

## ASX/Media Announcement

12 November 2018

### Propertylink enters into a binding Bid Implementation Agreement with ESR

#### ENTRY INTO A BID IMPLEMENTATION AGREEMENT WITH ESR

Propertylink Group (ASX:PLG) (**Propertylink**) today announces that it has entered into a binding Bid Implementation Agreement (**BIA**) with ESR Real Estate (Australia) Pty Ltd (**ESR**) in relation to ESR's proposal to acquire all Propertylink securities which it or an associate does not already own by way of an agreed off-market takeover bid for cash consideration of \$1.20<sup>1</sup> per security (**Offer**).

The execution of the BIA follows Propertylink's entry into a Process Deed with ESR, which was announced to ASX on 16 October 2018. Under that Process Deed, ESR was granted a period to conduct confirmatory due diligence which it has now completed.

The terms of the Offer are consistent with those announced in the Process Deed and have been summarised in this announcement.

#### SUMMARY OF THE OFFER

The Offer is to acquire all of the Propertylink securities which ESR does not already own for cash consideration of \$1.20<sup>1</sup> per security, by way of an agreed off-market takeover bid.

The Offer price of \$1.20<sup>1</sup> represents a:

- 14.3% premium to the closing price of Propertylink securities at 20 September 2018 of \$1.05, being the day prior to the announcement of ESR's initial proposal to acquire Propertylink;
- 15.2% premium to the 6 month VWAP of Propertylink securities to 20 September 2018 of \$1.04;
- 15.4% premium to Propertylink's reported NTA per security as at 30 June 2018 of \$1.04;
- 11.7% premium to Propertylink's pro forma 30 June 2018 NTA of \$1.07 per security<sup>2</sup> (refer to Appendix A for detail on pro forma adjustments); and
- 4.3% increment to ESR's initial proposal price of \$1.15.

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<sup>1</sup> The Offer price will be reduced by the cash amount of any dividends or distributions that Propertylink securityholders receive or become entitled to receive. All references to the Offer consideration in this announcement are to the Offer consideration subject to any such reduction.

<sup>2</sup> Post the independent valuation of Propertylink's wholly owned industrial portfolio and co-investments as announced to ASX on 30 October 2018, which resulted in an increase in Propertylink's NTA of 6.6 cents per security and post payment of Propertylink's 2H FY18 distribution of 3.7 cents per security resulting in pro forma 30 June 2018 NTA of \$1.07 per security.

## CONDITIONS OF THE OFFER

The Offer is conditional upon a number of matters set out in the BIA, including minimum acceptance of at least 50.1% of all Propertylink securities (on a fully diluted basis), no material adverse change, no prescribed occurrences, no regulatory action or material acquisitions, disposals, capital expenditure or change in the conduct of business, amongst other conditions. ESR has confirmed that it has received notification from FIRB that the Australian Government has no objection to the Offer in terms of its foreign investment policy and the Offer is therefore not conditional on obtaining foreign investment approval.

At any time during the Offer period, ESR may choose to waive any one or all of the conditions of the Offer, declare the Offer unconditional and / or extend the Offer Period.

## UNANIMOUS RECOMMENDATION OF THE DIRECTORS

The Propertylink board of directors (**Directors**) unanimously recommend that Propertylink securityholders **ACCEPT** the Offer, in the absence of a superior proposal and subject to an independent expert opining that the Offer is fair and reasonable to Propertylink securityholders not associated with ESR.

In addition, each of the Directors intends to accept the Offer in respect of all Propertylink securities they own or control, in the absence of a superior proposal and subject to an independent expert opining that the Offer is fair and reasonable to Propertylink securityholders not associated with ESR.

Propertylink's Chairman, Peter Lancken, said "the Directors of Propertylink are pleased to have entered into a binding Bid Implementation Agreement with ESR. ESR's Offer provides Propertylink securityholders an opportunity to realise certain value for their Propertylink securities, at an attractive premium to Propertylink's trading price prior to the receipt of ESR's initial proposal and NTA."

## INDEPENDENT EXPERT

Propertylink has appointed KPMG Corporate Finance as the independent expert to prepare a report opining on whether the Offer is fair and reasonable to Propertylink securityholders not associated with ESR. The independent expert's report will be included in the target's statement to be dispatched to all Propertylink securityholders.

## OVERVIEW OF THE BIA

The BIA sets out the manner in which Propertylink and ESR have agreed to cooperate with each other in relation to the Offer. The BIA extends ESR's exclusivity until the end of the Offer period and includes provisions customary for a transaction of this nature including no shop, no talk, notification and matching rights, subject to appropriate exceptions. The BIA includes provision for payment of a reimbursement fee of \$7.2 million to ESR in certain circumstances.

A copy of the BIA is attached to this announcement.

## PROPERTYLINK'S PROPOSAL TO ACQUIRE CIP

Further to its announcement on 16 October 2018, Propertylink confirms that in light of the fact that ESR is proceeding with its takeover bid for PLG, PLG has decided not to proceed with the non-

binding, indicative proposal to acquire Centuria Industrial REIT (**CIP**) announced on 13 September 2018.

## EGM REQUISITIONED BY CENTURIA

Propertylink notes the Extraordinary General Meeting (**Meeting**) of Propertylink (Holdings) Limited that was requisitioned by Centuria<sup>3</sup>, at which Propertylink securityholders will be asked to vote on resolutions proposed by Centuria to remove all of the current Directors, other than the Managing Director, and replace them with six directors nominated by Centuria.

ESR has confirmed that, subject to the BIA not being terminated, the Directors continuing to unanimously recommend the Offer at the relevant time and there being no material change in circumstances, ESR intends to vote its 19.89% interest in Propertylink securities against all of the resolutions proposed by Centuria at the Meeting.

## NEXT STEPS

Propertylink and ESR have agreed to work towards having both the bidder's statement and the target statement issued (and the Offer to open) by mid to late November 2018.

Propertylink securityholders are not required to take any action until they receive ESR's bidder's statement. The target's statement to be released to Propertylink securityholders will include further details of the Offer, reasons for the Directors' recommendation, the independent expert's report, and information on the options available to Propertylink securityholders. The Directors encourage securityholders to read these documents in full before deciding whether to accept the Offer.

## ENDS

### Further Enquiries

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<sup>3</sup> Propertylink Holdings Limited securityholder meeting requisitioned by Centuria Investment Holdings Pty Limited as trustee of Centuria Capital No. 2 Industrial Fund (**Centuria**) on 20 September 2018. Centuria is a wholly-owned subsidiary of the Centuria Capital Group (**CNI**).

### **About Propertylink**

Propertylink is an A-REIT, listed on the Australian Stock Exchange under the code “PLG”. Propertylink is an internally managed real estate group that owns and manages a diversified portfolio of logistics, business park and office properties and is a leading investment and asset management business with over A\$1.8 billion of assets under management. Propertylink’s integrated, in-house approach to active asset management is aimed at maximising the performance and value of assets under management for our global investors from North America, Europe, the Middle East, Asia and Australia.

## APPENDIX A

Reconciliation of Propertylink's reported NTA per security of \$1.04 as at 30 June 2018 to pro forma NTA of \$1.07 per security has been provided in the table below. The post balance date adjustments include:

- The \$30.9 million increase in the value of the Propertylink's wholly owned industrial property portfolio<sup>4</sup> following an independent valuation as announced to ASX on 30 October 2018;
- The \$8.6 million increase in the value of Propertylink's co-investment stakes in external funds<sup>5</sup> following an independent valuation process on the assets held in those external funds as announced to ASX on 30 October 2018;
- Share of profit on the Propertylink Enhanced Partnership's (PEP) divestment of 80 Mount Street, North Sydney as announced to ASX on 13 September 2018; and
- Payment of the 2H FY18 distribution of 3.70 cents per security (cps) paid to securityholders on 4 September 2018.

	\$ million	cps
<b>NTA as at 30 June 2018</b>		<b>104.0</b>
Wholly owned industrial portfolio valuation uplift	30.9	5.1
Co-investment stakes valuation uplift	8.6	1.4
Share of profit on divestment of 80 Mount Street	3.5	0.6
Less 2H FY18 distribution	(22.3)	(3.7)
<b>Pro forma 30 June 2018 NTA</b>		<b>107.4</b>

<sup>4</sup> Independent valuations were completed for 29 of the 31 properties in the wholly owned industrial portfolio. Excludes 14–16 Orion Road, Lane Cove NSW, the acquisition of which was settled in September 2018 and 1-5 Lake Drive, Dingley VIC, which is a development asset.

<sup>5</sup> Across the investment management platform, 25 of the 28 properties were independently valued as at 30 September 2018. Independent valuations exclude 80 Mount Street, North Sydney NSW, which was divested in September 2018, with settlement expected to occur in November 2018 and two other properties within the Propertylink Enhanced Partnership (PEP).



HERBERT  
SMITH  
FREEHILLS

# Agreement

**CONFIDENTIAL**

## Bid implementation agreement

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Propertylink (Holdings) Limited

Propertylink Investment Management Limited as  
responsibility entity of Propertylink Australian  
Industrial Partnership

Propertylink Investment Management Limited as  
responsibility entity of the Propertylink Trust

ESR Real Estate (Australia) Pty Ltd



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## Bid implementation agreement

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Date ▶ *12 November 2018*

Between the parties

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PHL	<b>Propertylink (Holdings) Limited</b> ACN 092 684 798 of Level 29, 20 Bond Street, Sydney NSW 2000
PAIP RE	<b>Propertylink Investment Management Limited</b> ACN 136 865 417 as responsibility entity of <b>Propertylink Australian Industrial Partnership</b> ARSN 613 032 812 of Level 29, 10-20 Bond Street, Sydney NSW 2000
PT RE	<b>Propertylink Investment Management Limited</b> ACN 136 865 417 as responsibility entity of the <b>Propertylink Trust</b> ARSN 613 032 750 of Level 29, 10-20 Bond Street, Sydney NSW 2000
Bidder	<b>ESR Real Estate (Australia) Pty Ltd</b> ACN 625 761 962 of Suite 59, Jones Bay Wharf, 26-32 Pirrama Road, Pyrmont NSW 2009
Recitals	<ol style="list-style-type: none"><li>1 Propertylink is a stapled group listed on ASX, comprising PHL, PAIP and PT.</li><li>2 The Bidder is proposing to make a Takeover Bid for all the Propertylink Securities and the Propertylink Directors are proposing to recommend the Takeover Bid in the absence of a Superior Proposal, subject to an Independent Expert concluding that the Takeover Bid is fair and reasonable to Propertylink Securityholders not Associated with the Bidder and otherwise subject to the terms of this agreement.</li><li>3 The parties have agreed to implement the Takeover Bid on the terms and conditions set out in this agreement.</li></ol>

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The parties agree as follows:

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# 1 Definitions, interpretation and agreement components

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## 1.1 Definitions

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

Term	Meaning
<b>Agreed Bid Terms</b>	the terms and conditions set out in Schedule 2.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>Associate</b>	has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of the Corporations Act included a reference to this agreement and Propertylink was the designated body and <b>Associated</b> has a corresponding meaning.
<b>ASX</b>	ASX Limited ABN 98 008 624 691.
<b>Bid Conditions</b>	the conditions to the Takeover Bid included in section 3 of the Agreed Bid Terms.
<b>Bidder Group</b>	<ol style="list-style-type: none"> <li>1 the Bidder;</li> <li>2 ESR Cayman Limited;</li> <li>3 each entity that is a Subsidiary of ESR Cayman Limited; and</li> <li>4 any entity that, directly or indirectly through one or more intermediaries, is Controlled by, ESR Cayman Limited from time to time,</li> </ol> and a reference to a <b>Bidder Group Member</b> is to any of them.
<b>Bidder Indemnified Persons</b>	the Bidder, each Bidder Group Member and their respective directors, officers and employees.
<b>Bidder's Statement</b>	the bidder's statement to be prepared by the Bidder in relation to the Takeover Bid in compliance with Part 6.5 of the Corporations Act.
<b>Business Day</b>	a day on which banks are open for business in Sydney, other than



<b>Term</b>	<b>Meaning</b>
	a Saturday, Sunday or public holiday.
<b>Change of Control Date</b>	has the meaning given in clause 2.4.
<b>CIP Unit</b>	a fully paid unit in the capital of the Centuria Industrial REIT ARSN 099 680 252.
<b>Claim</b>	<p>any claim, demand, legal proceedings or cause of action including any claim, demand, legal proceedings or cause of action:</p> <ol style="list-style-type: none"><li>1 based in contract (including breach of any warranty);</li><li>2 based in tort (including misrepresentation or negligence);</li><li>3 under common law or equity; or</li><li>4 under statute (including the Australian Consumer Law (being Schedule 2 of the <i>Competition and Consumer Act 2010</i> (Cth) (<b>CCA</b>)) or Part VI of the CCA, or like provisions in any state or territory legislation),</li></ol> <p>in any way relating to this agreement, the transactions contemplated by it, the Takeover Bid or the Offer and includes a claim, demand, legal proceedings or cause of action arising under an indemnity in this agreement.</p>
<b>Competing Proposal</b>	<p>any proposal, offer or transaction by a party (other than the Bidder or any Bidder Group Member or any of their Associates) that, if completed, would mean:</p> <ol style="list-style-type: none"><li>1 a person (other than any person who alone, or together with the person's Associates, currently holds a relevant interest, or an economic interest under a cash settled equity swap or similar derivative, in more than 10% of the Propertylink Securities, or any Associate of such person from time to time), would acquire a relevant interest, or an economic interest under a cash settled equity swap or similar derivative, in more than 10% of the Propertylink Securities on issue;</li><li>2 a person would directly or indirectly acquire or obtain an interest (including an economic interest) in all or the majority of the business conducted by, or assets or property of, the Propertylink Group;</li><li>3 a person would directly or indirectly acquire Control of:<ul style="list-style-type: none"><li>• PHL, PAIP, PT or PIML; or</li><li>• any other Propertylink Group Member (other than in the ordinary course of the business of the Propertylink Group in connection with the establishment and operation of external funds by the Propertylink Group);</li></ul></li><li>4 a person may otherwise directly or indirectly acquire, merge</li></ol>



<b>Term</b>	<b>Meaning</b>
	<p>with, or be stapled with, the Propertylink Group; or</p> <p>5 that the Takeover Bid could not be implemented or implementation of the Takeover Bid would be materially adversely affected,</p> <p>whether by way of takeover bid, trust scheme, capital reduction, sale of assets, sale of securities, stapling, strategic alliance, dual listed company structure, joint venture or partnership, or other transaction or arrangement.</p> <p>For the avoidance of doubt, each successive material modification or variation of any proposal, agreement, arrangement or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.</p>
<b>Confidentiality Agreement</b>	the confidentiality agreement between the Bidder and PHL dated 15 October 2018.
<b>Control</b>	has the meaning given in section 50AA of the Corporations Act.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Data Room</b>	the data room maintained by Propertylink in relation to potential transactions in relation to Propertylink Securities, including the Takeover Bid, subject to such additions or exclusions of documents as the parties have agreed..
<b>Debt</b>	<p>any present or future actual or contingent debt or other monetary liability in respect of money borrowed or raised or any financial accommodation, including in respect of any:</p> <ol style="list-style-type: none"><li>1 bill, bond, debenture, note or similar financial instrument (whether or not negotiable);</li><li>2 indemnity obligation to the issuer of a guarantee, indemnity, bank guarantee, bond, letter of credit or similar instrument;</li><li>3 consideration for the acquisition of an asset or service payable more than 90 days after, as applicable, the date of the acquisition or the date on which the service is invoiced;</li><li>4 lease or hire purchase entered into primarily as a method of raising finance or financing the acquisition of the asset leased or hired (including any sale and lease back transaction);</li><li>5 obligation to deliver goods or other property or provide services paid for in advance by any financier or in relation to another financing transaction;</li><li>6 redeemable shares where the holder has the right (conditional or not) to require redemption;</li><li>7 receivables sold (other than to the extent they are sold on a</li></ol>



<b>Term</b>	<b>Meaning</b>
	non-recourse basis); 8 Hedge Transaction; or 9 Guarantee of other Debt described above.
<b>Equity Incentive Plan</b>	Propertylink's Equity Incentive Plan adopted by the Propertylink Boards on 15 July 2016.
<b>Exclusivity Period</b>	the period from the date of this agreement until: 1 the date of termination of this agreement; or 2 the end of the Offer Period, whichever is earliest.
<b>Final Distribution</b>	the final distribution of not more than \$0.04 per Propertylink Security for the financial year ended 30 June 2019.
<b>Government Agency</b>	any foreign or Australian government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity or any minister of the Crown in right of the Commonwealth of Australia or any State, any other federal, state, provincial, or local government, and including any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, and the ASX or any other stock exchange.
<b>Guarantee</b>	A guarantee, indemnity, letter of credit, legally binding letter of comfort or other obligation of any kind: 1 to provide funds (whether by the advance or payment of money, the purchase of or subscription for shares or other securities, the purchase of assets or services, or otherwise) for the payment or discharge of; 2 to indemnify any person against the consequences of default in the payment of; or 3 to be responsible for, an obligation or monetary liability of another person or the assumption of any responsibility or obligation in respect of the solvency or financial condition of another person.
<b>Hedge Transaction</b>	any derivative, swap, forward contract, futures contract, financial option or other hedging or risk management transaction.



<b>Term</b>	<b>Meaning</b>
<b>Implementation Period</b>	the period from the date of this agreement until the end of the Offer Period (inclusive of those dates).
<b>Independent Expert</b>	the independent expert in respect of the Takeover Bid appointed by Propertylink.
<b>Independent Expert's Report</b>	the report to be issued by the Independent Expert in connection with the Takeover Bid, setting out the Independent Expert's opinion whether or not the Takeover Bid is fair and reasonable to the Propertylink Securityholders not Associated with the Bidder and the reasons for holding that opinion.
<b>Interim Distribution</b>	the interim distribution of not more than \$0.036 per Propertylink Security for the financial half-year ended 31 December 2018.
<b>Listing Rules</b>	the official listing rules of ASX.
<b>Loss</b>	any liability, loss, damage, costs (including legal costs on a full indemnity basis), charge, expense, outgoing or payment.
<b>Offer</b>	each offer to acquire Propertylink Securities made in connection with the Takeover Bid.
<b>Offer Period</b>	the period that the Offer is open for acceptance.
<b>PAIP</b>	Propertylink Australian Industrial Partnership ARSN 613 032 812.
<b>Permitted Distribution</b>	the Interim Distribution and the Final Distribution.
<b>Permitted Indebtedness</b>	any financial indebtedness, including any Debt, under a facility agreement or credit approved term sheet (as such agreement or term sheet may be amended to reflect the terms of any consent provided by the relevant financiers) existing as at the date of this agreement, provided that the facility agreement, credit approved term sheet, any applicable consent and any amendments or proposed amendments to an agreement or term sheet were fairly disclosed to the Bidder in the Data Room on or before the date of this agreement.
<b>PIML</b>	Propertylink Investment Management Limited ACN 136 865 417.



<b>Term</b>	<b>Meaning</b>
<b>PLG Facility Agreements</b>	<ol style="list-style-type: none"><li>1 the PLG Group Facility Agreement; and</li><li>2 such other facility agreements in respect of the Propertylink Group and Wholesale Funds as are agreed between the parties in writing to be "PLG Facility Agreements" for the purposes of this agreement.</li></ol>
<b>PLG Group Facility Agreement</b>	the A\$ Syndicated Facilities Agreement dated 12 August 2016, as amended from time to time including by deeds dated 20 December 2017 and 12 September 2018 between, amongst others, Propertylink Funds Management Pty Ltd as trustee for PropertyLink Hold Trust, JPMorgan Chase Bank, N.A., Sydney Branch and Westpac Banking Corporation.
<b>Property</b>	<ol style="list-style-type: none"><li>1 all freehold properties owned by Propertylink Group Members;</li><li>2 the leasehold interests granted by the Melbourne Market Authority under ground leases to a Propertylink Group Member in respect of the Epping Market facility; and</li><li>3 all properties in which any Wholesale Fund has a freehold or leasehold interest.</li></ol>
<b>Propertylink</b>	PHL, PAIP and PT (and where applicable PAIP RE and PT RE acting in their capacity as responsible entity of PAIP and PT respectively), whose securities are stapled.
<b>Propertylink Board</b>	each of: <ol style="list-style-type: none"><li>1 the board of directors of PHL; and</li><li>2 the board of directors of PIML.</li></ol>
<b>Propertylink Director</b>	any director on a Propertylink Board.
<b>Propertylink Group</b>	<ol style="list-style-type: none"><li>1 each of PHL, PAIP and PT (and where applicable PAIP RE and PT RE acting in their capacity as responsible entity of PAIP and PT respectively);</li><li>2 each entity that is a Subsidiary of any of PHL, PAIP or PT; and</li><li>3 each entity that one or more of PHL, PAIP and PT directly or indirectly, through one or more intermediaries, Controls,</li></ol> however, <b>Propertylink Group</b> does not include: <ol style="list-style-type: none"><li>4 any Wholesale Fund;</li><li>5 any trusts that comprise, or are Subsidiaries of, a Wholesale Fund (such trusts being <b>Wholesale Trusts</b>); or</li><li>6 any Subsidiary of PHL to the extent the Subsidiary is acting in</li></ol>



<b>Term</b>	<b>Meaning</b>
	its capacity as trustee for any Wholesale Trusts. A reference to a <b>Propertylink Group Member</b> is to any member of the Propertylink Group.
<b>Propertylink Incentives</b>	the Propertylink Performance Rights and the Propertylink Restricted Securities.
<b>Propertylink Indemnified Persons</b>	each member of the Propertylink Group and their respective directors, officers and employees.
<b>Propertylink Material Adverse Change</b>	any event referred to in paragraph 3(c) of Schedule 2.
<b>Propertylink Performance Rights</b>	performance rights issued under the Equity Incentive Plan.
<b>Propertylink Prescribed Occurrence</b>	any event referred to in paragraph 3(d) of Schedule 2.
<b>Propertylink Register</b>	the registers of members of PHL, PAIP and PT maintained in accordance with the Corporations Act.
<b>Propertylink Restricted Securities</b>	restricted securities issued under the Equity Incentive Plan.
<b>Propertylink Security</b>	a fully paid ordinary share in PHL stapled to a fully paid unit in PAIP and a fully paid unit in PT.
<b>Propertylink Securityholder</b>	each person who is registered as the holder of a Propertylink Security in the Propertylink Register.
<b>PT</b>	Propertylink Trust ARSN 613 032 750.
<b>Record Date</b>	the date set by the Bidder pursuant to section 633(2) of the Corporations Act.
<b>Register</b>	Propertylink's register of Propertylink Securityholders and <b>Registry</b> is the entity responsible for maintaining the Register.



<b>Term</b>	<b>Meaning</b>
<b>Reimbursement Fee</b>	\$7,230,000.
<b>Related Person</b>	in respect of Propertylink: <ol style="list-style-type: none"><li>1 each Propertylink Group Member; and</li><li>2 each Representative of any Propertylink Group Member.</li></ol>
<b>relevant interest</b>	has the meaning given in sections 608 and 609 of the Corporations Act.
<b>Representative</b>	in relation to a party, its directors, employees, officers, agents and advisers.
<b>Right</b>	all accretions, rights or benefits of whatever kind attaching or arising from Propertylink Securities directly or indirectly at or after the date of this agreement (including, all dividends and distributions and all rights to receive them or rights to receive or subscribe for securities, notes, bonds, options or other securities declared, paid or issued by Propertylink Group Members).
<b>Security Interest</b>	has the meaning given in section 51A of the Corporations Act.
<b>Subsidiary</b>	has the meaning given in the Corporations Act, but an entity will also be taken to be a Subsidiary of an entity if it is Controlled by that entity and: <ol style="list-style-type: none"><li>1 a trust may be a Subsidiary of an entity, for the purposes of which a unit or other beneficial interest will be regarded as a share;</li><li>2 an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a company; and</li><li>3 where a trust is a Subsidiary, the trustee of that trust (acting in that capacity) will also be a Subsidiary.</li></ol>
<b>Superior Proposal</b>	a bona fide Competing Proposal: <ol style="list-style-type: none"><li>1 of the kind referred to in any of paragraphs 2, 3 or 4 of the definition of Competing Proposal; and</li><li>2 not resulting from a breach by Propertylink of any of its obligations under clause 8 of this agreement (it being understood that any actions by Related Persons of Propertylink not permitted by clause 8 will be deemed to be a breach by Propertylink for these purposes),</li></ol> that the Propertylink Boards, acting in good faith, and after receiving written advice from their external legal adviser and advice



<b>Term</b>	<b>Meaning</b>
	<p>from their financial advisers, determine:</p> <p>3 is reasonably capable of being completed;</p> <p>4 would, if completed substantially in accordance with its terms, be reasonably likely to be more favourable to Propertylink Securityholders (as a whole) than the Takeover Bid (as completed),</p> <p>in each case taking into account all terms and conditions and other aspects of the Competing Proposal (including any timing considerations, any conditions precedent, the identity of the proponent or other matters affecting the probability of the Competing Proposal being completed) and of the Takeover Bid.</p>
<b>Takeover Bid</b>	a takeover bid by the Bidder that satisfies the requirements in clause 2.
<b>Takeovers Panel</b>	the Takeovers Panel constituted under the <i>Australian Securities and Investments Commission Act 2001</i> (Cth).
<b>Target's Statement</b>	the target's statement to be prepared by Propertylink in relation to the Takeover Bid in compliance with Part 6.5 of the Corporations Act.
<b>Third Party</b>	a person other than the Bidder, any other Bidder Group Member and any Associate of any Bidder Group Member.
<b>Third Party Consent</b>	the Third Party consents identified in the list agreed by the parties, and signed by each party for purposes of identification.
<b>Timetable</b>	the timetable set out in Schedule 3 or as otherwise agreed between the parties in writing.
<b>Treasurer</b>	the Treasurer of the Commonwealth of Australia.
<b>Voting Power</b>	the meaning given in section 610 of the Corporations Act.
<b>Wholesale Fund</b>	the Propertylink Commercial Industrial Investments Trust, and any fund, which is not PAIP or PT and is not wholly-owned by Propertylink Group Members, in respect of which a Propertylink Group Member has Wholesale Fund Management Rights (including any entity that is a Subsidiary of such funds).



Term	Meaning
<b>Wholesale Fund Management Rights</b>	any rights of a Propertylink Group Member to receive management income in consideration for the performance of management services, including property, project and management fees, other than in respect of the Gantry Investment Trust or the Westlake Australia Trust.

## 1.2 Interpretation

In this agreement:

- (a) Headings and bold type are for convenience only and do not affect the interpretation of this agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) Other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning.
- (d) An expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual.
- (e) A reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this agreement.
- (f) A reference to any thing (including any right) includes a part of that thing, but nothing in this clause 1.2(f) implies that performance of part of an obligation constitutes performance of the obligation.
- (g) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (h) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (i) A matter, fact or circumstance is '**fairly disclosed**' if and only if sufficient information has been disclosed so that a sophisticated investor, experienced in transactions of the nature of the Takeover Bid and familiar with commercial real estate investment and management businesses would reasonably be expected to be aware of the nature, import and significance of the fact, matter or circumstance disclosed or recorded.
- (j) A reference to a party to a document includes that party's successors and permitted assignees.
- (k) A reference to an agreement other than this agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (l) A reference to '\$' or 'dollars' is to Australian currency unless denominated otherwise.
- (m) A reference to any time is a reference to the time in Sydney.
- (n) 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 Business Day.



### 1.3 Interpretation of inclusive expressions

Specifying anything in this agreement after the words 'including', 'includes', 'for example' or similar expression does not limit what else is included unless there is express wording to the contrary.

### 1.4 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 Business Day.

### 1.5 Agreement components

This agreement includes any schedule.

## 2 The Takeover Bid

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### 2.1 Making the Takeover Bid

Subject to clause 2.2, the Bidder agrees to:

- (a) make offers pursuant to an off-market takeover bid under Chapter 6 of the Corporations Act to acquire all the Propertylink Securities on terms and conditions no less favourable to Propertylink Securityholders than the Agreed Bid Terms; and
- (b) without limiting this clause 2.1, publicly announce a proposal to make offers under the Takeover Bid, in accordance with clause 3, immediately after both parties have executed this agreement.

### 2.2 Bidder may use a wholly-owned subsidiary

- (a) Subject to clause 2.2(b), the Bidder may satisfy its obligations under clause 2.1 by causing a Subsidiary that is wholly-owned (directly or indirectly) by the Bidder (**Bidder Sub**) to perform the obligations referred to in clause 2.1, in which case references to:
  - (1) the Takeover Bid are references to the takeover bid by Bidder Sub; and
  - (2) the Bidder making the Takeover Bid are references to the Bidder causing Bidder Sub to make the Takeover Bid.
- (b) The Bidder acknowledges and agrees that if, pursuant to clause 2.2(a), it elects to cause Bidder Sub to perform its obligations under clause 2.1, the Bidder remains liable to Propertylink for the due performance of those obligations.

### 2.3 Directors' recommendation and acceptance

- (a) Propertylink represents and warrants that:
  - (1) the Propertylink Boards have met and considered the possibility of the Bidder agreeing to make the Takeover Bid; and
  - (2) all of the Propertylink Directors have informed Propertylink that, if the Bidder complies with clause 2.1, they will:



- (A) unanimously recommend that Propertylink Securityholders accept the Offer to be made to them under the Takeover Bid; and
  - (B) accept, or procure the acceptance of, the Offer in respect of any Propertylink Securities that they own or control,  
in each case:
    - (C) in the absence of a Superior Proposal;
    - (D) subject to the Independent Expert concluding that the Takeover Bid is fair and reasonable to Propertylink Securityholders not Associated with the Bidder; andprovided that Propertylink Directors:
    - (E) may change their recommendation after 15 June 2019 if the Offer Period has not closed by that date and the Bidder has not, on or before that date, waived its right under the terms of the Offer to deduct from the consideration payable to a Propertylink Securityholder the cash amount of the Final Distribution; and
    - (F) if they change their recommendation as contemplated by paragraph (E) above, do not have to accept, or procure the acceptance of, the Offer in respect of any Propertylink Securities that they own or control.
- (b) Subject to the Bidder complying with clause 2.1, Propertylink agrees to:
- (1) procure that the Propertylink Directors publicly state the recommendation in clause 2.3(a)(2)(A), subject to the qualifications in clauses 2.3(a)(2)(C) and 2.3(a)(2)(D) in all material public announcements in relation to the Takeover Bid; and
  - (2) use reasonable endeavours to procure that the Propertylink Directors do not withdraw, revise, revoke or qualify, or make any public statement inconsistent with, such recommendation, except in the circumstances described in clauses 2.3(a)(2)(C) and 2.3(a)(2)(D),  
provided that, notwithstanding paragraphs (1) and (2) above:
    - (3) Propertylink Directors may change, withdraw, revise, revoke or qualify, and make public statements inconsistent with, their recommendation after 15 June 2019 if the Offer Period has not closed by that date and the Bidder has not, on or before that date, waived its right under the terms of the Offer to deduct from the consideration payable to a Propertylink Securityholder the cash amount of the Final Distribution; and
    - (4) Propertylink has no obligation to procure, or to use reasonable endeavours to procure, that the Propertylink Directors do otherwise, and will not be in breach of paragraphs (1) or (2) above, if any of the Propertylink Directors take any action contemplated by clause 2.3(b)(3) after 15 June 2019.

## 2.4 Treatment of Propertylink Performance Rights and Propertylink Restricted Securities

Propertylink agrees that, notwithstanding any previous resolution of the Propertylink Boards, it will procure that:



- (a) upon the Offer becoming unconditional and the Bidder and its Associates having relevant interests in at least 50.1% of all Propertylink Securities (on a fully diluted basis) (the date on which that occurs being the **Change of Control Date**):
- (1) all 2,025,127 Propertylink Restricted Securities that have been awarded in respect of the financial year ended 30 June 2018 (or entitlements to such 2,025,127 Propertylink Restricted Securities) as at the date of this agreement vest immediately on the Change of Control Date;
  - (2) 50% of the unvested Propertylink Performance Rights held by each holder of Propertylink Performance Rights vest immediately on the Change of Control Date; and
  - (3) the remaining 50% of the unvested Propertylink Performance Rights held by each holder of Propertylink Performance Rights lapse immediately on the Change of Control Date;
- (b) the Propertylink Boards exercise all discretions, including under the Propertylink Equity Plan, so as to ensure that such Propertylink Performance Rights and Propertylink Restricted Securities (or entitlements to such Propertylink Restricted Securities) vest or lapse (as applicable) as described, and only as described, in clause 2.4(a), by resolution of the Propertylink Boards on or before the Change of Control Date;
- (c) to the extent that Propertylink satisfies any entitlements to receive Propertylink Restricted Securities after the date of this agreement, it will do so by procuring that the relevant Propertylink Securities are acquired on-market, and the Propertylink Securities are allocated and transferred to the persons entitled to the Propertylink Restricted Securities, or by making a cash payment to the relevant persons; and
- (d) to the extent that any Propertylink Performance Rights vest after the date of this agreement, the obligations of Propertylink in respect of such vesting will be satisfied by Propertylink procuring that the relevant Propertylink Securities are acquired on-market, allocated and transferred to relevant holders of Propertylink Performance Rights, or by making a cash payment to the relevant holders.

### 3 Public announcement of Takeover Bid

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Immediately after the execution and exchange of this agreement, the Bidder and Propertylink must issue a joint public announcement concerning the Takeover Bid in the form set out in Annexure A, or as otherwise agreed between the parties.

### 4 Facilitating the Offer

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#### 4.1 General obligations to implement Takeover Bid

Propertylink and the Bidder must each:

- (a) use all reasonable endeavours and commit necessary resources (including management and corporate relations and external advisers); and



- (b) procure that its Representatives work in good faith and in a timely and co-operative fashion with the other party (including by attending meetings and by providing the necessary records and information reasonably required),

to implement the Takeover Bid. However, Propertylink will not be in breach of this clause 4.1, if Propertylink or any of its Related Persons takes any action in relation to a Competing Proposal which is expressly permitted under clause 8, or any other action, including changing Propertylink Directors' recommendation, expressly permitted under this agreement.

#### **4.2 Bidder's Statement and Target's Statement**

- (a) The Bidder will, to the extent practicable, give Propertylink a reasonable opportunity to review an advanced draft of the Bidder's Statement at least 3 Business Days before the Bidder proposes to lodge the Bidder's Statement with ASIC, and will consult in good faith with Propertylink with respect to any comments Propertylink may have.
- (b) Propertylink will, to the extent practicable, give the Bidder a reasonable opportunity to review an advanced draft of the Target's Statement at least 3 Business Days before Propertylink proposes to lodge the Target's Statement with ASIC, and will consult in good faith with the Bidder in relation to any comments the Bidder may have.

#### **4.3 Dispatch of Offers**

- (a) Propertylink agrees that the Offers and accompanying documents to be sent by the Bidder under item 6 of section 633(1) of the Corporations Act may be sent on a date nominated by the Bidder that is earlier than the date prescribed by item 6 of section 633(1) of the Corporations Act, in order to enable the Offers to be sent by the Bidder as contemplated by the Timetable.
- (b) Provided that a Superior Proposal has not been received by Propertylink in the interim each party agrees to use reasonable endeavours to implement the Takeover Bid in accordance with the Timetable.

#### **4.4 Access to information for Bidder's Statement and Target's Statement**

Each party agrees to provide the other party, on a timely basis, with information that may be reasonably required to assist in the preparation of the Bidder's Statement or the Target's Statement (as applicable).

#### **4.5 Promoting the Takeover Bid**

During the Offer Period:

- (a) in the absence of a Superior Proposal;
- (b) subject to the Independent Expert concluding that the Takeover Bid is fair and reasonable to Propertylink Securityholders not Associated with the Bidder; and
- (c) unless any Propertylink Director changes their recommendation in circumstances contemplated by clause 2.3(a)(2)(E),

the Propertylink Boards will support the Takeover Bid and participate in efforts reasonably required by the Bidder to promote the merits of the Takeover Bid, including meeting with key Propertylink Securityholders, analysts, management, customers and press if requested to do so by the Bidder.

## 4.6 Access to Propertylink

During the Implementation Period, Propertylink must to the extent reasonably required:

- (a) provide the Bidder and its Representatives as soon as is reasonably practicable with any documents, records, and other information (subject to any existing confidentiality obligations owed to third parties or applicable privacy laws) reasonably requested by them; and
- (b) provide the Bidder and its Representatives with reasonable access within normal business hours to Propertylink's senior management (provided that this access does not impose an unreasonable burden on Propertylink),

for the purposes of:

- (c) further understanding Propertylink's financial position;
- (d) implementing the Takeover Bid;
- (e) preparing for and carrying on the business of Propertylink following implementation of the Takeover Bid including the integration of Propertylink with the Bidder and the other members of the Bidder Group; and
- (f) any other purpose agreed in writing between the parties,

provided that:

- (g) nothing in this clause 4.6 will require Propertylink to provide, or procure the provision of, information concerning:
  - (1) Propertylink Directors' and Propertylink management's consideration of the Takeover Bid; or
  - (2) any actual, proposed or potential Competing Proposal (including Propertylink Directors' and Propertylink management's consideration of any actual, proposed or potential Competing Proposal),
- (h) providing or procuring the provision of information or access to the Bidder or its Representatives pursuant to this clause 4.6 does not result in unreasonable disruptions to, or interference with, the Propertylink Group's business;
- (i) the Bidder must:
  - (1) keep all information obtained by it under this clause 4.6 confidential;
  - (2) provide Propertylink with reasonable notice of any request for information or access; and
  - (3) comply with the reasonable requirements of Propertylink in relation to any access granted;
- (j) nothing in this clause 4.6 gives the Bidder any rights as to the decision making of any Propertylink Group Member or its business;
- (k) Propertylink may provide to the Bidder its records at a place other than Propertylink's business premises;
- (l) nothing in this clause 4.6 will require Propertylink to provide, or procure the provision of, information concerning the Propertylink Group's business that is, in the reasonable opinion of Propertylink, commercially sensitive, including any specific pricing and margin information or information about acquisition or disposal opportunities; and
- (m) nothing in this clause 4.6 will require Propertylink to provide, or procure the provision of, information if to do so would or would be reasonably likely to result in a waiver of legal professional privilege.

## 4.7 Registry and Propertylink Securityholder information

Propertylink must promptly:

- (a) provide to the Bidder all information about the Register including a copy of the Register and details regarding the holders of Propertylink Incentives in an electronic form requested by the Bidder promptly after a request by the Bidder to do so (including any request made by the Bidder under section 641 of the Corporations Act) to assist the Bidder to implement the Takeover Bid including by the Bidder or its Representatives soliciting acceptances under the Takeover Bid;
- (b) provide all necessary directions to the Registry to provide any information contained in the Register that the Bidder reasonably requests, including any sub-register, and, where requested by the Bidder, Propertylink must procure the information to be provided to the Bidder in electronic form on the day that Propertylink receives a copy from its Registry each time a copy is obtained; and
- (c) provide to the Bidder all information in relation to beneficial ownership of Propertylink Securities that Propertylink has received under section 672A of the Corporations Act, and separately undertake beneficial securityholder analysis at the request and cost of the Bidder, and promptly exercise its powers under section 672A of the Corporations Act if requested to so do by, and at the cost of, the Bidder, acting reasonably.

## 4.8 Third Party Consents

To the extent that any Third Party Consents have not already been obtained on terms acceptable to the Bidder (acting reasonably), at the Bidder's request:

- (a) Propertylink must, to the extent it has not already done so, in conjunction with the Bidder, apply to the counterparties from which these Third Party Consents are required;
- (b) Propertylink must use, and must procure that each relevant Related Person of Propertylink uses, in conjunction with the Bidder, reasonable endeavours to obtain the Third Party Consents as expeditiously as possible; and
- (c) Propertylink must work, and must procure that each relevant Related Person of Propertylink works, co-operatively with the Bidder in seeking to obtain those Third Party Consents.

## 4.9 Conduct of Company

During the Implementation Period:

- (a) Propertylink must, and must procure that each of the Propertylink Group Members:
  - (1) conducts its business in the usual and ordinary course and on a basis consistent with past practice or as may be required in order to satisfy a specific requirement of a Government Agency;
  - (2) does not engage in development of Properties agreed with the Bidder, other than with the prior approval of the Bidder;
  - (3) promptly provides to the Bidder, upon reasonable request, reports including in relation to the financial affairs and operations of the Propertylink Group, and consults with the Bidder on any matters that may have a material adverse impact on the integration of the

- businesses of the Bidder and Propertylink Group following implementation of the Takeover Bid; and
- (4) makes all reasonable efforts to preserve and maintain the value of its business and assets and its relationships with customers, suppliers, employees and others with whom it has business dealings and to keep available the services of its key employees and contractors; and
- (b) other than with the prior approval of the Bidder, Propertylink must not, and must procure that each Propertylink Group Member does not:
- (1) in the case of Propertylink, issue any Propertylink Securities;
  - (2) in the case of a Propertylink Group Member (other than Propertylink), issue any securities, other than to Propertylink or to another Propertylink Group Member that is directly or indirectly wholly-owned by Propertylink;
  - (3) in the case of Propertylink, announce, determine as payable, declare or pay any dividend or distribution except for the Permitted Distributions;
  - (4) in the case of a Propertylink Group Member (other than Propertylink), announce, determine as payable, declare or pay any dividend or distribution, other than to Propertylink or to another Propertylink Group Member that is directly or indirectly wholly-owned by Propertylink;
  - (5) issue or grant any Propertylink Performance Rights other than up to 824,889 Propertylink Performance Rights under the Equity Incentive Plan in respect of incentives agreed to be provided to employees in respect of the financial year ended 30 June 2019;
  - (6) increase the remuneration of or pay any bonus (including under any existing or proposed employee performance bonus policy or retention bonus policy) other than:
    - (A) increases or any bonuses provided for in an existing employment contract in place as at the date of this agreement;
    - (B) the acquisition on-market, allocation and transfer of up to 2,025,127 Propertylink Securities in satisfaction of deferred short term incentive entitlements under the Equity Incentive Plan which accrued for the financial year ended 30 June 2018;
    - (C) the acquisition on-market, allocation and transfer of up to 112,000 Propertylink Securities in satisfaction of Propertylink Performance Rights which vested on 1 July 2018;
    - (D) the issue or grant of up to 824,889 Propertylink Performance Rights (in aggregate) proposed to be issued under the Equity Incentive Plan in respect of incentives agreed to be provided to employees in respect of the financial year ended 30 June 2019;
    - (E) retention bonuses of up to \$2,576,449 (in aggregate) on terms agreed by the Bidder and Propertylink before the date of this agreement;
    - (F) increases in remuneration to apply for the financial year commencing 1 July 2019 (and subsequent financial years if



- applicable) which increases are notified to relevant employees after 1 June 2019; or
- (G) any bonuses paid in the ordinary course after 1 August 2019,
- or issue or agree to issue any securities or options (other than the issue of any Propertylink Performance Rights contemplated by this agreement (including the issues referred to in paragraph (D) above) to, or otherwise vary the employment agreements with, any of its officers or employees:
- (H) other than as provided for in an existing employment contract or other agreement in place and fairly disclosed to the Bidder as at the date of this agreement; or
- (I) other than issues or variations to apply for the financial year commencing 1 July 2019 (and subsequent financial years if applicable), which issues or variations are only agreed after 1 June 2019;
- (7) amend or vary the terms of the Equity Incentive Plan (or exercise any discretion in a way that has the effect of amending or varying the application of the Equity Incentive Plan), other than as contemplated or permitted under clause 2.4;
- (8) pay a director or executive a termination payment, other than as provided for in an existing employment contract or other agreement in place as at the date of this agreement and provided that a copy of which has previously been fairly disclosed to the Bidder; or
- (9) take any action which is, or would reasonably be expected to give rise to, a Propertylink Prescribed Occurrence or Propertylink Material Adverse Change; or
- (10) agree to do any of the matters set out above.

However, nothing in this clause 4.9 restricts the ability of any Propertylink Group Member to take any action:

- (c) to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
- (d) which is expressly required or expressly permitted by this agreement;
- (e) which has been agreed to in writing by the Bidder (which agreement must not be unreasonably withheld or delayed);
- (f) which is required by any legal or contractual obligations arising before, and which have been fairly disclosed to the Bidder prior to, the date of this agreement, or required by any applicable law or by a Government Agency;
- (g) which has been fairly disclosed in any announcement made by Propertylink to the ASX, in a publicly available document lodged with ASIC in the 2 years before the date of this agreement, or in the Data Room; or
- (h) which would otherwise be restricted by clause 4.9(b)(9) to the extent it is undertaken in response to receipt of an actual, proposed or potential Competing Proposal and is expressly permitted by clause 8.3 and provided that the relevant action is not or does not during the Implementation Period result in a Propertylink Prescribed Occurrence or Propertylink Material Adverse Change and no binding agreement is entered into during the Implementation Period that would if performed result in a Propertylink Prescribed Occurrence or Propertylink Material Adverse Change.

#### 4.10 Bid Conditions

- (a) Each party agrees not to do, or omit to do, anything which will, or is likely to, result in any of the Bid Conditions being breached.
- (b) If any event occurs or becomes apparent which would cause any of the Bid Conditions to be breached or cause satisfaction of them to be unreasonably delayed, each party must, to the extent that the party is actually aware of such information, immediately notify the other party of that event.
- (c) During the Implementation Period, if any of the Chief Executive Officer, Chief Financial Officer and General Counsel of Propertylink become aware that any matter, fact or circumstance has given one or more persons a right referred to in condition 3(h)(4)(C), (D), (E) or (F) of Schedule 2, Propertylink must immediately notify the Bidder:
  - (1) that such right has arisen, including providing details of the document and provision under which such right arises and the name of the person or persons who have such right; and
  - (2) all reasonable details of the facts, matters or circumstances that have given rise to the right,and use reasonable endeavours to arrange meetings between Representatives of the Bidder, Representatives of Propertylink Group and Representatives of each person who has such a right to discuss that person's intended response in relation to the relevant matter, fact or circumstance as soon as practicable.
- (d) A reference in this clause 4.10 to a Bid Condition being breached includes a reference to the Bid Condition not being, or not being capable of being, satisfied.

#### 4.11 Appointment of directors

- (a) As soon as practicable after the Bidder has paid the consideration payable under the Offer for, and becomes the registered holder of, at least 50.1% of all Propertylink Securities (on a fully diluted basis), if requested in writing to do so by the Bidder, Propertylink must use its best endeavours to procure the resignation and appointment of directors to the Propertylink Boards (subject to those persons having provided a consent to act as directors), such that a majority of the directors of the Propertylink Boards are directors nominated by the Bidder in writing.
- (b) As soon as practicable after the Offer Period has ended and the Bidder has paid the consideration payable under the Offer to Propertylink Securityholders who accepted the Offer, and for so long as the Bidder and its Associates together have relevant interests in more than 90% of all of the Propertylink Securities (on a fully diluted basis), Propertylink must use reasonable endeavours to:
  - (1) procure that each director of the Propertylink Boards designated by the Bidder in writing and each director of any Propertylink Group Member designated by the Bidder in writing resigns; and
  - (2) cause the appointment to the Propertylink Boards, and to the boards of each Propertylink Group Member, of such persons as nominated by the Bidder in writing, subject to those persons having provided a consent to act as directors of the relevant company or companies.

#### **4.12 Excluded information**

Despite clauses 4.6 and 4.11, neither the Bidder nor its Representatives (including any directors appointed by the Bidder under clause 4.11) are entitled to copies of any documents, records or information, access to Propertylink Group's employees, or to be present at meetings of the Propertylink Boards, where the subject matter relates to Propertylink's consideration of the Takeover Bid or any Competing Proposal.

#### **4.13 Independent Expert**

The parties acknowledge and agree that Propertylink will commission the preparation of an Independent Expert's Report for the Target's Statement. The Bidder must provide any assistance or information reasonably requested by Propertylink or by the Independent Expert in connection with the preparation of the Independent Expert's Report to be sent together with the Target's Statement.

## **5 Takeover Bid – variation and waiver**

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### **5.1 Variation**

Subject to clause 5.2, the Bidder may vary the terms and conditions of the Takeover Bid in any manner which is permitted by the Corporations Act.

### **5.2 Wavier of Bid Conditions and extension**

Subject to the Corporations Act:

- (a) the Bidder may in its sole discretion declare the Takeover Bid to be free from any Bid Condition or, subject to clause 5.2(b), extend the Offer Period at any time; and
- (b) the Bidder must not extend the Offer Period under sections 650C and 650D of the Corporations Act to end after the day that is 6 months after the date of this agreement without Propertylink's prior written consent, except in circumstances where all of the Bid Conditions have been satisfied or waived, in which case, the Bidder may extend the Offer Period to end at any time before the date that is 8 months after the date of this agreement.

## **6 Releases**

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### **6.1 Propertylink and Propertylink directors and officers**

- (a) The Bidder:
  - (1) releases its rights; and
  - (2) agrees with Propertylink that it will not make, and, subject to acquiring Control of Propertylink, it will procure that each Propertylink Group Member does not make, any claim,  
  
against any Propertylink Indemnified Person (other than any Propertylink Group Member) as at the date of this agreement and from time to time in connection with:



- (3) any breach of any representations and warranties of Propertylink or any other member of the Propertylink Group in this agreement or any breach of any covenant given by Propertylink in this agreement;
  - (4) any disclosures made in connection with this agreement or the transactions contemplated by it, including the Takeover Bid, containing any statement which is false or misleading whether in content or by omission; or
  - (5) any failure to provide information in connection with this agreement or the transactions contemplated by it, including the Takeover Bid, whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Propertylink Indemnified Person has not acted in good faith or has engaged in wilful misconduct, wilful concealment or fraud. For the avoidance of doubt, nothing in this clause 6.1(a) limits the Bidder's rights to terminate this agreement under clause 10.
- (b) Clause 6.1(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Propertylink receives and holds the benefit of this clause 6.1 to the extent it relates to each Propertylink Indemnified Person as trustee for each of them.

## 6.2 Bidder and Bidder directors and officers

- (a) Propertylink releases its rights, and agrees with the Bidder that it will not make a claim, against any Bidder Indemnified Person (other than the Bidder Group Members) as at the date of this agreement and from time to time in connection with:
- (1) any breach of any representations and warranties of the Bidder or any other member of the Bidder Group in this agreement or any breach of any covenant given by the Bidder in this agreement;
  - (2) any disclosure made in connection with this agreement or the transactions contemplated by it, including the Takeover Bid, containing any statement which is false or misleading whether in content or by omission; or
  - (3) any failure to provide information in connection with this agreement or the transactions contemplated by it, including the Takeover Bid, whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Person has not acted in good faith or has engaged in wilful misconduct, wilful concealment or fraud. For the avoidance of doubt, nothing in this clause 6.2(a) limits Propertylink's rights to terminate this agreement under clause 10.
- (b) Clause 6.2(a) is subject to any Corporations Act restriction and will be read down accordingly.
- (c) The Bidder receives and holds the benefit of this clause 6.2 to the extent it relates to each Bidder Indemnified Person as trustee for each of them.

## 6.3 Deeds of indemnity and insurance

- (a) Subject to the Bidder acquiring Control of Propertylink, the Bidder undertakes in favour of Propertylink and each other Propertylink Indemnified Person that it will:



- (1) for a period of seven years from the date the Bidder acquires Control of Propertylink, ensure that the constitutions of Propertylink and each other Propertylink Group Member continue to contain such rules as are contained in those constitutions at the date of this agreement that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a Propertylink Group Member; and
  - (2) procure that Propertylink and each other Propertylink Group Member complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting this, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained for a period of seven years from the retirement date of each director and officer.
- (b) The Bidder acknowledges that notwithstanding any other provision of this agreement, Propertylink may, before the end of the Offer Period, enter into arrangements to secure directors and officers run-off insurance for up to such seven year period, and that any actions to facilitate that insurance or in connection with such insurance will not be a breach of any provision of this agreement.
  - (c) The undertakings contained in clause 6.3(a) are subject to any Corporations Act restriction and will be read down accordingly.
  - (d) Propertylink receives and holds the benefit of clause 6.3(a), to the extent it relates to the other Propertylink Indemnified Persons, as trustee for each of them.

## 7 Confidentiality

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### 7.1 Confidentiality Agreement

- (a) PHL releases the Bidder from its obligations under the Confidentiality Agreement to the extent necessary for the Bidder to make the Takeover Bid, satisfy the Bid Conditions and promote the merits of the Takeover Bid, and otherwise perform its obligations under, and undertake the transactions contemplated by, this agreement.
- (b) Each party acknowledges and agrees that, except as provided for in clause 7.1(a), it continues to be bound by the obligations in the Confidentiality Agreement, including in respect of all information received by it from the other party before or after the date of this agreement.

### 7.2 Survival of obligations

The rights and obligations of the parties under the Confidentiality Agreement survive termination of this agreement.



## 8 Exclusivity

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### 8.1 No shop and no talk

During the Exclusivity Period, Propertylink must not, and must ensure that each of its Related Persons do not, directly or indirectly:

- (a) **(no shop)** solicit, invite or initiate any inquiry, expression of interest, offer proposal, negotiations or discussions by any person in relation to, or which would reasonably be expected to encourage or lead to the making of, a Competing Proposal or communicate to any person an intention to do anything referred to in this clause 8.1(a); or
- (b) **(no talk)** subject to clause 8.3:
  - (1) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer or proposal by any person to make, or which would reasonably be expected to encourage or lead to the making of, a Competing Proposal or participate in or continue any negotiations or discussions with respect to any Competing Proposal;
  - (2) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding a Competing Proposal;
  - (3) disclose or otherwise provide or make available any non-public information about the business or affairs of the Propertylink Group to a Third Party (other than a Government Agency that has the right to obtain that information and has sought it) in connection with, with a view to obtaining, or which would reasonably be expected to encourage or lead to the formulation, receipt or announcement of, a Competing Proposal (including providing such information for the purposes of the conduct of due diligence investigations in respect of the Propertylink Group) whether by that Third Party or another person; or
  - (4) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 8.1(b),

but nothing in this clause 8.1 prevents Propertylink or any of its Related Persons from:

- (c) providing information as required by any applicable law or the Listing Rules or to any Government Agency;
- (d) providing information to its auditors, advisers, customers, suppliers in the ordinary course of business;
- (e) making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Takeover Bid; or
- (f) communicating with Propertylink Securityholders in accordance with its ordinary investor communications practices.

### 8.2 Notification of approaches

- (a) During the Exclusivity Period, Propertylink must notify the Bidder in writing within two Business Days if Propertylink or any of its Related Persons becomes aware of any:



- (1) written approach or written attempt to initiate any negotiations or discussions in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to an actual, proposed or potential Competing Proposal;
- (2) written proposal made to Propertylink or any of its Related Persons in connection with, or in respect of any exploration or completion of, an actual, proposed or potential Competing Proposal; or
- (3) provision by Propertylink or any of its Related Persons of any non-public information concerning the business or operations of Propertylink or the Propertylink Group to any Third Party (other than a Government Agency) in connection with an actual, proposed or potential Competing Proposal,

whether direct or indirect, solicited or unsolicited, and in writing or otherwise. For the avoidance of doubt, any of the acts described in paragraphs (1) to (3) may only be taken by Propertylink or its Related Persons if not proscribed by clause 8.1 or if permitted by clause 8.3.

- (b) A notification given under clause 8.2(a) must include:
  - (1) the identity of the relevant person making or proposing the relevant Competing Proposal; and
  - (2) all material terms and conditions of the Competing Proposal (including the implied offer price per Propertylink Security).

### 8.3 Fiduciary exception

Clauses 8.1(b) and 8.2 (only to the extent it requires disclosure of information referred to in clause 8.2(b)(1)) do not prohibit any action or inaction by Propertylink or any of its Related Persons in relation to a Competing Proposal if, in the opinion of the Propertylink Boards, formed in good faith after receiving written legal advice from its external legal adviser and advice from its financial advisers, the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal and compliance with those provisions would constitute, or would be reasonably likely to constitute, a breach of any of the fiduciary or statutory duties of the directors of Propertylink, provided that:

- (a) the Competing Proposal was not directly or indirectly brought about by, or facilitated by, a breach of clause 8.1(a); and
- (b) to the extent that Propertylink or its Related Persons propose to provide information to which clause 8.2(a)(3) applies, Propertylink has entered into a binding confidentiality agreement with the relevant Third Party and either:
  - (1) the terms of that confidentiality agreement are no less favourable to Propertylink than the Confidentiality Agreement (including clause 7); or
  - (2) Propertylink agrees to amend the terms of the Confidentiality Agreement (including clause 7) such that the obligations imposed on the Bidder under that agreement are no less favourable than the obligations imposed on the relevant Third Party.

### 8.4 Matching right

- (a) Without limiting clause 8.1, during the Exclusivity Period, Propertylink:
  - (1) must not, and must procure that each Propertylink Group Member does not, enter into any legally binding agreement (whether or not in



writing) pursuant to which one or more of a Third Party, Propertylink or any Propertylink Group Member proposes or propose to undertake or give effect to a Competing Proposal; and

- (2) must use reasonable endeavours to procure that none of its directors change their recommendation in favour of the Takeover Bid, publicly recommend a Competing Proposal (or recommend against the Takeover Bid) or make any public statement to the effect that they may do so at a future point (provided that a statement that no action should be taken by Propertylink Securityholders pending the assessment of a Competing Proposal by the Propertylink Boards and its advisers shall not contravene this clause),

unless:

- (3) the Propertylink Boards, acting in good faith and in order to satisfy what the Propertylink Directors consider to be their statutory or fiduciary duties (having received written legal advice from their external legal adviser), determine that the Competing Proposal would be or would be reasonably likely to be a Superior Proposal;
  - (4) Propertylink has provided the Bidder with the material terms and conditions of the Competing Proposal, including price and the identity of the Third Party making the Competing Proposal;
  - (5) Propertylink has given the Bidder at least five Business Days after the date of the provision of the information referred to in clause 8.4(a)(4) to provide a matching or superior proposal to the terms of the Competing Proposal; and
  - (6) the Bidder has not announced or otherwise formally proposed to Propertylink a matching or superior proposal to the terms of the Competing Proposal by the expiry of the five Business Day period in clause 8.4(a)(5).
- (b) If the Bidder proposes to Propertylink, or announces, amendments to the Takeover Bid or a new proposal that constitutes a matching or superior proposal to the terms of the Competing Proposal (**Bidder Counterproposal**) by the expiry of the five Business Day period in clause 8.4(a)(5), Propertylink must procure that the Propertylink Boards consider the Bidder Counterproposal and if the Propertylink Boards, acting reasonably and in good faith, determine that the Bidder Counterproposal would provide an equivalent or superior outcome for Propertylink Securityholders as a whole (other than those Associated with the Bidder) compared with the Competing Proposal, taking into account all of the terms and conditions of the Bidder Counterproposal, then Propertylink and the Bidder must use reasonable endeavours to agree the amendments to this agreement and the Takeover Bid (as applicable) that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable, and Propertylink must use reasonable endeavours to procure that each of the directors of Propertylink continues to recommend the Takeover Bid (as modified by the Bidder Counterproposal) to Propertylink Securityholders.

## 8.5 No discussions

Propertylink represents and warrants that, as at the date of this agreement:

- (a) no Propertylink Group Member is participating in any discussions or negotiations relating to any actual, proposed or potential Competing Proposal; and



- (b) no person proposing any Competing Proposal to Propertylink's knowledge has access to Propertylink's confidential information.

## 8.6 Provision of information

During the Exclusivity Period, Propertylink must as soon as possible (and, in any event, within two Business Days) give the Bidder:

- (a) in the case of written materials, a copy of; and
- (b) in any other case, a written statement of,

any non-public information about the business or affairs of Propertylink or the Propertylink Group disclosed or otherwise provided by Propertylink or any of its Related Persons to any Third Party in connection with a Competing Proposal that has not previously been provided to the Bidder. For the avoidance of doubt, any such provision of information to a Third Party may only be undertaken if permitted by clause 8.3.

## 8.7 Legal advice

Propertylink represents and warrants to the Bidder that:

- (a) prior to entering into this agreement it has received legal advice on this agreement and the operation of this clause 8; and
- (b) it and the Propertylink Boards consider this clause 8 to be fair and reasonable and appropriate to agree in order to secure the significant benefits to it and Propertylink Securityholders resulting from the transactions contemplated hereby.

## 8.8 Compliance with law

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 8 or any part of it:
  - (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Propertylink Boards;
  - (2) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
  - (3) was, or is, or would be, unlawful for any other reason,then, to that extent (and only to that extent) Propertylink will not be obliged to comply with that provision of clause 8.
- (b) The parties must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 8.7.

# 9 Reimbursement Fee

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## 9.1 Background to Reimbursement Fee

- (a) Propertylink acknowledges that, if the Bidder enters into this agreement and the Takeover Bid is subsequently not implemented, the Bidder will incur significant costs, including those set out in clause 9.4.



- (b) In these circumstances, the Bidder has requested that provision be made for the payments outlined in clause 9.2, without which the Bidder would not have entered into this agreement or otherwise agreed to implement the Takeover Bid.
- (c) The Propertylink Boards believe, having taken advice from their external legal adviser and financial advisers, that the implementation of the Takeover Bid will provide benefits to Propertylink and that it is appropriate for Propertylink to agree to the payments referred to in clause 9.2 in order to secure the Takeover Bid.

## 9.2 Reimbursement Fee triggers

Subject to this clause 9, Propertylink must pay the Reimbursement Fee to the Bidder if:

- (a) during the Exclusivity Period, any Propertylink Director:
  - (1) fails to recommend that Propertylink Securityholders accept the Takeover Bid in the manner described in clause 2.3;
  - (2) withdraws, adversely revises or adversely qualifies their recommendation that Propertylink Securityholders accept the Takeover Bid; or
  - (3) recommends that Propertylink Securityholders accept or vote in favour of, or otherwise supports or endorses (including support by way of accepting or voting, or by way of stating an intention to accept or vote, in respect of any Propertylink Securities that they own or control), a Competing Proposal of any kind that is announced (whether or not such proposal is stated to be subject to any pre-conditions) during the Exclusivity Period,unless:
  - (4) the Independent Expert concludes in the Independent Expert's Report (or any update of, or revision, amendment or supplement to, that report) that the Takeover Bid is not fair and reasonable (except where that conclusion is due wholly or partly to the existence, announcement or publication of a Competing Proposal);
  - (5) in the case of clauses 9.2(a)(1) and 9.2(a)(2) only, the relevant failure, withdrawal, revision or qualification occurs after 15 June 2019 and the Bidder has not, on or before that date, waived its right under the terms of the Offer to deduct from the consideration payable to a Propertylink Securityholder the cash amount of the Final Distribution; or
  - (6) Propertylink is entitled to terminate this agreement pursuant to clause 10.1(b)(2), clause 10.1(b)(3) or clause 10.1(b)(4), and has given the appropriate termination notice to the Bidder;
- (b) a Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 12 months of the date of such announcement, the Third Party or any Associate of that Third Party:
  - (1) completes a Competing Proposal of a kind referred to in any of paragraphs 2, 3 or 4 of the definition of Competing Proposal;
  - (2) enters into a binding agreement, arrangement or understanding with Propertylink or another Propertylink Group Member to undertake or give effect to a Competing Proposal (for the avoidance of doubt, this does not include entry into any preliminary agreement, arrangement or understanding, such as a non-disclosure agreement, exclusivity



- agreement that does not itself give effect to, or bind any Propertylink Group Member (whether or not subject to conditions) to give effect to, a Competing Proposal); or
- (3) without limiting clause 9.2(b)(1) or 9.2(b)(2), acquires (either alone or in aggregate) a relevant interest in, and an unconditional right to acquire, more than 50% of the Propertylink Securities or acquires (either alone or in aggregate) Control of Propertylink.
- (c) the Bidder has validly terminated this deed pursuant to clause 10.1(a)(2) or 10.1(a)(3).

### 9.3 Payment of Reimbursement Fee

- (a) A demand by the Bidder for payment of the Reimbursement Fee under clause 9.2 must:
- (1) be in writing;
- (2) be made after the occurrence of the event in that clause giving rise to the right to payment;
- (3) state the circumstances which give rise to the demand; and
- (4) nominate an account in the name of the Bidder into which Propertylink is to pay the Reimbursement Fee.
- (b) Propertylink must pay the Reimbursement Fee into the account nominated by Bidder, without set-off or withholding, within five Business Days after receiving a demand for payment where the Bidder is entitled under clause 9.2 to the Reimbursement Fee.

### 9.4 Basis of Reimbursement Fee

The Reimbursement Fee has been calculated to reimburse Bidder for costs including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Takeover Bid (excluding success fees);
- (b) reasonable opportunity costs incurred in engaging in the Takeover Bid or in not engaging in other alternative acquisitions or strategic initiatives;
- (c) costs of management and directors' time in planning and implementing the Takeover Bid; and
- (d) out of pocket expenses incurred by Bidder and Bidder's employees, advisers and agents in planning and implementing the Takeover Bid,

and the parties agree that:

- (e) the costs actually incurred by Bidder will be of such a nature that they cannot all be accurately ascertained; and
- (f) the Reimbursement Fee is a genuine and reasonable pre-estimate of those costs,

and Propertylink represents and warrants that it has received written legal advice from its legal adviser in relation to the operation of this clause 9.



## 9.5 Compliance with law

- (a) This clause 9 does not impose an obligation on Propertylink to pay the Reimbursement Fee to the extent (and only to the extent) that the obligation to pay the Reimbursement Fee:
- (1) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or
  - (2) is determined to be unenforceable or unlawful by a court,
- and Bidder will refund to Propertylink, within five Business Days any amount in excess of its obligation under this clause that has already been paid when that declaration or determination is made. For the avoidance of doubt, any part of the Reimbursement Fee that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid.
- (b) The parties must not make or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 9.5(a).

## 9.6 Fees payable only once

Where the Reimbursement Fee becomes payable to the Bidder under clause 9.2 and is actually paid to the Bidder, the Bidder cannot make any claim against Propertylink for payment of any subsequent Reimbursement Fee.

## 9.7 No fee if Bidder successful

Despite anything to the contrary in this agreement, the Reimbursement Fee will not be payable to Bidder if the Bidder acquires a relevant interest in at least 50.1% of all Propertylink Securities (on a fully diluted basis) as a result of the Takeover Bid and the Takeover Bid becomes free of all Bid Conditions, notwithstanding the occurrence of any event in clause 9.2 and, if the Reimbursement Fee has already been paid it must be refunded by Bidder.

## 9.8 Other Claims

Despite anything to the contrary in this agreement, in the event that Propertylink is liable to pay the Reimbursement Fee to Bidder in the circumstances referred to in clause 9.2, Propertylink has no liability to the Bidder for any Claim other than for payment of the Reimbursement Fee or any other Claim arising from any fraud or dishonesty by or on behalf of any Propertylink Group Member or any fraud or dishonesty by any director or officer of any Propertylink Group Member acting in their capacity as a director or officer of such Propertylink Group Member.

# 10 Termination

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## 10.1 Termination rights

- (a) The Bidder may terminate this agreement by written notice to Propertylink if at any time after the date on which the Offer is announced under clause 3 and before the end of the Offer Period:



- (1) any Propertylink Director fails to recommend that Propertylink Securityholders accept the Offer, or having recommended the Offer, withdraws, revises, revokes or qualifies their recommendation in relation to the Takeover Bid;
  - (2) Propertylink is in material breach of this agreement and, to the extent that the breach is capable of remedy, that breach is not remedied by Propertylink within 10 Business Days of it receiving notice from the Bidder of the details of the breach and the Bidder's intention to terminate;
  - (3) a representation or warranty given by Propertylink under clause 11 is or becomes untrue and this is material in the context of the Takeover Bid taken as a whole;
  - (4) a court or Government Agency has issued an order, decree or ruling, or taken other action, that permanently restrains or prohibits the Takeover Bid, and the action is final and cannot be appealed or reviewed or the Bidder, acting reasonably, believes that there is no realistic prospect of a successful appeal or review; or
  - (5) the Bidder withdraws the Takeover Bid or the Takeover Bid lapses for any reason, including non-satisfaction of a condition to the Takeover Bid.
- (b) Propertylink may terminate this agreement by written notice to the Bidder if at any time after the date on which the Offer is announced under clause 3 and before the end of the Offer Period:
- (1) any Propertylink Director fails to recommend that Propertylink Securityholders accept the Offer, or having recommended the Offer, withdraws, revises, revokes or qualifies their recommendation in relation to the Takeover Bid, in either case as a result of the Propertylink Boards determining that they have received a Superior Proposal, having complied with clause 8.4;
  - (2) Bidder is in material breach of this agreement and, to the extent that the breach is capable of remedy, that breach is not remedied by the Bidder within 10 Business Days of it receiving notice from Propertylink of the details of the breach and Propertylink's intention to terminate;
  - (3) a representation or warranty given by the Bidder under clause 11 is or becomes untrue and this is material in the context of the Takeover Bid taken as a whole;
  - (4) a court or Government Agency has issued an order, decree or ruling, or taken other action, that permanently restrains or prohibits the Takeover Bid, and the action is final and cannot be appealed or reviewed or Propertylink, acting reasonably, believes that there is no realistic prospect of a successful appeal or review; or
  - (5) the Bidder withdraws the Takeover Bid or the Takeover Bid lapses for any reason, including non-satisfaction of a condition to the Takeover Bid.

## 10.2 Effect of termination

If this agreement is terminated by a party under this clause 10:

- (a) each party will be released from its obligations under this agreement, except its obligations under clauses 6, 7, 9, 12, 14 and 17;



- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and
- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including any further obligations in respect of the Takeover Bid.

## 11 Warranties

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### 11.1 Mutual warranties

Each party represents and warrants to the other that, as at the date of this agreement and until the end of the Offer Period:

- (a) it is validly incorporated, organised and subsisting under the laws of the place of its incorporation;
- (b) it has full power and capacity to enter into and perform its obligations under this agreement;
- (c) this agreement has been duly executed and is a legal, valid and binding agreement, enforceable against the party in accordance with its terms;
- (d) all necessary authorisations for the execution, delivery and performance by it of this agreement in accordance with its terms have been obtained;
- (e) it is not bound by any agreement that would prevent or restrict it from entering into and performing its obligations under this agreement or the transaction contemplated by it;
- (f) no resolutions have been passed or steps taken, and no petition or other process has been presented or threatened in writing against it, for winding-up or dissolution, and no receiver, receiver and manager, liquidator, administrator or like official has been appointed, or is threatened or expected to be appointed, over the whole or any part of its assets; and
- (g) no regulatory action of any nature has been taken that would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement.

### 11.2 Propertylink warranties

In addition to the warranties set out in clause 11.1 and 11.3, Propertylink represents and warrants that, as at the date of this agreement and until the end of the Offer Period (except where a warranty is given as of a particular date, in which case Propertylink gives that warranty as of that particular date):

- (a) PAIP and PT are registered managed investment schemes validly registered under Chapter 5C of the Corporations Act;
- (b) as at the date of this agreement, the information contained in Schedule 4 is complete and accurate, and there are no other securities on issue, or that might be issued as a result of the exercise of any options, convertible securities or other rights or in accordance with any letter of award or grant under the Equity Incentive Plan;
- (c) as at the date of this agreement, subject to the release of the joint public announcement contemplated by clause 3, it is not in breach of its continuous disclosure obligations under the Listing Rules and the Corporations Act and is



not relying on Listing Rule 3.1A to withhold any information from disclosure other than as fairly disclosed to the Bidder prior to the date of this agreement;

- (d) so far as the Propertylink Directors and its Chief Executive Officer, Chief Financial Officer and General Counsel are aware, as at the date of this agreement, the information contained in the Data Room has been prepared in good faith and Propertylink has not deliberately withheld materially adverse information about the Propertylink Group from the Data Room with the intention of misleading the Bidder; and
- (e) as at the date of this agreement, there is no litigation, action, arbitration, claim or investigation:
  - (1) currently on foot;
  - (2) commenced; or
  - (3) so far as the Propertylink Directors and its Chief Executive Officer, Chief Financial Officer and General Counsel are aware, announced or threatened,

by or against a Propertylink Group Member that has or would reasonably be expected to give rise to a Propertylink Material Adverse Change.

### 11.3 PIML warranties

In addition to the warranties set out in clause 11.1 and 11.2, Propertylink represents and warrants that, as at the date of this agreement and until the end of the Offer Period (except where a warranty is given as of a particular date, in which case Propertylink gives that warranty as of that particular date):

- (a) PIML has the right to be indemnified out of the assets of PAIP (to the extent it is acting in its capacity as PAIP RE) or PT (to the extent it is acting in its capacity as PT RE) (each a **Relevant Trust**) in respect of all and any of its obligations and liabilities under this agreement;
- (b) in its capacity as responsible entity of each Relevant Trust, PIML has the power under the PAIP constitution or PT constitution (as applicable) to enter into this agreement and is duly authorised to do so;
- (c) PIML was duly appointed as responsible entity of each Relevant Trust pursuant to the PAIP constitution or PT constitution (as applicable);
- (d) the PAIP constitution and PT constitution were duly executed and duly stamped and any amendment since the execution of those documents in no way affects the other representations and warranties made or given by PIML (in its capacity as PAIP RE or PT RE, as applicable) in this agreement nor the ability of PIML (acting in its capacity as PAIP RE or PT RE, as applicable) to perform its obligations under this agreement; and
- (e) as at the date of this agreement:
  - (1) PIML holds of the office of responsible entity of PAIP and PT;
  - (2) no circumstances have arisen that may lead to the removal or replacement of PIML as responsible entity of PAIP or PT or to PIML ceasing to act as such; and
  - (3) no circumstances have arisen that may lead to an additional responsible entity of PAIP or PT being appointed.



#### **11.4 Bidder warranties**

In addition to the warranties set out in clause 11.1, the Bidder represents and warrants that, as at the date of this agreement and until the end of the Offer Period (except where a warranty is given as of a particular date, in which case Propertylink gives that warranty as of that particular date):

- (a) it will have available to it sufficient cash amounts to enable it to perform its obligations to pay the total cash consideration payable to Propertylink Securityholders under the Takeover Bid; and
- (b) no approvals are required to be obtained by the Bidder under any law, rule or regulation (including under the Listing Rules) to perform and observe its obligations under this agreement and to consummate the transaction contemplated by this agreement; and
- (c) as at the date of this agreement, no Bidder Group Member nor any Bidder Group Member's Representatives is aware of any circumstances that have, will, or would reasonably be expected to result, in any of the Bid Conditions not being satisfied.

#### **11.5 Indemnities for breach of warranties**

- (a) Propertylink indemnifies the Bidder against all Loss suffered or incurred by the Bidder or a Bidder Group Member arising from or in connection with a breach of the warranties given by Propertylink set out in clauses 11.1, 11.2 and 11.3.
- (b) The Bidder indemnifies Propertylink against all Loss suffered or incurred by Propertylink or a Propertylink Group Member arising from or in connection with a breach of the warranties given by the Bidder set out in clauses 11.1 and 11.4.

#### **11.6 Reliance on representations and warranties**

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.
- (c) Each party acknowledges and confirms that clauses 11.6(a) and 11.6(b) do not prejudice any rights a party may have in relation to information which has been filed by the other party with ASIC or ASX.

#### **11.7 Notification**

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the representations and warranties given by it under this clause 11.

## 12 Limitation of liability

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### 12.1 Capacity

Each party acknowledges that:

- (a) PAIP RE is entering into this agreement as responsible entity of PAIP and not in any other capacity; and
- (b) PT RE is entering into this agreement as responsible entity of PT and not in any other capacity.

### 12.2 PAIP RE's liability

- (a) Subject to clause 12.2(b):
  - (1) PAIP RE is not liable to the other parties or any other person in any capacity other than as responsible entity of PAIP;
  - (2) a liability of PAIP RE to the other parties arising under or in connection with this agreement is limited to and can be enforced by the other parties against PAIP RE only to the extent to which it can be satisfied out of the property of PAIP. This limitation of PAIP RE's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of PAIP RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction of PAIP RE related to this agreement;
  - (3) the other parties may not sue PAIP RE in any capacity other than as trustee of PAIP, including seeking the appointment of a receiver (except in relation to property of PAIP), a liquidator, an administrator or any other similar person to PAIP RE or prove in any liquidation of or affecting PAIP RE (except in relation to the property of PAIP); and
  - (4) each of the other parties waives its rights and releases PAIP RE from any personal liability in respect of any Loss which the other parties may suffer as a consequence of a failure of PAIP RE to perform its obligations under this agreement, which cannot be paid or satisfied out of any property held by PAIP RE as responsible entity of PAIP.
- (b) The provisions of clause 12.2(a) will not apply to any obligation or liability of PAIP RE to the extent arising as a result of PAIP RE's fraud, gross negligence or wilful default or where PAIP RE's right of indemnity is otherwise reduced by operation of law or the PAIP constitution.
- (c) No act or omission of PAIP RE (including any related failure to satisfy its obligations or breach of representations or warranty under this agreement) will be considered fraud, gross negligence or wilful default of PAIP RE for the purposes of clause 12.2(b) to the extent to which the act or omission was caused by any act or omission of any other person.

### 12.3 PT RE's liability

- (a) Subject to clause 12.3(b):
  - (1) PT RE is not liable to the other parties or any other person in any capacity other than as responsible entity of PT;
  - (2) a liability of PT RE to the other parties arising under or in connection with this agreement is limited to and can be enforced by the other



parties against PT RE only to the extent to which it can be satisfied out of the property of PT. This limitation of PT RE's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of PT RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction of PT RE related to this agreement;

- (3) the other parties may not sue PT RE in any capacity other than as trustee of PT, including seeking the appointment of a receiver (except in relation to property of PT), a liquidator, an administrator or any other similar person to PT RE or prove in any liquidation of or affecting PT RE (except in relation to the property of PT); and
  - (4) each of the other parties waives its rights and releases PT RE from any personal liability in respect of any Loss which the other parties may suffer as a consequence of a failure of PT RE to perform its obligations under this agreement, which cannot be paid or satisfied out of any property held by PT RE as responsible entity of PT.
- (b) The provisions of clause 12.3(a) will not apply to any obligation or liability of PT RE to the extent arising as a result of PT RE's fraud, gross negligence or wilful default or where PT RE's right of indemnity is otherwise reduced by operation of law or the PT constitution.
  - (c) No act or omission of PT RE (including any related failure to satisfy its obligations or breach of representations or warranty under this agreement) will be considered fraud, gross negligence or wilful default of PT RE for the purposes of clause 12.3(b) to the extent to which the act or omission was caused by any act or omission of any other person.

## 13 Duty, costs and expenses

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### 13.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this agreement or the Takeover Bid or the steps to be taken under this agreement or the Takeover Bid; and
- (b) indemnifies Propertylink against any liability arising from its failure to comply with clause 13.1(a).

### 13.2 Costs and expenses

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution, delivery and performance of this agreement and the proposed, attempted or actual implementation of this agreement and the Takeover Bid.

## 14 Withholding tax

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### 14.1 Withholding

If the Bidder is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* (**Subdivision 14-D**) to pay amounts to the Australian Taxation Office (ATO) in respect of the acquisition of Propertylink Securities from certain Propertylink Securityholders, the Bidder is permitted to deduct the relevant amounts from the payment of the consideration to those Propertylink Securityholders, and remit such amounts to the ATO. For the avoidance of doubt, the total sum payable to Propertylink Securityholders shall not be increased to reflect the deduction.

### 14.2 'Relevant foreign resident'

- (a) The Bidder will look at a number of factors in determining whether it considers, or reasonably believes, that a Propertylink Securityholder will be a 'relevant foreign resident' for the purpose of Subdivision 14-D including circumstances in which the Propertylink Securityholder:
- (1) is classified as a non-resident in the Propertylink Register or has non-Australian domicile per the Propertylink Register;
  - (2) has a foreign registered address;
  - (3) is not incorporated in Australia; or
  - (4) is a corporate securityholder and otherwise has a registered name that leads the Bidder to reasonably believe that the corporate securityholder is not an Australian incorporated corporate entity.
- (b) Propertylink must provide all information and assistance that Bidder reasonably requires to assist the Bidder in determining which Propertylink Securityholders are 'relevant foreign residents'.

## 15 GST

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### 15.1 Interpretation

In this clause 14, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* has the meaning given to it in that Act.

### 15.2 GST gross up

- (a) Subject to clause 15.2(b), if a party makes a supply under or in connection with this agreement in respect of which GST is payable, the consideration for the supply but for the application of this clause 15.2 (**GST exclusive consideration**) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (b) Clause 15.2(a) does not apply to any consideration that is expressed in this agreement to be inclusive of GST.



### 15.3 Reimbursements and indemnifications

If a party must reimburse or indemnify another party for a Loss, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the Loss, and then increased in accordance with clause 15.2.

### 15.4 Tax invoice

A party need not make a payment for a taxable supply made under or in connection with this agreement until it receives a tax invoice for the supply to which the payment relates.

## 16 Notices

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### 16.1 Form of Notice

A notice or other communication to a party under this agreement (**Notice**) must be:

- (a) in writing and in English; and
- (b) addressed to that party in accordance with the details nominated in Schedule 1 (or any alternative details nominated to the sending party by Notice).

### 16.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	When the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf.

### 16.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than email as permitted in clause 16.2).



## 17 General

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### 17.1 Governing law and jurisdiction

- (a) This agreement is governed by the law in force in New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

### 17.2 Invalidity and enforceability

- (a) If any provision of this agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.2(a) does not apply where enforcement of the provision of this agreement in accordance with clause 17.2(a) would materially affect the nature or effect of the parties' obligations under this agreement.

### 17.3 Waivers and variation

- (a) A provision of, or a right, discretion or authority created under, this agreement may not be:
  - (1) waived except in writing signed by the party granting the waiver; and
  - (2) varied except in writing signed by the parties.
- (b) A failure or delay in exercise, or partial exercise, of a power, right, authority, discretion or remedy arising from a breach of, or default under this agreement does not result in a waiver of that right, power, authority, discretion or remedy.

### 17.4 Assignment of rights

- (a) Rights arising out of or under this agreement are not assignable by a party without the prior written consent of the other party.
- (b) A breach of clause 17.4(a) by a party entitles the other parties to terminate this agreement.
- (c) Clause 17.4(b) does not affect the construction of any other part of this agreement.

### 17.5 Further assurances

Each party must do all things and execute all further documents necessary to give full effect to this agreement.

### 17.6 Counterparts

This agreement may be executed in any number of counterparts.



### **17.7 Severability**

Any provision in this agreement that is invalid or unenforceable in any jurisdiction is to be read down for the purpose of that jurisdiction, if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

### **17.8 Propertylink's rights and obligations**

- (a) Any rights expressed to be held by Propertylink are held and may be exercised by PHL, PAIP RE and PT RE severally.
- (b) Obligations and liabilities expressed to be owing by Propertylink under this agreement are owed by PHL, PAIP RE and PT RE jointly and severally.

### **17.9 Attorneys**

Each of the attorneys executing this agreement (if any) states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.

### **17.10 Time of the essence**

Time is of the essence of this agreement.



## Schedules

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## Schedule 1

### Notice details

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<b>Propertylink</b>	<b>Propertylink (Holdings) Limited</b>
Address	Level 29, 10-20 Bond Street Sydney NSW 2000
Attention	Rebekah Hourigan
Email	rhourigan@propertylink.com.au
With a copy to	Philip Podzebenko Herbert Smith Freehills 161 Castlereagh Street Sydney NSW 2000 philip.podzebenko@hsf.com
<hr/>	
<b>PAIP RE</b>	<b>Propertylink Investment Management Limited as responsible entity of Propertylink Australian Industrial Partnership</b>
Address	Level 29, 10-20 Bond Street Sydney NSW 2000
Attention	Rebekah Hourigan
Email	rhourigan@propertylink.com.au
With a copy to	Philip Podzebenko Herbert Smith Freehills 161 Castlereagh Street Sydney NSW 2000 philip.podzebenko@hsf.com
<hr/>	
<b>PT RE</b>	<b>Propertylink Investment Management Limited as responsible entity of the Propertylink Trust</b>
Address	Level 29, 10-20 Bond Street Sydney NSW 2000
Attention	Rebekah Hourigan
Email	rhourigan@propertylink.com.au
With a copy to	Philip Podzebenko Herbert Smith Freehills 161 Castlereagh Street Sydney NSW 2000 philip.podzebenko@hsf.com

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**ESR Real Estate (Australia) Pty Ltd**

Address Suite 59, Jones Bay Wharf, 26-32 Pirrama Road, Pyrmont NSW 2009

Attention Andrew Fitzpatrick

Email [andrew.fitzpatrick@au.esr.com](mailto:andrew.fitzpatrick@au.esr.com)

With a copy to Sandy Mak and Adam Foreman  
Corrs Chambers Westgarth  
8-12 Chifley Square  
Sydney NSW 2000

[sandy.mak@corrs.com.au](mailto:sandy.mak@corrs.com.au)  
[adam.foreman@corrs.com.au](mailto:adam.foreman@corrs.com.au)

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## Schedule 2

### Agreed Bid Terms

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#### 1 Consideration

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The consideration under the Offer is \$1.20 for each Propertylink Security.

The Bidder may deduct from the consideration under the Offer payable to a Propertylink Securityholder in respect of a Propertylink Security the cash amount or value (excluding the value of any franking credits attached to the dividends, distributions or other Rights) of any dividends, distributions or other Rights attaching that Propertylink Security for which the record date occurs after the date of this agreement (including the Permitted Distributions) and which the Propertylink Securityholder or a previous holder of that Propertylink Security receives or is entitled to receive (provided that such Rights are not vested in the Bidder or the Bidder does not otherwise receive the benefit or value of those Rights).

#### 2 Offer Period

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The initial Offer Period will last for at least one month, subject to Bidder's right in its sole discretion, subject complying with the restrictions in clause 5.2, to extend the period in accordance with the Corporations Act.

#### 3 Bid Conditions

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The completion of this Offer and any contract that results from an acceptance of this Offer, are subject to the fulfilment of the conditions set out below:

(a) **No regulatory action**

During the Implementation Period:

- (1) there is not in effect any preliminary or final decision, order or decree issued by any Government Agency;
- (2) no action or investigation is announced, commenced or threatened by any Government Agency; and
- (3) no application is made to any Government Agency (other than by the Bidder or any Associate of the Bidder),

in consequence of or in connection with the Offer (other than an application to, or a decision or order of, or action or investigation by, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, or materially impact upon, the making of the Offers and the completion of the Takeover Bid or which requires the divestiture by the Bidder of any Propertylink Securities or any material assets of the Propertylink Group.



(b) **Minimum acceptance**

At the end of the Offer Period, the Bidder has a relevant interest in at least 50.1% of all Propertylink Securities (on a fully diluted basis).

(c) **No material adverse change**

(1) During the Implementation Period, none of the following occurs:

- (A) an event, change, condition, matter or thing occurs or will or is reasonably likely to occur;
- (B) information is disclosed or announced by Propertylink concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur; or
- (C) information concerning any event, change, condition, matter or thing that has occurred or is reasonably likely to occur becomes known to the Bidder (whether or not becoming public),

(each of (A), (B) and (C), a **Specified Event**) which, whether individually or when aggregated with all such events, changes, conditions, matters or things of a like kind that have occurred, will occur or are reasonably likely to occur, has had or would be considered reasonably likely to have:

- (D) a material adverse effect on the business, assets, liabilities, financial or trading position, profitability or prospects of the Propertylink Group, taken as a whole; or
- (E) without limiting the generality of paragraph (c)(1)(D):
  - (i) the effect of a diminution in the value of the consolidated net assets of the Propertylink Group, taken as a whole, by at least \$47,400,000 against what it would reasonably have been expected to have been but for such Specified Event;
  - (ii) the effect of a diminution in the consolidated earnings before interest, tax, fair value movements and one-off performance fees of the Propertylink Group, taken as a whole, by at least \$4,400,000 in any financial year for the Propertylink Group against what they would reasonably have been expected to have been but for such Specified Event;
  - (iii) the effect of a diminution in the distributable earnings of at least \$4,200,000 in any financial year for the Propertylink Group against what they would reasonably have been expected to have been but for such Specified Event;
  - (iv) a material adverse effect on any Australian Financial Services Licence held by a Propertylink Group Member, including the revocation, cancellation, suspension, or materially adverse modification of the terms of, such licence.

other than those events, changes, conditions, matters, circumstances or things:

- (F) agreed to in writing by Bidder;

- (G) arising as a result of any change in law or governmental policy;
  - (H) arising as a result of any change in Australian accounting standards or their application to the Propertylink Group;
  - (I) arising from changes in economic (including interest rates) or political conditions generally; or
  - (J) arising from changes in business conditions that affect the Propertylink Group and other businesses in the commercial real estate investment and management sectors in a similar manner.
- (2) For the purposes of paragraph (c)(1), the Bidder shall not be taken to know of information concerning any event, change, condition, matter or thing before the date of this agreement, unless the information has been fairly disclosed by Propertylink in its public filings with ASX, or in the Data Room, before the date of this agreement.

(d) **No Prescribed Occurrences**

During the Implementation Period (other than with the prior written consent of the Bidder), none of the following happen:

- (1) PHL, PAIP or PT (where applicable, acting through its responsible entity) converting all or any of its shares or units (as applicable) into a larger or smaller number of securities;
- (2) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee) resolving to reduce its capital in any way, other than in connection with a Permitted Distribution or a return of capital to Propertylink or to a Propertylink Group Member directly or indirectly wholly-owned by Propertylink;
- (3) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee):
  - (A) entering into a buyback agreement; or
  - (B) resolving to approve the terms of a buyback agreement, other than in respect of a buyback of securities held by Propertylink or by a Propertylink Group Member directly or indirectly wholly-owned by Propertylink;
- (4) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee) issuing securities (including Propertylink Securities), or granting an option over securities or a performance right convertible into securities, or agreeing to make such an issue or grant such an option or performance right, other than:
  - (A) up to 824,889 Propertylink Performance Rights issued under the Equity Incentive Plan;
  - (B) the issue of securities by one Propertylink Group Member to Propertylink or to another Propertylink Group Member that is directly or indirectly wholly-owned by Propertylink;
  - (C) the issue of securities in a Propertylink Group Member to an investor for the purpose of the establishment, provision of initial funding for, or recapitalisation (where all third party

capital is bought back or redeemed such that a Wholesale Fund becomes a Propertylink Group Member immediately before the issue of new capital) of a Wholesale Fund;

- (5) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee) issuing, or agreeing to issue, convertible notes;
- (6) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee) disposing or agreeing to dispose, of the whole, or a substantial part, of the business or property of the Propertylink Group as a whole;
- (7) PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee) granting, or agreeing to grant, a Security Interest in the whole, or a substantial part, of the business or property of the Propertylink Group as a whole;
- (8) PHL, PAIP or PT (where applicable, acting through its responsible entity) resolving that any of them be wound up or any other Propertylink Group Member resolving to be wound up;
- (9) the appointment of a liquidator or provisional liquidator of PHL, PAIP, PT, PIML or any other Propertylink Group Member or any responsible entity or trustee of any other Propertylink Group Member;
- (10) the making of an order by a court for the winding up of PHL, PAIP, PT, PIML or any other Propertylink Group Member or any responsible entity or trustee of any other Propertylink Group Member; or
- (11) the appointment of a receiver, receiver and manager, other controller (as defined in the Corporations Act) or similar official in relation to the whole, or a substantial part, of the property of PHL, PAIP, PT, PIML or any other Propertylink Group Member or any responsible entity or trustee of any other Propertylink Group Member.

The acquisition, allocation and transfer of Propertylink Securities as contemplated by clause 2.4 will not constitute a Prescribed Occurrence.

(e) **No material acquisitions, disposals, capital expenditure or changes in the conduct of business**

During the Implementation Period (other than with the prior written consent of the Bidder), neither PHL, PAIP, PT nor any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee):

- (1) acquires or disposes of, or enters into or announces any agreement for the acquisition or disposal of, any asset or business, or enters into any corporate transaction, which would or would be likely to involve a material change in:
  - (A) the manner in which Propertylink or the Propertylink Group as a whole, conducts its business; or
  - (B) the nature (including balance sheet classification), extent or value of the assets or liabilities of Propertylink or the Propertylink Group as a whole;
- (2) without limiting the generality paragraph (e)(1), enters into or agrees to enter into or announces any transaction which would, or would be likely to, involve PHL, PAIP, PT or any other Propertylink Group Member (where applicable, acting through its responsible entity or trustee):

- (A) acquiring or disposing of, or agreeing to acquire or dispose of, one or more trusts, companies or businesses (or any interest therein) other than an acquisition or disposal of one or more trusts in connection with the acquisition or disposal of an indirect interest in the underlying assets held by those trusts and where the value of the gross assets held directly or indirectly by those trusts is in aggregate less than \$20,000,000;
  - (B) acquiring or disposing of, or agreeing to acquire or dispose of, any assets (including any real property, units in trusts or shares in companies) which have an aggregate value in excess of \$20,000,000;
  - (C) entering into any contract or commitment (including the acquisition of, or agreement to acquire, any asset or entering into a lease or agreement for lease) that is not in the ordinary course of business, other than a contract or commitment in relation to a Competing Proposal where permitted under clause 8 or a contract or commitment entered into to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
- (3) without limiting the generality of paragraphs (e)(1) and (e)(2):
- (A) makes, publicly proposes to make, or issues a bidder's statement in respect of, a takeover bid for CIP Units;
  - (B) enters into, or announces any intention or proposal to enter into, any transaction or agreement that would involve or result in any Propertylink Group Member directly or indirectly acquiring, or obtaining a right to acquire:
    - (i) a relevant interest in CIP Units or Voting Power in CIP;
    - (ii) an interest in all or a substantial part or material part of the business conducted by, or assets or property of, CIP or any of its Subsidiaries; or
    - (iii) Control of CIP or any of its Subsidiaries;
  - (4) waives any material third party default where the financial impact on the Propertylink Group will be in excess of \$5,000,000 (individually or in aggregate); or
  - (5) accepts as a compromise of a matter less than the full compensation due to a Propertylink Group Member where the financial impact of the compromise on that Propertylink Group Member is more than \$5,000,000 (individually or in aggregate),

except for such acquisitions, disposals, agreements, waivers or compromises as have been fairly disclosed by Propertylink in its public filings with ASX, or in the Data Room, before the date of this agreement.

(f) **No destruction or damage to any Properties**

During the Implementation Period, none of the Properties are destroyed and there is no physical damage to any Property such that the aggregate of:

- (1) the amount or value of the destruction or damage to Properties referred to in items 1 and 2 of the definition of "Properties"; and



- (2) the amount of value of the destruction or damage to each Property referred to in item 3 of the definition of "Properties" multiplied by percentage of the ordinary units or other equity interests owned directly or indirectly by the Propertylink Group in the Wholesale Fund that owns the relevant Property,

exceeds or would reasonably be expected to exceed \$5,000,000 after recovery of any insured amounts.

(g) **Responsible entity and other changes**

During the Implementation Period, none of the following occurs (other than with the prior written consent of the Bidder):

- (1) PHL, PAIP or PT (where applicable, acting through its responsible entity) implements, or agrees or proposes to implement or otherwise participate in, any transaction, proposal or arrangement under which (if implemented) management of PAIP or PT is or would be 'externalised' in any way;
- (2) PIML is removed or replaced as responsible entity of PAIP or PT or an agreement is entered into, or there is any intention announced by Propertylink, to remove or replace PIML as responsible entity of PAIP or PT;
- (3) the trustee of any Propertylink Group Member (other than PAIP or PT) ceases to be the trustee of that Propertylink Group Member, unless the outgoing trustee is replaced as trustee by a Propertylink Group Member;
- (4) a change of Control occurs or is agreed to occur in respect of PHL, PAIP, PT or PIML, other than as a result of the Offer;
- (5) a change is made or agreed to be made to any of the constitutional documents of PHL, PAIP, PT or any other Propertylink Group Member; or
- (6) any special or extraordinary resolution is passed or agreed to be passed in respect of PHL, PAIP, PT or any other Propertylink Group Member.

(h) **No proposal impacting Wholesale Fund Management Rights**

During the Implementation Period, none of the following occurs (other than with the prior written consent of the Bidder):

- (1) any Propertylink Group Member (where applicable, acting through its responsible entity) enters into, amends in any material respect or terminates, any contract or commitment (or any series of related contracts or commitments) for the provision by Propertylink Group Members of investment management, property management, administration or related services to a person, trust or other entity which is not a Propertylink Group Member, other than a renewal or replacement of a contract or commitment in respect of investment management, property management, administration or related services which exists as at the date of this agreement following its expiry:
  - (A) in the ordinary course on arm's length and market terms, or terms more favourable to the Propertylink Group; and

- (B) which will not result, and is not reasonable likely to result, in an aggregate reduction in gross fee revenue to the Propertylink Group of more than \$1,000,000 per annum;
- (2) a subscription agreement is entered into in relation to any Wholesale Fund;
- (3) a person validly gives or issues a “buy/sell” notice in respect of investors’ units in the relevant Wholesale Fund pursuant to a deadlock resolution procedure in any joint venture arrangement between investors in the Wholesale Fund;
- (4) any of:
  - (A) a person validly exercises, or announces or states an intention to exercise (where the person is entitled to exercise such a right) any right arising under any provision of any document in relation to a Wholesale Fund to which a Propertylink Group Member is a party or subject; or
  - (B) a resolution is validly passed, or notice is given, by the requisite majority of investors (or the requisite majority of investors announce or state an intention to pass a resolution or give notice) to exercise, or to approve the exercise of a right arising under any provision of any document in relation to a Wholesale Fund to which a Propertylink Group Member is a party or subject which right is expressed in the relevant agreement to be exercisable by, or with the approval of, a resolution passed, or notice given, by the requisite majority of investors in the Wholesale Fund,

(whether such exercise, resolution or announcement or statement is absolute or contingent):

  - (C) to terminate any agreement under which any Propertylink Group Member has any Wholesale Fund Management Rights in respect of the Wholesale Fund;
  - (D) to replace or remove any Propertylink Group Member as trustee or manager of the Wholesale Fund;
  - (E) to require any Propertylink Group Member to dispose of its investment in the Wholesale Fund; or
  - (F) to terminate or wind up the Wholesale Fund.
- (i) **No litigation on foot or pending**
  - (1) During the Implementation Period, no litigation against any Propertylink Group Member which may reasonably result in a judgement of \$10,000,000 or more is commenced, is threatened to be commenced, is announced, or is made known to the Bidder (whether or not becoming public) or Propertylink, other than that which is in the public domain or is fairly disclosed in the Data Room as at the date of this agreement.
  - (2) During the Implementation Period, neither:
    - (A) the consideration under the Offer is required to be increased from the amount stipulated in the Bidder’s Statement; nor
    - (B) the Bidder or an Associate of the Bidder is required or reasonably likely to be required to pay any amount to any

one or more Propertylink Securityholder(s) in connection with the Offer,

as a result of:

- (C) any litigation that is commenced, is threatened to be commenced, announced or is made known to the Bidder (whether or not becoming public); or
- (D) any preliminary or final decision or order of any Government Agency,

other than as a result of the Bidder publicly undertaking to increase the consideration under the Offer or the Bidder lodging a notice of variation under section 650D of the Corporations Act relating to an increase of the consideration under the Offer.

(j) **Financing**

Other than with the prior written consent of the Bidder, during the Implementation Period:

- (1) except for any transaction fairly disclosed by Propertylink in its public filings with the ASX, or in the Data Room, prior to the date of this agreement, no Propertylink Group Member (where applicable, acting through its responsible entity or trustee):
  - (A) incurs, increases or guarantees any financial indebtedness of any kind (including any Debt), other than incurring or increasing Permitted Indebtedness, or incurring or increasing any financial indebtedness to Propertylink or to a Propertylink Group Member that is directly or indirectly wholly-owned by Propertylink; or
  - (B) provides any financial accommodation to any entity other than Propertylink or to a Propertylink Group Member that is directly or indirectly wholly-owned by Propertylink,

in either case, of an amount in excess of \$4,000,000.
- (2) in respect of any financing arrangement, agreement or instrument which a Propertylink Group Member or Wholesale Fund has with any other person including any PLG Facility Agreement (other than financing arrangements, agreements or instruments between Propertylink and Propertylink Group Members which are directly or indirectly wholly-owned by Propertylink (or between such Propertylink Group Members)), none of PHL, PAIP, PT nor any other Propertylink Group Member or Wholesale Fund (where applicable, acting through its responsible entity or trustee):
  - (A) breaches any covenants or makes any misrepresentations which are not remedied in accordance with the cure rights under the arrangement, agreement or instrument;
  - (B) relies on any waiver or amendment (other than one fairly disclosed to the Bidder on or before the date of this agreement) to avoid the potential breach of any covenant or to avoid the making of any misrepresentation or to avoid an event of default or potential event of default occurring;
  - (C) allows an event of default or potential event of default to occur which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument;

- (D) allows an obligation to pay any amount to be accelerated; or
- (E) permanently reduces the amount of debt ahead of a maturity date (other than to the extent required by the relevant financing arrangement, agreement or instrument).

This does not apply to any breach, misrepresentation, event of default, potential event of default, acceleration or reduction in the amount of debt as a consequence of a change of control event (or similar event) occurring, or that may occur, as a result of the Offer, or the acquisition of Propertylink Securities pursuant to the Offer.

- (3) in respect of any PLG Facility Agreement, none of PHL, PAIP, PT nor any other Propertylink Group Member or Wholesale Fund (where applicable, acting through its responsible entity or trustee):

- (A) allows the headroom in respect of any loan to value ratio covenant (however described) under any PLG Facility Agreement other than the PLG Group Facility Agreement to be less than 5% of the total asset pool to which the loan to value ratio covenant applies, including any covenant that restricts the payment of distributions or dividends at a certain loan to value ratio;
- (B) enters into any agreement, arrangement or instrument that, or amends any PLG Facility Agreement in a way that results in any restriction applying to the payment of distributions or dividends by the relevant Propertylink Group Members or Wholesale Funds that is less favourable to the relevant Propertylink Group Members or Wholesale Funds than any such restriction that currently applies under such PLG Facility Agreement as at the date of this agreement; or
- (C) enters into any agreement, arrangement or instrument containing terms that materially adversely affect the rights of any Propertylink Group Member or Wholesale Fund under any PLG Facility Agreement as at the date of this agreement, other than a change in fees or interest or other terms in respect of the cost of the relevant facility that are agreed in the ordinary course on arm's length and market terms in connection with the extension of the PLG Facility Agreement where the remaining term of that PLG Facility Agreement is less than three months.

This does not apply to actions taken by the trustee or manager of a Wholesale Fund to the extent that the relevant action is required to be taken in order to comply with legally binding instructions from the investors in that Wholesale Fund or otherwise to avoid a breach of a binding contract existing as at the date of this agreement in respect of a Wholesale Fund;

- (4) neither of the following occurs:
  - (A) the aggregate drawn amounts at any time under the PLG Group Facility Agreement exceed \$475,000,000; or
  - (B) the LVR (as defined in the PLG Group Facility Agreement as at the date of this document) exceeds 57.5%.



## Schedule 3

### Timetable

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<b>Event</b>	<b>Date</b>
• Joint announcement of Takeover Bid	12 November 2018
• Bidder lodges Bidder's Statement with ASIC and serves it on Propertylink and ASX	19 November 2018
• Propertylink lodges Target's Statement with ASIC and serves it on Bidder and ASX	20 November 2018
• Dispatch of Bidder's Statement to Propertylink Securityholders	21 November 2018
• Offer Period commences	21 November 2018
• Dispatch of Target's Statement to Propertylink Securityholders	22 November 2018



## Schedule 4

### Propertylink's capital structure as at the date of this agreement

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<b>Security</b>	<b>Total number</b>
Propertylink Securities on issue	602,780,330
Propertylink Performance Rights on issue which have vested	112,000
Propertylink Performance Rights on issue which have not vested	3,078,820
Propertylink Performance Rights which have been awarded but not issued*	824,889
Entitlements to Restricted Securities awarded by Propertylink	2,025,127
Restricted Securities on issue	0

\* issue is subject to approval at Propertylink's annual general meeting for 2018



HERBERT  
SMITH  
FREEHILLS

## Annexure A

### Form of initial joint announcement

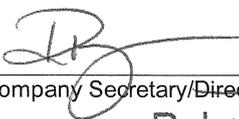
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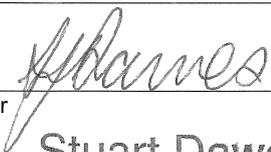
# Signing page

Executed as an agreement

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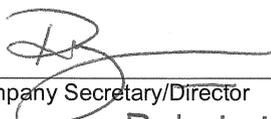
Signed by  
**Propertylink (Holdings) Limited**  
by

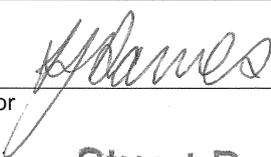
sign here ►   
\_\_\_\_\_  
Company Secretary/Director  
print name Rebekah Hourigan

sign here ►   
\_\_\_\_\_  
Director  
print name Stuart Dawes

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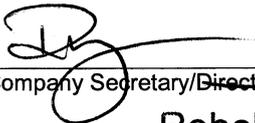
Signed by  
**Propertylink Investment Management Limited** as responsible entity of  
**Propertylink Australian Industrial Partnership**  
by

sign here ►   
\_\_\_\_\_  
Company Secretary/Director  
print name Rebekah Hourigan

sign here ►   
\_\_\_\_\_  
Director  
print name Stuart Dawes

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Signed by  
**Propertylink Investment Management Limited** as responsible entity of the  
**Propertylink Trust**  
by

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

print name Rebekah Hourigan

sign here ►   
\_\_\_\_\_  
Director

print name Stuart Dawes

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HERBERT  
SMITH  
FREEHILLS

Signed by  
**ESR Real Estate (Australia) Pty Ltd**  
by

sign here ▶   
Company Secretary/Director

print name ANDREW FRANCIS FITZPATRICK

sign here ▶   
Director

print name Philip Pearce