 26.1 between the hours of 9.00am and 5.00pm on Business Days,
- or by such other additional method as the Responsible Entity from time to time approves.
- (b) The Responsible Entity must:
- (1) record the Complaint and the date it was received in a register maintained for that purpose; and
  - (2) send the Holder or former Holder an acknowledgment of receipt of the Complaint as soon as possible and in any event within 14 days from receipt.

## 18.4 Handling of Complaints

- (a) The Responsible Entity must deal with a Complaint by a Holder or former Holder under clause 18.3 in accordance with this clause 18, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) Subject to clause 18.4(c), the Responsible Entity must use reasonable endeavours to deal with the Complaint within 45 days from the date of receipt of the Complaint, or within such other period specified:
- (1) by the Corporations Act; or
  - (2) in a standard or requirement relating to dispute resolution that is issued by ASIC pursuant to the Corporations Act,
- from time to time.
- (c) As soon as practicable, the Responsible Entity must notify the Holder or former Holder of:
- (1) its decision in relation to the Complaint;
  - (2) the remedies available to the Holder in relation to the Complaint; and

- (3) any avenues of appeal that may be available to the Holder if the Holder is dissatisfied with the decision.
- (d) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle Complaints.
- (e) The Responsible Entity must act in good faith to deal with the Complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties.
- (f) The Responsible Entity may in its discretion give any of the following remedies to the Holder or former Holder:
  - (1) information or an explanation regarding the which resulted in the Complaint;
  - (2) an apology; or
  - (3) compensation to the Holder for loss incurred by it as a direct result of the breach (if any) of the Responsible Entity's obligations.
- (g) The Responsible Entity is not required to give the Holder or former Holder the reasons for its decision in relation to a Complaint.

## **18.5 Assistance and information**

- (a) The Responsible Entity must provide a Holder or former Holder with all reasonable assistance and information that the Holder or former Holder may require for the purpose of making a Complaint and understanding the complaints handling procedures adopted by the Responsible Entity.
- (b) A Holder or former Holder lodging a Complaint in relation to a Trust must provide the Responsible Entity with all information the Responsible Entity may require in order to properly deal with and resolve the Complaint.

## **19 Remuneration of Responsible Entity**

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### **19.1 Fee**

- (a) Subject to paragraph (d) of this clause 19.1 the Responsible Entity is entitled to receive out of the Fund an annual management fee, being 0.025% of Enterprise Value.
- (b) The Responsible Entity's fee accrues daily, is calculated as at the end of each calendar month, is payable in arrears and must be paid within 10 Business Days after the end of the relevant calendar month.
- (c) The right of the Responsible Entity under this clause 19.1 to be paid fees out of the Fund is available only in relation to the proper performance of its duties.
- (d) While the Units are Stapled and the Assets include a controlling interest in the shares in the ultimate parent company of the Responsible Entity, the Responsible Entity is not entitled to receive the fee under this clause 19.1, but remains entitled to be indemnified for costs and liabilities under clause 20.

## 19.2 Waiver or deferral of remuneration

The Responsible Entity may waive or defer the whole or any part of the remuneration to which it would otherwise be entitled. Where payment is deferred, the deferred remuneration continues to accrue daily until paid.

## 19.3 Priority of Responsible Entity's remuneration

The remuneration of the Responsible Entity has priority over the payment of all other amounts payable from the Fund.

# 20 Responsible Entity's indemnity

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## 20.1 Responsible Entity's indemnity for Costs and liabilities

- (a) In addition to the Responsible Entity's right of remuneration under clause 19.1 and any other right of indemnity which the Responsible Entity may have under this deed or any law, the Responsible Entity is indemnified and entitled to be reimbursed out of, or have paid from, the Fund all:
- (1) Costs and liabilities incurred at law or under this deed in the performance of its duties or the exercise of its powers, the course of its office or in relation to the administration or management of the Trust;
  - (2) Costs and liabilities necessarily incurred by the Responsible Entity in relation to its acting as Responsible Entity of the Trust; and
  - (3) Costs and liabilities associated with the raising of capital for the Fund including the payment of any fees payable to a broker in respect of an Application for Units,
- including any Costs and liabilities incurred as a result of any act or omission of a delegate or agent or attorney appointed by the Responsible Entity.
- (b) The indemnity in clause 20.1(a) includes all Costs and liabilities connected with:
- (1) this deed, the Management Agreement and the Custody Agreement;
  - (2) the formation of the Trust and registration of the Trust as a Registered Scheme;
  - (3) the preparation, review, distribution and promotion of any PDS, Pre-Listing Statement or other offering document in respect of Units or Options and other promotion of the Fund;
  - (4) the Listing of the Trust on the JSE and ASX; and
  - (5) the Responsible Entity's internal running, administration and operating costs attributable to its role as Responsible Entity of the Trust (such as overheads, internal staff costs, including travel costs, amounts payable to directors, compliance costs, computer systems etc).
- (c) In calculating the amount to be indemnified and reimbursed to the Responsible Entity under this clause 20.1, and in particular under clause 20.1(b)(5), while the

Responsible Entity is the trustee or responsible entity of one or more trusts or registered schemes in addition to this Trust, the amount calculated and payable to the Responsible Entity for the internal running, administration and operating costs as expenses incurred in acting as Responsible Entity of the Trust will be an amount determined by the Responsible Entity to be a fair and reasonable proportion of the Responsible Entity's total running, administration and operating costs and expenses having regard to:

- (1) the Enterprise Value of the Trust compared with the gross asset value of the other trusts or Registered Schemes for which the Responsible Entity acts as trustee, calculated at comparable points in time;
  - (2) whether or not the other trusts are Registered Schemes; and
  - (3) any other Costs or liabilities of the Responsible Entity that are separate and in addition to its role as trustee or responsible entity for any trust or Registered Scheme.
- (d) Notwithstanding clause 20.1(c) any Costs and liabilities that are incurred by the Responsible Entity solely in relation to its role as Responsible Entity of this Trust may be fully recovered by the Responsible Entity out of the Fund in accordance with the indemnity in this clause 20.1.
- (e) To the extent they are not paid at the time the relevant Costs or liabilities are incurred, the amounts payable under this clause 20.1 are payable monthly.
- (f) If there is any dispute relating to the amount payable under this clause 20.1, the amount will be the amount as determined by the Responsible Entity's auditor, or by such person who is independent of the Responsible Entity as the auditor nominates.

## **20.2 Waiver or deferral of Costs and liabilities**

The Responsible Entity may waive or defer the whole or any part of the indemnity for Costs and liabilities to which it would otherwise be entitled. Where payment is deferred, the deferred Costs or liabilities continue to accrue daily until paid.

## **20.3 Proper performance of duties**

- (a) The rights of the Responsible Entity to be indemnified out of the Fund for Costs and liabilities incurred in relation to the performance of its duties, are available only in relation to the proper performance of those duties.
- (b) The Responsible Entity may exercise any of its rights of indemnification or reimbursement out of the Fund to satisfy a liability to any creditor of the Responsible Entity (as trustee of the Trust) even though the Fund may have suffered a loss or may have diminished in value as a consequence of any unrelated act, omission or breach of trust by the Responsible Entity or by any delegate or agent or attorney appointed by the Responsible Entity.



## 21 Compliance Committee's indemnity and insurance

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### 21.1 Indemnified persons

Clauses 21.2 and 21.4 apply to each person who is or has been a member of the Compliance Committee (if any).

### 21.2 Indemnity in favour of member of Compliance Committee

The Responsible Entity must, from the Fund, indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 21.2 applies for all Costs and liabilities (other than Taxes) incurred by the person as a member of the Compliance Committee (if any) including a liability for negligence or for reasonable Costs and liabilities incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

### 21.3 Extent of indemnity

The indemnity in clause 21.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 21.2 applies even though that person may have ceased to be a member of the Compliance Committee (if any); and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

### 21.4 Insurance

The Responsible Entity may, from the Fund and to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 21.4 applies against any liability incurred by the person as a member of the Compliance Committee (if any) including a liability for negligence or for reasonable Costs and liabilities incurred in defending proceedings, whether civil or criminal and whatever their outcome.

### 21.5 Savings

Nothing in clauses 21.2 or 21.4:

- (a) affects any other right or remedy that a person to whom those provisions apply may have in respect of any loss or liability referred to in those provisions; or
- (b) limits the capacity of the Responsible Entity to indemnify or provide insurance for any person to whom those provisions do not apply.

## 22 Retirement or removal of Responsible Entity

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### 22.1 Retirement and removal of Responsible Entity

- (a) While the Trust is not a Registered Scheme:
  - (1) the Responsible Entity may retire on not less than 30 days' notice to the Holders. On retirement, the Responsible Entity may appoint another person to be the Responsible Entity; and
  - (2) the Responsible Entity must retire if directed to do so by a Special Resolution of Holders or a written notice of a Holder or Holders holding all of the Units on Issue and Options.
- (b) While the Trust is a Registered Scheme:
  - (1) despite any other law, the Responsible Entity may only retire as responsible entity of the Trust in accordance with section 601FL of the Corporations Act; and
  - (2) the Responsible Entity may only be removed as responsible entity of the Trust in accordance with section 601FM of the Corporations Act.
- (c) On retirement or removal the Responsible Entity must give the incoming trustee or responsible entity all books, documents and records relating to the Trust.
- (d) If the Trust is not a Registered Scheme at the time the Responsible Entity is to retire, any proposed replacement trustee or responsible entity must execute a deed by which it covenants to be bound by this deed as if it had originally been a party to it.
- (e) The Responsible Entity is entitled to agree with an incoming trustee or responsible entity to be remunerated by, or receive a benefit from, the incoming trustee or responsible entity in relation to:
  - (1) entering into an agreement to submit a proposal for its retirement to a meeting of Holders and nominating the incoming trustee or responsible entity as its replacement; or
  - (2) its retirement as Responsible Entity,
 and is not required to account to Holders for such remuneration or benefit.

### 22.2 Name of Trust to be changed

- (a) If Investec Property Limited has retired or is removed as the Responsible Entity, and a new Responsible Entity is appointed that is not an Associate of at least one of Investec Property Limited, Investec Limited (a company incorporated in South Africa) or Investec plc (a company incorporated in England), the new trustee or responsible entity must promptly take all action that may be necessary (including, if applicable, obtaining any approvals required under the CISCA) to remove any words or any other letters, words or expressions which might express or imply an association with Investec Property Limited, or any of its Associates, from the name of the Trust and this deed and such letters, words or expressions must not be used in any connection with the Trust and this deed.
- (b) Clause 22.2(a) does not apply to the extent that the new trustee or responsible entity of the Trust obtains the consent of Investec Property Limited not to take the action set out in that clause.

## 23 Term of Trust and termination of Trust

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### 23.1 Term of Trust

The term of the Trust ends on the earlier of:

- (a) the date determined by the Responsible Entity as the date on which the Trust is to be terminated; and
- (b) the date on which the Trust is terminated under this deed or by law.

### 23.2 Procedure on winding up of Trust

- (a) In winding up the Trust, the Responsible Entity must:
  - (1) realise the Fund;
  - (2) pay any amount due to it under clause 23.2(c);
  - (3) pay all Costs and liabilities of the Responsible Entity in its capacity as Responsible Entity of the Trust including liabilities owed to any Unitholder who is a creditor of the Trust otherwise than in their capacity as a Unitholder; and
  - (4) subject to the Terms of Issue of any Unit or the direction in writing of all Unitholders, distribute the net proceeds of realisation among the Unitholders pro rata in accordance with the proportion of Units held by Unitholders.
- (b) The Responsible Entity may distribute an Asset of the Fund to a Unitholder in specie. The Responsible Entity must determine the value of the Asset to be distributed in specie. Any Costs payable on an in specie distribution must be paid by the Unitholder before the distribution is made.
- (c) The Responsible Entity is entitled to:
  - (1) be paid from the proceeds of realisation of the Trust before any payment is made to the Unitholders all Costs and liabilities incurred or which it establishes will be incurred:
    - (A) by it before the winding up of the Trust which it has not recouped;
    - (B) by it in connection with the winding up of the Trust and the realisation of the Fund;
    - (C) by or on behalf of any creditor of the Responsible Entity in relation to the Trust;
    - (D) by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Responsible Entity in connection with the winding up of the Trust;
  - (2) an indemnity against the amounts referred to in clause 23.2(c)(1) which may be satisfied out of those proceeds before any distribution under clause 23.2(a)(4) is made; and
  - (3) following the termination of the Trust and until the winding up is completed, its remuneration (if any) provided for in clause 19.
- (d) The Responsible Entity may postpone the realisation of the Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.

- (e) The Responsible Entity may retain for as long as it thinks fit any part of the Fund which in its opinion, may be required to meet any actual or contingent liability of the Responsible Entity or any amounts payable actually or contingently to the Responsible Entity under this deed, including under clause 23.2(c).
- (f) The Responsible Entity must distribute among the Unitholders in accordance with this clause 23.2 anything retained under clause 23.2(e) which is subsequently not required.

### **23.3 Audit of accounts of Trust**

The Responsible Entity must ensure that the final accounts of the Trust following the winding-up are audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Responsible Entity.

## **24 Amendments**

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### **24.1 Amendments generally**

Subject to clause 24.2 and to any approval required by any applicable law:

- (a) while the Trust is a Registered Scheme, this deed (including this clause 24) may be modified, or repealed and replaced with a new deed:
  - (1) by Special Resolution of the Holders; or
  - (2) by the Responsible Entity (by deed), if the Responsible Entity reasonably considers the change will not adversely affect Holders' rights; and
- (b) while the Trust is not a Registered Scheme, the Responsible Entity may, by deed, modify, or repeal and replace, this deed (including this clause 24).

### **24.2 JSE approval**

While any Units or Options are Listed, this deed may only be modified, or repealed and replaced with a new deed, with the approval of the JSE, and subject to compliance with any applicable Listings Requirements in relation to such modification or repeal and replacement.

### **24.3 Class rights**

- (a) If at any time more than one class of Units is on issue, the rights attached to any class of Units may only be varied (including in connection with the conversion of Units of one class into Units of another class) with the approval of both:
  - (1) a Special Resolution of the Holders; and
  - (2) a Special Resolution passed at a separate meeting of the Holders of Units of the relevant class.
- (b) For purposes of the approval requirements in clause 24.3(a), if the rights attached to only some of the Units in a class are varied:
  - (1) Holders of the Units whose rights are varied are taken to comprise a class of Holders whose rights are varied; and

- (2) Holders of the other Units in that class whose rights were not varied are taken to comprise a separate class of Holders whose rights are varied.
- (c) For purposes of clause 24.3(a), the rights conferred on the holders of any class of Units are to be taken as not having been varied by the creation or issue of further Units ranking equally with them, or by issuing another class of Units.

## 24.4 Change of name

While any Units or Options are Listed, the Responsible Entity may change the name of the Trust if the Responsible Entity so determines and without requiring Holder approval, including if Investec Property Limited has retired or is removed as the Responsible Entity, and a new Responsible Entity is appointed, or if the ownership or control of the Responsible Entity is transferred to an entity that is not an Associate of at least one of Investec Property Limited, Investec Limited (a company incorporated in South Africa) or Investec plc (a company incorporated in England), to remove references to the word 'Investec' (and must do so where required under clause 22.2).

## 25 Goods and Services Tax

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### 25.1 Definition and interpretation

In this clause 25 terms used (other than the term 'GST') which have a defined meaning in the GST Act have the same meaning as in the GST Act unless the context otherwise indicates.

### 25.2 Adjustment for GST

- (a) Unless expressly included, the consideration for any supply made by the Responsible Entity under or in connection with this deed does not include GST.
- (b) To the extent that any supply made by the Responsible Entity under or in connection with this deed is a taxable supply, the Responsible Entity is entitled to receive out of the Fund, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of the supply.

### 25.3 GST on transfers of Assets of the Fund

Without limiting clause 25.2, if the Responsible Entity exercises a power to transfer any Asset of the Fund to a Unitholder as a distribution, redemption or otherwise under this deed or any applicable Terms of Issue, the Responsible Entity may either:

- (a) require the Unitholder receiving the Asset (**First Unitholder**), or a Unitholder which is the First Unitholder's associate, to pay some or all of any GST on any supply arising from the transfer and any Unitholder so required must indemnify the Responsible Entity against that GST, and pay the Responsible Entity on demand an amount equal to that GST; or
- (b) pay some or all of that GST and recover the amount of that GST out of the Fund.

## 25.4 Tax invoice

The Responsible Entity must issue a tax invoice or adjustment note to the Fund in respect of each taxable supply referred to in clauses 25.2 or 25.3 (except where the recipient is required to issue the tax invoice or adjustment note) no later than 7 days following receipt of the GST inclusive consideration for that supply.

## 25.5 Reimbursements

Where the Responsible Entity is entitled to be reimbursed or indemnified out of the Fund for a cost or expense pursuant to clause 20, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Responsible Entity.

# 26 Notices

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## 26.1 How to give notice

Any application, notice or other communication to or by the Responsible Entity or a Holder must be:

- (a) in legible writing;
- (b) signed by the sender, or if the sender is a body corporate, by a director, secretary of the sender or other person duly authorised to sign notices on behalf of the sender in accordance with the law governing the body corporate (or in the case of a notice or communication sent by e-mail, sent from the sender's, director's, secretary's or authorised person's e-mail address);
- (c) addressed in English to the person to whom it is to be given; and
- (d) either:
  - (1) delivered to the addressee in person;
  - (2) sent by pre-paid mail (by airmail, if the addressee is overseas) to any of the addressee's addresses;
  - (3) sent by fax to the addressee's fax number and the machine from which it is sent produces a report that states that it was sent in full; or
  - (4) sent by e-mail to the addressee's e-mail address and the sender receives confirmation of receipt of the e-mail from the addressee's server.

The Responsible Entity's addresses and fax numbers are those specified for the Responsible Entity below, the address from time to time of the Responsible Entity's registered office, or such other addresses and fax numbers as the Responsible Entity may prescribe from time to time.

Australian Address	Level 23, Chifley Tower 2 Chifley Square SYDNEY NSW 2000 AUSTRALIA
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Phone	+61 2 9293 2000
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Fax	+61 2 9293 2323
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South African Address	2nd Floor 100 Grayston Drive Sandown Sandton 2196 SOUTH AFRICA
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Phone	+27 11 286 9175
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Fax	+27 11 291 1218
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A Holder's address and fax number is that specified for the Holder in the Register of Unitholders or Register of Optionholders as applicable, or such other addresses and fax number as the Holder may prescribe from time to time by notice given to the Responsible Entity.

## 26.2 Receipt of notice

Any application, notice or other communication to or by the Responsible Entity or a Holder is regarded as being given by the sender and received by the addressee:

- (a) if by delivery in person, then when delivered to the addressee;
- (b) if by prepaid post, then on the fifth Business Day (or while the Trust is not JSE Listed, the second Business Day) after the day of postage to the addressee; or
- (c) if by facsimile transmission, when transmitted to the addressee but where the sender's machine indicates a malfunction in transmission or the addressee notifies the sender of an incomplete transmission within 4 hours after transmission is received, the facsimile transmission is regarded as not given or received; or
- (d) if by email, when the email (including any attachment) comes to the attention of the addressee or a person acting on the addressee's behalf,

but if the delivery, receipt or transmission is on a day which is not a Business Day or is after 5.00pm (addressee's time) it is regarded as received at 9.00 am (addressee's time) on the following Business Day.

## 26.3 Reliance

An addressee can rely on an application, notice or other communication that complies with clause 26.1, and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.

## 26.4 Notices to Joint Holders

A notice or other communication to Joint Holders is validly given if it is given only to the joint Holder whose name appears first on the Register.

## 26.5 Addressees

In clause 26, a reference to an addressee includes a reference to an addressee's directors, secretaries, employees or agents.

## 27 General

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### 27.1 Governing law and jurisdiction

The rights, liabilities and obligations of the Responsible Entity and the Holders are governed by the law of New South Wales.

### 27.2 Method of payment or repayment by Responsible Entity to Holders

- (a) Subject to clauses 27.2(c), 27.2(f) and 27.2(g) the Responsible Entity will pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by electronic transfer to an account with a Bank nominated by the Holder from time to time in accordance with clause 27.2(b).
- (b) A Holder may, with the consent of the Responsible Entity, nominate (or in such manner approved by the Responsible Entity) that money owing to it under this deed be paid by electronic transfer, cheque or otherwise into a designated account with a Bank or other nominated person.
- (c) The Responsible Entity may pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by cheque if:
  - (1) the Holder is a Foreign Holder; and
  - (2) the Holder has failed to nominate an account with a Bank in accordance with clause 27.2(b),
 or the Holder has nominated that money payable or repayable to the Holder is to be paid by cheque.
- (d) A cheque issued to a Holder which is presented and paid, or where the payment is to a Bank or nominated person, payment to the Bank or nominated person, discharges the Responsible Entity in respect of the payment.
- (e) If money is payable or repayable by the Responsible Entity to a Holder under this deed and either:
  - (1) the Holder fails to nominate an account under clause 27.2(b);
  - (2) the Responsible Entity cannot make an electronic transfer to an account nominated by a Holder under clause 27.2(b); or
  - (3) the Responsible Entity determines that a cheque not presented within 9 months is cancelled,

subject to any applicable law relating to unclaimed money or property, the Responsible Entity must hold such money on trust (whether in an account established under clause 13.6(c) or otherwise) for the relevant Holder, or former Holder, for not less than 3 years from the date on which such money became due and payable. Any such money will not be part of the Fund and will be held by the Responsible Entity on a separate trust for the relevant Holders or former Holders entitled to that distribution. The Responsible Entity has the same

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powers to manage and invest such money as the Responsible Entity has in respect of the Fund. All interest and other income earned from the investment is income of the Trust and the relevant Holders will not be entitled to such interest or income.

- (f) Despite anything else in this clause 27.2 all payments by the Responsible Entity to a Unitholder arising from the transfer of dematerialized Units must be given effect in accordance with the system operated and used by the JSE for such payments.
- (g) Any payment from South Africa by the Responsible Entity to a Holder who is a non-South African resident must comply with the applicable exchange control regulations of the Financial Surveillance Department of the South African Reserve Bank.

### **27.3 Binding conditions**

The terms and conditions of this deed and any amending deed are binding on the Responsible Entity, each relevant Holder and any other person claiming through any of them, as if each was a party to this deed and each supplemental deed.

### **27.4 Other documents**

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

### **27.5 Cumulative rights**

The parties' rights, powers and remedies under this deed are cumulative and do not exclude any other right, power, authority, discretion or remedy of the parties.

### **27.6 Survival of indemnities**

Each indemnity in this deed:

- (a) is a principal obligation and not ancillary to any security or other obligation;
- (b) is an additional, separate and independent obligation and does not limit the general nature of any other indemnity or obligation;
- (c) is unconditional and is not released, discharged or otherwise affected by anything which but for this provision might have that effect; and
- (d) continues despite any settlement of account, termination of this or any other agreement or any other thing occurring, remaining in full force until:
  - (1) all monetary and other obligations under this deed, contingent or otherwise, have been performed in full; and
  - (2) the indemnified party finally discharges the indemnity.

The indemnified party may make a demand under any indemnity even if an event occurs that releases, discharges or otherwise affects the indemnifying party's obligations. The indemnified party does not have to enforce any other security or obligation, give any notice or take any steps against any other person before making a demand.

### **27.7 Attorney's rights and powers**

In respect of each appointment by a party (the **appointor**) of another party (the **appointee**) as the appointor's agent or attorney under this deed:

- (a) the appointee may exercise its powers as agent or attorney in the appointee's own name or in the appointor's name;
- (b) the appointee may exercise any of its powers as agent or attorney even if the appointee benefits from the exercise of the power;
- (c) the appointor must ratify anything that the appointee does in exercise of its powers as agent or attorney other than things that the appointee does in breach of its duties as agent or attorney;
- (d) at any time, the appointee may appoint or remove any substitute, delegate, sub-agent or sub-attorney;
- (e) in favour of any third party, a certificate signed by any director or secretary of the appointee that any instrument or act falls within the appointee's authority is conclusive evidence that this is the case; and
- (f) the appointor must indemnify the appointee against all Costs and liability on a full indemnity basis, in respect of any claims in connection with the appointee's lawful exercise of all or any of its powers as agent or attorney in accordance with this deed.

## 27.8 Severability

If any provision of this deed is held or found to be void, invalid or otherwise unenforceable so much of this deed as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this deed will remain in full force and effect.

## 28 Trust Scheme

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### 28.1 Definitions

The following definitions apply in this clause 28 unless the context requires otherwise:

**CHH** means Charter Hall Holdings Pty. Limited (ACN 051 363 547).

**CHPIP** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership No.2 (ABN 98 732 489 194).

**CHPIP Guarantor** means Charter Hall Wholesale Management Limited (ACN 006 765 206) as trustee of the Charter Hall PGGM Industrial Partnership (ABN 29 250 100 507).

**Deed Poll** means the deed poll dated 18 May 2022 executed by CHPIP and CHPIP Guarantor in favour of the Scheme Unitholders.

**Effective** means, in relation to the Trust Scheme, the supplemental deed poll making amendments to this Constitution to facilitate the Trust Scheme, including the insertion of clause 28, taking effect pursuant to section 601GC(2) of the Corporations Act.

**Effective Date** means the date on which the Trust Scheme becomes Effective.

**Encumbrance** means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or 12(2) of the PPSA or any agreement to create any of them or allow them to exist.

**Implementation Date** means the 5th Business Day following the Record Date, or such other date as may be agreed in writing between CHPIP, CHPIP Guarantor and the Responsible Entity.

**Record Date** means 7.00 pm (Sydney time) on the date that is five Business Days after the Effective Date, or such other date as may be agreed in writing between the IAP RE and CHPIP.

**Registered Address** means, in relation to a Scheme Unitholder, the address of that Scheme Unitholder shown on the Register as at the Record Date.

**Registry** means such suitably qualified person that is from time to time appointed by the Responsible Entity to operate the Register.

**Scheme Consideration** means an amount equal to \$1.90 in aggregate for each Scheme Unit and Scheme IPF I Unit.

**Scheme Implementation Agreement** means the agreement of that name between the Responsible Entity, CHPIP and CHPIP Guarantor dated 30 March 2022, as amended from time to time.

**Scheme Meeting** means the meeting of Unitholders held on 29 June 2022 to consider the Scheme Resolutions, and includes any adjournment of that meeting.

**Scheme Resolutions** means the resolutions of the Unitholders to approve the Trust Scheme, including:

- (a) an ordinary resolution approving for the purpose of item 7 of section 611 of the Corporations Act the acquisition by CHH of all of the Scheme Units;
- (b) a special resolution for the purpose of section 601GC(1) of the Corporations Act to approve amendments to this Constitution to facilitate the implementation of the Trust Scheme; and
- (c) a special resolution approving the Responsible Entity to determine that the Stapling provisions of this deed will cease to apply and the Unstapling Date for the purpose of item 3.5 of Schedule 2 of this deed.

**Scheme IPF I Unit** means each Attached Security on issue as at the Record Date.

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

**Scheme Unitholders** means each person who is registered on the Register as a holder of Units as at the Record Date.

**Trust Scheme** means the arrangement by which all of the Scheme Units will be transferred to CHH, as set out in this clause 28.

## 28.2 Implementation of Trust Scheme

- (a) Each Scheme Unitholder and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as the Responsible Entity considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.

- (b) Each Scheme Unitholder, without the need for any further act by that Holder, irrevocably appoints the Responsible Entity as that Holder's attorney and agent for the purpose of:
- (1) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it, including executing and delivering any transfer of the Scheme Units; and
  - (2) enforcing the Deed Poll against CHPIP and CHPIP Guarantor,
- and the Responsible Entity accepts such appointment. The Responsible Entity, as attorney and as agent of each Holder, may sub-delegate its functions, authorities or powers under this clause 28(b) to all or any of its directors and officers (jointly, severally, or jointly and severally). Each Holder indemnifies the Responsible Entity and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause 28.2(b).
- (c) Without limiting the Responsible Entity's other powers under this clause 28, the Responsible Entity has power to do all things that it considers necessary, desirable or reasonably incidental to give effect to the Trust Scheme, the Scheme Implementation Agreement and the transactions contemplated by them.
- (d) Subject to the Corporations Act, the Responsible Entity, CHH or any of their directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 28 even if they have an interest (financial or otherwise) in the outcome of such exercise.
- (e) Each Scheme Unitholder will be entitled to receive the Scheme Consideration for each Scheme Unit and Scheme IPF I Unit held by that Scheme Unitholder.
- (f) Without limiting the Responsible Entity's powers under this clause 28, subject to CHPIP and the CHPIP Guarantor having complied with their obligations under clause 4.2(b) of the Deed Poll:
- (1) on the Implementation Date, the Responsible Entity must determine in accordance with item 3.5(a) of Schedule 2 that the Stapling provisions of the Constitution will cease to apply on the Implementation Date and that the Implementation Date is to be the "Unstapling Date" for the purpose of item 3.5(a) of Schedule 2 of the Constitution;
  - (2) on the Effective Date, the Responsible Entity, as the Scheme Unitholder's agent and attorney under clause 28.2(b)(1) above, is empowered to transfer the Scheme Units and the Scheme IPF I Units on the Implementation Date for a price equal to the Scheme Consideration, in accordance with the terms of the Scheme Implementation Agreement and the Deed Poll; and
  - (3) by no later than the Implementation Date, the Responsible Entity must execute a transfer of the Scheme Units on behalf of each Scheme Unitholder as agent and attorney appointed under clause 28.2(b)(1) above in the manner and form which the Responsible Entity considers necessary and deliver the transfer to the Registry for registration.
  - (4) immediately after receipt of the transfer in accordance with clause 28.2(f)(3), but subject to the stamping of the transfer (if required), or the transfer being effected under section 1074D of the Corporations Act (as the case may be), entering, or procuring the entry of, the name

and address of CHH in the Register as the holder of all of the Scheme Units transferred to CHH in accordance with the Trust Scheme.

- (g) This clause 28:
- (1) binds the Responsible Entity and all of the Holders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (2) to the extent of any inconsistency, overrides the other provisions of this Constitution (but, for the avoidance of doubt, remains subject to the Corporations Act, the Listing Rules and the Listing Requirements).

### **28.3 Warranty by Scheme Unitholders**

Each Scheme Unitholder warrants to CHH and is deemed to have authorised the Responsible Entity to warrant to CHH as agent and attorney for the Scheme Unitholder by virtue of this clause 28.3, that:

- (a) all their Scheme Units (including any rights and entitlements attaching to those securities) transferred to CHH under the Trust Scheme, will, as at the date of the transfer, be fully paid and free from all Encumbrances;
- (b) they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those securities) to CHH under the Trust Scheme; and
- (c) they have agreed to the variation, cancellation or modification of the rights attached to their Scheme Units (if any) in accordance with the Trust Scheme without the need for any further act by the Scheme Unitholder.

### **28.4 Transfer free of Encumbrances**

To the extent permitted by law, all Scheme Units (including any rights and entitlements attaching to those securities) which are transferred to CHH under the Trust Scheme will, at the date of the transfer of them to CHH, vest in CHH free from all Encumbrances.

### **28.5 Appointment of CHH as sole proxy**

Subject to the provision of the Scheme Consideration for the Scheme Units, on and from the Implementation Date until the Responsible Entity registers CHH as the holder of all the Scheme Units in the Register, each Scheme Unitholder:

- (a) irrevocably appoints the Responsible Entity as attorney and agent (and directs the Responsible Entity in such capacity) to appoint CHH and each of CHH's directors from time to time (jointly and each of them individually) as its sole proxy, and where applicable, corporate representative, to attend Unitholder meetings, exercise the votes attaching to Units registered in its name and sign any Unitholder resolution, and no Scheme Unitholder may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy, or by corporate representative (other than pursuant to this clause 28.5(a); and
- (b) must take all other actions in the capacity of the registered holder of Units as CHH directs.

The Responsible Entity undertakes in favour of each Scheme Unitholder that it will appoint CHH and each of CHH's directors from time to time (jointly and each of them individually) as that Scheme Unitholder's proxy or, where applicable, corporate representative, in accordance with clause 28.5(a).

## **28.6 Payment to Scheme Unitholders**

- (a) On the Implementation Date, subject to CHPIP having satisfied its obligations under clause 4.2(b) of the Deed Poll, the Responsible Entity must pay or procure the payment from the Trust Account to each Scheme Unitholder the Scheme Consideration as that Scheme Unitholder is entitled under clause 28.2(e).
- (b) The obligations of the Responsible Entity under clause 28.6(a) will be satisfied by the Responsible Entity (in its absolute discretion):
  - (1) where a Scheme Unitholder has, before the Record Date, made a valid election in accordance with the requirements of the Registry to receive dividend payments from the Responsible Entity by electronic funds transfer to a bank account nominated by the Scheme Unitholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (2) otherwise, whether or not the Scheme Unitholder has made an election referred to in paragraph (1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Unitholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Unitholder (or in the case of Joint Holders, in accordance with the procedures set out in clause 28.7).
- (c) Notwithstanding anything to the contrary in this deed, the Scheme Consideration paid to Scheme Unitholders included in the Register maintained by, or on behalf of, the Responsible Entity in South Africa (as a sub-register of the Register), will be paid to such Scheme Unitholders in a ZAR (Rand) equivalent of the Scheme Consideration determined by the ZAR (Rand) / AUD (Australian Dollar) spot rate quoted by Reuters as at the date and time determined by the Responsible Entity provided that CHPIP shall have no obligation to make available to the Responsible Entity funds denominated in ZAR (Rand) and no obligation to gross-up for any conversion costs or rounding differences.

## **28.7 Joint Holders**

In the case of Scheme Units held by Joint Holders:

- (a) any cheque required to be sent under the Trust Scheme will be made payable to the joint holders and sent to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under the Scheme, will be forwarded to either, at the sole discretion of the Responsible Entity, the holder whose name appears first in the Register as at the Record Date.

## 28.8 Fractional entitlements

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

## 28.9 Unclaimed monies

- (a) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any amount payable to a Scheme Unitholder under the Trust Scheme which becomes 'unclaimed money' (as defined in section 7 of that Act).
- (b) The Responsible Entity may cancel a cheque issued on account of the Scheme Consideration if the cheque:
  - (1) is returned to the Responsible Entity; or
  - (2) has not been presented for payment within 12 months after the date on which the cheque was sent.

## 28.10 Orders of a court or Government Agency

- (a) The Responsible Entity may deduct and withhold from any Scheme Consideration which would otherwise be payable to a Scheme Unitholder any amount which CHPIP or the Responsible Entity determine is required to be deducted and withheld from that consideration under any applicable law, including any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency.
- (b) To the extent that amounts are so deducted or withheld, such deducted or withheld amounts will be treated for all purposes under the Trust Scheme as having been paid to the person in respect of which such deduction or withholding was made, provided that such deducted or withheld amounts are actually remitted to the appropriate Government Agency on or before the Implementation Date.
- (c) If written notice is given to the Responsible Entity (or the Registry) of an order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency that:
  - (1) requires consideration which would otherwise be payable or provided to a Scheme Unitholder under the Trust Scheme must instead be paid or provided to a Government Agency or other third party (either through payment of a sum or the issuance of a security), then, the Responsible Entity shall be entitled to procure that payment or provision of that consideration is made in accordance with that order, direction or notice (and payment or provision of that consideration in accordance with that order, direction or notice will be treated for all purposes under the Trust Scheme as having been paid or provided to that Scheme Unitholder); or
  - (2) prevents the Responsible Entity from providing consideration to any particular Scheme Unitholder under the Trust Scheme, or the payment or provision of such consideration is otherwise prohibited by applicable law, the Responsible Entity shall be entitled to retain the

Scheme Consideration to which that Scheme Unitholder would otherwise be entitled to under the Trust Scheme, until such time as payment or provision of the Scheme Consideration under the Trust Scheme is permitted by that order or direction or otherwise by law.

### 28.11 No disposals after the Effective Date

- (a) If the Trust Scheme becomes Effective, a holder of Scheme Units (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Units or any interest in them after the Effective Date in any way except pursuant to the Trust Scheme and any such disposal will be void and of no legal effect whatsoever.
- (b) The Responsible Entity will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Units received after the Record Date (except a transfer to CHH pursuant to the Trust Scheme or any subsequent transfer by CHH or its successors in title).

### 28.12 Lapsing

Clause 28 will lapse and have no further force or effect if the Trust Scheme lapses in accordance with the Scheme Implementation Agreement.

## Schedule 1

### Meetings of Holders

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(Clause 14)

## 1 Calling a Meeting

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- (a) The Responsible Entity may, at any time, call a Meeting.
- (b) Subject to the Corporations Act, the Responsible Entity must call and arrange to hold a Meeting to consider a vote on a proposed resolution at the request of:
  - (1) Holders with at least 5% of the votes that may be cast on the resolution; or
  - (2) at least 100 Holders who are entitled to vote on the resolution.

The percentage of votes that Holders have is to be worked out at midnight before the request is given to the Responsible Entity.
- (c) Subject to the Corporations Act, Holders who hold interests carrying at least 5% of the votes that may be cast at a Meeting may call and arrange to hold a Meeting to consider and vote on a proposed resolution. The Holders calling the meeting must pay the expenses of calling and holding the Meeting. The percentage of votes that Holders have is to be worked out at midnight before the Meeting is called.



## 2 Notice of meeting

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- (a) If the Responsible Entity omits to give a Holder notice of a Meeting or if a Holder does not receive notice, the Meeting is still valid.
- (b) While any Units or Options are JSE Listed, the Responsible Entity must give notice of a Meeting to the JSE and announce the notice of Meeting through the Stock Exchange News Service, at the same time as it sends notices of Meeting to Holders.
- (c) Subject to clause 2(d) of this Schedule 1, the Responsible Entity must give at least 15 Business Days' notice of Meetings, and must comply with the requirements of the Corporations Act in relation to the giving of the notice.
- (d) While any Units or Options are JSE Listed, notwithstanding the requirements of paragraph 2(c) of this Schedule 1 and clause 26.2, if the Responsible Entity gives Holders notice of a Meeting (other than a notice in electronic form) that is sent by the Responsible Entity or its agent:
  - (1) from a place of business in Australia to Holders in South Africa; or
  - (2) from a place of business in South Africa to Holders in Australia,such notice must be given at least 20 Business Days before the date scheduled for the relevant Meeting.

## 3 Who may attend and address Meetings

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The Responsible Entity, the directors of the Responsible Entity, the Auditor, the auditor of the Compliance Plan, the members of the Compliance Committee and any person invited by any of them is entitled to attend and address a Meeting or an adjourned Meeting, or a postponed Meeting.

## 4 Quorum

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- (a) No business may be transacted at any Meeting unless a quorum of Holders is present at the time when the Meeting proceeds to business and while the relevant business is being transacted.
- (b) Subject to clauses 4(c) and 12 of this Schedule 1, the quorum for any Meeting is:
  - (1) where the Trust has only 1 Holder, 1 Holder;
  - (2) where the Trust has only 2 Holders, 2 Holders; and
  - (3) where the Trust has 3 or more Holders, 3 Holders,present at the Meeting, either in person or by attorney, representative or proxy.
- (c) While any Units or Options are Listed, in addition to the requirements of clause 4(b) of this Schedule 1, a Meeting of Unitholders will only have a quorum if Unitholders holding not less than 25% of the Units on issue are present at the Meeting, either in person or by attorney, representative or proxy.
- (d) A Holder is counted towards a quorum even though the Holder may not be entitled to vote on the resolution at the Meeting.

- (e) If a quorum is not present within 30 minutes from the time appointed for the Meeting, the Meeting must be adjourned as the chairman directs.
- (f) Other than for a Meeting to consider an extraordinary resolution, at an adjourned Meeting the Holders with voting rights who are present either in person or by proxy constitute a quorum and are entitled to pass the resolutions.

## 5 Use of Technology

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- (a) A Meeting may be held by means of such telephone, electronic or other communications facilities as permit all persons in the Meeting to communicate with each other simultaneously and instantaneously. In these circumstances:
  - (1) participation in such a Meeting via technology shall constitute presence in person at such Meeting for all purposes (including for the purposes of establishing quorum under clause 4 of this Schedule 1); and
  - (2) all the provisions in this deed relating to a Meeting apply, so far as they can and with such changes as are necessary, to a Meeting using that technology.
- (b) If the technology used in holding the Meeting encounters a technical difficulty, whether before or during the Meeting, which results in a Holder not being able to participate in the Meeting, subject to the Corporations Act the chairman may allow the Meeting to continue or may adjourn the Meeting either for such reasonable period as may be required to fix the technology or to such other time and location as the chairman considers appropriate.

## 6 Adjournment, cancellation and postponement

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- (a) The chairman may adjourn a Meeting for any reason to such time and place as the chairman thinks fit.
- (b) The Responsible Entity may, by notice given in accordance with paragraph (c) below, postpone, cancel or change the place of a Meeting, if it considers (acting reasonably) that the Meeting has become unnecessary, the venue would be unreasonable or impractical, a change is necessary in the interests of conducting the Meeting efficiently, or it is otherwise in the interests of Holders to do so, provided that:
  - (1) a Meeting which is called in accordance with a members' requisition under the Corporations Act; and
  - (2) any other Meeting which is not called by the board of the Responsible Entity,

may not be postponed or cancelled without the prior written consent of the person or person who called or requisitioned the Meeting.
- (c) Notice of postponement, cancellation or change of place of a Meeting must state the reason for the postponement, cancellation or change of place (as applicable) and:
  - (1) while the Trust is ASX Listed, be given to ASX;

- (2) while the Trust is JSE Listed, be given to the JSE at the same time as distributing the notice to any Unitholder, and be announced through the Stock Exchange News Service; or
- (3) subject to the Corporations Act, the Listing Rules and the Listings Requirements (if applicable), be given in any other manner determined by the Responsible Entity.

## 8 Proxies

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- (a) Any person including a Holder may act as a proxy.
- (b) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.
- (c) If the appointer of a proxy is a corporation, the instrument of appointment must be:
  - (1) under its common seal (if any);
  - (2) under the hand of an officer or attorney who has been authorised by the corporation;
  - (3) under the hand of any 2 directors or a director and a secretary; or
  - (4) in the case of a corporation where the sole director and sole secretary are the same person, under the hand of that person.
- (d) The instrument appointing a proxy and the original or certified or notarised copy of the power of attorney or authority under which it is signed must be deposited with the Responsible Entity, at either the Responsible Entity's Australian address or South African address (or at such other additional addresses as the Responsible Entity may prescribe from time to time as provided in clause 26.1), at least 48 hours, or any shorter period determined by the Responsible Entity from time to time, before the time appointed for the Meeting at which the proxy proposes to vote.
- (e) Unless the Responsible Entity determines otherwise, if clauses 7(c) and 7(d) of this Schedule 1 are not complied with, the proxy is invalid.
- (f) The Responsible Entity does not have to enquire whether a proxy has been validly given.
- (g) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (h) Clause 7(g) of this Schedule 1 does not apply if the Responsible Entity has notice of the death, insanity or revocation before the Meeting at which the proxy is to be used.
- (i) Where:
  - (1) by the terms of an instrument appointing a proxy or attorney or an appointment of a representative, the appointed person is authorised to attend and vote at a Meeting or Meetings to be held on or before a specified date; and

- (2) the Meeting is adjourned to, or the date for holding the Meeting is postponed to, a date later than the date specified in the instrument of proxy or power of attorney or appointment of representative,

then, by force of this clause 7(i), that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney, or appointment or representative unless the Holder appointing the proxy, attorney, or representative gives to the Responsible Entity at either the Responsible Entity's Australian address or South African address (or at such other additional addresses as the Responsible Entity may prescribe from time to time as provided in clause 26.1), written notice to the contrary not less than 48 hours before the time to which the holding of the Meeting has been adjourned or postponed.

## 9 Chairman

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- (a) The Responsible Entity may elect a person to preside as chairman at a Meeting except for a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.
- (b) If the person elected by the Responsible Entity does not appear within 30 minutes from the time appointed for the Meeting, the Holders present must elect one of their number to preside as chairman.
- (c) The Holders present must by resolution elect any person to preside as chairman of a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.

## 10 Voting

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- (a) Subject to the Corporations Act, but despite anything in any Terms of Issue or Terms of Offer relating to any Units or Options:
  - (1) on a show of hands, each member has 1 vote; and
  - (2) on a poll, each member has 1 vote for each dollar value of the total interests they have in the Trust.

For these purposes of the value of an interest is calculated in accordance with the Corporations Act.
- (b) If a person present at a general Meeting is a member and also represents by proxy, attorney or representative 1 or more other members, on a show of hands the person is entitled to:
  - (1) if on a poll the person would have cast all votes in the same voting direction, one vote only; or
  - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,

even though he or she is a member and also represents 1 or more other members.
- (c) If a person present at a general Meeting represents by proxy, attorney or representative 2 or more members, on a show of hands the person is entitled to:

- (1) if on a poll the person would have cast all votes in the same voting direction, one vote only ; or
  - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,
- one vote only even though he or she represents 2 or more members.
- (d) A poll is to be conducted as directed by the chairman at the Meeting or any adjournment of the Meeting.
  - (e) The demand for a poll may be withdrawn by the person who demanded it.
  - (f) The demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded.
  - (g) The result of the poll is regarded as the resolution of the Meeting.
  - (h) A poll may not be demanded on any resolution concerning:
    - (1) the election of the chairman of a Meeting; or
    - (2) the adjournment of a Meeting.
  - (i) If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or trustee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting as if the committee, trustee or other person were the Holder.

## 11 Joint Holders

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Joint Holders are counted as a single Holder for the purposes of calculating the number of Holders who have:

- (a) requested a Meeting under section 252B(1) of the Corporations Act;
- (b) given the Responsible Entity notice of a Special Resolution or extraordinary resolution they propose to move at a Meeting under section 252L(1) of the Corporations Act;
- (c) requested that a statement be distributed to members under section 252N of the Corporations Act; or
- (d) demanded a poll under section 253L of the Corporations Act.

## 12 Annual general meeting

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- (a) While any Units or Options are JSE Listed, the Responsible Entity must hold an annual general Meeting (**AGM**) at least once in each calendar year and within 5 months of the end of its Financial Year.
- (b) The business of an AGM may include the consideration of the annual financial report, directors' report and auditor's report in relation to the Trust, even if not referred to in the notice of meeting.
- (c) While any Units or Options are Listed, the Responsible Entity must report to Holders for a Financial Year by providing either of the following to the Holders in accordance with section 314 of the Corporations Act:

- (1) all of the following reports:
    - the financial report for the Financial Year;
    - the directors' report for the Financial Year; and
    - the auditor's report on the financial report; or
  - (2) a concise report for the year,
- by the deadline for reporting to Holders under clause 11(d) of this Schedule 1.
- (d) The deadline for reporting to Holders is the earlier of:
- (1) 20 Business Days before the next AGM after the end of the Financial Year; and
  - (2) 3 months after the end of the Financial Year.

## 13 Class Meetings

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- (a) The relevant provisions of Part 2G.4 of the Corporations Act, clause 14 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Holders of different classes of Units except that:
- (1) the quorum for any Meeting of Holders of a class of Units is:
    - where the Trust has only 1 Holder of Units of the relevant class, 1 Holder;
    - where the Trust has only 2 Holders of Units of the relevant class, 2 Holders; and
    - where the Trust has 3 or more Holders of Units of the relevant class, 3 Holders,

present at the Meeting, either in person or by attorney, representative or proxy; and
  - (2) any Holder of Units of the relevant class present at the Meeting, either in person or by attorney, representative or proxy, may demand a poll.
- (b) The relevant provisions of Part 2G.4 of the Corporations Act, clause 14 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Holders of different classes of Options except that:
- (1) the quorum for any Meeting of Holders of a class of Options is:
    - where the Trust has only 1 Holder of Options of the relevant class, 1 Holder;
    - where the Trust has only 2 Holders of Options of the relevant class, 2 Holders; and
    - where the Trust has 3 or more Holders of Options of the relevant class, 3 Holders,

present at the Meeting, either in person or by attorney, representative or proxy; and

- (2) any Holder of Options of the relevant class present at the Meeting, either in person or by attorney, representative or proxy, may demand a poll.

## Schedule 2

### Stapling provisions

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(Clause 16)

## 1 Definitions

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### 1.1 Definitions in Schedule

The meanings of the terms used in this Schedule 2 are set out below.

Term	Meaning
<b>Attached Option Security</b>	<p>in relation to an Option, an option or similar Security:</p> <ol style="list-style-type: none"><li>1 giving its holder the right, but not the obligation, to subscribe for Attached Securities which, on issue, will be Stapled to Units of the class to which the Option relates;</li><li>2 which may only be exercised, and which expires, at the same time and on the same basis as the Option; and</li><li>3 which is Stapled together with the Option (whether or not it is Stapled together with other Securities) to form a Stapled Security.</li></ol>
<b>Capital Reallocation Issue</b>	<p>an issue of Units in the circumstances contemplated by clause 3.3.</p>
<b>Corresponding Number</b>	<ol style="list-style-type: none"><li>1 in relation to an Attached Security other than a Unit or other than an Option, at any time the number of those Attached Securities that are Stapled to a Unit or to an Option (as applicable) at the relevant time;</li><li>2 in relation to a Unit, at any time the number of Units that are Stapled to the relevant Attached Security at the relevant time; and</li><li>3 in relation to an Option, at any time the number of Options that are Stapled to the relevant Attached Security at the relevant time</li></ol>
<b>Foreign Holder Sale Facility</b>	<p>the facility described in clause 3.2, under which Ineligible Foreign Holders are required to transfer Securities to a sale nominee to participate in a Stapling of the Securities, sell the resulting Stapled Securities and pay the net sale proceeds to the relevant person.</p>



<b>Term</b>	<b>Meaning</b>
<b>Ineligible Foreign Holder</b>	a person that the Responsible Entity determines to be an Ineligible Foreign Holder under clause 3.2(a).
<b>Stapled Security Register</b>	the register of Stapled Securities to be established and maintained by or on behalf of the Responsible Entity in accordance with clause 2.12.
<b>Stapling Date</b>	the time and date the Responsible Entity determines under clause 3.1(a)(2) of this Schedule 2 to be the time when Units or Options are Stapled to an Attached Security or Attached Securities.
<b>Unstapling Date</b>	the date the Responsible Entity determines to be the Unstapling Date under clause 3.5(a) or the date which is the Unstapling Date pursuant to clause 3.5(b).

Otherwise, unless expressly defined in this clause 1.1, expressions defined in the body of the deed have the same meaning in this Schedule 2.

## **1.2 Clause references**

Unless expressly provided otherwise, a reference in this Schedule 2 to a clause is a reference to a clause of this Schedule 2.

## **1.3 References to the deed**

In this Schedule 2, references to 'the deed' are references to the body of the deed to which this Schedule 2 is a schedule, and references to 'this deed' are references to this deed as a whole, including all schedules.

# **2 Stapling**

## **2.1 Operation of Stapling provisions**

- (a) This clause 2 applies from the first Stapling Date for so long as a Unit or Option continues to be a component of a Stapled Security.
- (b) Despite Stapling, each of the Stapled Entities remains a separate legal entity.

## **2.2 Units and Options to be Stapled**

- (a) Each Unit and the Corresponding Number of each other Attached Security must be Stapled to form a Stapled Security.
- (b) Each Option and the Corresponding Number of each other Attached Option Security must be Stapled to form a Stapled Security.

- (c) For purposes of this Schedule 2, an option or similar Security giving its holder the right, but not the obligation, to subscribe for Stapled Securities will be regarded as a Stapled Security comprising Options and Attached Option Securities, whether or not it is expressed to comprise multiple Securities or instruments and regardless of whether it is granted by one, some or all of the Stapled Entities.

## 2.3 Issue of Securities

- (a) The Responsible Entity must not issue or sell Units, or offer or agree to do so, unless:
- (1) in the case of an offer, an offer to issue or sell the Corresponding Number of each relevant Attached Security is made to the same person at the same time, and the offer requires the person to subscribe for or buy the Corresponding Number of each relevant Attached Security at the same time;
  - (2) in the case of an agreement, the same person agrees to subscribe for or buy the Corresponding Number of each relevant Attached Security at the same time;
  - (3) in the case of an issue or sale, the Corresponding Number of each relevant Attached Security is also issued or sold to the same person at the same time; and
  - (4) the Responsible Entity is satisfied that each of the Units will be Stapled to the Corresponding Number of each Attached Security to form a Stapled Security,
- or the Units are issued as part of a Capital Reallocation Issue.
- (b) The Responsible Entity must not grant Options, or offer or agree to do so, unless:
- (1) in the case of an offer, an offer is made to the same person of to grant the Corresponding Number of each relevant Attached Option Security at the same time, and the offer requires the person to subscribe for the Corresponding Number of each relevant Attached Option Security at the same time;
  - (2) in the case of an agreement, the same person agrees to subscribe for the Corresponding Number of each relevant Attached Option Security at the same time;
  - (3) in the case of a grant, the Corresponding Number of each relevant Attached Option Security is also granted to the same person at the same time; and
  - (4) the Responsible Entity is satisfied that each of the Options will be Stapled to the Corresponding Number of each Attached Option Security to form a Stapled Security.

## 2.4 Issue at fixed price

In addition to any other power the Responsible Entity has to issue Units or Options under this deed, the Responsible Entity may issue Units or Options at any time to any person at an Issue Price as follows:

- (a) where Units are Stapled and the relevant Stapled Securities are Listed (and have not been suspended from Listing other than temporarily) on at least one of

the JSE or the ASX, at a price that the Responsible Entity determines, but only if the total of the Issue Price of that Unit and the issue price of all Attached Securities to which that Unit will be Stapled is equal to the Market Price for the relevant Stapled Securities immediately before the date upon which the Unit is issued or offered for issue; and

- (b) where Options are Stapled and the relevant Stapled Securities are Listed (and have not been suspended from Listing other than temporarily) on at least one of the JSE or the ASX, at a price that the Responsible Entity determines, but only if the total of the Issue Price of that Option and the issue price of the Attached Security or Attached Securities to which that Option will be Stapled is equal to the Market Price for the relevant Stapled Securities immediately before the date upon which the Option is offered or granted; and
- (c) where Stapled Securities have been suspended from Listing (other than temporarily) or have otherwise ceased to be Listed on both the JSE and the ASX, Units at the Current Unit Value.

## 2.5 Placements

- (a) Where Stapled Securities are Listed on the ASX (and have not been suspended from Listing other than temporarily) whether or not they are Listed on any other foreign market including the JSE, in addition to any other power the Responsible Entity has to issue Units or grant Options under this deed, the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, if the Responsible Entity complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the issue under the placement; and
  - (2) the Listing Rules and the Listings Requirements, to the extent those rules or requirements apply to the issue.
- (b) Where Stapled Securities are not ASX Listed but are JSE Listed or listed on any other foreign market (and have not been suspended from Listing other than temporarily on the relevant market) then the Responsible Entity may issue Units or grant Options at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4 if:
  - (1) the issue, together with any related issue (as defined in ASIC Class Order [CO 13/655]) in the previous year, immediately before the issue, does not comprise more than 15% of the Units or Options in the relevant class; or
  - (2) Holders who hold Units or Options in the same class approve the issue by a Placement Resolution, and each of the other conditions and restrictions of any applicable ASIC Relief if any on which the Responsible Entity relies for the issue under the placement are met.

## 2.6 Rights issues

In addition to any other power the Responsible Entity has to issue Units under this deed, subject to compliance with:

- (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the rights issue; and

- (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply,

the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, if:

- (a) the Stapled Securities have been offered to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11) as at a record date that the Responsible Entity determines, in proportion to the value of each relevant Holder's interest in the Trust as at that record date; and
- (b) all the Stapled Securities offered are in the same class.

## 2.7 Distribution reinvestment issues

In addition to any other power the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 6.2, 6.3 or 6.10 of the deed, or clause 2.4, pursuant to a distribution reinvestment arrangement referred to in clause 13.8 of the deed where:

- (a) all or part of a Holder's Distributable Amount is applied in payment for the subscription for Stapled Securities; and
- (b) the Responsible Entity complies with:
  - (1) the conditions and restrictions of any applicable ASIC Relief on which the Responsible Entity relies for the distribution reinvestment; and
  - (2) the Listing Rules and the Listings Requirements to the extent those rules or requirements apply in respect of the distribution reinvestment.

## 2.8 Allocation of Issue Price

Where Units or Options are issued as a component of a Stapled Security, the Responsible Entity and each other Stapled Entity may agree how much of the issue price (if any) of the Stapled Security will be allocated to the Issue Price of the Unit or Option (as the case may be).

## 2.9 Exercise of Options

- (a) The Responsible Entity must not give effect to the exercise of an Option unless the exercise of a Corresponding Number of each relevant Attached Option Security is given effect at the same time.
- (b) An exercise of an Option forming part of a Stapled Security will only be accepted as a proper exercise if it relates to or is accompanied by (or is taken to under clause 2.9(c) to authorise) the exercise of a Corresponding Number of each relevant Attached Option Security by the Optionholder;
- (c) An exercise of an Option which is not accompanied by an exercise of the Corresponding Number of each relevant Attached Option Security will be taken to authorise the Responsible Entity as agent for the Optionholder to exercise the Corresponding Number of each relevant Attached Option Security by the Optionholder;
- (d) An exercise of any Attached Option Security which is not accompanied by an exercise of the Corresponding Number of Options will be taken to authorise the

Responsible Entity as agent for the Optionholder exercise a Corresponding Number of Options and any other Attached Option Securities to which the Attached Option Security is Stapled.

- (e) Each Optionholder irrevocably appoints the Responsible Entity as the agent and attorney of the Optionholder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous exercise of an Option and the relevant Attached Option Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

## 2.10 Dealings in Securities

- (a) The Responsible Entity and the Holders must neither take any action, nor omit to take any action, where such action or inaction (as applicable) would result, directly or indirectly, in any Unit or Option no longer being a component of a Stapled Security (other than unstapling in accordance with clause 3.5). In particular:
  - (1) the Responsible Entity must take all reasonable steps to ensure that Listed Stapled Securities remain Listed as a stapled security;
  - (2) the Responsible Entity must not register the transfer or transmission of Units or Options unless it or another Stapled Entity also causes the registration of the transfer or transmission (as the case may be) of a Corresponding Number of each relevant Attached Security at the same time;
  - (3) the Responsible Entity must not impose, or cause to be imposed, any holding lock or other restriction on transfer of Units or Options unless a holding lock or restriction on transfer is imposed on each other relevant Attached Security;
  - (4) the Responsible Entity must not give effect to the forfeiture of a Unit unless the Corresponding Number of each relevant Attached Security is forfeited at the same time, and on forfeiture (as applicable) is sold, reissued or otherwise disposed of to the same person at the same time, under this deed or corresponding provisions of any other Constituent Document; and
  - (5) the Responsible Entity must not consolidate, split, redeem, repurchase, cancel or otherwise reorganise any Units or Options unless at the same time there is a corresponding consolidation, split, forfeiture, redemption, cancellation or other reorganisation of all relevant Attached Securities.
- (b) A transfer of a Unit or Option forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if the transfer relates to or is accompanied by (or is taken under clause 2.10(c) to authorise) a transfer of the Corresponding Number of each relevant Attached Security from the same transferor in favour of the same transferee.
- (c) A transfer of a Unit or Option which is not accompanied by a transfer of the Corresponding Number of each relevant Attached Security will be taken to authorise the Responsible Entity as agent for the transferor to transfer of the Corresponding Number of each relevant Attached Security from the same transferor to the same transferee.

- (d) A transfer of any Attached Security which is not accompanied by a transfer of the Corresponding Number of Units or Options (as applicable) will be taken to authorise the Responsible Entity as agent for the transferor to transfer of a Corresponding Number of Units or Options (as applicable) and any other Attached Securities to which the Attached Security is Stapled to the same transferee.
- (e) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous transfer or transmission of a Unit and the relevant Attached Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (f) Nothing in this clause 2.10 prevents an acquisition of any Securities in accordance with clause 3.4.

## 2.11 Forfeiture

- (a) If a Unit or any of the other Attached Securities comprising a Stapled Security otherwise becomes liable to forfeiture under this deed or any other applicable Constituent Document, the Responsible Entity may apply the provisions of clause 4 of the deed, with such changes as are prescribed in the relevant Constituent Document in relation to such forfeiture or as are otherwise necessary, in respect of all of the Attached Securities constituting the relevant Stapled Security in order to ensure that each Attached Security is forfeited at the same time, and on forfeiture (as applicable) is sold, reissued or otherwise disposed of to the same person at the same time, pursuant to substantially similar procedures.
- (b) For these purposes:
  - (1) a forfeiture of a Unit will be taken to authorise the Responsible Entity as agent for the relevant Holder to transfer the Corresponding Number of each relevant Attached Security from the Holder as it sees fit for purposes of giving effect to the forfeiture and sale of the Forfeited Unit;
  - (2) a forfeiture of an Attached Security will be taken to authorise the Responsible Entity as agent for the relevant Holder to transfer the Corresponding Number of Units and any other Attached Securities from the Holder as it sees fit for purposes of giving effect to the forfeiture and sale of the forfeited Attached Security; and
  - (3) the Responsible Entity and other Stapled Entities may allocate the sale proceeds as between their respective Costs and liabilities and, where a Holder has failed to pay amounts in respect of more than one Attached Security comprising the relevant Stapled Security, outstanding interest and amounts, as they may agree.
- (c) Each Holder irrevocably appoints the Responsible Entity as the agent and attorney of the Holder to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to give effect to the simultaneous transfer of a Unit and the relevant Attached Securities for purposes of giving effect to the forfeiture and sale of the forfeited Securities. The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

## 2.12 Stapled Security Register

The Responsible Entity must establish and maintain a Stapled Security Register which:

- (a) may incorporate or form part of the relevant Register;
- (b) records the names of the Holders, the number of Units or Options held, the number of the relevant Attached Securities to which each Holder's Units or Options are Stapled and any additional information required by the Corporations Act or the Listings Requirements (if applicable) or determined from time to time by the Responsible Entity.

Details of all Stapled Securities sufficient to identify the Attached Securities which comprise the Stapled Security and their relevant Corresponding Numbers must be registered in the Stapled Security Register.

## 2.13 Certificates and transfers

The Responsible Entity and each other Stapled Entity may:

- (a) issue joint certificates or holding statements for all Attached Securities comprising a Stapled Security;
- (b) prescribe that a joint transfer form be used to transfer all Attached Securities comprising a Stapled Security; and
- (c) issue a joint transaction advice for all Attached Securities comprising a Stapled Security.

## 2.14 US Sale Facility

The Responsible Entity may determine that a holder (or person seeking to be recorded in the Register as a holder) of Stapled Securities is an Excluded US Person, if it reasonably believes that the person is a US Person who is not a QIB-QP or holds or will hold Stapled Securities for the account or benefit of any US Person who is not a QIB-QP. If the Responsible Entity makes such a determination:

- (a) clause 8.9 of the deed will apply as if references to Units and Options included references to Stapled Securities; and
- (b) the Responsible Entity may determine the allocation of the net sale proceeds of the sale of the Stapled Securities as between the component Attached Securities comprising the relevant Stapled Securities as it sees fit.

## 2.15 Meetings

- (a) A Meeting may be held in conjunction with meetings of the holders of other Attached Securities and, subject to the Corporations Act, the Responsible Entity may make such rules for the conduct of such meetings as the Responsible Entity determines.
- (b) Subject to the Corporations Act, the same form may be used to appoint a proxy or corporate representative in respect of a Meeting and the meetings of holders of other Attached Securities held in conjunction with the Meeting.
- (c) Representatives and auditors of each Stapled Entity may attend and speak at any Meeting, and may invite any other person to attend and speak.

## 2.16 Duties

Subject to the Corporations Act, but despite anything to the contrary in any of the Constituent Documents or in any applicable law, in making any determination, election or decision, in exercising any right, power or remedy and in performing any function or obligation, the Responsible Entity may have regard to the interests of Holders of Stapled Securities as a whole and not only the interests of holders of the relevant Units or Options comprising the relevant Stapled Securities.

## 2.17 Dealings between Stapled Entities

- (a) The Responsible Entity, or an officer, employee or Associate of the Responsible Entity, may:
- (1) act in any fiduciary, vicarious, professional or other capacity, including as a banker, accountant, auditor, valuer, solicitor, independent contractor or other consultant or adviser to or representative, delegate, attorney or agent of another Stapled Entity;
  - (2) have an interest in or enter into a contract or transaction with any Stapled Entity or an Associate of the Stapled Entity;
  - (3) hold or deal in or have any other interest in an asset of any other Stapled Entity,
- and may retain, and is not required to account for, any benefit derived by doing so.
- (b) Without limiting clause 2.17(a) or its powers under any other Constituent Documents, the Responsible Entity may, in its capacity as trustee or Responsible Entity of the Trust, and each other Stapled Entity may:
- (1) provide loans, indemnities and other financial assistance to each other;
  - (2) provide guarantees and indemnities in favour of third parties in respect of each others' liabilities; and
  - (3) provide security to each other or to third parties in respect of such loans, indemnities, guarantees and other financial assistance.
- (Cross-Staple Assistance).**
- (c) Such Cross-Staple Assistance may be provided on such terms as the Stapled Entities consider appropriate, having regard to the interests of Holders of Stapled Securities as a whole (including for no or nominal consideration).
- (d) Despite anything else in this clause 2, the Responsible Entity may issue Units or Options to another Stapled Entity, without such Units or Options having to be Stapled to Attached Securities. However, the Responsible Entity must not register the transfer or transmission of such Units or Options other than:
- (1) a transfer or transmission to another Stapled Entity; or
  - (2) if a Corresponding Number of each relevant Attached Security are transferred, issued or granted to the transferee and Stapled to the Units or Options immediately on the Units or Options being transferred to the transferee.



## 2.18 Variation of Stapling provisions

The consent of each other Stapled Entity must be obtained to any amendment to this deed which:

- (a) directly affects the terms on which Units or Options are Stapled; or
- (b) removes any restriction on the transfer of a Stapled Unit or Option unless that restriction also is simultaneously removed for all relevant Attached Securities.

## 3 Corporate actions

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### 3.1 Stapling

- (a) Subject to clause 3.1(d), the Corporations Act, and if Units are Listed (whether alone or as a component part of a Stapled Security) the Listings Requirements and the Listing Rules, at any time the Responsible Entity may:
  - (1) determine that Securities of any class or type be Stapled to a Unit (including where the Unit is already a component of a Stapled Security);
  - (2) determine the time and date when the Stapling of any proposed Attached Security to a Unit is to take effect; and
  - (3) to the maximum extent permitted by law, where the issuer of a security which is proposed to be an Attached Security is the Responsible Entity (albeit in a different capacity), the proposed Attached Security will be taken to be issued at the same time as the Unit to which it is to be Stapled is taken to be issued under clause 7.7(a), despite anything in the Constituent Document of the proposed Attached Security.
- (b) The Responsible Entity may Staple to a Unit (or to an existing Stapled Security):
  - (1) Securities of any class or type, including Securities issued by the Responsible Entity, another already-Stapled Entity or any other entity;
  - (2) more than one class or type of Securities; and
  - (3) a fraction of one, one, or more than one, Security of a class or type, so that different numbers of different classes or types of Securities may be Stapled together (in which case the relevant fraction or number will become the Corresponding Number in relation to a Unit).
- (c) Subject to clause 3.1(d), if the Responsible Entity determines to Staple a Unit to other Securities and there are Options in respect of such Units on issue, the Responsible Entity may take all steps which it reasonably considers necessary, incidental or desirable to ensure that the Options are Stapled to other options or Securities so that on exercise of the resulting Stapled Security (of which the Option is a component) in accordance with its terms, the Holder will receive the Stapled Securities of which the Unit is a component.
- (d) The Responsible Entity may only cause a Stapling as contemplated by clauses 3.1(a) or 3.1(b) if:
  - (1) each other Stapled Entity (excluding the issuer of the Security to be Stapled) has agreed to the Stapling of the Security and that it is in the

- best interests of their investors as a whole and consistent with the Stapled Group's investment objectives;
- (2) the Constituent Documents of the issuer of the Security to be Stapled have provisions giving effect to the Stapling (whether or not such provisions are in the same form as this Schedule 2);
  - (3) all approvals to implement the Stapling which are required under any law, by the Listings Requirements (if the Units are Listed) or by any Constituent Documents of any of the Stapled Entities have been obtained.
- (e) The Responsible Entity has the power to do all things which it reasonably considers necessary, incidental or desirable to implement a Stapling, including:
- (1) consolidating or splitting any Securities;
  - (2) making a distribution or payment to a Holder;
  - (3) redeeming any Securities of a Holder;
  - (4) issuing or transferring Securities to a Holder by any means; or
  - (5) entering a Holder as holder of Securities in the relevant Register whether or not the Responsible Entity has received an application, transfer or other document in respect of those Securities, in which case the Holder becomes the holder of those Securities with effect from the date their name is recorded in the relevant Register as holder of those Securities.
- (f) This clause 3.1 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.1 does not operate to the extent of any inconsistency.

### 3.2 Ineligible Foreign Holders

- (a) Where a Stapling is proposed, the Responsible Entity may determine that a Foreign Holder is an Ineligible Foreign Holder if the Responsible Entity considers that it would be in the best interests of Holders to do so, including having regard to matters such as:
- (1) the number of Foreign Holders in the relevant jurisdiction and the number and value of Units, Options or Stapled Securities held by such Foreign Holders; and
  - (2) the cost of complying with legal and regulatory requirements for the offer, issue or transfer of Securities in the relevant jurisdiction.
- (b) The Responsible Entity may at any time give a notice to a Holder who is an Ineligible Foreign Holder requiring the disposal of their Units, Options and Stapled Securities (Sale Securities) (free of encumbrances) either to a person appointed by the Responsible Entity to sell the Sale Securities (**Sale Nominee**) or to a person who is not an Ineligible Foreign Holder before the Business Day preceding the relevant record date for Stapling.
- (c) Each Holder who is an Ineligible Foreign Holder must comply with a notice given under clause 3.2(b). If a Holder does not do so, at any time after the end of the period specified in that clause 3.2(b):
- (1) the Responsible Entity, as agent for the Holder, may transfer the Ineligible Foreign Holder's Sale Securities (free of encumbrances) to the Sale Nominee; and

- (2) the Responsible Entity may enter the Sale Nominee as holder of the Sale Securities in the relevant Register whether or not the Responsible Entity has received a transfer or other document in respect of those Securities, in which case the Sale Nominee becomes the holder of those Sale Securities with effect from the date its name is recorded in the relevant Register as holder of those Units, Options or Stapled Securities.
- (d) Each Holder who is an Ineligible Foreign Holder consents to the sale, and directs, the Sale Nominee:
  - (1) to participate in the Stapling in respect of the relevant Sale Securities
  - (2) to sell the Stapled Securities comprising the relevant Sale Securities; and
  - (3) to pay the net proceeds of the sale of such Stapled Securities after deducting the sale Costs (**Sale Proceeds**) to the Holder as soon as practicable after completion of the sale of the relevant Sale Securities.
- (e) The Responsible Entity must ensure that the Sale Nominee pays the Sale Proceeds to which the relevant Holder is entitled as soon as practicable after completion of the sale of the relevant Sale Securities.
- (f) Each Holder who is an Ineligible Foreign Holder irrevocably appoints the Responsible Entity as the Holder's agent and attorney to do on behalf of the Holder all things that the Responsible Entity reasonably considers necessary, incidental or desirable to implement the Foreign Holder Sale Facility, including:
  - (1) executing transfers and other documents, and receiving, holding and paying money; and
  - (2) transferring any Units, Options or Stapled Securities to the Sale Nominee or as otherwise contemplated by the Foreign Holder Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.
- (g) Each Holder acknowledges that the exercise of the powers in this clause 3.2 may materially adversely affect individual Holders (including having potentially adverse tax or financial consequences) but that this is necessary to enable the Foreign Holder Sale Facility to be implemented.
- (h) This clause 3.2 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.2 does not operate to the extent of any inconsistency.

### 3.3 Capital Reallocation

- (a) At any time, the Responsible Entity may issue Units (**Capital Reallocation Units**) in either of the following circumstances:
  - (1) the Responsible Entity is satisfied that immediately following the issue of any Capital Reallocation Units, those Capital Reallocation Units will be distributed pro rata to the holders of Stapled Securities; or
  - (2) another Stapled Entity (or its trustee, responsible entity or general partner) makes an Application for Capital Reallocation Units as agent for the holders of Stapled Securities and applies a distribution of

capital of that Stapled Entity towards payment of the Application Money for those Capital Reallocation Units.

- (b) Immediately following the distribution referred to in clause 3.3(a)(1), or the issue of Capital Reallocation Units referred to in clause 3.3(a)(2), the Responsible Entity must consolidate the Capital Reallocation Units with all other Units then on issue in the Trust so that the total number of Units on issue after the consolidation is equal to the total number of Units on issue immediately before the Capital Reallocation Issue took place.
- (c) The Responsible Entity does not need to notify the Holder of this consolidation of Units.
- (d) Without limiting any other provision in this clause 3.3, at any time, the Responsible Entity may:
  - (1) make a pro rata distribution of capital in respect of its Units to Holders, and apply the distribution on behalf of the relevant Holders towards payment to another Stapled Entity of additional subscription amounts in respect of Attached Securities issued by that Stapled Entity to those Holders; or
  - (2) receive any pro rata distributions applied by another Stapled Entity (or its trustee, responsible entity or general partner) as agent for the holders of the Attached Securities which are Stapled with Units towards payment of additional subscription amounts in respect of Units to which the Attached Securities are Stapled.
- (e) This clause 3.3 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.3 does not operate to the extent of any inconsistency.

### 3.4 Interposition of Head Trust

- (a) At any time, the Responsible Entity may establish a trust (**Head Trust**) of which the Responsible Entity or a related body corporate (as defined in the Corporations Act) of the Responsible Entity is the trustee (**Head Trustee**) and cause all of the Units and Options on issue (and if Stapling applies, the relevant other Attached Securities) to be held by or on behalf of the Head Trustee on the trusts of the constitution of the Head Trust if:
  - (1) the Responsible Entity is satisfied that to do so is in the best interests of Holders as a whole;
  - (2) units and (if applicable) options in the Head Trust are issued only to the Holders in proportion to the number of Units and Options (or if Stapling applies, the number of the relevant Stapled Securities) held by each Holder; and
  - (3) immediately following such issue, the only assets of the Head Trust are the Units and Options on Issue at that time (and if Stapling applies, the relevant Attached Securities) and the only issued securities of the Head Trust are the units and options issued in accordance with clause 3.4(a)(2).
- (b) For these purposes, the Responsible Entity may:
  - (1) acquire Attached Securities to be held as an Asset of the Fund; or
  - (2) transfer Units and Options to another Stapled Entity (or its trustee, responsible entity or general partner).

- (c) This clause 3.4 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.4 does not operate to the extent of any inconsistency.

### 3.5 Unstapling

- (a) Subject to approval by a Special Resolution of members of each Stapled Entity, the Responsible Entity may determine that the Stapling provisions of this deed will cease to apply and that a particular date is to be the Unstapling Date.
- (b) The Stapling provisions of this deed automatically cease to apply when all of the Units and Options on issue are held as assets of a Head Trust and all Attached Securities become assets of the Head Trust as contemplated by clause 3.4 and that date is the Unstapling Date.
- (c) On and from the Unstapling Date, each Unit and Option ceases to be Stapled to the relevant Attached Securities and the Responsible Entity must do all things reasonably necessary to cause each Unit and Option to be Unstapled.
- (d) If the Responsible Entity determines to unstaple the Stapled Securities pursuant to this clause 3.5, that does not prevent the Responsible Entity:
  - (1) subsequently determining that the Stapling provisions should recommence; or
  - (2) Stapling an unstapled Unit or Option to any other Securities.
- (e) This clause 3.5 has effect despite any other provision of this deed or any other Constituent Document and any provision of this deed or other Constituent Document which is inconsistent with this clause 3.5 does not operate to the extent of any inconsistency.

### 3.6 Appointment of attorney

- (a) For the purposes of implementing a Stapling under clause 3.1, the Foreign Holder Sale Facility under clause 3.2, a Capital Reallocation Issue under clause 3.3, the interposition of a Head Trust under clause 3.4 or an unstapling under clause 3.5, and any other transactions referred to in those provisions (**Relevant Transactions**), each Holder irrevocably appoints the Responsible Entity as the Holder's agent and attorney to execute all documents and do all things which the Responsible Entity reasonably considers necessary, incidental or desirable to implement the Relevant Transactions, including:
  - (1) executing applications, withdrawals, transfers and other documents, and receiving, holding and paying money;
  - (2) applying for and acquiring (whether by subscription, purchase or otherwise) Securities;
  - (3) applying distributions, redemption proceeds or other payments to pay for the subscription for or purchase of Securities;
  - (4) accepting an issue or transfer of Securities;
  - (5) agreeing that the Holder will become a member of a Stapled Entity (or entity proposed to be become a Stapled Entity);
  - (6) transferring any Securities to a sale nominee or as otherwise contemplated by the Foreign Holder Sale Facility; and

- (7) pay any distributions, redemption proceeds or other payments to the sale nominee or as otherwise contemplated by the Foreign Holder Sale Facility.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Holder.

- (b) For the purposes of implementing a Relevant Transaction, each Holder irrevocably appoints the Responsible Entity as the Holder's proxy to vote at any Meeting or any meeting of any other Stapled Entity or entity proposed to become a Stapled Entity in favour of any resolution to approve or implement a Stapling. The Holder must not direct the Responsible Entity or otherwise interfere with the Responsible Entity's exercise of its proxy.

## Schedule 3

### Takeover provisions

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(Clause 17)

## 1 Definitions

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### 1.1 Definitions in Schedule

The meanings of the terms used in this Schedule 3 are set out below.

Term	Meaning
<b>Associate</b>	has the meaning given in sections 12(2), (3), (4) and (5), subject to section 16(1), of the Corporations Act.
<b>Australian Law and Policy</b>	<ol style="list-style-type: none"><li>1 decisions of an Australian court;</li><li>2 published regulatory guides and other guidelines and public releases issued by ASIC; and</li><li>3 published decisions, rules, guidance notes and other guidelines and public releases issued by the Takeovers Panel,</li></ol> each in relation to the Corporations Act (and any predecessor legislation).
<b>Bid Securities</b>	the Units or Options being bid for under a Takeover Bid (including where such Units or Options are Stapled to other Securities).
<b>Control</b>	<p>in relation to an entity:</p> <ol style="list-style-type: none"><li>1 the possession, direct or indirect, of the power to direct or cause the direction of the management, policies or activities of the entity, whether through the ownership of securities, by contract or agency or otherwise; or</li><li>2 having a Relevant Interest in Securities which together carry the right to cast 20% or more of the total number of votes that may be cast at a general meeting of holders of Securities of that entity,</li></ol> and <b>Common Control</b> has a corresponding meaning.

Term	Meaning
<b>Independent Counsel</b>	<ol style="list-style-type: none"> <li>1 an Australian legal practitioner at the New South Wales or Victorian bar who has been appointed as a senior counsel or queen's counsel and who has practised in the commercial field for at least 15 years; or</li> <li>2 a partner experienced in Australian mergers and acquisitions of a major Australian commercial law firm,</li> </ol> <p>in either case, being independent of the Responsible Entity or any other interested party and not otherwise having a material personal interest in the matter.</p>
<b>On Market Transaction</b>	a transaction that is given effect on a Securities Exchange in the ordinary course of trading on that Securities Exchange.
<b>Regulated Bid</b>	<p>a bid for Units or Options made in compliance (so far as is possible) with Parts 6.4, 6.5, 6.6 and 6.8 of the Corporations Act in respect of off-market bids (as defined in the Corporations Act) as if the Trust were a Registered Scheme to which Chapter 6 of the Corporations Act applied (pursuant to section 604 of the Corporations Act) and were the target (as defined in the Corporations Act), subject to:</p> <ol style="list-style-type: none"> <li>1 any requirement in those provisions for a document to be lodged with ASIC being taken to be satisfied if the document is given to each Securities Exchange instead; and</li> <li>2 any other modifications or exemptions that the Responsible Entity and person making the bid agree in accordance with clause 4.3.</li> </ol>
<b>Related Entity</b>	<p>in relation to an entity:</p> <ol style="list-style-type: none"> <li>1 any entity, directly or indirectly, through one or more intermediaries that is a related body corporate of (as that term is defined in the Corporations Act) that entity; or</li> <li>2 any entity that, directly or indirectly, Controls, is Controlled by, or is under Common Control with, that entity.</li> </ol>
<b>Relevant Interest</b>	<p>subject to clause 2.3, a person has a <b>Relevant Interest</b> in Securities if they:</p> <ol style="list-style-type: none"> <li>1 are the holder of the Securities;</li> <li>2 have power to exercise, or control the exercise of, a right to vote attached to the Securities; or</li> <li>3 have power to dispose of, or control the exercise of a power to dispose of, the Securities.</li> </ol> <p>It does not matter how remote the relevant interest is or how it arises. If 2 or more people can jointly exercise one of these powers, each of them is taken to have that power.</p>



Term	Meaning
	<p>For these purposes, power or control includes:</p> <ol style="list-style-type: none"> <li>4 power or control that is indirect;</li> <li>5 power or control that is, or can be, exercised as a result of, by means of or by the revocation or breach of a trust, an agreement, a practice (or any combination of them), whether or not they are enforceable; and</li> <li>6 power or control that is, or can be made, subject to restraint or restriction.</li> </ol> <p>It does not matter whether the power or control is express or implied, formal or informal, exercisable alone or jointly with someone else. It does not matter that the power cannot be related to a particular Security.</p>
<b>Securities Exchange</b>	any securities exchange on which Units or Options are listed or quoted, including the JSE, and where Units or Options are listed or quoted on more than one securities exchange, the securities exchange nominated by the Responsible Entity as the primary securities exchange in relation to the Units or Options.
<b>Substantial Holder</b>	a person who has a Substantial Holding.
<b>Substantial Holding</b>	<p>a person has a Substantial Holding if the total votes attached to Units or Options in which the person or their Associates:</p> <ol style="list-style-type: none"> <li>1 have a Relevant Interest; or</li> <li>2 would have a Relevant Interest but for the operation of clause 2.3(f) or clause 2.3(g),</li> </ol> <p>is 5% or more of the total number of votes attached to all Units and Options on issue.</p>
<b>Takeover Bid</b>	a bid for Units or Options, or both, that at all relevant times is consistent with the purposes in clause 1.4 and complies with clauses 4.1 and 4.2.
<b>Voting Power</b>	<p>a person's <b>Voting Power</b> in the Trust calculated in accordance with the following formula:</p> $VP = \frac{V}{TV}$ <p>Where:</p> <p><b>VP</b> is the person's <b>Voting Power</b></p>

Term	Meaning
<b>V</b>	is the total number of votes attached to all the Units and Options (if any) in which the person or an Associate directly or indirectly has a Relevant Interest
<b>TV</b>	is the total number of votes attached to all Units and Options on issue.

Unless expressly defined in this clause 1.1, expressions defined in the body of the deed have the same meaning in this Schedule 3.

## 1.2 Clause references

Unless expressly provided otherwise, a reference in this Schedule 3 to a clause is a reference to a clause of this Schedule 3.

## 1.3 References to the deed

In this Schedule 3, references to 'the deed' are references to the body of the deed to which this Schedule 3 is a schedule, and references to 'this deed' are references to this deed as a whole, including all schedules.

## 1.4 Purpose

The purpose of this Schedule 3 is to ensure that:

- (a) the acquisition of control over Units and Options takes place in an efficient, competitive and informed market; and
- (b) the Responsible Entity and each Holder:
  - (1) knows the identity of any person who proposes to acquire a substantial interest in the Trust;
  - (2) is given reasonable time to consider a proposal to acquire a substantial interest in the Trust; and
  - (3) is given enough information to assess the merits of a proposal to acquire a substantial interest in the Trust; and
- (c) as far as practicable, the Holders all have a reasonable and equal opportunity to participate in any benefits accruing to the Holders through any proposal under which a person would acquire a substantial interest in the Trust.

In interpreting this Schedule 3, a construction that would promote the purpose of these provisions is to be preferred to a construction that would not promote that purpose.

## 1.5 Disclosure to Securities Exchange

The Responsible Entity may give any document received under clauses 4, 5 and 6, to the Securities Exchange for purposes of announcement by the Securities Exchange, and may make such arrangements with the operator of the Securities Exchange for delivery and public announcement of such documents as it considers appropriate.

## 2 Prohibited acquisitions

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### 2.1 20% maximum

Subject to the exceptions in clause 3.3, a person must not acquire a Relevant Interest in a Security if, because of the acquisition, that person's or someone else's Voting Power in the Trust increases:

- (a) from 20% or below to more than 20%; or
- (b) from a starting point that is above 20% and below 90%.

Any holding of a Unit or an Option or acquisition of a Relevant Interest in breach of this clause 2.1 does not cause such acquisition or holding to be invalid.

### 2.2 Responsibility

- (a) A person holding or acquiring a Relevant Interest, together with their Related Entities, is considered as one person in respect of such Relevant Interest or exercise of Voting Power. Each of them, to the extent that they hold one or more Units or Options, is jointly and severally liable for each other's obligations under this Schedule 3, and may be made subject to the remedies referred to in clause 7.1(a).
- (b) If one or more persons pursuant to an agreement, arrangement or understanding act together for the purpose of:
  - (1) acquiring or holding a Relevant Interest;
  - (2) exercising Voting Power at a general meeting; or
  - (3) circumventing the prohibition in clause 2.1 or the obligation in clause 5 or 6.1,

all of them are considered as one person in respect of such Relevant Interest, exercise of Voting Power or circumvention. Each of them, to the extent that they hold one or more Units or Options, is jointly and severally liable for each other's obligations under this Schedule 3, and may be made subject to the remedies referred to in clause 7.1(a).

### 2.3 Situations not giving rise to a Relevant Interest

A person does not have a Relevant Interest in relation to Securities, if the Relevant Interest arises merely because:

- (a) of a mortgage, charge, lien or other security interest taken for the purpose of a transaction entered into by the person, if:
  - (1) the mortgage, charge, lien or security interest is taken or acquired in the ordinary course of the person's business of providing financial services and on ordinary commercial terms; and
  - (2) the person whose property is subject to the mortgage, charge, lien or security interest is not an Associate of the person;
- (b) the person acquires a Relevant Interest solely as a nominee or trustee for a person who may direct the nominee or trustee as to the exercise of any power relating to the Relevant Interest;

- (c) the person is licensed to conduct a financial services business and holds the Securities on behalf of someone else in the ordinary course of that financial services business;
- (d) the issuer of the relevant Securities has entered into an agreement to buy-back, repurchase or redeem the relevant Securities;
- (e) the person has been appointed to vote as a proxy or representative of a holder of Securities if:
  - (1) the appointment is for one meeting of the relevant entity only; and
  - (2) neither the person nor any Associate gives valuable consideration for such appointment;
- (f) of a market traded option (as defined in the Corporations Act) over the Securities, or a right to acquire the Securities given by a derivative, until such time as the obligation to make or take delivery of the relevant Security arises under the market traded option or derivative;
- (g) of an agreement if the agreement:
  - (1) is conditional on a resolution referred to in clause 3.2;
  - (2) does not confer any control over, or power to substantially influence, the exercise of Voting Power attached to the Securities; and
  - (3) does not restrict the disposal of the Securities for more than 3 months from the date when the agreement was entered into;
- (h) this deed, the constitution of the issuer of the relevant Securities, or any applicable law gives all holders pre-emptive rights on the transfer of Securities if all holders have pre-emptive rights on the same terms;
- (i) the person is a director of an entity having a Relevant interest;
- (j) the person holds Securities as a custodian or depository to enable the Securities to be traded on a securities exchange, if such person is licensed to provide such custodial or depository services under applicable law; or
- (k) the person provides facilities for the clearing or settlement of transactions and the person holds Securities in connection with the provision of such facilities.

## 2.4 Relevant interest disregarded

When a person's Relevant Interest:

- (a) in a Unit or Option is disregarded pursuant to clause 2.3, for the purposes of clause 2.1 the person is taken not to be entitled to exercise its Voting Power; or
- (b) in another Security is disregarded pursuant to clause 2.3, for the purposes of the definition of Control the person is taken not to be entitled to exercise any votes attaching to that Security.

## 3 Exceptions to the prohibition

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### 3.1 Acquisitions approved by the Responsible Entity

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the Responsible Entity has previously approved the acquisition, having in good faith determined that the acquisition:

- (a) is consistent with the purposes in clause 1.4; and
- (b) complies with the principles in clause 4.1 as they apply to the acquisition, subject to such adjustments as the Responsible Entity determines in good faith are appropriate having regard to the particular circumstances of the acquisition but without derogating from the purposes in clause 1.4.

### 3.2 Acquisitions approved by Holders

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition has been approved previously at a Meeting by an ordinary resolution of Holders if:

- (a) no votes are cast in favour of the resolution by:
  - (1) the acquirer and its Associates; and
  - (2) except in the case where the acquirer is acquiring Units or Options from all other Holders (or all Holders other than one or more Associates of the acquirer), the persons from whom the acquisition is to be made and their Associates; and
- (b) the Holders were given all information known to the acquirer or its Associates, or known to the Responsible Entity, material to the decision on how to vote on the resolution, including:
  - (1) the identity of the acquirer and its Associates;
  - (2) the maximum extent of the increase in the acquirer's Relevant Interest in Units and Options, and the acquirer's Voting Power, that would result from the acquisition;
  - (3) the Relevant Interest in Units and Options, and Voting Power, that person would have as a result of the acquisition;
  - (4) the maximum extent of the increase in the Relevant Interest in Units and Options, and Voting Power, of each of the acquirer's Associates that would result from the acquisition; and
  - (5) the Relevant Interest in Units and Options, and Voting Power, that each of the acquirer's Associates would have as a result of the acquisition.

### 3.3 Takeover Bids and On-Market Transactions

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) the acceptance of offers under a Takeover Bid; or
- (b) an On Market Transaction if:
  - (1) the acquisition is by or on behalf of the bidder under a Takeover Bid;
  - (2) the acquisition occurs during the bid period in respect of the Takeover Bid;
  - (3) the Takeover Bid is for all the Bid Securities; and
  - (4) the Takeover Bid is unconditional.

### 3.4 Exchange offer

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from the acceptance of offers made by the Responsible Entity for the Securities of another entity, where Units or Options, or Securities convertible into Units or Options, are included in the consideration for the acquisition of Securities under those offers.

### 3.5 Issues

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) an issue by the Trust under a PDS or prospectus (or similar disclosure document) to a person as underwriter or sub-underwriter to the issue where the relevant disclosure document disclosed the effect that the issue would have on the person's Relevant Interest in Units and Options, and Voting Power;
- (b) an issue (including to a person as underwriter or sub-underwriter to the issue) that satisfies all of the following conditions:
  - (1) the Responsible Entity offers to issue Units or Options of a particular class;
  - (2) offers are made either:
    - to all Holders (or, as the case may be, all Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11 of the deed) as at a record date that the Responsible Entity determines (being a date not more than 20 Business Days before the date of the offer), in proportion to the value of each relevant Holder's interest in the Trust as at that record date; or
    - to all Holders of Units or Options in the same class (or, as the case may be, all such Holders other than such Foreign Holders as have been excluded in accordance with clause 6.11 of the deed) as at a record date that the Responsible Entity determines (being a date not more than 20 Business Days before the date of the offer), in proportion to the value of each relevant Holder's percentage holding of Units or Options in the relevant class as at that record date;
  - (3) the Issue Price of all the Units or Options offered is the same;
  - (4) the Units or Options are offered to Holders at substantially the same time;
  - (5) agreements to issue are not entered into until the specified time for acceptance of offers has closed; and
  - (6) the terms of all the offers are the same; or
- (c) an issue (including to a person as underwriter or sub-underwriter to the issue) of Units or Options under a distribution reinvestment arrangement referred to in clause 13.8 of the deed.

### 3.6 Other corporate actions

The prohibition in clause 2.1 does not apply to an acquisition of a Relevant Interest to the extent that the acquisition results from:

- (a) a buy-back, repurchase, redemption or cancellation of Units or Options conducted in accordance with this deed and any applicable law; or
- (b) a transaction contemplated by clause 3 of Schedule 2.

## 4 Takeover Bids

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### 4.1 General principles

In addition to fulfilling the purposes in clause 1.4, a Takeover Bid must comply with the following principles:

- (a) An offer for Bid Securities must be an offer to buy all of the Units or Options in the same class as the Bid Securities or a specified proportion of the Units or Options in the same class as the Bid Securities. The proportion specified must be the same for all Holders of the Bid Securities.
- (b) A person who holds one or more parcels of those Units or Options as trustee or nominee for, or otherwise on account of, another person may accept the offer as if a separate offer had been made in relation to:
  - (1) each of those parcels; and
  - (2) any parcel the person holds in the person's own right.
- (c) All the offers made must be the same, disregarding for these purposes:
  - (1) any differences in the offers attributable to the fact that the number of Bid Securities that may be acquired under each offer is limited by the number of Bid Securities held by the Holder;
  - (2) any differences in the offers attributable to the fact that the offers relate to Bid Securities having different accrued distribution entitlements;
  - (3) any differences in the offers attributable to the fact that the person making the offer may issue or transfer only whole numbers of Securities as consideration for the acquisition; and
  - (4) any additional cash amount offered to Holders instead of the fraction of a Security that would otherwise be offered.

However, if the consideration offered under the Takeover Bid includes an offer of Securities, the Securities do not need to be offered to Foreign Holders if under the terms of the Takeover Bid:

- (5) the offeror under the Takeover Bid must appoint a nominee for Foreign Holders approved by the Responsible Entity (such approval not to be unreasonably withheld or delayed);
  - (6) the offeror under the Takeover Bid must issue or transfer to that nominee the Securities that would otherwise be issued or transferred to the Foreign Holders who accept the Takeover Bid for that consideration, or the right to acquire those Securities; and
  - (7) the nominee must sell the Securities, or those rights, and distribute to each of those Foreign Holders their proportion of the proceeds of the sale net of expenses.
- (d) The consideration offered for Bid Securities must equal or exceed the maximum consideration that the person making the offer (or any of its Associates) directly

or indirectly provided, or agreed to provide, for Units or Options under any purchase or agreement during the 4 months before the first day of the period of the offer.

- (e) A person making an offer for Bid Securities must not directly or indirectly, during the period of the offer, give, offer to give or agree to give a benefit to a person if:
  - (1) the benefit is likely to induce the person directly or indirectly to accept the offer or dispose of Units or Options; and
  - (2) the benefit is not offered to all holders of Bid Securities.
- (f) Each offer must be in writing and have the same date. This date is the day the first offer is made. The period of the offer must:
  - (1) start on the date the first offer is made; and
  - (2) last for at least one month, and not more than 12 months.
- (g) If, within the last 7 days of the period of the offer:
  - (1) the offers are varied to improve the consideration offered (including by offering an alternative form of consideration); or
  - (2) the number of Units or Options in which the person making the offer holds a Relevant Interest, or both, increases to more than 50% of the Units or Options (as applicable) on issue,

the period of the offer is extended so that it ends 14 days after the event referred to in paragraph (1) or (2) above.
- (h) Offers must not be subject to a maximum acceptance condition. A maximum acceptance condition is one that provides that the offers will terminate, or the maximum consideration offered will be reduced, if one or more of the following occurs:
  - (1) the number of Bid Securities for which the person making the offer receives acceptances reaches or exceeds a particular number;
  - (2) the number of Units or Options in which the person making the offer directly or indirectly holds a Relevant Interest, or both, reaches or exceeds a particular percentage of Units on issue in the Trust; or
  - (3) the percentage of Bid Securities the person making the offer has a Relevant Interest in reaches or exceeds a particular percentage of Bid Securities in that class.
- (i) Offers must not be subject to a discriminatory condition. A discriminatory condition is a condition that allows the person making the offer to acquire, or may result in that person acquiring, Bid Securities from some but not all of the people who accept the offers.
- (j) Offers must not be subject to a condition if the fulfilment of the condition depends on:
  - (1) the opinion, belief or other state of mind of the person making the offer or an Associate of that person; or
  - (2) the happening of an event that is within the sole control of, or is a direct result of action by, any of the following:
    - the person making the offer (acting alone or together with an Associate); or



- an Associate of the person making the offer (acting alone or together with the person making the offer or another Associate of that person).
- (k) The person making the offer may only vary the offer made by:
- (1) improving the consideration offered (including by offering an additional form of consideration); or
  - (2) extending the period of the offer.
- The terms of accepted offers must be varied in the same way. Any person who has already accepted an offer must be entitled to the improved consideration and, in the case of an addition of a new form of consideration, be entitled to make a fresh election.
- (l) A person making an offer that is unconditional may extend the period of the offer at any time before the end of the offer. A person making an offer that is still subject to conditions may only extend the period of the offer at least 7 days before the end of the period of the offer unless during that 7 day period another person announces a bid for Bid Securities or improves the consideration offered under another bid for Bid Securities.

## 4.2 Bidders statement

- (a) The person making the offer must, at the same time it gives its offer to Holders of Bid Securities, also give a document to those Holders setting out:
- (1) all information known to the person that is material to the making of the decision by a Holder of Bid Securities whether or not to accept the offer; and
  - (2) any areas in which the disclosure provided with its offer departs from the disclosure which would have otherwise been required to be provided to holders of Bid Securities if the Takeover Bid were an Regulated Bid.
- (b) The document referred to in clause 4.2(a) must be given to the Responsible Entity and the Securities Exchange at least 14 days before it is given to these Holders and must be dated the date on which the document is given to the Securities Exchange. If the person making the offer becomes aware of:
- (1) a misleading or deceptive statement in the document;
  - (2) an omission from the document of information required by clause 4.2(a); or
  - (3) a new circumstance that has arisen since the document was given to the Responsible Entity and would have been required by clause 4.2(a) to be included in the document if it had arisen before the document was given to the Responsible Entity,
- that is material from the point of view of a Holder of Bid Securities, the person making the offer must prepare a supplementary document that remedies this defect. The person making the offer must give the supplementary document to the Responsible Entity and give a copy to the Securities Exchange. The supplementary document must be dated the date on which the supplementary document is given to the Securities Exchange.

### 4.3 Regulated Bid

A bid for Units or Options is taken to comply with the principles in clause 4.1 if it is a Regulated Bid at all relevant times. The Responsible Entity must act reasonably and in a timely manner in agreeing with a person making a Regulated Bid to any modifications or exemptions to the application of Parts 6.4, 6.5, 6.6 and 6.8 of the Corporations Act to a Regulated Bid having regard to the purposes in clause 1.4, the principles in clauses 4.1 and 4.2 and Australian Law and Policy.

### 4.4 Target statement

If a Takeover Bid is made, the Responsible Entity must:

- (a) give to all Holders of Bid Securities, the Securities Exchange and the person making the Takeover Bid a document in a timely manner setting out all information that the Holders and their professional advisers would reasonably require to make an informed assessment whether to accept an offer under the Takeover Bid. The document must contain such information:

- (1) only to the extent to which it is reasonable for investors and their professional advisers to expect to see the information in the document; and
- (2) only if the information is known to the Responsible Entity.

The document must also include a statement by each director of the Responsible Entity:

- (3) recommending that offers under the Takeover Bid be accepted or not accepted, and giving reasons for the recommendation; or
- (4) giving reasons why a recommendation is not made.

The document must be dated the date on which the document is given to the Securities Exchange.

- (b) If the Responsible Entity becomes aware of:

- (1) a misleading or deceptive statement in the document;
- (2) an omission from the document of information required by clause 4.4(a); or
- (3) a new circumstance that has arisen since the document was given to the person making the offer and would have been required by clause 4.4(a) to be included if it had arisen before the document was given to the person making the offer,

that is material from the point of view of a holder of Bid Securities, the Responsible Entity must prepare a supplementary document that remedies this defect and give it to the person making the offer and the Securities Exchange. The supplementary document must be dated. The date is the date on which the supplementary document is given to the Securities Exchange.

### 4.5 Providing Holder details

- (a) If it has been given a document in accordance with clause 4.2(b) and the person making the offer makes a request for information under this clause 4.5 for the purposes of satisfying the purposes under clause 1.4 and complying with the principles under clauses 4.1 and 4.2, the Responsible Entity must inform the person of the name and address of each Holder of Bid Securities and that

person's holding, at the specified time by the person making the offer. The Responsible Entity must give the information to the person making the offer promptly and:

- (1) in the form that the person reasonably requests; or
- (2) if the Responsible Entity is unable to comply with the request – otherwise in writing.
- (b) Any information given in electronic form must be readable but the information need not be formatted for the preferred operating system of the person making the offer.
- (c) The Responsible Entity may charge a fee in relation to the provision of the information referred to in clause 4.5.

## 5 Substantial Holder notices

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### 5.1 Requirement to give notice

A person must give the Responsible Entity a notice setting out the information referred to in clause 5.2 if:

- (a) the person begins to have, or ceases to have, a Substantial Holding;
- (b) the person has a Substantial Holding and the person's Voting Power increases or decreases by 1 or more percentage points from the percentage they most recently disclosed pursuant to clause 5; or
- (c) the person makes a Takeover Bid.

If the Responsible Entity has prescribed a form for giving the information in clause 5.2, the notice must be in that form.

### 5.2 Information that must be given

The information to be given in accordance with clause 5.1 includes:

- (a) the person's name and address;
- (b) details of their Relevant Interest in Units or Options;
- (c) details of any agreement, arrangement or understanding through which the person would have a Relevant Interest in Units or Options; and
- (d) the name of each Associate who has a Relevant Interest in Units or Options, together with details of:
  - (1) the nature of the person's association with the Associate;
  - (2) the Relevant Interest of the Associate; and
  - (3) any agreement, arrangement or understanding through which the Associate has the Relevant Interest.

### 5.3 Additional documents

Unless the transaction giving rise to the obligation to give information took place on the Securities Exchange, the notice under clause 5.1 must be accompanied by:

- (a) a copy of any document (including any agreement, arrangement or understanding) that:
  - (1) contributed to the situation giving rise to the person needing to provide the information; and
  - (2) is in writing and readily available to the person; or
- (b) a statement by the person giving full and accurate details of any contract, scheme or arrangement that:
  - (1) contributed to the situation giving rise to the person needing to provide the information; but
  - (2) is not in writing or is not readily available to the person.

#### **5.4 When information must be given**

The Substantial Holder (or former Substantial Holder, as applicable) must give the information referred to in clauses 5.2 and 5.3:

- (a) within 2 Business Days after they become aware of the circumstances referred to in clause 5.1(a) or clause 5.1(b); or
- (b) by 9.30am on the next Business Day after they become aware of the circumstances referred to in clause 5.1(c).

## **6 Tracing beneficial ownership**

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### **6.1 Disclosure notice**

At any time, the Responsible Entity may give a Holder a notice requiring the Holder to give to the Responsible Entity within 2 Business Days a notice setting out the following information:

- (a) full details of the Holder's Relevant Interest in Units and Options and of the circumstances giving rise to that Relevant Interest;
- (b) the name and address of each other person who has a Relevant Interest in the Units or Options held by the Holder together with full details of:
  - (1) the nature and extent of that Relevant Interest; and
  - (2) the circumstances that give rise to that person's Relevant Interest; and
- (c) the name and address of each person who has given the Holder or the person as referred to in paragraph (b) above instructions about:
  - (1) the acquisition or disposal of a Relevant Interest in Units or Options;
  - (2) the exercise of any Voting Power or other rights attached to a Unit or Option; or
  - (3) any other matter relating to the Units or Options,
 together with full details of those instructions (including the date or dates on which those relevant instructions were given).

## 6.2 Further disclosure notice

Where the information given to the Responsible Entity includes any details referred to in clause 6.1(b) or 6.1(c), the Responsible Entity may give a further notice to the Holder requiring the Holder to provide, or procure that another person referred to in clause 6.1(b) or 6.1(c) provides, within 2 Business Days the information referred to in clause 6.1.

## 6.3 Knowledge

A matter referred to in clause 6.1(b) or 6.1(c) need only be disclosed to the extent to which it is known:

- (a) in the case of a disclosure notice given under clause 6.1, to the Holder; or
- (b) in the case of a disclosure notice given under clause 6.2, to the relevant person referred to in that notice.

# 7 Remedies and enforcement

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## 7.1 Remedies

Subject to clause 7.2 and the Corporations Act, but without limiting such other remedies as the Responsible Entity may exercise to enforce this deed, if a breach by a person of clause 2.1, 5 or 6 has occurred or is continuing, the Responsible Entity may exercise any one or more of the following remedies:

- (a) give the Holder a notice requiring the Holder to dispose of some or all of the Units or Options in which the person has a Relevant Interest within the time specified in the notice;
- (b) disregard the exercise of votes attaching to some or all of the Units or Options in which the person has a Relevant Interest; or
- (c) suspend the right to receive distributions (if any) attaching to some or all of the Units or Options in which the person has a Relevant Interest.

## 7.2 Conditions to exercise of remedies

- (a) The Responsible Entity may exercise the remedies referred to in clause 7.1 if it first obtains:
  - (1) a judgment from a court of competent jurisdiction in New South Wales, that a breach of clause 2.1, 5 or 6 has occurred and is continuing; or
  - (2) advice from Independent Counsel appointed in accordance with clause 7.3 that a breach of clause 2.1, 5 or 6 has occurred and is continuing, and acts in accordance with such advice.
- (b) Where the Responsible Entity has sought not yet obtained a judgment or advice under clause 7.2(a), the Responsible Entity may exercise the remedies described in clause 7.1(b) or 7.1(c) by notice to the Holder in respect of the period starting on the date the notice is given and ending on the earlier of:
  - (1) 30 days after the notice has been given; and
  - (2) 1 day after the judgment or advice under clause 7.2(a) is obtained.

### 7.3 Appointment of Independent Counsel

- (a) The Responsible Entity must notify any Holder likely to be aggrieved by the relevant exercise of its powers under clause 7.1 of its intention to appoint an Independent Counsel for the purpose of clause 7.2, at least 2 Business Days before making such appointment.
- (b) If the Holder so requests within the 2 Business Days referred to in clause 7.3(a), the Responsible Entity must request the President for the time being of the Law Society of New South Wales, or the President's nominee for the time being, to appoint an Independent Counsel for purposes of clause 7.2. Otherwise, the Responsible Entity may appoint the Independent Counsel.
- (c) The Responsible Entity must instruct the Independent Counsel, among other matters, to:
  - (1) advise within the shortest practicable time whether any breach of clause 2.1, 5 or 6 (as applicable) has occurred, and provide reasons for his or her advice;
  - (2) have regard to the purposes under clause 1.4 and to Australian Law and Policy in interpreting these provisions and giving this advice;
  - (3) in determining whether the exception under clause 3.3(a) applies to an acquisition of a Relevant Interest pursuant to a Takeover Bid that is not a Regulated Bid, have regard to the manner in which a bid for Units or Options would have been conducted under a Regulated Bid, including the information that would have been provided to Holders in connection with such bid; and
  - (4) give the Responsible Entity and any Holder likely to be aggrieved by the exercise of the Responsible Entity's powers under clause 7.1 the opportunity, with their legal advisers, to make submissions to the Independent Counsel, before Independent Counsel provides his or her advice.
- (d) The Responsible Entity must provide all information and assistance which the Independent Counsel reasonably requests for the purpose of preparing his or her advice.
- (e) The Responsible Entity must give a copy of the advice to the person who has breached or is alleged to have breached clause 2.1, 5 or 6.

### 7.4 Independent Counsel's costs

The Responsible Entity must pay the cost of the Independent Counsel.

### 7.5 Obligation to impose remedies

If there are reasonable grounds to believe that a breach of clause 2.1, 5 or 6 has occurred, the Responsible Entity must consider whether to exercise the remedies under clause 7.1 and take advice as to whether it should exercise those remedies. For that purpose, the Responsible Entity must give proper consideration to (and include within any brief for advice) any submission that a breach has occurred from any Holder aggrieved by the alleged breach.

## 7.6 Enforcement

If the requirements of any notice pursuant to clause 7.1(a) are not complied with by the person within the time specified in the notice, the Responsible Entity may:

- (a) deem a Unit referred to in the notice to be a Forfeited Unit for purposes of this deed and deal with the Unit in accordance with clause 4 of the deed; or
- (b) deem an Option referred to in the notice to be a forfeited options and deal with the Option in accordance with clause 4 of the deed as if references in that clause to Units were to Options and to Forfeited Units were to the forfeited Options.

## 7.7 Requests for information

At any time, the Responsible Entity may give any Holder a notice requiring the Holder to provide any information or evidence (on oath or otherwise verified if the Responsible Entity reasonably requires) as the Responsible Entity considers likely to be of assistance in determining whether or not that person is eligible to remain a Holder with respect to all or some of their Units or Options.

## 7.8 Liability

Despite anything in clause 7.6 and 7.7, the Responsible Entity has no liability (in any capacity) to any person in connection with:

- (a) any person holding Units or Options in circumstances which would result in or have the effect of causing a breach of clause 2.1, 5 or 6; or
- (b) any action taken in good faith under clause 7, or any decision not to take such action made in good faith, by the Responsible Entity.

## Signing page

Executed as a deed

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Signed sealed and delivered by  
**Investec Property Limited**  
by

*sign here ►* \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here ►* \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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