

Constitution of Charter Hall Direct Industrial Fund

Consolidated

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Constitution of Charter Hall Direct Industrial Fund

Date:

Parties: Charter Hall Direct Property Management Limited (ABN 56 073 623 784) of Level 20, 1 Martin Place, Sydney NSW 2000 (the RE).¹

It is declared as follows.

1 Definitions and interpretation

1.1 Definitions

Terms defined in the Stapling Provisions have the same meanings when used in this Constitution unless otherwise defined in this Constitution.

Unless the contrary intention appears, these meanings apply:

Accept means:

- (a) in respect of an application for Units, the doing of any act by the RE or its agent that constitutes an acceptance of the application or evidence that the application has been accepted, including recording a determination or notifying the applicant that the application is accepted, or recording in the Register the issue of Units in response to the application;
- (b) in respect of a request for redemption of Units by a Unit Holder, the doing of any act by the RE or its agent that constitutes an acceptance of the request or evidence that the request has been accepted, including notifying the Unit Holder or recording a determination that the request will be met in whole or in part, recording the redemption of Units in the Register or paying the redemption proceeds to or at the direction of the Unit Holder or former Unit Holder,

and **Acceptance** has a corresponding meaning.

AMIT means, for an income year, a trust which is an attribution managed investment trust for the purposes of section 276-10 of the Tax Act.

AMIT Legislation means all or any of the:

- (a) *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016* (Cth);
- (b) *Income Tax Rates Amendment (Managed Investment Trusts) Act 2016* (Cth);
- (c) *Medicare Levy Amendment (Attribution Managed Investment Trusts) Act 2016* (Cth); and
- (d) *Income Tax (Attribution Managed Investment Trusts – Offsets) Act 2016* (Cth);

as appropriate and as the context requires.

¹ Charter Hall WALE Limited (ACN 610 772 202) became the responsible entity of Charter Hall Direct Industrial Fund on 22 September 2016.

AMIT Regime means the regime for the taxation of AMITs, as set out in the AMIT Legislation.

AML Legislation means *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), the *Financial Transaction Reports Act 1988* (Cth) and any similar legislation in any jurisdiction.

Application Price means the Unit price calculated in accordance with clause 10.

Applications Account means an account in which the RE or, if permitted, its agent holds money on trust for applicants for Units in accordance with section 1017E of the Corporations Act or otherwise.

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

ASIC Relief means an ASIC instrument made or an exemption or declaration granted by ASIC which gives relief from certain requirements of the Corporations Act.

Assets means all the Property, Investments, rights and income of the Trust from time to time but not:

- (a) application money or property in respect of which Units have not yet been issued;
- (b) amounts allocated for payment (but not yet paid) to Unit Holders as the Redemption Price in accordance with clause 13; or
- (c) any amount of Distributable Income to which Unit Holders are presently entitled.

ASX means ASX Limited or the market operated by it, as the context requires.

Attached Security has the same meaning as in schedule 1.

Auditor means the auditor from time to time appointed by the RE to audit the Trust.

Australian Accounting Standards means:

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

Business Day means while Units are not Officially Quoted, a day on which banks are open for general banking business in Sydney (not being a Saturday, Sunday or public holiday in that place) or, while Units are Officially Quoted, a day which is a Trading Day for the purposes of the Listing Rules.

Capital Gains means so much of the Distributable Income of the Trust as the RE determines represents:

- (a) the amount which the RE determines to be the net capital gain of the Trust under section 102-5 of the Tax Act, disregarding steps 3 and 4 in that section, including any amounts which are of the same character, to which the RE is entitled by virtue of holding units in a trust; less
- (b) any deductions which the RE determines would arise in the determination of the Distributable Income of the Trust and should be applied by the RE to reduce the amount arising under paragraph (a).

CIV means a form of collective investment vehicle which may include a company or partnership which may be established under Commonwealth legislation.

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

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

Complaint means an expression of dissatisfaction made to the RE, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.

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

Consolidation or Division Proposal means a proposal to consolidate, divide or convert Relevant Securities in a ratio determined by the RE, including rounding of the number of Units as the RE determines.

Constitution means this deed as amended from time to time.

Corporations Act means the *Corporations Act 2001* (Cth), and a reference to the Corporations Act or a provision of it includes as modified by applicable ASIC Relief.

CS Facility has the same meaning as clearing and settlement facility in the Corporations Act.

CS Facility Operator means the operator of the CS Facility.

Custodian means a person holding or appointed to hold Assets as custodian for the RE.

Derivatives means:

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

- (i) managing, limiting or reducing perceived risks or anticipated costs relative to returns;
- (ii) augmenting or improving returns having regard to perceived risks or anticipated costs; or
- (iii) securing a profit or avoiding a loss;

associated with any Commodity, Property or Investment.

Designated Foreign Investor means a Foreign Investor in respect of whom the Issuer has made a determination in accordance with clause 15.6.

Designated Foreign Investor Cash-Out has the meaning given in clause 15.6(d).

Distributable Income for a period is the amount determined by the RE under clause 16.2.

Distribution Calculation Date means the last day of each Financial Year and any other days as the RE designates.

Distribution Period means:

- (a) for the first distribution period, the period from the commencement of the Trust to the next Distribution Calculation Date;
- (b) for the last distribution period, the period from the day after the preceding Distribution Calculation Date to the date of distribution on winding up of the Trust; and
- (c) in all other circumstances, the period from the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date.

Escrow Period has the same meaning as in the Listing Rules.

Exchange Proposal means a proposal whereby a written offer to transfer or redeem some or all of their Units is made to Unit Holders or to specific Unit Holders in consideration of any or all of:

- (a) the issue or transfer of units in another trust, or interests of whatever nature in or in relation to another entity, including a CIV;
- (b) a cash payment; and
- (c) a transfer of Assets.

Financial Instrument means an interest, right or instrument relating to the Trust (including a derivative, debenture, convertible note or other instrument of a debt, equity, quasi-debt, quasi-equity or hybrid nature) other than a Unit or Option.

Financial Instrument Holder means the person Registered in the Register as the holder of a Financial Instrument (including persons registered jointly) or, if no such register is kept, the holder of a Financial Instrument.

Financial Year means:

- (a) for the first financial year, the period from the date the Trust commences to the next Financial Year Termination Date;

- (b) for the last financial year, the period from the day after the preceding Financial Year Termination Date to the date of final distribution on winding up of the Trust; and
- (c) in all other circumstances, the period from the day after the preceding Financial Year Termination Date to the next occurring Financial Year Termination Date,

but the application of this definition for the purposes of calculating distributions from the Trust and preparing the income tax return for the Trust does not affect the RE's determination as to the financial year of the Trust for the purposes of preparing accounts and lodging returns required for registered schemes under the Corporations Act.

Financial Year Termination Date means:

- (a) 30 June or, if the Trust is granted a substituted accounting period by the Commissioner of Taxation for the purposes of the Tax Act, the last date of that substituted accounting period; and
- (b) if applicable, the day on which the Trust becomes a "subsidiary member" of a "consolidated group" or "consolidatable group" (as these terms are defined in the Tax Act); and
- (c) if applicable, the day on which the Trust ceases to be a "subsidiary member" of a "consolidated group" or "consolidatable group" (as these terms are defined in the Tax Act).

Foreign Investor means a Unit Holder whose address on the Register is in a jurisdiction other than Australia or New Zealand or who holds Units, Options or Financial Products on behalf of a person outside Australia or New Zealand.

Fully Paid Unit means a Unit on which the Application Price has been fully paid.

Gross Value of the Assets means the aggregate value of the Assets (calculated in accordance with clause 14), but with Investments and other Assets valued on a look through basis without deducting any liabilities such as debt funding or any liabilities of any sub-trust or subsidiary entity in which the Trust has an interest.

GST means a goods and services tax, value added tax, consumption tax or a similar tax or a tax on services only.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Income Entitlement means a Residual Income Entitlement, Residual Gains Entitlement or a Redemption Gains Entitlement.

Initial Offer Period means the period commencing on the date Units are first offered for subscription and ending on 30 September 2010 or at such other time as the RE determines.

Initial Public Offer means:

- (a) an initial public offer of Units (whether or not part of Stapled Securities) for the purpose of raising substantial capital; or
- (b) a sell down of a substantial portion of the Units by the Unit Holders; or
- (c) any other arrangement which has substantially the same economic effect,

in each case for the purpose of seeking Listing and Official Quotation of the Units.

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

- (a) (without limiting paragraph (b)) financial products including, for the avoidance of doubt, units in wholly or partly owned sub-trusts; and
- (b) the pursuit of gain or the protection against loss by way of any of the following:
 - (i) acquiring or holding of any Property;
 - (ii) making available financial accommodation; or
 - (iii) entering into any contract or a Derivative,

and may involve incurring a liability or obligation of any kind.

Investor means in schedule 1 a person entered in the Register as a holder of a Stapled Security (which includes a Unit), but does not include a person in their capacity as holder of an Option or Financial Instrument unless the Option or Financial Instrument is an Attached Security.

Land includes any interest in land whether vested or contingent, freehold or leasehold, whether at law or in equity.

Law includes:

- (a) the Corporations Act, the AML Legislation and any statute; and
- (b) any rule of common law, rule of equity or judgement which applies to the Trust or the RE (as the case may be).

Liabilities means all present liabilities of the Trust including:

- (a) any provision taken into account in determining the liabilities of the Trust;
- (b) proceeds of redemption which have not yet been paid; and
- (c) any amounts which have been set aside for distribution to Unit Holders under clauses 16.7 or 16.20 (and, in the intervening period between the end of a Distribution Period and the setting aside of an amount under clause 16.20, the RE's reasonable estimate of such amount);

but not liabilities:

- (a) to applicants for Units in respect of application money or property in respect of which Units have not yet been issued; or
- (b) to Unit Holders, arising by virtue of the right of Unit Holders to request redemption of their Units (where the Units have not yet been redeemed) or to participate in the distribution of the Assets on winding up of the Trust.

Liquid has the same meaning as in the Corporations Act.

Listed means admitted to the Official List and **Listing** has a corresponding meaning.

Listing Rules means the listing rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

Market Price of a Unit on a particular day is:

- (a) the weighted average of the VWAP for the Unit for each of the 10 Trading Days immediately before the relevant day (whether or not a sale was recorded on any particular day);
- (b) the price obtained pursuant to a bookbuild arranged by a reputable investment bank with experience in arranging bookbuilds in the Australian equity market, provided that the Auditor has provided written certification that the bookbuild was conducted in accordance with normal market standards; or
- (c) if:
 - (i) in the case of paragraph (a), Units have not been Officially Quoted for at least 10 consecutive Trading Days before the relevant day; or
 - (ii) in the case of paragraphs (a) or (b), in the RE's opinion, a determination under paragraph (a) or (b) of this definition (as relevant) would not provide a fair reflection of the market value of the Unit having regard to the nature of the proposed offer of Units and the circumstances in which the proposed offer is made,

the price per unit determined by an adviser who:

- (i) is independent of the RE; and
- (ii) has relevant market experience in determining the issue price of securities in circumstances similar to those in which the determination of the Market Price of a Unit is being made,

to be the fair market price of the Unit, having regard to:

- (i) the nature of the proposed offer of Units for which purpose the Market Price of a Unit is being calculated;
- (ii) the circumstances in which the proposed offer of Units will be made; and
- (iii) the interests of Unit Holders generally, including balancing the dilutionary effect of any such issue against the desirability of a successful capital raising.

Market Value of an Asset means:

- (a) in the case of an Asset that is cash or a deposit with an Australian authorised deposit-taking institution, its face value plus any accrued interest;
- (b) in the case of an Asset that is a financial product traded on a financial market, the latest closing price on that market that is readily available to the RE, unless:
 - (i) applicable accounting standards require the value to be a different amount (such as the bid price gross of transaction costs) in which case the value is that other amount; or

- (ii) the RE reasonably believes that the closing price or the value under applicable accounting standards does not represent the true value of the Asset, in which case the value will be as determined by a Valuer at the expense of the Trust;
- (c) in the case of an Asset that is an interest in a fund that is not listed or quoted for dealing on any financial market:
 - (i) the redemption price of the interest as last quoted by the manager, trustee or responsible entity of the fund; plus
 - (ii) any income entitlements accrued at that date as last advised by the manager, trustee or responsible entity. Where the fund is operated by the RE or a related body corporate of the RE, the redemption price of the interest (excluding any allowance for transaction costs) and the accumulated income entitlements must be determined in accordance with the constitution governing the fund;
- (d) in the case of an Asset that is a real estate asset, the latest independent valuation of the real estate asset or, for a real estate asset not yet revalued since its acquisition, the real estate asset's purchase price (including acquisition costs, the total costs of subsequent additions and costs to date for development in progress, where applicable); and
- (e) in the case of any other Asset, the value of the Asset determined in accordance with relevant accounting standards or, if the RE is of the opinion that such valuation does not truly reflect the value of the Asset, such value as last determined by a Valuer at the expense of the Trust.

Maximum Redemption Gains Amount means the amount determined by the RE in respect of a Unit redeemed under a Significant Redemption under clause 16.6(b).

New Attached Securities has the same meaning as in schedule 1.

Net Asset Value means the value of the Assets calculated in accordance with clause 14 less the Liabilities.

Official List means the official list of ASX as defined in the Listing Rules.

Officially Quoted means admitted to quotation by ASX under the Listing Rules including, if quotation is suspended for a continuous period not exceeding 60 days, the period of suspension and **Official Quotation** has a corresponding meaning.

Operating Rules means the operating rules of a CS Facility regulating the settlement, clearing and registration of uncertificated shares as amended from time to time (whether in respect of the Trust or generally).

Option means an option on any terms granted under this Constitution to subscribe for unissued Units, including as part of a Stapled Security.

Option Holder means the person Registered in the Register of option holders.

Ordinary Resolution means a Resolution where the required majority is a simple majority.

Partly Paid Unit means a Unit on which the Application Price has not been paid in full.

Property means property of any description and includes:

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

RE means the person appointed as trustee of the Trust.

Realisation Transaction means a transaction which enables all Unit Holders to realise all or a substantial portion of their investment in the Trust, including:

- (a) an Initial Public Offer;
- (b) a sell down of a substantial portion of the Units where all Unit Holders have the opportunity to participate in the sell down;
- (c) a sale of substantial Assets where all Unit Holders have an opportunity to have their Units redeemed or transferred; or
- (d) any other arrangement which has substantially the same economic effect as a transaction referred to in paragraph (a), (b) or (c).

Record Date means in relation to a Distribution Period:

- (a) if the Distribution Period ends on the last day of a Financial Year, the last day of the Financial Year; and
- (b) in all other circumstances, the date determined by the RE as the record date for that Distribution Period.

Redemption Amount means the amount calculated for a Unit that is redeemed in accordance with clauses 12.2 to 12.4.

Redemption Gains Entitlement means, in respect of a Unit Holder who redeems Units under a Significant Redemption, the entitlement of the Unit Holder to the Capital Gains of the Trust in respect of the redemption of those Units, as determined in accordance with clause 16.6(c).

Redemption Price means the Unit price calculated in accordance with clause 12.

Register means the register of Unit Holders and, if relevant, Option Holders and Financial Instrument Holders that the RE keeps or causes to be kept.

Registered means recorded in the Register and **Registration** has a corresponding meaning.

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

Registrar means the body responsible for keeping the Register.

Relevant Security means a Unit, an Option or a Financial Instrument as appropriate.

Relevant Security Holder means a Unit Holder, an Option Holder or Financial Instrument Holder as appropriate.

Reorganisation Proposal means:

- (a) any Realisation Transaction;
- (b) a Consolidation or Division Proposal;
- (c) a Stapling Proposal;
- (d) a Top Hat Proposal;
- (e) a Spin-Off Proposal;
- (f) an Exchange Proposal;
- (g) a Simplification Proposal; or
- (h) any other proposal to reorganise or restructure the capital of the Trust and, if relevant, any Stapled Entity, which has substantially the same economic effect as one or more of (a) to (g) above.

Residual Gains Entitlement means, in respect of a Unit Holder and a Distribution Period, the entitlement of the Unit Holder to the Capital Gains of the Trust for the Distribution Period, as determined in accordance with clause 16.4.

Residual Income means so much of the Distributable Income of the Trust as the RE determines does not represent Capital Gains.

Residual Income Entitlement means, in respect of a Unit Holder and a Distribution Period, the entitlement of the Unit Holder to the Residual Income of the Trust for the Distribution Period, as determined in accordance with clause 16.4.

Resolution means:

- (a) a resolution passed at a meeting of Unit Holders (or if applicable at a meeting of Unit Holders holding Units of a Class, or a meeting of Option Holders or Financial Instrument Holders):
 - (i) on a show of hands, by the required majority of Unit Holders (or if applicable the Class, or Option Holders or Financial Instrument Holders) present in person or by proxy and voting on the show of hands; or
 - (ii) on a poll, by the required majority of votes cast by Unit Holders (or if applicable the Class, or Option Holders or Financial Instrument Holders) present in person or by proxy and voting on the poll; or
- (b) unless the law requires otherwise, a resolution in writing signed by Unit Holders holding the required majority of the Units in the Trust (or if applicable in the Class, or Option Holders or Financial Instrument Holders).

Except where this Constitution or any applicable law provides otherwise, the “required majority” is a simple majority of 50% of votes validly cast.

Restapling has the meaning given in paragraph 9.3 of Schedule 1.

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

Retail Client has the same meaning as in the Corporations Act.

Sale Consideration means the average price at which Units, Stapled Securities, Options, Financial Instruments or other securities or financial products are sold by the Sale Nominee, multiplied by the number of Units, Stapled Securities, Options, Financial Instruments or other securities or financial products sold by the Sale Nominee in respect of the relevant Designated Foreign Investor (net of expenses, if any).

Sale Nominee means a person appointed by the Issuer to carry out the role described in clause 15.6.

Security means any right or interest in a managed investment scheme, unit, share, note, debenture or any right or interest or option to acquire a share, note or debenture, and includes a Unit, Option or Financial Instrument.

Security Interest means any interest granted by a Unit Holder to a third party in respect of the Unit Holder's Units.

Security Interest Holder means a person whose Security Interest in Units is noted on the Register in accordance with a notice referred to in clause 35.2(a).

Significant Redemption means a redemption of Units that qualifies as a Significant Redemption under clause 16.5.

Simplification Proposal means:

- (a) a proposal that Units be Unstapled from the Attached Securities and each Unit Holder transfer each Unit they hold to a Simplification Trust and have the consideration to which the Unit Holder is entitled in respect of the transfer under paragraph (a) compulsory applied by the RE on their behalf as an additional capital payment in respect of the unit in the Simplification Trust that was Stapled to the Unit immediately prior to the implementation of the Simplification Proposal; or
- (b) any other arrangement which has substantially the same economic effect as a transaction referred to in paragraph (a),

with the effect that immediately following the Simplification Proposal, the Simplification Trust owns all Units then on issue and the Unit Holders immediately prior to the Simplification Proposal continue to own the Simplification Trust in the same proportions as they owned the Trust immediately prior to the Simplification Proposal.

Simplification Trust means a trust which was, immediately prior to the implementation of a Simplification Proposal, Stapled to the Trust.

Special Resolution has the same meaning as in the Corporations Act.

Specified Time has the meaning set out in clause 7.5.

Spin-Off Proposal means the payment of a cash distribution to all Unit Holders (other than Designated Foreign Investors) and the compulsory application of that distribution towards the subscription for, or transfer of, securities or financial products.

Stapled Entity has the same meaning as in schedule 1.

Stapled Security has the same meaning as in schedule 1.

Stapling has the same meaning as in schedule 1.

Stapling Commencement Time means the most recent time at which the RE determines that the Stapling Provisions commence in accordance with clause 15.1.

Stapling Proposal means a proposal to cause the:

- (a) Stapling of any other securities or financial products to the Units;
- (b) Unstapling of one or more Attached Securities; or
- (c) Restapling of one or more Unstapled Securities.

Stapling Provisions means the provisions relating to Stapling in schedule 1, as applied under clause 15.2.

Tax means all taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) or the *Income Tax Assessment Act 1997* (Cth) or both as the context requires.

Top Entity means a trust, company, partnership or other entity wherever incorporated or otherwise located (including a Stapled Entity) which it is proposed will acquire all of the Units.

Top Hat Proposal means a proposal that each Unit Holder (other than Designated Foreign investors) exchange their Units (including by way of transfer or redemption) for the issue or transfer of Top Entity Securities.

Trading Day has the same meaning as in the Listing Rules.

Transaction Costs means an amount determined by the RE as appropriate to factor into the Application Price or the Redemption Price to avoid an adverse impact on other Unit Holders holding Units arising from transaction expenses which would be incurred if an acquisition or disposal of Assets was carried out because of the issue or redemption of Units. Unless the RE otherwise determines (for example, in a case where part or all of an application or redemption involves a transfer of property to or from the Trust), the amount is:

- (a) when calculating the Application Price, the RE's estimate of the total transaction costs of acquiring all of the Trust's existing assets; and
- (b) when calculating the Redemption Price, the RE's estimate of the total transaction costs of selling all of the Trust's existing assets,

in each case adjusted if appropriate for any effect of assets being held through subsidiaries of the Trust or other investment vehicles. In the case of the issue of Units on reinvestment of distributions, transaction costs are zero.

Trust means the trust which is the subject of this Constitution.

Trust Scheme means a scheme or other arrangement, including a takeover under Chapter 6 of the Corporations Act, whereby Unit Holders holding in excess

of 80% of the total Units in the Trust dispose of their Units provided that a Trust Scheme does not include:

- (a) while the Trust is Listed, a scheme or other arrangement whereby Unit Holders holding in excess of 80% of the total Units in the Trust dispose of their Units as components of Stapled Securities together with the other Attached Securities; or
- (b) a scheme or other arrangement whereby Unit Holders holding in excess of 80% of the total Units in the Trust dispose of their Units pursuant to a Top-Hat Proposal or a Simplification Proposal.

Trust Fund means all the Assets of the Trust.

Unit means a unit in the Trust created under this Constitution and for the time being held by Unit Holders and, where the context permits, includes a Unit which is part of a Stapled Security.

Unit Holder means the person registered as the holder of that Unit (including persons registered jointly).

Unstapled has the same meaning as in schedule 1.

User Pays Fees means any cost incurred in relation to:

- (a) an entitlement to a payment or a payment to or from the Trust in respect of a Unit Holder; or
- (b) anything a Unit Holder asks the RE to do or omit to do,

which the RE considers should be borne by that Unit Holder.

Valuation Time means a time at which the RE calculates Net Asset Value.

Valuer means an independent qualified valuer appointed by the RE.

VWAP in respect of a Unit for a Trading Day, means the volume weighted average of the Unit prices for that Trading Day for all sales of Units recorded on ASX for the day. The RE may include, or may substitute, in VWAP calculations trading on another other financial market on which trading in Units is permitted. The RE may exclude sales that occur otherwise than in the ordinary course of trading on ASX or other financial market (such as special crossings, crossings prior to the commencement of normal trading, crossings during the closing phase and the afterhours adjust phase, overseas sales, sales pursuant to the exercise of options over Units and overnight crossings) and any other sales which the RE reasonably considers may not be fairly reflective of natural supply and demand.

1.2 Interpretation

The cover page, contents, headings, footnotes, and finding lists are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Constitution and any schedule:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document (including this Constitution) includes any variation or replacement of it;
- (c) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;

- (d) a reference to a “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or other entity or organisation;
- (e) a reference to a time of day is a reference to Sydney time;
- (f) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (g) a reference to “**law**” includes common law, principles of equity and legislation (including regulations);
- (h) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (i) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (j) a term which has a defined meaning in the Corporations Act has the same meaning when used in this Constitution;
- (k) provisions which are expressed to be “subject to the Corporations Act” are only subject to the provisions of that act while the Trust is a Registered Scheme;
- (l) a reference to “**amend**” includes vary, delete or replace;
- (m) a reference to a year (other than a Financial Year), half-year, quarter or month means a calendar year, calendar half-year, calendar quarter or calendar month respectively; and
- (n) a reference to “**present**” in the context of a person being present at a meeting includes participating using technology approved by the RE for the purposes of the meeting.

1.3 Other documents

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

1.4 Constitution legally binding

This Constitution binds the RE, each present and future Unit Holder or other Relevant Security Holder and any person claiming through any of them in accordance with its terms as if they were a party to this Constitution. A Unit is issued subject to and on the basis that the Unit Holder is taken to have notice of and be bound by all the provisions of this Constitution.

1.5 Benefit and entitlement

Each Unit Holder has the benefit of and is entitled to enforce this Constitution even though they are not a party to it (and even if they were not in existence at the time of execution and delivery of this Constitution).

1.6 Corporations Act prevails to the extent of inconsistency

Despite anything in this Constitution, while the Trust is a Registered Scheme, to the extent that a clause of this Constitution is inconsistent with a provision of the

Corporations Act applicable to registered managed investment schemes, the clause is of no effect to the extent of the inconsistency, but not otherwise.

1.7 Other restrictions and obligations excluded

To the maximum extent permitted by law, all restrictions on the exercise of the RE's powers or obligations which might otherwise be implied or imposed by law are excluded. This includes any restriction or obligation of the RE in its capacity as trustee of the Trust arising under any legislation other than the Corporations Act.

1.8 Severance

This Constitution is to be read on the basis that any term which:

- (a) is illegal, void or unenforceable at law; or
- (b) contravenes a requirement of a law or imposes an obligation or liability or confers a right, power or remedy prohibited by law,

is omitted or varied to the extent necessary to comply with that law.

1.9 Schedules

Schedule 1, Schedule 2 and Schedule 3 to this Constitution are operative parts of it.

2 The Trust

2.1 Appointment of trustee

The RE agrees to act as trustee of the Trust.

2.2 Declaration of trust

- (a) The RE holds the Trust Fund on trust for the Unit Holders in accordance with this Constitution.
- (b) The Trust commences on the date Units are first issued.

2.3 Change of RE

- (a) The name of the Trust is the Charter Hall Direct Industrial Fund or any other name as the RE determines.
- (b) If a RE retires or is removed, its successor as RE must, unless otherwise approved by the former RE, change the name of the Trust to a name that does not imply an association with the former RE or its business.

3 Assets held on trust

3.1 Holding property separately

While the Trust is a Registered Scheme, any Assets held by the RE as responsible entity of the Trust must be clearly identified as property of the Trust and held separately from the assets of the RE and any other managed

investment scheme if and to the extent that the Corporations Act so requires. Subject to the law, the RE may have Assets held by a Custodian.

3.2 Mixing Assets

Subject to clause 3.1, the RE may mix the Assets with property and rights of any other person or trust.

4 Units

4.1 Nature of Units

The beneficial interest in the Trust Fund will be divided into Units which may be issued by the RE at any time. Unless the terms of issue of a Unit or a Class otherwise provide, all Units will carry all rights, and be subject to all the obligations, of Unit Holders under this Constitution.

4.2 Interest in Assets

- (a) Subject to paragraph (b) and to any rights, obligations or restrictions attaching to any particular Unit, each Fully Paid Unit confers an equal undivided interest in the Trust Fund as a whole, subject to the Liabilities. No Unit confers any interest in any particular Asset. Unless this Constitution states otherwise, a Partly Paid Unit confers an interest of the same nature but subject to the need to pay the amount remaining to be paid up on the Unit.
- (b) Where Units are taken to be issued under clause 11.5 and the issue has not yet been recorded in the Register, the person to whom the Units are taken to have been issued has an interest of the kind referred to in paragraph (a) based on the net amount of application money that person has contributed to acquire the Units, divided by the relevant Application Price, whether or not the Application Price has been ascertained at that time.

4.3 Units and Classes of Units

- (a) Subject to clause 4.3(b), the RE may issue Units of a single Class or different Classes, with different rights, obligations and restrictions as specified in their terms of issue. All Units in a Class rank equally. A separate Class does not constitute a separate trust.
- (b) This clause 4.3 does not permit the RE to attach rights, obligations or restrictions to a Class to the extent that section 601GA of the Corporations Act requires those matters to be set out in this Constitution.

4.4 Change of Class

The RE may by notice to a Unit Holder redesignate the Class of Units held by that Unit Holder.

If the fees under clause 26 applicable to the new Class into which the Units are to be redesignated are higher than the fees for the old Class, the RE may not exercise this power without first giving the Unit Holder 30 days' notice of the proposed change and details of the higher fees.

4.5 Rights attaching to Units

A Unit Holder holds a Unit subject to the rights, restrictions and obligations attaching to that Unit.

4.6 Fractions of Units

- (a) Fractions of a Unit (calculated to 2 decimal places) may be issued by the RE but, while the Units are Officially Quoted, fractions of a Unit may not be issued.
- (b) If any fractions of Units are on issue at a time when the Trust is to be Listed, the RE may cancel the fractions with effect from the date of Listing.
- (c) While Units are Officially Quoted, where any calculation or action performed under this Constitution or the terms of a withdrawal offer would result in the issue or redemption of a fraction of a Unit or would otherwise result in fractions of Units being on issue, the number of Units is, subject to this Constitution, to be rounded down to the nearest whole Unit.
- (d) Any excess application or other money or property which results from rounding under any provision of this Constitution becomes an Asset of the Trust.

4.7 Treatment of fractions

The provisions of this Constitution relating to Units and Unit Holders apply to fractions of Units in the proportion which the fraction bears to one Unit.

4.8 Income entitlement of Units

The RE may issue Units or Classes of Units on terms that the Units:

- (a) participate fully for Distributable Income in respect of the Distribution Period in which they are issued; or
- (b) do not entitle the holder of the Units to receive a distribution of Distributable Income in respect of the Distribution Period in which the Units are issued; or
- (c) entitle the holders to receive Distributable Income in respect of the Distribution Period in which the Units are issued which is not greater than the proportion of the Distributable Income to which a Unit Holder holding a Fully Paid Unit during the whole of that Distribution Period would be entitled, multiplied by the number of days from the date of allotment of those Units to the end of that Distribution Period divided by the total number of days in that Distribution Period.

5 Options

5.1 Options

Subject to clause 5.2, the RE may create and issue Options on such terms and to any persons as the RE determines provided that the RE may not attach rights, obligations or restrictions to Options to the extent that section 601GA of the Corporations Act requires those matters to be set out in this Constitution. An Option does not confer any interest in or any rights to participate in the income or capital of the Trust. An Option Holder holds an Option subject to the terms

attaching to that Option. Options may be issued with Units or separately. A person becomes an Option Holder when their holding of Options is entered in the Register of Option Holders.

An offer of Options may be renounced in favour of another person unless it is expressed as non-renounceable. The terms of issue may allow the RE to buy back the Options.

5.2 Terms of Options while a Registered Scheme

Subject to the Corporations Act (including the conditions of any applicable ASIC Relief) and the Listing Rules, while the Trust is a Registered Scheme, the RE may issue Options:

- (a) at an application price (which may be nil) determined by the RE if permissible under the Corporations Act or, if that determination may not be made, at a nil Application Price; and
- (b) on the basis that the Application Price for a Unit to be issued on exercise of the Option is a price determined by the RE:
 - (i) while the Units are Officially Quoted, in accordance with the terms of ASIC Relief for a rights issue or a placement of Units (as applicable), or under clause 10.1(f);
 - (ii) while the Units are not Officially Quoted, in accordance with the terms of ASIC Relief for a rights issue (if applicable) and otherwise in accordance with clause 10.1(g).

5.3 Other jurisdictions

If the Trust is a Registered Scheme and the RE is making an offer of Options to Unit Holders which complies with the principles set out in clause 10.4, the RE is not required to offer Options to persons whose address on the Register is outside Australia and New Zealand in the circumstances permitted under the applicable ASIC Relief and, if relevant, the Listing Rules.

5.4 Exercise of Options

To exercise an Option, the Option Holder must give notice to the RE in accordance with the terms of the Option, together with payment of the exercise price. The Option Holder is entitled to subscribe for and be allotted the number of Units as the terms of the Option contemplate.

5.5 Lapse of Options

An Option lapses on the earliest of:

- (a) the date stipulated in the terms of issue of the Option; or
- (b) the termination of the Trust; or
- (c) the winding up of the Trust,

and the liability of the RE ceases in respect of the Option.

6 Financial Instruments

6.1 Issue of Financial Instruments

Subject to the Corporations Act, the RE may issue Financial Instruments:

- (a) at an application price (which may be nil) determined by the RE if permissible under the Corporations Act or, if such determination may not be made, at an application price of \$100 per Financial Instrument; and
- (b) on such other terms (including with preferred, deferred or other special rights, obligations or restrictions, with regard to distributions, voting, return of capital, payment of calls, redemption, conversions or otherwise provided that while Stapling applies, the Financial Instrument must convert into one or more Stapled Securities, not Units alone) as the RE determines, to the extent that the terms are not inconsistent with the provisions of this Constitution which are required to be included in it by section 601GA of the Corporations Act.

6.2 Rights of Financial Instrument Holders

A Financial Instrument Holder holds a Financial Instrument subject to the terms attaching to that Financial Instrument. Subject to those terms and the Corporations Act:

- (a) a Financial Instrument will not confer any interest in, or any right to participate in, the income or capital of the Trust and does not entitle the Financial Instrument Holder to any other rights of a Unit Holder; and
- (b) a Financial Instrument Holder who is not a Unit Holder may, with the RE's consent, attend any meeting of Unit Holders but is not entitled to receive notice of or speak or vote at the meeting.

7 Partly Paid Units

7.1 Payment of Application Price by instalments

- (a) The RE may offer or issue Units on the basis that the Application Price is payable by one or more instalments. The RE may determine at the time of offer or issue, or at any later time, the amount of the instalments and the time at which they are payable. The RE may require that, as a term of issue, the called but unpaid portion of the Application Price bears interest until paid, calculated at a fair market rate as determined by the RE.
- (b) Any uncalled portion of the Application Price on Partly Paid Units is not an Asset of the Trust other than for the purpose of calculating Net Asset Value as used in the formulae in clauses 10.1(g) and 12.1, in which case the amounts not yet paid in respect of Partly Paid Units will be treated as Assets of the Trust whether or not those amounts have been called.

7.2 Variation or waiver of terms

Subject to any law requiring the RE to treat Unit Holders of the same Class equally and those of different Classes fairly, where Units are offered for sale or subscription in accordance with clause 7.1, those terms may only be varied or compliance waived in accordance with clause 29. The variation or waiver must not take effect during the currency of any product disclosure statement or other document pursuant to which the Units were offered for sale or subscription.

Subject to any applicable law, the RE may postpone or extinguish in full or in part any liability in respect of any money unpaid on Partly Paid Units.

7.3 On termination

Despite anything in this Constitution or in the terms of any offer of Partly Paid Units, the whole of the called but unpaid portion of the Application Price of each Partly Paid Unit and any interest which has accrued on that amount is payable by the Unit Holder to the RE immediately on termination of the Trust.

7.4 Notice of instalments

For Partly Paid Units that are not Officially Quoted, the RE must give Unit Holders at least 10 Business Days' notice of the time and date each instalment, other than an initial instalment payable on subscription for Units, is due to be paid.

For Partly Paid Units that are Officially Quoted, the RE must:

- (a) give Unit Holders notice in accordance with the Listing Rules (the "First Notice") of the time and date each instalment other than an initial instalment payable on subscription for Units, is due to be paid and contain the information required by the Listing Rules; and
- (b) the RE must send a second notice to all new Unit Holders and those Unit Holders whose holding has changed since the First Notice which must include any changes that have occurred in the information given in the First Notice because of a change in the holding.

Subject to the Listing Rules, failing to give a notice or the non-receipt of notice by the Unit Holder does not affect the obligation of the Unit Holder to pay the instalment and the provisions of this Constitution regarding non-payment of an instalment apply as if notice had been given.

7.5 Failure to pay instalments

If a Unit Holder fails to pay in full any instalment due on any Partly Paid Unit on or by the day specified for payment, the RE may serve a notice on that Unit Holder requiring payment of the unpaid instalment and any interest calculated from the due date until payment at a fair market rate as determined by the RE. The notice must specify a time and day ("**Specified Time**") (not earlier than 10 Business Days from the date of service of the notice) on or by which the payment is to be made. The notice must also state that in the event of non-payment on or by that Specified Time, the Partly Paid Units in respect of which all or part of the instalment remains unpaid may be forfeited.

7.6 Forfeiture

If the requirements of any notices issued under clause 7.4 and 7.5 are not complied with by the Specified Time, a Partly Paid Unit in respect of which the notice was given, may be forfeited to the RE as the RE determines.

Subject to clause 7.14, all voting rights and entitlements to the distribution of Distributable Income in connection with a forfeited Unit are suspended until reinstated by the RE.

7.7 Cancelling forfeiture

The RE may cancel forfeiture before the Units are disposed of on any terms it determines, and must do so when the RE receives payment in full of all amounts owing in respect of the Units, including interest.

7.8 Record of forfeiture

The RE may make any entry in the Register required to reflect any forfeiture under clause 7.6.

7.9 Balance to former holder

The RE must account to the former holder of the forfeited Unit for any balance remaining after deducting from proceeds the RE receives, the amount owing to the RE and the reasonable costs of the sale including interest. The RE is not liable for any loss suffered by the former holder as a result of the sale.

7.10 Price of forfeited Units

A Unit forfeited under clause 7.6 may be sold or otherwise disposed of as a Fully Paid Unit or as a Partly Paid Unit, as the RE determines:

- (a) while the Trust is a Registered Scheme, at a price that is no less than a price calculated in accordance with clause 10.1(f) or 10.1(g) as applicable; or
- (b) while the Units are Officially Quoted, at a price determined by the RE where the sale of the forfeited Unit is in accordance with section 254Q of the Corporations Act other than subsections 254Q(1), (9), (10), (13) and (14) as if the Units were shares, the Trust was the company and the responsible entity was the board of directors of the company; or
- (c) while the Trust is a Registered Scheme, in accordance with any applicable ASIC Relief in relation to the sale of forfeited units, if the RE complies with the conditions of the relief; or
- (d) subject to the Corporations Act and while Units are Officially Quoted, on ASX or other financial market on which Units are permitted to be traded; or
- (e) while the Trust is not a Registered Scheme, at any price the RE can obtain.

The RE is not liable to a Unit Holder for any loss suffered by the Unit Holder as a result of the sale.

7.11 Rights and obligations of former holder

The holder of Partly Paid Units which have been forfeited ceases to be a Unit Holder in respect of the forfeited Units but remains liable to pay to the RE all amounts payable in respect of the forfeited Units (including costs associated with the forfeiture and all proceedings instituted against the Unit Holder to recover the amount due, and interest up to the date of actual payment). The former holder's liability ceases when the RE receives payment of those amounts in full.

7.12 Evidence of forfeiture

A statement signed by an authorised officer of the RE that a Partly Paid Unit has been forfeited on a specified date is conclusive evidence of those facts as against all persons claiming to be entitled to the forfeited Units.

7.13 Transfer of forfeited Unit

Where a Partly Paid Unit is forfeited and disposed of, the RE may receive the consideration given for a forfeited Unit (subject to clause 7.9), and the RE may execute a transfer of the Unit in favour of the person to whom the Unit is sold or disposed of. That person must then be registered as the holder of that Unit and is not obliged to ensure that any part of the money which they have paid for the Unit is paid to the former holder of the Unit. That person's title to that Unit is not affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of that Unit.

7.14 Entitlement to distributions

Income and distributions of capital in accordance with clause 16.22 to which the holder of a forfeited Unit has become entitled and which have not been paid before forfeiture under this clause 7 must be paid to the holder of the forfeited Unit as if it formed part of the proceeds of sale or disposal of the forfeited Unit.

7.15 Joint holders

Joint holders of Partly Paid Units are jointly and severally liable to pay all amounts due and payable on the Partly Paid Units held by them.

8 Transfer, transmission and joint holders

8.1 Transfer of Relevant Securities

Relevant Securities may be transferred subject to their terms, this clause 8 and clause 33.

8.2 Transfer if not Officially Quoted

If Relevant Securities are not Officially Quoted, transfers must be:

- (a) in a form approved by the RE;
- (b) accompanied by any evidence the RE reasonably requires to show the right of the transferor to make the transfer; and
- (c) if the RE requires, be presented for Registration duly stamped.

If Relevant Securities are not Officially Quoted, the RE may refuse to record any transfer in the Register without giving any reason for the refusal.

8.3 Transfer if Officially Quoted

Subject to this Constitution and the Listing Rules, if a Relevant Security is Officially Quoted, it is transferable:

- (a) as provided by the Operating Rules of a CS Facility if applicable; or
- (b) by any other method of transfer which is required or permitted by the Corporations Act, ASX or ASIC.

If a duly completed instrument of transfer:

- (a) is used to transfer a Relevant Security in accordance with paragraph (b); and

- (b) is left for registration with the Registrar, duly stamped if required and accompanied by any information that the RE properly requires to show the right of the transferor to make the transfer,

the RE must, subject to the RE's powers, register the transferee as the Relevant Security Holder.

8.4 When transfer is effective

Except as provided by any applicable Operating Rules of a CS Facility, a transfer is not effective until Registered.

8.5 RE may request holding lock or refuse to register transfer

If the Relevant Securities are Officially Quoted, and if permitted to do so by the Listing Rules, the RE may:

- (a) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Relevant Securities from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
- (b) refuse to Register a transfer of other Relevant Securities to which paragraph (a) does not apply.

8.6 RE must request holding lock or refuse to register transfer

The RE must:

- (a) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Relevant Securities from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be; or
- (b) refuse to register any transfer of Relevant Securities to which paragraph (a) does not apply,

if the Corporations Act or Listing Rules require the RE to do so or the transfer is in breach of clause 33.

8.7 Notice of holding locks and refusal to register transfer

If, in the exercise of its rights under clauses 8.5 or 8.6, the RE requests the application of a holding lock to prevent a transfer of Relevant Securities or refuses to Register a transfer of Relevant Securities, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to:

- (a) the holder of the Relevant Securities;
- (b) the purported transferee; and
- (c) the broker lodging the transfer, if any.

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

8.8 Joint tenancy

Persons Registered jointly as a Relevant Security Holder hold as joint tenants and not as tenants in common unless the RE otherwise agrees.

8.9 Transmission on death

If a holder of Relevant Securities, who does not hold them jointly, dies, the RE will recognise only the personal representative of the holder as being entitled to the holder's interest in the Relevant Securities.

8.10 Information given by personal representative

If the personal representative gives the RE the information it reasonably requires to establish the representative's entitlement to be registered as a holder of the Relevant Securities:

- (a) the personal representative may:
 - (i) by giving a written and signed notice to the RE, elect to be registered as the holder of the Relevant Securities; or
 - (ii) by giving a completed transfer form to the RE, transfer the Relevant Securities to another person; and
- (b) the personal representative is entitled, whether or not registered as the holder of the Relevant Securities, to the same rights as the previous holder.

On receiving an election under paragraph (a)(i), the RE must register the personal representative as the holder of the Relevant Securities.

A transfer under paragraph (a)(ii) is subject to the clauses that apply to transfers generally.

8.11 Death of joint owner

If a holder of Relevant Securities, who holds them jointly, dies, the RE will recognise only the survivor as being entitled to the holder's interest in the Relevant Securities. The estate of the holder is not released from any liability in respect of the Relevant Securities.

8.12 Transmission on bankruptcy

If a person entitled to Relevant Securities because of the bankruptcy of a holder of Relevant Securities gives the RE the information it reasonably requires to establish the person's entitlement to be registered as the holder of the Relevant Securities, the person may:

- (a) by giving a written and signed notice to the RE, elect to be registered as the holder of the Relevant Securities; or
- (b) by giving a completed transfer form to the RE, transfer the Relevant Securities to another person.

On receiving an election under paragraph (a), the RE must register the person as the holder of the Relevant Securities.

A transfer under paragraph (b) is subject to the clauses that apply to transfers generally.

This clause has effect subject to the *Bankruptcy Act 1966* (Cth).

8.13 Transmission on mental incapacity

If a person entitled to Relevant Securities because of the mental incapacity of a holder of Relevant Securities gives the RE the information it reasonably requires to establish the person's entitlement to be registered as the holder of the Relevant Securities:

- (a) the person may:
 - (i) by giving a written and signed notice to the RE, elect to be registered as the holder of the Relevant Securities; or
 - (ii) by giving a completed transfer form to the RE, transfer the Relevant Securities to another person; and
- (b) the person is entitled, whether or not registered as the holder of the Relevant Securities, to the same rights as the previous holder.

On receiving an election under paragraph (a)(i), the RE must register the person as the holder of the Relevant Securities.

A transfer under paragraph (a)(ii) is subject to the clauses that apply to transfers generally.

9 Proportional takeover offers

9.1 Proportional takeover offers

Despite clauses 9.2 and 9.3, if offers are made under a proportional takeover bid for Units in accordance with the Corporations Act:

- (a) clauses 9.1 to 9.6 apply;
- (b) the registration of a transfer giving effect to a takeover contract resulting from acceptance of an offer made under the takeover bid is prohibited unless and until a resolution to approve the bid is passed in accordance with clauses 9.4 and 9.5; and
- (c) the RE must ensure that a resolution to approve the bid is voted on in accordance with clause 9.2 to 9.5 before the fourteenth day before the last day of the bid period.

9.2 Approval of takeover bids

The RE may determine whether the approving resolution is voted on:

- (a) at a meeting of persons entitled to vote on the resolution convened and conducted, subject to the provisions of clause 9.3, as if it were a meeting of Unit Holders convened and conducted in accordance with this Constitution and the Corporations Act with such modifications as the RE determines the circumstances require; or
- (b) by means of a postal ballot conducted in accordance with the following procedures:
 - (i) a notice of postal ballot and ballot paper must be sent to all persons entitled to vote on the resolution not less than 14 days before the date specified in the notice for closing of the postal ballot, or such lesser period as the RE determines the circumstances require;

- (ii) the non-receipt of a notice of postal ballot or ballot paper by, or the accidental omission to give a notice of postal ballot or ballot paper to, a person entitled to receive them does not invalidate the postal ballot or any resolution passed under the postal ballot;
- (iii) the notice of postal ballot must contain the text of the resolution and the date for closing of the ballot and may contain any other information the RE considers appropriate;
- (iv) each ballot paper must specify the name of the person entitled to vote;
- (v) a postal ballot is only valid if the ballot paper is duly completed and:
 - (A) if the person entitled to vote is an individual, signed by the individual or a duly authorised attorney; or
 - (B) if the person entitled to vote is a corporation, executed under seal or as permitted in the Corporations Act or under the hand of a duly authorised officer or duly authorised attorney;
- (vi) a postal ballot is only valid if the ballot paper and the power of attorney or other authority, if any, under which the ballot paper is signed or a copy of that power of attorney certified as a true copy by statutory declaration is or are received before close of business on the date specified in the notice of postal ballot for closing of all postal ballot at the office of the RE or unit registry of the Trust or at such other place as specified for that purpose in the notice of postal ballot; and
- (vii) a person may revoke a postal ballot vote by notice in writing to be received by the RE before the close of business on the date for closing of the postal ballot.

9.3 Entitlement to vote on approving resolution

The only persons entitled to vote on the approving resolution are those persons who, as at the end of the day on which the first offer under the bid was made, held bid class securities. Each person who is entitled to vote is entitled to one vote for each bid class security held by that person at that time.

Neither the bidder nor any associate of the bidder is entitled to vote on the resolution.

9.4 Resolution passed or rejected

If the resolution is voted on in accordance with clauses 9.1 to 9.3 then it is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is taken to have been rejected.

9.5 Resolution taken as passed

If a resolution to approve the bid has not been voted on as at the end of the day before the fourteenth day before the last day of the offer period, then a resolution to approve the bid is taken to have been passed in accordance with clauses 9.1 to 9.4.

9.6 Takeover articles cease to have effect

Clauses 9.1 to 9.5 cease to have effect on the day three years after the later of their adoption or last renewal.

10 Application Price for Units

10.1 Application Price

Subject to the Stapling Provisions while they apply, the application price for a Unit must be calculated as follows:

- (a) the issue price for the issue of Units is \$1.00 during the Initial Offer Period;
- (b) in the case of a proportionate offer (including a rights issue), in accordance with clause 10.4;
- (c) in the case of a placement of Units or issue of Units under a security purchase plan while Units are Officially Quoted, in accordance with clause 10.7;
- (d) in the case of reinvestment of distributions, in accordance with clauses 10.8 and 10.9;
- (e) in the case of Units issued pursuant to the exercise of an Option, in accordance with clause 5;
- (f) subject to paragraphs (a) to (e), in all other cases while Units are Officially Quoted, the Market Price of Units immediately before the date on which or as at which the application price is to be calculated; and
- (g) while Units are not Officially Quoted, in accordance with the following formula:

$$\frac{\text{Net Asset Value} + \text{Transaction Costs}}{\text{number of Units in issue}}$$

and the application price may be payable either in full on application or by such instalments as the RE determines in accordance with clause 7.

10.2 Time for calculation

Each of the variables in clause 10.1(g) must be determined as at the next Valuation Time after:

- (a) the RE receives the application for Units; or
- (b) the RE receives the application money (even if paid or to be paid into the Applications Account) or the property against which Units are to be issued is vested in the RE,

whichever happens later.

10.3 Rounding

Subject to the Listing Rules, the Application Price may be rounded as the RE determines but the amount of the rounding must not be more than 1% of the

Application Price. Any excess application money or property which results from rounding becomes an Asset.

10.4 Pro rata rights issues

Subject to the terms of any applicable ASIC Relief and the Listing Rules (while the Listing Rules apply), the RE may offer Units for subscription at a price determined by the RE to those persons who were Unit Holders on a date determined by the RE:

- (a) provided that, subject to paragraph (b) of this clause 10.4, all Unit Holders are offered Units in proportion to the value of the Unit Holder's Units (or, where the offer is made only to Unit Holders who hold Units in a Class, to the value of the Unit Holder's units in that Class) at the relevant date; and
- (b) the RE may exclude a Unit Holder from the pro rata offer if to do so would not be in contravention of paragraph 601FC(1)(d) of the Corporations Act, as modified by ASIC Relief,

whether or not the right of entitlement is renounceable.

10.5 Other jurisdictions

If the Trust is a Registered Scheme and the RE is making an offer of Units to Unit Holders which complies with the principles set out in clause 10.4, the RE is not required to offer Units to persons whose address on the Register is outside Australia and New Zealand in the circumstances permitted under the applicable ASIC Relief and, if relevant, the Listing Rules.

10.6 Terms of pro rata issues

- (a) Any offer made under clause 10.4 must specify the period during which it may be accepted. It must be made to Unit Holders in proportion to the value of their respective Unit holdings on the date determined by the RE under clause 10.4. The RE may adjust any entitlement to accord with the Listing Rules and, in the case of fractions, the RE must offer the next higher whole number of Units. Any Unit Holder may renounce their entitlement in favour of some other person, unless the issue is expressed to be non-renounceable.
- (b) Any Units offered for subscription under clause 10.4 which are not subscribed for within the period for acceptance set by the RE may be offered for subscription by the RE to any person. The application price payable in relation to such further offer must not be less than that at which the Units were originally offered to Unit Holders.
- (c) If an underwriter has underwritten any offer for subscription of Units under clause 10.4, the underwriter may take up any Units not subscribed for by Unit Holders.

10.7 Placements and security purchase plan while Listed

While Units in a Class are Officially Quoted and not suspended from quotation, the RE may at any time issue Units in that Class by way of a placement or under a security purchase plan:

- (a) at the Market Price of Units during the 10 Trading Days immediately before the date on which the Units are offered;

- (b) at a price and on terms determined by the RE, provided that the RE complies with the Listing Rules applicable to the issue and the conditions and restrictions of any applicable ASIC Relief.

10.8 Reinvestment while Listed

- (a) If reinvestment of distributions payable to a Unit Holder under 16.16 applies while the Units are Officially Quoted, subject to the Listing Rules, the Application Price for each additional Unit issued or transferred upon reinvestment is the price determined by the RE. If the RE has not determined the Application Price by the date at which units are to be issued upon reinvestment, the price will be the average of the VWAP for Units for each of the 10 Trading Days from and including the third Trading Day after the Record Date for the relevant Distribution Period (“**DRP VWAP Price**”).
- (b) If the amount to be reinvested in additional Units results in a fraction of a Unit, the number of Units to be issued will be rounded down to the nearest whole Unit and any remaining amount becomes an Asset.

10.9 Reinvestment while not Listed

While Units are not Officially Quoted, the Application Price payable for each additional Unit on reinvestment of distributions payable to a Unit Holder under clause 16.16 is the price determined by the RE. If the RE has not determined the Application Price by the date at which Units are to be issued upon reinvestment, the Application Price will be as calculated under clause 10.1(g) on the first Business Day after the end of the Distribution Period to which the distribution relates.

11 Application procedure

11.1 Application form

An applicant for Relevant Securities must complete a form approved by the RE if the RE requires. The form may be transmitted electronically if approved by the RE.

11.2 Payment

- (a) Payment in respect of an application in a form acceptable to the RE, or a transfer of property of a kind acceptable to the RE and able to be vested in the RE or a Custodian appointed by it, must:
 - (i) accompany the application;
 - (ii) be received by or made available to the RE or the Custodian within such period before or after the RE receives the application form as the RE determines from time to time or as the terms of issue of the relevant Option or Unit contemplate; or
 - (iii) comprise a reinvestment of distribution in accordance with clauses 16.16 to 16.18.
- (b) If the RE accepts a transfer of property other than cash:
 - (i) the value attributed to the property must be equivalent to a price at which the RE could properly buy the property and, if the RE

requires the applicant must provide a recent valuation of the property; and

- (ii) any additional costs associated with the valuation or transfer of the property beyond the amount of the Transaction Costs factor in the Application Price for the Units must be paid by the applicant either directly or by deducting the costs from the value of the property before the number of Units to be issued is calculated.

11.3 RE may reject

The RE may reject an application in whole or in part without giving any reason for the rejection.

11.4 Minimum amounts

The RE may set a minimum application amount and a minimum holding for the Trust and alter or waive those amounts at any time.

11.5 Issue date

- (a) Except in the case of a reinvestment of distribution in accordance with this Constitution, Units are taken to be issued at the time which is the earlier of:
 - (i) the time the issue of Units is recorded in the Register; and
 - (ii) if the RE determines that this clause 11.5(a)(ii) applies, the later of the time when:
 - (A) the RE Accepts the application for Units; and
 - (B) the RE or its agent receives the application money (even if paid into the Applications Account or received in the form of a cheque) or the property against which Units are to be issued is vested in the RE.
- (b) Units which are issued on a reinvestment of distribution in accordance with this Constitution are taken to be issued on the first Business Day after the end of the Distribution Period to which the distribution relates.
- (c) At the time when Units are taken to be issued under paragraph (a)(ii) or (b):
 - (i) the applicant becomes a Unit Holder in respect of the Units, which are taken to be issued even though the number of Units may not yet have been ascertained and the issue has not yet been entered in the Register; and
 - (ii) the applicant becomes entitled to be recorded in the Register as the holder of those Units as soon as it is reasonably practicable for the RE or its agent to make the entry.
- (d) An applicant who becomes a Unit Holder under this clause 11.5 is taken to be a Unit Holder for the purposes of this Constitution.

11.6 Uncleared funds

Units issued against application money paid other than in cleared funds, or in consideration of a transfer of property, are void if the funds are not subsequently cleared or the property does not vest in the RE within 1 month of receipt of the application.

12 Redemption Price of Units

12.1 Redemption Price

Units in the Trust must only be redeemed at a price equal to the Redemption Price for the Unit. The Redemption Price for a Unit is the excess, if any, of the Redemption Amount for a Unit over the Redemption Gains Entitlement for the Unit.

12.2 Redemption Amount

Subject to clauses 13.16 and 13.17, the Redemption Price for a Unit must be calculated as follows:

$$\frac{\text{Net Asset Value} - \text{Transaction Costs}}{\text{number of Units in issue}}$$

less any amount unpaid on the Unit whether called or uncalled.

12.3 Time for calculation

Each of the variables in clause 12.1 must be determined:

- (a) while the Trust is a Registered Scheme and is Liquid, and at all times when the Trust is not a Registered Scheme, as at the next Valuation Time after the redemption request has been, or is taken to have been, received and Accepted by the RE; or
- (b) while the Trust is a Registered Scheme and is not Liquid, as at the last Valuation Time before the withdrawal offer is made.

For the purposes of this calculation, if at the relevant Valuation Time Units have been issued under clause 11.5 but the Application Price of those Units has not yet been ascertained, the application money or property relating to those Units and the number of Units are to be excluded from the calculation.

12.4 Rounding

Subject to the Listing Rules, the Redemption Price may be rounded as the RE determines but the amount of the rounding must not be more than 1% of the Redemption Price. Any excess which results from rounding becomes an Asset of the Trust.

13 Redemption procedures

13.1 While the Trust is Listed

While the Trust is Listed:

- (a) clauses 13.10 to 13.13 apply only to the extent provided for in clause 13.17;

- (b) clauses 13.9, and 13.14 to 13.15 apply; and
- (c) clauses 13.2 to 13.8 do not apply.

If the Stapling Provisions apply and Units comprise part of a Stapled Security that is Officially Quoted, clauses 13.16 and 13.17 apply with any necessary modifications.

13.2 Request for redemption

A Unit Holder may make a request for the redemption of some or all of their Units by giving the RE notice in writing of the request, specifying the number or value of Units to be redeemed and sufficient details to identify the Unit Holder, or in any other manner approved by the RE. The RE is not obliged to satisfy any such request.

13.3 Request may not be withdrawn

A Unit Holder may not withdraw a redemption request unless the RE agrees.

13.4 When Trust is Liquid or not a Registered Scheme

Clauses 13.5, 13.7 and 13.8 apply only:

- (a) while the Trust is Liquid, and also in circumstances where the redemption request was received and Accepted by the RE at a time when the Trust was Liquid; and
- (b) while the Trust is not Liquid but is not a Registered Scheme.

13.5 RE may redeem

- (a) Subject to the Corporations Act and the Listing Rules, the RE may decide to Accept a request from a Unit Holder to redeem some or all of their Units, in whole or in part. The RE is not required to Accept any such request.
- (b) If the RE determines to Accept a redemption request in respect of a Unit, it must pay from the Assets the Redemption Price of that Unit calculated in accordance with clause 12. The payment must be made within 21 days of the date on which the RE Accepts the request, or such longer period as allowed by clause 13.6.
- (c) If the RE decides not to Accept some or all of the redemption request, it must notify the Unit Holder of its decision within 30 days of receipt of the request or such longer period as allowed by clause 13.6.
- (d) If the RE does not decide whether to Accept the redemption request by the day which is 30 days after receipt of the request or the last day of such longer period as allowed by clause 13.6, on that day the RE is taken to have decided not to Accept the request, the request lapses and the RE must notify the Unit Holder of its decision as soon as possible and in any event within a further 10 days following the deemed decision.
- (e) The day of receipt of the redemption request is:
 - (i) the day of actual receipt if the redemption request is received before 3.00pm on a Business Day; or

- (ii) the Business Day following the day of actual receipt if the redemption request is received on a day which is not a Business Day or is received after 3.00pm on a Business Day.

13.6 Delayed payment

- (a) Subject to paragraph 12.6(b), the RE may at any time suspend consideration of redemption requests, or defer its obligation to pay the Redemption Price in respect of a redemption request it has Accepted, if it is not possible or not in the best interests of Unit Holders, for it to process redemption requests or make the payment (as applicable) due to one or more circumstances outside its control such as restricted or suspended trading or extreme price fluctuation or uncertainty in the market for an Asset, and the period allowed under clause 13.5 for consideration of the redemption request or payment of the Redemption Price may be extended by the number of days during which such circumstances apply.
- (b) In relation to a withdrawal offer to which Part 5C.6 of the Corporations Act applies, the RE must pay the redemption proceeds to the withdrawing Unit Holder or former Unit Holder within 21 days of the date on which the withdrawal offer closes.

13.7 Minimum holding

If Acceptance of a redemption request would result in the Unit Holder holding Units with an aggregate Redemption Price which is less than the then current minimum holding amount, the RE may treat the redemption request as relating to the balance of the Unit Holder's holding.

13.8 Increased minimum

If the RE increases the minimum holding amount, the RE may, after giving 30 days' notice to a Unit Holder who holds Units with an aggregate Redemption Price less than the then current minimum holding amount, redeem that Unit Holder's holding without the need for a redemption request.

13.9 Payment from the Assets

The RE is not obliged to pay any part of the Redemption Price out of its own funds.

13.10 While Trust is not Liquid

While the Trust is not Liquid, a Unit Holder may withdraw from the Trust in accordance with the terms of any current withdrawal offer made by the RE in accordance with the provisions of the Corporations Act regulating offers of that kind. While the Trust is a Registered Scheme, if there is no withdrawal offer currently open for acceptance by Unit Holders, a Unit Holder has no right to request withdrawal from the Trust.

13.11 RE not obliged

The RE is not at any time obliged to make a withdrawal offer. If it does, it may do so by sending a copy of the offer to all Unit Holders, or making a copy of the offer available by electronic means and giving notice to Unit Holders that it is available.

13.12 Cancellation of withdrawal offer

The RE may cancel a withdrawal offer at any time. If it does, it may do so by sending a notice that the offer is cancelled to all Unit Holders, or making the notice available by electronic means and giving notice to Unit Holders that it is available.

The cancellation of a withdrawal offer by the RE does not affect the rights of Unit Holders whose acceptance of the offer has been received by the RE in accordance with clause 21 after the offer period has opened but before the date on which the offer is cancelled to withdraw from the Trust in accordance with the terms of the withdrawal offer.

13.13 Treatment of request

If the RE receives a redemption request, and the Trust subsequently ceases to be Liquid before that request has been Accepted or rejected, the request lapses.

13.14 Sums owed to RE

The RE may deduct from the proceeds of redemption or money paid pursuant to a withdrawal offer any money due to it by the Unit Holder. While the Trust is Liquid or not a Registered Scheme, the RE may redeem without a redemption request some or all of the Units held by a Unit Holder to satisfy any amount of money due to it by the Unit Holder.

13.15 When Units are redeemed

Units are taken to be redeemed:

- (a) where the redemption is to occur in response to a redemption request from a Unit Holder, at the time at which the RE has:
 - (i) received and Accepted the redemption request in respect of the Units; and
 - (ii) calculated the Redemption Price of the Units; or
- (b) if paragraph (a) does not apply, at the time at which the Redemption Price is known and the redemption is recorded in the Register,

and from that time until payment of the Redemption Price, the former holder of the redeemed Units ceases to be a Unit Holder in respect of those Units and is a creditor of the Trust in respect of the redemption proceeds.

If Units are redeemed at the time referred to in paragraph (a), the RE must as soon as is reasonably practicable arrange for the redemption of the Units to be recorded in the Register.

13.16 Buy backs

- (a) While the Units are Officially Quoted and not Stapled, the RE may, subject to the Corporations Act and the Listing Rules, purchase Units on ASX or any other financial market on which the trading of Units is permitted, and also off-market, and cause the Units to be cancelled. No Redemption Price is payable on cancellation of the Units.
- (b) While the Units are Officially Quoted and Stapled, the RE and the Other Issuers together may, subject to the Corporations Act and the Listing Rules, purchase Stapled Securities on the ASX or any other financial market on which the trading of Stapled Securities is permitted, and also

off-market. When they do so, each Other Issuer will be regarded as having purchased the Attached Securities that they have issued and the RE will be regarded as having purchased the Units, and upon such purchase Stapling will cease in relation to the Stapled Securities so purchased, and the Attached Securities (including the Units will be cancelled). No Redemption Price is payable on cancellation of the Units.

- (c) The price of each Other Attached Security and a Unit purchased under clause 13.16(b) will be such allocation of the purchase price of the Stapled Security as agreed between the RE and the Other Issuers.

13.17 While Officially Quoted

While the Units are Officially Quoted, the RE may, subject to the Corporations Act and the Listing Rules, make a withdrawal offer under clause 13.10, in which case clauses 13.10 to 13.13 apply in relation to the withdrawal offer, and the Redemption Price is to be calculated in accordance with clause 12.3(b).

14 Valuation of assets and accounts, audit and reports

14.1 Periodic valuations

The RE may cause an Asset to be valued at any time and, if the Trust is a Registered Scheme, must do so as and when required by the Corporations Act.

14.2 Net Asset Value

The RE may determine Net Asset Value at any time, including more than once on each day.

14.3 Valuation methods

The RE may determine the value of an Asset, and determine valuation methods and policies for each category of Asset and change them from time to time. While the Trust is a Registered Scheme, the RE's policy for the valuation of Assets must be based on the range of ordinary commercial practice for valuing the relevant type of asset and, where used to calculate the Application Price or Redemption Price of a Unit, the value must be reasonably current. In the absence of any other determination by the RE, the value of an Asset will be its Market Value.

14.4 Currency conversion

Where it is necessary for the purposes of a valuation to convert one currency to another, the conversion is to be made at a time and at the rate quoted by a bank or an independent pricing provider (such as Reuters) nominated by the RE. Where the value of an Asset denominated in foreign currency is converted for the purposes of calculating the Redemption Price of a Unit, the currency valuation applied must be consistent with the range of ordinary commercial practice for valuing currency.

14.5 Accounts, audit and reports

While the Trust is not a Registered Scheme, the RE must keep or cause to be kept proper books of account which correctly record and explain the transactions and financial position of the Trust and may, but need not, have those records audited.

15 Stapling Provisions and Reorganisation Proposals

15.1 Stapling

The RE may determine (including in connection with a proposal implemented in accordance with the provisions in Schedule 2 or Schedule 3):

- (a) that the Stapling Provisions will take effect in accordance with clause 15.2; and
- (b) the Stapling Commencement Time.

15.2 Stapling Provisions

If the RE determines, the Stapling Provisions take effect on and from the Stapling Commencement Time until they cease to apply in accordance with this Constitution.

On and from the Stapling Commencement Time:

- (a) subject to clause 30, the Stapling Provisions apply and this Constitution is to be read subject to the Stapling Provisions except to the extent that this would result in a breach of the Corporations Act, the Listing Rules or any other law; and
- (b) provisions of this Constitution, which by their context apply only while Units are not Stapled, do not apply while Units are part of a Stapled Security.

15.3 Power to enter into Reorganisation Proposals

Without limiting any other provision of this Constitution, the RE may determine to carry out and give effect to:

- (a) without reference to or approval from Unit Holders:
 - (i) a Consolidation or Division Proposal;
 - (ii) a Stapling Proposal including a determination that a Security is a New Attached Security (subject to complying with paragraphs 8 or 9 of schedule 1, as applicable);
 - (iii) a Top-Hat Proposal;
 - (iv) a Simplification Proposal; or
- (b) any other Reorganisation Proposal not referred to in clause 15.3(a) (including a Spin-Off Proposal, Realisation Transaction or an Exchange Proposal), which is in each case approved by Ordinary Resolution or any other form of Resolution with a higher voting threshold.

Unless the RE agrees otherwise, it is a term of issue of each Unit, Option or Financial Instrument that the Unit, Option or Financial Instrument may be subject to a Reorganisation Proposal as provided in this clause 15.3. Each Unit Holder, by subscribing for or taking a transfer of, or otherwise acquiring a Unit, Option or Financial Instrument, or electing to continue to hold a Unit following the implementation of the proposal described in Schedule 3 is taken to have consented to these Reorganisation Proposals.

15.4 Power to give effect to Reorganisation Proposals

If the RE determines to carry out a Reorganisation Proposal in accordance with clause 15.3, then the RE has power to do all things which the RE considers necessary, desirable or reasonably incidental to give effect to the relevant proposal (including, if applicable, anything the RE has power to do under the Stapling Provisions), including to:

- (a) make distributions and other payments out of the Assets and (subject to the Corporations Act and the Listing Rules) to redeem Units, and to apply the payment or redemption proceeds on behalf of Unit Holders;
- (b) apply for or purchase fully paid securities on behalf of the Unit Holders and to consent on behalf of Unit Holders to become a member of a company, trust or other body including a CIV, and be bound by the constituent documents of that company or body including a CIV;
- (c) issue new Units or transfer or dispose of Units by or on behalf of a Unit Holder;
- (d) apply any amount on behalf of a Unit Holder as an additional capital payment in respect of a unit, share or other security held by a Unit Holder;
- (e) transfer Assets;
- (f) if Units or other securities are to be transferred as part of a Reorganisation Proposal, to give on behalf of Unit Holders a warranty as to good and unencumbered title to the Units or securities to be transferred, and other warranties customary in a transfer of securities;
- (g) effect the Stapling and/or Unstapling of securities or financial products, including New Attached Securities; and
- (h) execute all documents and do all things which the RE considers are necessary, desirable or reasonably incidental to give effect to the Reorganisation Proposal.

15.5 Appointment of RE as agent and attorney

To give effect to a Reorganisation Proposal the RE is irrevocably appointed the agent and attorney of each Unit Holder, to do all things which the RE considers necessary, desirable or reasonably incidental to give effect to the Reorganisation Proposal, including to:

- (a) apply any proceeds referred to in clause 15.4(a) on behalf of the Unit Holder;
- (b) execute any withdrawal request on behalf of the Unit Holder, or any application for, or transfer of, any securities or financial products in favour of the Unit Holder;
- (c) execute a transfer of Units, Stapled Securities, Options or Financial Instruments held by or on behalf of the Unit Holder;
- (d) execute a transfer of Assets to a Unit Holder; and
- (e) execute documents and give consents.

The RE is authorised to execute these documents and to do these things without needing further authority or approval from Unit Holders.

15.6 Foreign Investors

- (a) This clause 15.6 applies where a Reorganisation Proposal involves the offer, issue or transfer of Units, Stapled Securities, Options, Financial Instruments or other financial products to Foreign Investors.
- (b) Subject to the Listing Rules and the Corporations Act as modified by any applicable ASIC Relief, the RE may determine that a Foreign Investor is a Designated Foreign Investor with respect to a Reorganisation Proposal where the RE reasonably determines that it will not offer, issue or transfer Units, Stapled Securities, Options, Financial Instruments or other financial products to that Foreign Investor, having regard to:
 - (i) the number of Foreign Investors in the jurisdiction of that Foreign Investor;
 - (ii) the number and value of Units, Stapled Securities, Options, Financial Instruments or other financial products that may be offered, issued or transferred to Foreign Investors in the foreign jurisdiction; and
 - (iii) the cost of complying with legal requirements and the requirements of any relevant regulatory authority applicable to the offer, issue or transfer in the foreign jurisdiction.
- (c) If the RE makes a determination in accordance with clause 15.6(b), despite anything to the contrary in this Constitution:
 - (i) the RE has power to do all things which it considers necessary, desirable or reasonably incidental to give effect to a Designated Foreign Investor Cash-Out; and
 - (ii) any Investor who is or becomes a Designated Foreign Investor is taken to consent to the Designated Foreign Investor Cash-Out and directs the RE to do all things which it considers necessary, desirable or reasonably incidental to give effect to the Designated Foreign Investor Cash-Out (including to act as the Unit Holder's agent and attorney),

including to:
 - (iii) transfer or issue, or arrange for the transfer or issue of Units, Stapled Securities, Options, Financial Instruments or other financial products held by the Unit Holder or which would have been received by the Unit Holder under the Reorganisation Proposal to a Sale Nominee;
 - (iv) arrange for a Sale Nominee to participate in a Reorganisation Proposal in respect of Units, Stapled Securities, Options, Financial Instruments or other financial products received under clause 15.6(c)(iii); and
 - (v) arrange for a Sale Nominee to sell the Units, Stapled Securities, Options, Financial Instruments or financial products that are issued or transferred in respect of the Unit Holder's existing investment;
 - (vi) arrange for the payment of the Sale Consideration to the Designated Foreign Investor.

- (d) A “**Designated Foreign Investor Cash-Out**” means that Unit Holders who are Designated Foreign Investors will:
 - (i) not be the holder of any newly acquired Securities or financial products as a result of implementation of a Reorganisation Proposal; and
 - (ii) receive an amount of cash:
 - (A) realised by selling Units, Stapled Securities, Options, Financial Instruments or other securities or financial products held by that Unit Holder or to which the Unit Holder would have been entitled if it had participated in the Reorganisation Proposal; or
 - (B) otherwise determined by the RE to be equivalent to the value of Units, Stapled Securities, Options, Financial Instruments or other securities or financial products to which the Unit Holder would have been entitled if it had participated in the Reorganisation Proposal.
- (e) Each Investor acknowledges and recognises that the exercise of the powers given to the Issuer under this clause 15.6 may cause individual Investors considerable disadvantage (including possible adverse financial and taxation consequences) but each Investor acknowledges that this result may be necessary to enable the requirements of this clause 15.6 to be met.

15.7 Liability of RE

The RE has no liability of any nature whatsoever beyond the Assets to Unit Holders arising, directly or indirectly, from the RE doing or refraining from doing any act (including the execution of a document) pursuant to or in connection with the implementation of a Reorganisation Proposal.

15.8 Partly Paid Units

If any Unit is a Partly Paid Unit at the time of a Reorganisation Proposal, the unpaid amount of the Application Price and any instalment payable will be amended in the same ratio.

15.9 Paramountcy of provision

The provisions of this clause 15 prevail over other provisions of this Constitution in the case of any inconsistency to the extent provided in clause 30.5.

16 Income and distributions to Unit Holders

16.1 Application of income and distribution provisions

- (a) If the RE makes an election under clause 16.14 for the provisions contained in schedule 2 to apply that is effective in respect of a particular Financial Year, then the provisions of this clause 16 will operate subject to, and be qualified by, the provisions of schedule 2 for that Financial Year.
- (b) The provisions contained in clause 16.5 and clause 16.6 will not apply in respect of a particular Financial Year unless or until the RE makes an

election under clause 16.14 that clause 16.5 and clause 16.6 are to apply.

16.2 Determination of Distributable Income

- (a) The RE must determine the:
 - (i) Distributable Income;
 - (ii) Capital Gains; and
 - (iii) Residual Incomeof the Trust for each Distribution Period and Financial Year.
- (b) Unless the RE determines otherwise prior to the end of the relevant Distribution Period or Financial Year, the Distributable Income is the aggregate of:
 - (i) the amount which the RE determines to be the “net income of the trust estate” for the Trust for the purposes of section 95 of the Tax Act for the relevant period, determined as if the relevant period were a year of income for the purposes of the Tax Act, but disregarding:
 - (A) any amounts the RE determines are included in the “net income of the trust estate” for the Trust for the relevant period that represent either or both of franking credits or foreign tax offsets; and
 - (B) any reduction in the net capital gain for the Trust for the relevant period which the RE determines arises as a result of the discount capital gains concession; and
 - (ii) any additional amount that the RE considers appropriate for distribution for the relevant period.

16.3 Accounting standards

The preparation of the accounts of the Trust in accordance with current Australian accounting standards and generally accepted accounting principles is not to be regarded as a determination of the method for calculating the Distributable Income under clause 16.2.

16.4 Residual Income Entitlements and Residual Gains Entitlements

Subject to clause 16.12, the Residual Income Entitlement and Residual Gains Entitlement of a Unit Holder for a Distribution Period is so much of, respectively, the Residual Income and Capital Gains of the Trust calculated by the RE as follows:

- (a) in respect of a Distribution Period ending on a Distribution Calculation Date other than 30 June in any year, an amount calculated as follows:

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

where:

- A is the number of Units held by the Unit Holder at the end of the Distribution Period;
- B is the number of Units held by all Unit Holders at the end of the Distribution Period;
- C is either:
 - (i) for a Residual Income Entitlement, the Residual Income of the Trust for the Distribution Period; and
 - (ii) for a Residual Gains Entitlement, the excess, if any, of the Capital Gains of the Trust for the Distribution Period over the Maximum Redemption Gains Amount for any Units redeemed during the Distribution Period under a Significant Redemption

or such lesser amount as the RE may determine; and

- (b) in respect of a Distribution Period ending on 30 June in any year, an amount calculated as follows:

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

where:

- A is the number of Units held by the Unit Holder at the end of the Distribution Period;
- B is the number of Units held by all Unit Holders at the end of the Distribution Period; and
- C is:
 - (i) for a Residual Income Entitlement, any amount by which the Residual Income of the Trust for the Financial Year exceeds the aggregate of the amount of Residual Income calculated for the purposes of variable C(i) in paragraph 16.4(a) in respect of the previous Distribution Periods in the Financial Year; and
 - (ii) for a Residual Gains Entitlement, any amount by which the Capital Gains of the Trust for the Financial Year exceeds the aggregate of:
 - (A) the Redemption Gains Entitlements for all Units redeemed under a Significant Redemption during the Financial Year; and
 - (B) the amounts of Capital Gains calculated for the purposes of variable C(ii) in paragraph 16.4(a) in respect of the previous Distribution Periods in the Financial Year.

16.5 Significant Redemption

A redemption of Units in the Trust will be a Significant Redemption if at the time the Units are redeemed, the redemption is of 5% or more of the Units on issue, or such other percentage of the Units on issue not less than 2% as the RE has

determined and stated in a notice to Unit Holders at least 30 days before a date stated in the notice as at which the new percentage is to take effect.

16.6 Redemption Gains Entitlement

- (a) If there is a Significant Redemption of Units in the Trust, then the RE may determine that a Redemption Gains Entitlement arises for the Unit Holder whose Units are redeemed under the Significant Redemption. If the RE makes a determination that a Redemption Gains Entitlement arises, the RE must determine the Maximum Redemption Gains Amount for the Units redeemed under the Significant Redemption.
- (b) The Maximum Redemption Gains Amount for a Unit redeemed under a Significant Redemption is:
 - (i) so much of the Capital Gains which arise for the Trust that the RE reasonably determines are connected to a disposal of the Assets of the Trust undertaken by the RE to fund a payment, in whole or in part, of the Redemption Amount for the Units redeemed; divided by
 - (ii) the number of Units redeemed under the Significant Redemption.
- (c) The Redemption Gains Entitlement for a Unit redeemed under a Significant Redemption is the lesser of:
 - (i) the Maximum Redemption Gains Amount for the Unit; and
 - (ii) the amount determined in accordance with the following formula:

$$\frac{M}{AM} \times CG$$

where:

M is the Maximum Redemption Gains Amount for the Unit;

AM is the aggregate of the Maximum Redemption Gains Amount for all Units redeemed under a Significant Redemption during the Financial Year; and

CG is the Capital Gains of the Trust for the Financial Year.

For the avoidance of doubt, the Redemption Gains Entitlement for a Unit that is redeemed under a redemption that is not a Significant Redemption is nil.

16.7 Present entitlement

Subject to clause 16.9, a person who at any time during the Financial Year is or has been a Unit Holder is presently entitled to:

- (a) the Capital Gains of the Trust for the Financial Year in the proportion that the sum of the Residual Gains Entitlements and Redemption Gains Entitlements of the Unit Holder or former Unit Holder in respect of the Financial Year bear to the sum of all Residual Gains Entitlements and Redemption Gains Entitlements of all persons who are or have been Unit Holders at any time during the Financial Year; and

- (b) the Residual Income of the Trust for the Financial Year in the proportion that the Residual Income Entitlements of the Unit Holder or former Unit Holder in respect of the Financial Year bear to the sum of all Residual Income Entitlements of all persons who are or have been Unit Holders at any time during the Financial Year,

and these amounts are to be set aside for distribution.

16.8 Satisfaction of present entitlement and distribution of income

- (a) The present entitlement of a person who at any time during the Financial Year is a Unit Holder to:
 - (i) the Distributable Income of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of the Income Entitlements of the person in respect of the Financial Year;
 - (ii) the Capital Gains of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of:
 - (A) so much of the Redemption Amount for the relevant Units redeemed by the Unit Holder as represents a Redemption Gains Entitlement; and
 - (B) the Unit Holder's Residual Gains Entitlements; and
 - (iii) the Residual Income of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of the Residual Income Entitlements of the Unit Holder.
- (b) Subject to any deductions made under clause 16.11, the RE must pay to each person the person's Residual Income Entitlements and Residual Gains Entitlements for a Distribution Period. That payment must occur within 3 months after the Distribution Calculation Date for the Distribution Period.

16.9 Separate accounts

- (a) Subject to paragraph 16.9(b), the RE may:
 - (i) keep separate accounts of different categories or sources (or both) of Distributable Income or gains, or deductions, losses or credits for tax purposes, including Capital Gains and franked dividends. If such accounts are kept, they must be kept in accordance with the requirements of the Tax Act; and
 - (ii) allocate Distributable Income or gains, or deductions, losses or credits from a particular category or source (or both) for tax purposes to particular Unit Holders, including as part of the Income Entitlements of Unit Holders.

Where the RE allocates items of Distributable Income or gains, or deductions, losses or credits from a particular category or source (or both) for tax purposes to a Unit Holder other than pro rata with all other Unit Holders, the RE must:

- (iii) notify the Unit Holder; and
- (iv) record, in the accounts and records of the Trust, the allocation of items of Distributable Income or gains, or deductions, losses or

credits from the particular category or source (or both) to the Unit Holder.

- (b) The RE must:
 - (i) keep separate accounts of the Capital Gains and Residual Income of the Trust; and
 - (ii) allocate the Capital Gains and Residual Income of the Trust kept in those separate accounts in accordance with the terms of this Constitution, including through:
 - (A) in the case of Capital Gains, Residual Gains Entitlements and Redemption Gains Entitlements; and
 - (B) in the case of Residual Income, Residual Income Entitlements.

16.10 Position on transfer of Units

A person who is or was a Unit Holder as at a Distribution Calculation Date remains entitled to their Residual Income Entitlements and Residual Gains Entitlements under clauses 16.4 and 16.7 despite any transfer, transmission or redemption of Units by or in respect of the person, being Units which gave rise to the entitlement.

16.11 Deductions from Distributable Income

The RE may deduct from any entitlement of a person to a share of Distributable Income any amount which the RE is required or authorised to deduct under clause 17.7. All amounts deducted must be applied in reimbursing the Trust for any corresponding amount paid, distributed or reimbursed out of the Trust or reimbursing the RE for the payment of the Tax to the person or authority entitled to it.

16.12 Fractions

If the share of Distributable Income for a Unit Holder determined under clause 16.4 includes a fraction of a cent, the share is to be adjusted:

- (a) if the fraction of a cent is greater than or equal to half a cent, to the nearest cent above the amount calculated; and
- (b) otherwise, to the nearest cent below the amount calculated.

16.13 Classification of items

Without limiting clause 16.2, the RE has the power to determine:

- (a) the classification of any item as being on Distributable Income or otherwise;
- (b) the extent to which reserves or provisions need to be made; and
- (c) whether any item should be recognised as it is received or as it accrues (but not yet received).

16.14 RE elections

- (a) The RE may elect in writing for:

- (i) the provisions contained in Schedule 2 to apply on and from the date specified in the election. Any such election will continue to have effect subject to the provisions contained in Schedule 2; or
 - (ii) the provisions in clause 16.5 and clause 16.6 to apply on or from the date specified in the election. Any election will continue to have effect subject to the provisions contained in Schedule 2 should the RE make an election under clause 16.14(a)(i).
- (b) The RE may notify the Unit Holders of the making of an election under this clause 16.14.
- (c) Nothing in this clause 16.14 imposes an obligation on the RE to:
 - (i) elect to apply the AMIT Regime to the Trust;
 - (ii) facilitate the Trust being able to elect to apply the AMIT Regime to the Trust;
 - (iii) make any amendments to the Constitution; or
 - (iv) make any of the elections provided for under this clause 16.14.

16.15 Impact of Schedule 2 if the Trust is not an AMIT

- (a) If the Trust is not an AMIT for a Financial Year but the RE purports to exercise a power under Schedule 2 on the basis that the RE believes that the Trust is or will be an AMIT for the financial year, then the following provisions apply in respect of the exercise of the relevant power.
- (b) The exercise of the powers by the RE will, to the maximum extent possible but subject to the following provisions, be treated as a proper exercise of the RE's powers under this Constitution or at law.
- (c) To the extent that the operation of any of these powers depends, for its operation, on the Trust being an AMIT for the financial year, the Trust will be treated as if it were an AMIT for the purposes of that power.
- (d) Nothing in Schedule 2 or the terms of this clause will be taken to invalidate any action that is undertaken by the RE pursuant to its powers under clause 16 and those powers may be exercised by the RE despite any contrary powers provided under Schedule 2.

16.16 Availability of reinvestment

The RE may decide whether to permit the Unit Holders to reinvest some or all of any distribution.

16.17 Terms of reinvestment

If the RE decides to permit reinvestment, it must notify Unit Holders of the procedure and terms for reinvestment and any change in the procedure or terms.

16.18 Issue date

If reinvestment applies to the share of Distributable Income on any Unit held by a Unit Holder at the end of a Distribution Period or any part of that share, the RE is taken to have received and Accepted an application to reinvest that share of

Distributable Income, or part of it at the end of the Distribution Period. The new Units are issued at the time specified in clause 11.5(b).

16.19 Liability

To the maximum extent permitted by law, the RE does not incur any liability nor is it obliged to account to anyone (including any Unit Holder or former Unit Holder) nor is it liable for any loss or damage as a result of the exercise of any discretion or power under this clause 16, or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of any discretion or power despite any error or miscalculation in any provision made for Tax.

16.20 Other distributions

The RE may at any time distribute any amount other than Distributable Income to Unit Holders pro rata according to the number of Units they hold as at a time decided by the RE.

The distribution may be in the form of cash or other property of equivalent value, or by way of additional Units or a transfer of Assets under clause 17.5. Assets equal in value to the amount to be distributed must be immediately set aside for distribution. The distribution must be paid as soon as is reasonably practicable.

16.21 Capital distributions and Capital Reallocation

- (a) The RE may at any time distribute an amount of capital of the Trust to the Unit Holders on terms that the amount distributed in respect of each Unit is to be applied by the RE as agent for and on behalf of each Unit Holder by paying that amount at the direction of each Unit Holder to one or more Stapled Entities as an additional capital payment in respect of the relevant Attached Security of that Stapled Entity which is already issued and to which the Unit is Stapled (the “**Outgoing Capital Reallocation Amount**”), and if the RE determines to pay a distribution as an Outgoing Capital Reallocation Amount, then:
 - (i) the Outgoing Capital Reallocation Amount to be applied on behalf of a Unit Holder is to be as nearly as practicable in the same proportion as that which the number of Units the Unit Holder holds bears to the total number of Units on issue as at a date determined by the RE;
 - (ii) each Unit Holder is deemed to have directed the RE to pay the Outgoing Capital Reallocation Amount to the relevant Stapled Entity or Entities on the basis set out in this clause 16.21;
 - (iii) the RE must pay the Outgoing Capital Reallocation Amount on the basis set out in this clause 16.21; and
 - (iv) each Unit Holder will be deemed to have irrevocably appointed the RE as its attorney and agent to do all things the RE considers necessary to give effect to the reallocation of capital under this clause 16.21(a); and
 - (v) if the Stapled Entity to which the Outgoing Capital Reallocation Amount is to be paid is a company, then each Unit Holder irrevocably appoints and directs the RE to do the following on the Unit Holder’s behalf and in the Unit Holder’s name:
 - (A) consent in writing (which consent may be a single document or two or more documents executed by the

RE on behalf of all Unit Holders) to any variation of the rights attaching to any shares in the Stapled Entity held by the Unit Holder constituted by any modification of the constitution of the Stapled Entity that increases or provides for an increase in the liability of the Unit Holder in its capacity as a holder of shares to contribute to the share capital of the Stapled Entity, and that increase in that liability; and

- (B) agree in writing (which agreement may be a single document or two or more documents executed by the RE on behalf of all Unit Holders) to the increase in the Unit Holder's liability to contribute to the share capital of the Stapled Entity in accordance with the constitution of the Stapled Entity,

and the RE will receive the Incoming Capital Reallocation Amount as an additional capital payment in respect of the Unit to which the relevant Attached Security is Stapled. All amounts so received by the RE are Assets.

- (b) If at any time, a Stapled Entity proposes to undertake a capital distribution (if it is a trust) or an equal reduction of capital (if it is a company) on terms that the whole or any part of the amount to be paid in respect of each Attached Security of which that Stapled Entity is the issuer by way of capital distribution or capital reduction ("**Incoming Capital Reallocation Amount**") is to be paid to or for the benefit of the Trust, then:

- (i) each Unit Holder is deemed to have directed the RE to accept the Incoming Capital Reallocation Amount;
- (ii) each Unit Holder is deemed to have appointed the RE as their attorney and agent to do all things the RE considers necessary to give effect to the receipt of the Incoming Capital Reallocation Amount by the RE;
- (iii) if the Stapled Entity is a company which proposes to undertake an equal reduction of capital, then each Unit Holder irrevocably appoints and directs the RE to do the following on the Unit Holder's behalf and in the Unit Holder's name:

- (A) consent in writing (which consent may be a single document or two or more documents executed by the RE on behalf of all Unit Holders) to any variation of the rights attaching to any shares in the Stapled Entity held by the Unit Holder constituted by any modification of the constitution of the Stapled Entity that provides for the reduction of capital by the Stapled Entity; and
- (B) agree in writing (which agreement may be a single document or two or more documents executed by the RE on behalf of all Unit Holders) to the reduction in capital by the Stapled Entity in accordance with the constitution of the Stapled Entity,

and the RE will receive the Incoming Capital Reallocation Amount as an additional capital payment in respect of the Unit to which the relevant Attached Security is Stapled. All amounts so received by the RE are Assets.

16.22 Unit Holder may direct

The RE may act on a direction given by a Unit Holder in any form as the RE requires to pay to a third party nominated in the direction all or part of the Unit Holder's entitlement to distributions of income and capital under this clause 16 or under clause 28 on winding up.

17 Payments

17.1 Payment method

Money payable by the RE to a Relevant Security Holder may be paid in any manner the RE decides.

17.2 Cheques

Cheques issued by the RE that are not presented within 6 months may be cancelled. Where a cheque which is cancelled was drawn in favour of a Relevant Security Holder, the money is to be held by the RE for the Relevant Security Holder or paid by the RE in accordance with the legislation relating to unclaimed moneys.

17.3 Electronic transfers

Where the RE attempts to make a payment by electronic transfer of funds to a Relevant Security Holder and the transfer is unsuccessful on 3 occasions, the money may be held by the RE for the Relevant Security Holder or paid by the RE in accordance with the legislation relating to unclaimed moneys.

17.4 Rounding

Only whole cents are to be paid, and any remaining fraction of a cent becomes an Asset.

17.5 Transfer of Assets

The RE may transfer Assets to a Unit Holder rather than pay cash in satisfaction of all or part of a redemption request, in payment of a distribution of income or capital, amounts owing under a buyback or as part of the winding up of the Trust or any other amounts owing to the Unit Holder in respect of the Trust, either:

- (a) with the consent of the Unit Holder; or
- (b) if the RE reasonably considers the transfer of Assets rather than cash is in the best interests of Unit Holders, without the consent of the Unit Holder.

The Assets transferred, together with any cash paid, must be of equal value to the total amount due to the Unit Holder (based on a valuation which is consistent with the range of ordinary commercial practice for valuation of assets of that type and is reasonably current, having regard to the type of asset involved and prevailing market conditions). If paragraph (a) of this clause 17.5 applies, the costs involved in transfer of these Assets must be paid by the Unit Holder or deducted from the amount due to the Unit Holder.

For the purposes of this clause 17.5, the RE will be taken to have transferred Assets to a Unit Holder or former Unit Holder where the RE has done everything reasonably necessary on its part to convey the Assets to the Unit Holder or former Unit Holder.

17.6 Joint Relevant Security Holders

A payment to any one of joint Relevant Security Holders will discharge the RE in respect of the payment.

17.7 Deduction of Tax or amounts owing

The RE may deduct from any amount to be paid to a Relevant Security Holder, or received from a Relevant Security Holder, any amount of Tax (or an estimate of it) or any other amount owed by the Relevant Security Holder to the RE or any other person which the RE is required or authorised to deduct by law or by this Constitution or which the RE considers should be deducted.

18 Powers of the RE

18.1 General powers

- (a) Subject to this Constitution, the RE has all the legal capacity and powers both inside and outside Australia in respect of the Trust that it is possible under the law to confer on a trustee and as though the RE were an individual who is the absolute owner of the Assets acting in their personal capacity.
- (b) Except where the RE is expressly appointed as an attorney or agent of a Unit Holder under this Constitution, the RE is not, and nothing in this Constitution entitles the RE to act as, the agent of any Unit Holder or Unit Holders. This is so despite any directions or instructions the Unit Holder or Unit Holders may give or may be entitled to give to the RE.

18.2 Contracting and borrowing powers

Without limiting clause 18.1, the RE in its capacity as trustee of the Trust has power to enter into any form of contract and to incur all types of obligations and liabilities including:

- (a) to borrow and raise money (whether or not on a secured basis and in any manner whatsoever including all forms of financial accommodation and debt facilities) including to issue Financial Instruments;
- (b) to grant all types of security (whether for the obligations of the RE or another person);
- (c) to grant guarantees and indemnities; and
- (d) to enter into derivatives.

18.3 Investment and lending powers

Without limiting clause 18.1, the RE may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with property and rights as it sees fit. This includes the power to:

- (a) invest the whole or part of the Assets in a single type of asset, or in trusts managed or controlled by the RE or its related body corporate, or such other investments as the RE determines; and
- (b) lend money and on-lend or provide financial accommodation to any person.

18.4 Power of delegation

The RE may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the RE's power, including the power to appoint in turn its own agent or delegate.

18.5 Terms of delegation

The RE may include provisions in the authorisation to protect and assist those dealing with the agent or delegate and to limit the RE's liability, as the RE thinks fit.

18.6 Delegate may be an associate

The agent or delegate may be an associate of the RE.

18.7 Exercise of discretion

Subject to this Constitution, the RE may in its absolute discretion decide how, when and how often to exercise its powers.

18.8 Underwriting

Subject to the Corporations Act, the RE may enter into an agreement with a person (including an associate of the RE) to underwrite the subscription or purchase of Units, Options or Financial Instruments or to manage the offer of Units, Options or Financial Instruments on such terms as the RE determines. Unless the agreement expressly states otherwise, the underwriter or offer manager will not be an agent or delegate of the RE.

18.9 Voting

Subject to the Corporations Act, and without limiting clause 18.1, the RE may exercise all voting rights conferred by the Assets as it sees fit.

19 Retirement of RE

19.1 While a Registered Scheme

While the Trust is a Registered Scheme, the RE:

- (a) may retire as the responsible entity of the Trust as permitted by law; and
- (b) must retire as the responsible entity of the Trust when required by law.

Subject to the Corporations Act, the RE may appoint in writing, or propose the appointment of, another person to be the RE.

19.2 While not a Registered Scheme

While the Trust is not a Registered Scheme, the RE:

- (a) may retire as the trustee of the Trust on not less than 1 month's notice to Unit Holders (or any shorter period as they agree); and
- (b) must retire as the trustee of the Trust if required by law or by all Unit Holders.

On retirement, the RE may appoint in writing another person to be the RE.

19.3 New RE

Any replacement RE must execute a deed by which it covenants to be bound by this Constitution as if it had originally been a party to it.

19.4 Release

When it retires or is removed, the RE is released from all obligations in relation to the Trust arising after the time it retires or is removed.

20 Notices to Relevant Security Holders

20.1 Notice

Subject to the Corporations Act, a notice or other communication required to be given to a Relevant Security Holder in connection with the Trust must be given in writing (including by fax or email) or in such other manner as the RE determines, and be delivered or sent to the Relevant Security Holder at their physical or electronic address last advised to the RE for delivery of notices.

20.2 Cheques

A cheque payable to a Relevant Security Holder may be posted to their physical address or handed to them or a person authorised in writing by them.

20.3 Joint Relevant Security Holders

In the case of joint Relevant Security Holders, their physical or electronic address means the physical or electronic address of the Relevant Security Holder first named in the Register.

20.4 When notice received

Subject to the Corporations Act, a notice or other communication sent to a Relevant Security Holder:

- (a) by post is taken to be received on the Business Day after it is posted;
- (b) by fax is taken to be received 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine; and
- (c) by email is taken to be received 1 hour after it is sent if the sender has not received a notice of non-delivery.

A cheque is taken to be received on the Business Day after it is posted.

Proof of actual receipt is not required. The RE may determine the time at which other forms of communication will be taken to be received.

21 Notices to the RE

21.1 Form of notice

A notice required under this Constitution to be given to the RE must be given in writing (including by fax), or in such other manner as the RE determines.

21.2 When notice received

A notice to the RE is effective only at the time of receipt in legible form.

21.3 Signature

The notice must bear the actual, facsimile or electronic signature of the Relevant Security Holder or their duly authorised officer or representative, unless the RE dispenses with this requirement.

22 Meetings of Unit Holders

22.1 Convening of meetings

The RE may at any time convene a meeting of Unit Holders, and must do so if required by the Corporations Act.

22.2 Unit Holders' request for meeting - not Registered Scheme

While the Trust is not a Registered Scheme:

- (a) the RE must call and arrange to hold a meeting of Unit Holders to consider and vote on a proposed Resolution on the request of Unit Holders with at least 5% of the votes that may be cast on the resolution; and
- (b) sections 252B(2), (3), (6), (7) and (8) of the Corporations Act apply to the calling of a meeting referred to in sub-paragraph (a) as if the Trust were a Registered Scheme.

22.3 Unit Holders' request for meeting - Registered Scheme

While the Trust is a Registered Scheme, the provisions of the Corporations Act apply to determine the circumstances if any in which a meeting must be convened on the request of Unit Holders.

22.4 Notice period

While the Trust is not a Registered Scheme, at least 10 days' notice of a meeting must be given to Unit Holders, or such shorter notice as they agree.

22.5 Notice while Registered Scheme

While the Trust is a Registered Scheme, the requirements for notice of meetings of Unit Holders are governed by the Corporations Act.

22.6 RE may determine

Subject to this clause 22, the Corporations Act and the Listing Rules, the RE may determine the time and place at which a meeting of Unit Holders will be convened and the manner in which the meeting will be conducted including a meeting of Unit Holders at two or more venues using any technology that gives the Unit Holders as a whole a reasonable opportunity to participate.

22.7 Quorum

- (a) The quorum for a meeting of Unit Holders is at least 2 Unit Holders present in person or by proxy unless, at any time, there is only one Unit Holder who may vote on a resolution, the quorum for a meeting is one.

- (b) If one or more of those Unit Holders is excluded from voting on any Resolution proposed at the meeting they may still be counted towards the quorum.
- (c) A member placing a direct vote under clause 22.21 is not taken into account in determining whether or not there is a quorum at a meeting of Unit Holders.

22.8 No quorum

If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:

- (a) if convened on the requisition of Unit Holders - dissolved; or
- (b) otherwise - adjourned to such place and time as the RE decides.

At any adjourned meeting, those Unit Holders present in person or by proxy constitute a quorum.

22.9 Chairman

Subject to the Corporations Act, the RE may appoint a person to chair a meeting of Unit Holders.

22.10 Conduct of meeting

The decision of the chairman on any matter relating to the conduct of the meeting is final.

22.11 Adjournment

The chairman has power to adjourn a meeting for any reason to a place and time as the chairman thinks fit.

22.12 Postponement or cancellation

The chairman has power to cancel a meeting or postpone a meeting for any reason to a place and time as the chairman thinks fit.

22.13 Voting - not a Registered Scheme

Subject to any rules prescribed by the RE pursuant to clause 22.19, while the Trust is not a Registered Scheme:

- (a) voting is by a show of hands, unless a poll is duly demanded or the Resolution proposed is required by this Constitution or by law to be decided by a specific majority;
- (b) subject to any rules prescribed by the RE pursuant to clause 22.19 and any rights, obligations and restrictions attaching to any particular Units, each Unit Holder who is present in person or by proxy has:
 - (i) on a show of hands, one vote; and
 - (ii) on a poll:
 - (A) each Unit Holder present in person has one vote for each Unit held; and

- (B) each Unit Holder who has duly lodged a valid direct vote in respect of the relevant resolution under clause 22.19 has one vote for each Unit held by the Unit Holder; and
- (c) in the case of joint Unit Holders, only the first named in the Register may vote unless the RE otherwise agrees.

22.14 Voting - Registered Scheme

While the Trust is a Registered Scheme, subject to clause 22.17 and clause 22.21 and any rules prescribed by the RE pursuant to clause 22.19 the provisions of the Corporations Act governing voting for meetings of members of Registered Schemes apply to the Trust.

22.15 Proxies

Subject to clause 22.16, the provisions of the Corporations Act governing proxies for meetings of members of Registered Schemes apply to the Trust.

22.16 Validity of proxy

The RE may determine that the appointment of a proxy is valid even if it contains only some of the information required by the Corporations Act.

22.17 Demand for a poll

A poll may be demanded by the chairman, or by Unit Holders present in person or by proxy holding at least 5% of Units.

22.18 Resolutions binding

A Resolution by:

- (a) Unit Holders binds all Unit Holders; or
- (b) Unit Holders of a Class, binds all Unit Holders of that Class,

whether or not they voted or were present at the meeting (in the case of a Resolution passed at a meeting) or whether or not they signed the Resolution (in the case of a Resolution in writing).

22.19 Direct voting

The RE may determine that at any general meeting or class meeting, a Unit Holder who is entitled to attend and vote on a Resolution at that meeting is entitled to a direct vote in respect of that Resolution. A "direct vote" includes a vote delivered to the RE by post, fax or other electronic means approved by the RE. The RE may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

22.20 Treatment of direct votes

A direct vote on a Resolution at a meeting in respect of a Unit cast in accordance with clause 22.19 is of no effect and will be disregarded:

- (a) if, at the time of the Resolution, the person who cast the direct vote:
 - (i) is not entitled to vote on the Resolution in respect of the Unit; or

- (ii) would not be entitled to vote on the Resolution in respect of the Unit if the person were present at the meeting at which the Resolution is considered;
- (b) if, had the vote been cast in person at the meeting at which the Resolution is considered:
 - (i) the vote would not be valid; or
 - (ii) the RE would be obliged to disregard the vote;
- (c) subject to any rules prescribed by the RE, if the person who cast the direct vote is present in person at the meeting at the time the Resolution is considered; and
- (d) if the direct vote was cast otherwise than in accordance with any regulations, rules and procedures prescribed by the RE under clause 22.19.

22.21 Multiple votes

Subject to any rules prescribed by the RE, if the RE receives a valid direct vote on a Resolution in accordance with clause 22.19 and 22.20 and, prior to, after or at the same time as receipt of the direct vote, the RE receives an instrument appointing a proxy, attorney or representative to vote on behalf of the same Unit Holder on that Resolution, the RE may regard the direct vote as effective in respect of that Resolution and disregard any vote cast by the proxy, attorney or representative on the Resolution at the meeting.

22.22 Objection at meeting

No objection may be made to any vote cast unless the objection is made at the meeting.

22.23 Non-receipt

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

22.24 Option Holders and Financial Instrument Holders

Clauses 22.1 to 22.23 apply to meetings of Option Holders and Financial Instrument Holders with any necessary modifications.

22.25 Class meetings

Subject to the Corporations Act, the provisions of this deed relating to meetings of Unit Holders apply so far as they are capable of application to a meeting of a Class of Unit Holders.

23 Rights and liabilities of RE

23.1 Holding Units

The RE and its associates may hold Units in the Trust, or interests in any trust or company which is an associate of any of them, in any capacity.

23.2 Other capacities

Subject to the Corporations Act, the RE (and any of its associates to the extent applicable) may:

- (a) deal with itself (as trustee of the Trust or in another capacity), its associates or with any Unit Holder, including to engage any of its associates to provide services to the RE or to redeem Units it has acquired as a result of forfeiture and vesting under clause 7.6;
- (b) be interested in any contract or transaction with itself (as trustee of the Trust or in another capacity), its associates or with any Unit Holder or any other person; and
- (c) act in the same or a similar capacity in relation to any other managed investment scheme or trust,

and retain for its own benefit any profits or benefits derived from any of these acts, dealings, relationships, capacities, contracts or transactions.

23.3 RE may rely

The RE may take and may act on:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the RE, in relation to applicable law or the interpretation of this Constitution or any other document or generally in connection with the Trust;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and other persons consulted by the RE who are believed by the RE in good faith to be expert in relation to the matters on which they are consulted;
- (c) a document which the RE believes in good faith to be the original or a copy of an appointment by a Relevant Security Holder of a person to act as their agent for any purpose connected with the Trust; and
- (d) any other document provided to the RE in connection with the Trust on which it is reasonable for the RE to rely,

and the RE will not be liable for anything done or omitted by it in good faith in reliance on any opinion, advice, statement, information or document.

24 Limitation of liability and indemnity in favour of RE

24.1 Limitation on RE's liability

While the Trust is a Registered Scheme, the RE is not liable in contract, tort or otherwise to Relevant Security Holders for any loss suffered in any way relating to the Trust except to the extent that the Corporations Act imposes such liability.

24.2 Liability while Trust is not a Registered Scheme

While the Trust is not a Registered Scheme, if the RE acts in good faith and without gross negligence, it is not liable in contract, tort or otherwise to Relevant Security Holders for any loss suffered in any way relating to the Trust.

24.3 Liability limited to Assets

The RE is not required to do anything (including entering into any contracts as trustee of the Trust or in relation to any Assets) that may involve it incurring a liability unless its liability is limited to the RE's ability to be indemnified from the Assets.

24.4 Indemnity in favour of RE

The RE is entitled to be indemnified out of the Assets for any liability incurred by it in relation to the proper performance of its duties, whether incurred by exercise of its powers under this Constitution or by any other act, omission or circumstance.

24.5 Liability for agents

To the extent permitted by the Corporations Act, and otherwise without limitation, the indemnity under clause 24.4 includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the RE.

24.6 Indemnity continues

The indemnity in clause 24.4 is in addition to any indemnity allowed by law. It continues to apply after the RE retires or is removed as trustee of the Trust.

24.7 Right of indemnity not affected by unrelated breach

Where a Liability is incurred pursuant to a proper exercise of the RE's powers under this Constitution or at law, the RE may exercise any of its rights of indemnification or reimbursement out of the Assets to satisfy that Liability to any creditor or the RE (in its capacity as trustee or responsible entity of the Trust), despite any loss the Trust may have suffered or any diminution in the value of Assets as a consequence of any unrelated act or omission by the RE or by any person or entity acting on behalf of the RE.

25 Liability of Relevant Security Holders

25.1 Liability limited

Subject to clauses 25.3 and 25.5, the liability of a Unit Holder is limited to the amount if any which remains unpaid in relation to the Unit Holder's subscription for their Units.

25.2 Unit Holder need not indemnify

A Unit Holder need not indemnify the RE if there is a deficiency in the Assets or meet the claim of any creditor of the RE in respect of the Trust.

25.3 Tax or User Pays Fees

The RE is entitled to be indemnified by a present or former Relevant Security Holder to the extent that the RE incurs any liability for Tax or User Pays Fees as a result of:

- (a) that person's action or inaction; or
- (b) an act or omission requested by that person; or

- (c) any other matter arising in connection with Relevant Securities held by that person,

but, in the absence of a separate agreement with the Relevant Security Holder, is not otherwise entitled to be indemnified by them.

25.4 Joint Relevant Security Holders

Joint Relevant Security Holders are jointly and severally liable in respect of all payments, including payments in respect of Partly Paid Units and payments of Tax and User Pays Fees to which clause 25.3 applies.

25.5 Recourse

In the absence of separate agreement with a Relevant Security Holder, the recourse of the RE or any creditor, and any person claiming through them, is limited to the Assets.

25.6 Restrictions

A Relevant Security Holder:

- (a) must not interfere with any rights or powers of the RE under this Constitution;
- (b) must not exercise a right in respect of an Asset or lodge a caveat or other notice affecting an Asset or otherwise claim any interest in an Asset; and
- (c) may not require an Asset to be transferred to them.

26 Remuneration and expenses of RE

26.1 Fees payable from the Assets

The fees in clause 26.4 is payable to the RE out of the Assets.

26.2 Fees subject to Corporations Act

While the Trust is a Registered Scheme, the fees in clause 26.4 may only be paid to the RE to the extent they are payable in relation to the proper performance of the RE's duties as responsible entity of the Trust.

26.3 Acquisition and disposal fees

- (a) The RE is entitled to receive an acquisition fee equal to 1.0% of the value of any interest in a real estate asset acquired directly or indirectly by the Trust which is implied by the gross purchase price of the interest without deducting any liabilities such as debt funding assumed by the Trust, whether directly or indirectly, and including all development and related costs associated with the interest in the real estate asset but excluding any stamp duty, Tax and any other such acquisition costs.
- (b) The RE is entitled to receive a disposal fee equal to 1.0% of:
 - (i) the value of any interest in a real estate asset disposed directly or indirectly by the Trust which is implied by the gross sale price of the interest without deducting any liabilities such as debt funding assumed by the purchaser; and

- (ii) the aggregate value of all of the real estate assets of the Trust, whether held directly or indirectly, where a Trust Scheme occurs, in which case the aggregate value of all of the real estate assets of the Trust, whether held directly or indirectly, will be the value implied by the consideration offered under the Trust Scheme if 100% of the Units in the Trust were acquired under the Trust Scheme and without deducting any liabilities such as debt funding or any liabilities of any sub-trust or subsidiary entity in which the Trust has an interest.
- (c) The fees to which the RE is entitled under this clause 26.3 will be payable within 10 Business Days of completion of the relevant transaction giving rise to the entitlement to the fee.
- (d) For the avoidance of doubt and without limitation, an interest in a real estate asset may be acquired or disposed for the purposes of the calculation of the fees payable under this clause 26.3 by way of an acquisition or disposal of shares, units or any other financial product.

26.4 Management fee

- (a) The RE is entitled to a management fee of 0.45% per annum of the Gross Value of the Assets calculated and accrued daily.
- (b) The management fee is payable within 7 days of the end of the month, first out of income of the Trust and then out of capital.

26.5 Deferral and waiver of fees

The RE may accept lower fees than it is entitled to receive under this Constitution, or may defer payment for any period and may also charge variable fees:

- (a) while the Trust is a Registered Scheme, in relation to any Class or Unit Holders generally, if and to the extent permitted by the Corporations Act (including the conditions of any applicable ASIC Relief), based on bands, tiers or other criteria nominated in the relief instrument or by the RE; or
- (b) while the Trust is not a Registered Scheme, in relation to any Unit Holder.

If payment is deferred, the relevant fee accrues daily until paid.

26.6 Expenses

All expenses incurred by the RE in connection with the Trust are payable or reimbursable out of the Assets or out of the assets of a controlled sub trust of the Trust, but while the Trust is a Registered Scheme reimbursement or payment is only available in relation to the proper performance of the RE's duties as responsible entity of the Trust and is reimbursable out of the Assets (or the assets of the sub trust as the case may be) to the extent that reimbursement is not prohibited by the Corporations Act. This includes the expenses connected with the following:

- (a) this Constitution, the formation of the Trust and any investment vehicle in which the Trust expects to have a direct or indirect interest, substantially in proportion to the proposed interest;
- (b) registration of the Trust as a Registered Scheme;

- (c) the preparation, review, distribution and promotion of any product disclosure statement, offering memorandum or other disclosure document in respect of Relevant Securities or other promotion of the Trust;
- (d) the acquisition and disposal (including acquisition, disposal and due diligence fees payable to an associate of the RE), insurance, custody (including custodian fees) and any other dealing with Assets;
- (e) any proposed acquisition, disposal or other dealing with any investment;
- (f) borrowing arrangements and raising money on behalf of the Trust or guarantees in connection with the Trust, including hedging costs, and costs relating to interest rate swaps or any gearing facility;
- (g) the investigation, negotiation, acquisition (including any costs associated with the establishment of an entity to hold property), registration, custody, holding, management, supervision, maintenance, insurance, valuation, sale of or other dealing with property in which the Trust has a direct or indirect interest (or attempting or proposing to do so) and the receipt, collection or distribution of income or other Assets;
- (h) the services of asset managers, property managers, development managers, project managers, leasing agents, sales agents and collection agents appointed in respect of any real property in which the Trust has a direct or indirect interest, which may include an associate of the RE;
- (i) rates, development, repair, insurance and redevelopment costs, insurance broking and quantity surveyor's fees, subdivision and building costs, normal building operating expenses not paid by tenants, costs of leasing (including marketing) and leasing incentives in relation to any real property in which the Trust has a direct or indirect interest;
- (j) travel and accommodation expenses of directors and employees of the RE in connection with the acquisition, holding, management, supervision, repair, maintenance, valuation, disposal or proposed disposal or any transaction in connection with any Asset or proposed Asset;
- (k) the administration or management of the Trust or its Assets and Liabilities, including expenses in connection with maintaining the Register and dealings with Relevant Securities;
- (l) costs of the admission of the Trust to the Official List and compliance with the Listing Rules;
- (m) undertaking an offer of Relevant Securities, including in connection with obtaining and maintaining associated insurance and underwriting or managing any subscription or purchase of Relevant Securities, including underwriting, offer management and brokerage fees and commission, handling fees, costs and expenses, amounts payable under indemnity or reimbursement provisions in an underwriting, offer management or broking agreement and any amounts becoming payable in respect of any breach (other than for negligence, fraud or breach of duty) by the RE of its obligations, representations or warranties under such agreement;
- (n) convening and holding meetings of Relevant Security Holders, the implementation of any Resolutions and communications with Relevant Security Holders;

- (o) Tax (including any amount charged by a person making a supply to the RE by way of or as a reimbursement for GST) and financial institution fees;
- (p) the engagement of agents, valuers, contractors and advisers (including legal advisers) whether or not the agents, valuers, contractors or advisers are associates of the RE;
- (q) accounting and compliance with taxation laws and procedures (whether internal expenses of the RE or paid to third parties) and the preparation and audit of the taxation returns and accounts of the Trust;
- (r) termination of the Trust and the retirement or removal of the RE and the appointment of a replacement;
- (s) any court proceedings, arbitration or other dispute concerning a Trust including proceedings against the RE, except to the extent that the RE is found by a court to be in breach of trust or to have been grossly negligent, in which case any expenses paid or reimbursed under this paragraph must be repaid;
- (t) all damages, expenses, payments, legal and other costs and disbursements incurred by the RE in relation to or in connection with any claim, dispute or litigation ("**Claim**") arising as a result of or in connection with any untrue representation or warranty contained in any document relating to any investment by the Trust including any project document in connection with the investment and any offering document or borrowing document in connection with the Trust except where the Claim arises out of the fraud or wilful default of the RE;
- (u) fees and expenses payable to directors of the RE and any costs associated with obtaining and maintaining directors and officers liability and professional indemnity insurance in respect of the directors and officers of the RE;
- (v) any compliance committee established by the RE in connection with the Trust, including any fees paid to or insurance premiums in respect of Compliance Committee Members;
- (w) while the Trust is a Registered Scheme and there is no compliance committee, any costs and expenses associated with the board of directors of the RE carrying out the functions which would otherwise be carried out by a compliance committee, including any fees paid to or insurance premiums in respect of external directors ;
- (x) fees payable to any audit committee for the Trust appointed in accordance with ASX corporate governance guidelines or otherwise and any costs in connection with undertaking an internal audit;
- (y) the preparation, implementation, amendment and audit of the compliance plan;
- (z) the cost of handling complaints from Unit Holders and resolving disputes with them, including the cost of membership of an external dispute resolution scheme;
- (aa) the cost of the RE employing a compliance officer to carry out compliance duties under the compliance plan, in so far as the allocation of their time is attributable to matters connected with the Trust;
- (bb) complying with any law, and any request or requirement of ASIC or ASX;

- (cc) any Stapling of Units to Attached Securities;
- (dd) in connection with any Stapling Proposal, Top Hat Proposal, Exchange Proposal or any other Reorganisation Proposal or the proposal contemplated in Schedule 3.

In this clause 26, “expenses” includes amounts paid by the RE to related bodies corporate for services where the expenses would have been reimbursable had they been incurred by the RE.

26.7 GST

Except where stated otherwise, all amounts in this Constitution do not include any amount payable on account of GST. If the RE is or becomes liable to pay GST in respect of any supply under or in connection with this Constitution then, in addition to any fee or other amount or consideration payable to the RE in respect of the supply, the RE is entitled to be paid out of the Assets an additional amount on account of GST. This amount is to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST.

In relation to fees that are expressed as GST inclusive in this Constitution, this clause applies only to the extent to which there has been an increase in the rate of GST so that the new GST inclusive fee is determined by converting the existing GST inclusive fee to a GST exclusive figure and multiplying it by the prevailing rate of GST.

26.8 Input tax credits

If the RE is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the RE by any person, or payable by the RE by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this Constitution, the RE is entitled to recover from the Trust by way of reimbursement an additional amount equivalent to the amount of the input tax.

26.9 Amendment of certain provisions is contemplated

Without limiting clause 29, the RE has power to amend:

- (a) any part of this clause 26 with the effect of increasing or decreasing any amount of fees due to it, or introducing new types of fees, or to otherwise amend, delete or replace any of the provisions of this clause 26; and
 - (b) the Stapling Provisions or any other part of this Constitution to allow for the stapling of a new Attached Security to the Stapled Securities already in existence,
- if:
- (c) while the Trust is a Registered Scheme, the RE complies with any applicable requirements of the Corporations Act relating to:
 - (i) amending the constitution of a Registered Scheme, and
 - (ii) increasing fees or charges in relation to a Registered Scheme or Stapling (as relevant); or
 - (d) while the Trust is not a Registered Scheme, the RE obtains the written consent of the sole Unit Holder or, if there is more than one Unit Holder,

gives at least 5 Business Days' prior notice to Unit Holders of the amendment or complies with clause 29.2.

26.10 Retirement of RE

- (a) This clause 26.10 applies in connection with the retirement of the trustee of the Trust ("**Retiring RE**") in favour of a new trustee of the Trust ("**New RE**"). The time the New RE becomes the trustee of the Trust is referred to in this clause 26.10 as the "**Effective Time**".
- (b) Subject to 26.10(c), the New RE indemnifies the Retiring RE against any liability or loss arising from, and any costs and expenses incurred by the Retiring RE arising out of or in connection with:
 - (i) the performance of the Retiring RE's obligations as trustee of the Trust up until the Effective Time; and
 - (ii) the transitioning of the trusteeship of the Trust to the New RE whether incurred before or after the Effective Time including the vesting of the assets of the Trust in the New RE and the delivery of all books and records of the Trust to the New RE.
- (c) The indemnity in clause 26.10(b) applies only to the extent that the Retiring RE would have had a right of indemnity out of the assets of the Trust in respect of that liability, loss, cost or expense if it was incurred before the Effective Date.
- (d) The New RE's liability under clause 26.10(b) is limited to the assets of the Trust from which it is actually indemnified in respect of the relevant liability and the Retiring RE agrees that it may only enforce its rights against the New RE under clause 22.11 to this extent.
- (e) The indemnity in clause 26.10(b) is a continuing obligation. It is not necessary for the Retiring RE to incur expense or make payment before enforcing a right of indemnity under this deed.
- (f) Nothing in this clause 26.10 affects any rights of indemnification of the Retiring RE at law.

27 Duration of the Trust

27.1 Termination

The Trust will terminate on the earliest of:

- (a) a date specified by the RE as the date the Trust will terminate in a notice given to Unit Holders; and
- (b) the date on which the Trust is terminated in accordance with another provision of this Constitution or by operation of Law.

27.2 Restriction on issue and redemption of Units

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

28 Procedure on termination

28.1 Realisation of Assets and payment of expenses

Following termination, the RE must:

- (a) realise the Assets except to the extent it determines to distribute Assets to Unit Holders in accordance with clause 17.5 pro rata according to their holding of Units as part of winding up of the Trust; and
- (b) make payments (or set aside estimated amounts) from the Assets to pay the Trust's expenses and liabilities, and the costs or anticipated costs of winding up the Trust. These amounts will reduce the proceeds of winding up that a Unit Holder may otherwise receive, but a Unit Holder is not required to pay any of these amounts from their own funds.

To the extent that realisation of Assets is required, this must be completed in 180 days if practical and in any event as soon as possible after that. The RE may, however, postpone realisation of the Assets or any Asset if the RE reasonably considers it would be in the best interests of Unit Holders to do so and the RE is not responsible for any consequent loss or damage attributable to that postponement.

28.2 Auditor and liquidator

- (a) If, at the time it is to be wound up, the Trust is a Registered Scheme, the RE must arrange for an independent audit of the final accounts of the Trust by a registered company auditor.
- (b) If the Trust is to be wound up because its Liabilities exceed its Assets or there is expected to be insufficient cash for the RE to meet Liabilities from the Assets as and when they fall due, the RE may appoint an appropriately qualified liquidator to carry out the winding up, and delegate to the liquidator the powers of the RE under this Constitution as necessary to facilitate the winding up.

28.3 Distribution following termination

Subject to clause 17.5, the net proceeds of realisation, after making allowance for all Liabilities of the Trust (actual and anticipated) including entitlements of Unit Holders to a share of Distributable Income, meeting the expenses (including anticipated expenses) of the termination, and taking into account Assets which are to be distributed pro rata to Unit Holders as part of the winding up, must be distributed to Unit Holders in accordance with the following formula for the amount a particular Unit Holder is to receive:

$$\frac{(A + X) \times B}{C} - Y$$

Where:

- A = the amount remaining in the Trust, excluding unpaid amounts in relation to Partly Paid Units and any interest on those amounts (if applicable), after deduction of the Liabilities and expenses referred to in this clause 28.3;
- B = the aggregate of the number of Units held by the Unit Holder as at termination, including both Fully Paid Units and Partly Paid Units;

- C = the aggregate of the total number of Units in issue as at termination, including both Fully Paid Units and Partly Paid Units;
- X = the aggregate of the amounts remaining unpaid on all Partly Paid Units in issue (if any) and interest (if applicable); and
- Y = the aggregate of the amounts remaining unpaid on all Partly Paid Units held by the Unit Holder (if any) as at termination and interest (if applicable).

If the calculation of the entitlement to distribution of capital in respect of a particular Unit Holder in accordance with the formula in this clause 28.3 results in a negative dollar amount, then that Unit Holder must pay to the RE within 30 days of the date of a written request to do so that dollar amount, and the amount so required to be paid will become an Asset available for distribution on the winding up of the Trust.

The RE may distribute any Assets and the net proceeds of realisation in instalments.

28.4 Provisions continue to apply

Subject to the Corporations Act and this Constitution, the provisions of this Constitution continue to apply from the date of termination until the date of final distribution under clause 28.3, but during that period the RE may not accept any applications for Units from a person who is not an existing Unit Holder and the RE is under no obligation to consider or process redemption requests received after the date of termination.

29 Amendments to this Constitution

29.1 RE may amend

Subject to the Corporations Act, while the Trust is a Registered Scheme, this Constitution may be amended:

- (a) by Resolution; or
- (b) by deed executed by the RE.

If the constitution is amended by Resolution, the RE may give effect to the amendments by executing a supplemental deed.

29.2 While not a Registered Scheme

While clause 29.1 does not apply, the RE may by deed amend this Constitution.

29.3 Attribution Managed Investment Trust

Without limiting the RE's powers in clauses 29.1 or 29.2, or but subject to the Corporations Act, the RE may make any change to this Constitution or take any other action which the RE reasonably believes is necessary or desirable to:

- (a) facilitate compliance with the preconditions for the operation of the AMIT Regime in relation to the Trust;
- (b) facilitate compliance with the terms of the AMIT Regime in relation to the Trust, including any provisions of the AMIT Regime that, if not complied

with, would result in any additional liability or penalty for the RE or Unit Holders; or

- (c) facilitate the proper administration and operation of the Trust under the AMIT Regime and ensure that there is an appropriate and equitable application of the powers and rights of the RE and Unit Holders that arise under the AMIT Regime.

29.4 Collective Investment Vehicles

Without limiting the RE's powers in clauses 29.1 or 29.2, but subject to the Corporations Act, the RE may make any change to this Constitution or take any other action which the RE reasonably believes is necessary or desirable to:

- (a) facilitate conversion of the form of the Trust to CIV;
- (b) facilitate compliance with the terms of legislation governing CIVs;
- (c) facilitate the proper administration and operation of the Trust in that different form as a CIV; or
- (d) comply with the conditions of any ASIC Relief issued in relation to conversion to a CIV.

30 Regulatory provisions and paramountcy

30.1 Listing Rules

While the Trust is included in the Official List:

- (a) despite anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act will not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is taken to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and it contains the provision, this Constitution is taken not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is taken not to contain that provision to the extent of the inconsistency.

30.2 Corporations Act and ASIC Relief

- (a) If the Corporations Act requires that this Constitution contain certain provisions, or if ASIC Class Order [CO 13/655] (or any other ASIC Relief on which the RE has determined it wishes to rely or which is expressly applicable to the Trust and the RE) requires provisions to a certain effect to be contained in this Constitution in order for the ASIC Relief to apply ("**Required Provisions**"); or

- (b) if any part of this Constitution (a **"Required Part"**) is included to comply with the requirements of the Corporations Act, Listing Rules, ASIC or ASX (**"Regulatory Requirement"**) and that Regulatory Requirement ceases or changes,

then, to the extent the Corporations Act allows, this Constitution is taken to be amended so that the Required Provisions are included as separate provisions, or the Required Part is deleted or amended to reflect the amended Regulatory Requirement. The Required Provisions prevail over any other provisions of this Constitution to the extent of any inconsistency.

- (c) The Unit Holders:
 - (i) authorise the RE to make the amendments referred to in this clause 30.2 in a deed and, if required, to lodge it with ASIC; and
 - (ii) agree that, subject to the Corporations Act, their rights under this Constitution do not include or extend to a right not to have this Constitution amended to comply with a Regulatory Requirement or to include Required Provisions.

30.3 Application of Corporations Act and Listing Rules

In this Constitution:

- (a) except as otherwise provided in a particular clause or by law, a requirement of the Corporations Act only applies while the Trust is a Registered Scheme; and
- (b) a requirement of the Listing Rules only applies while the Trust is Listed.

30.4 ASIC Class Orders

In accordance with ASIC Class Order [CO 98/1808] or its equivalent or any similar ASIC Relief from subsections 601GC(1) and (2) of the Corporations Act, and for so long as they apply to the Trust, a change in the text of this Constitution because of the operation of clause 30.2 that is covered by the relief instrument is not a modification of, or the repeal and replacement of, the constitution for the purposes of subsections 601GC(1) and (2) of the Corporations Act. Changes in the text of the constitution to which this clause 30.4 applies are made pursuant to the power in clause 29.1 but in respect of those changes the requirements of clause 29.1 are to be read subject to this clause 30.4.

30.5 Paramountcy of provisions

Subject to the Corporations Act and the Listing Rules, the following provisions prevail over other provisions of this Constitution in the following order to the extent of any inconsistency:

- (a) first, clauses 30.1 and 30.2 and provisions taken to be included or amended under them;
- (b) then, the provisions in Schedule 3;
- (c) then, the Stapling Provisions set out in schedule 1 and the provisions in clause 15 regarding Stapling and the Stapling Provisions;
- (d) then, the AMIT Provisions in Schedule 2, when Schedule 2 applies in accordance with clause 16.14; and

- (e) then, the Reorganisation Proposals set out in clauses 15.3 to 15.8.

Paragraphs (b), (c), (d) and (e) only prevail where this would not result in a breach of the Corporations Act, the Listing Rules or any other law.

31 Compliance committee

While the Trust is a Registered Scheme, if any Compliance Committee Member incurs a liability in that capacity in good faith, the Compliance Committee Member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act.

32 Complaints

While the Trust is a Registered Scheme, if a Unit Holder submits to the RE a Complaint in relation to the Trust, the RE:

- (a) must, if the Unit Holder is a Retail Client, comply with the requirements of section 912A(2) of the Corporations Act applicable to the Complaint; and
- (b) in respect of a Complaint from a Unit Holder who is not a Retail Client:
 - (i) must acknowledge receipt of the Complaint as soon as possible and in any event within 14 days from receipt;
 - (ii) must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the RE as appropriate to handle complaints;
 - (iii) where the Complaint relates to an error which is capable of being corrected without affecting the rights of third parties, act in good faith to deal with the Complaint by endeavouring to correct the error;
 - (iv) may give any of the following remedies to the complainant:
 - (A) information and explanation regarding the circumstances giving rise to the Complaint;
 - (B) an apology; or
 - (C) compensation for loss incurred by the Unit Holder as a direct result of any breach; and
 - (v) must communicate to the complainant as soon as practicable and in any event not more than 45 days after receipt by the RE of the Complaint:
 - (A) the determination in relation to the Complaint;
 - (B) any remedies available to the Unit Holder; and
 - (C) information regarding any further avenue for Complaint.
- (c) For the purposes of this clause 32, a reference to a Unit Holder includes any person who has an "interest " in the Trust as that term is defined in section 9 of the Corporations Act, and any person whose Units have

been redeemed under clause 13.15 but who has not yet been paid the Redemption Price of the Units.

33 Restricted Securities

33.1 Disposal of Restricted Securities

If the Listing Rules require, Restricted Securities cannot be disposed of during the Escrow Period and the RE must not register a transfer of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX.

33.2 Restriction on distributions and voting rights

During a breach of a restriction agreement or the Listing Rules relating to Units which are Restricted Securities, the Unit Holder who holds those Restricted Securities is not entitled to any distribution from the Trust, nor any voting rights, in respect of those Restricted Securities.

34 Small holdings

34.1 Application of this clause

This clause 34 applies while the Units are Officially Quoted.

34.2 RE may sell or redeem

Subject to the provisions of this clause 34, the RE may sell or redeem any Units held by a Unit Holder without request by the Unit Holder where the Units comprise less than a marketable parcel as provided in the Listing Rules. The RE may only sell or redeem Units on one occasion in any 12 month period. Subject to clause 34.6, if the Units are redeemed, the Redemption Price must be the amount calculated under clause 12.1 with the time for calculation of the Redemption Price to be the time the redemption is effected despite clause 12.3.

34.3 RE must notify

The RE must notify the Unit Holder in writing of its intention to sell or redeem Units under this clause 34, and give the Unit Holder at least 6 weeks from the date of the notice in which to notify the RE that the Unit Holder wishes to retain the Units.

34.4 Timing

The RE will not sell or redeem the relevant Units:

- (a) before the expiry of 6 weeks from the date of the notice given by the RE under clause 34.3; or
- (b) if, within the 6 weeks allowed by clause 34.4(a):
 - (i) the Unit Holder notifies the RE that the Unit Holder wishes to retain the Units; or
 - (ii) the market value of the Units held by the Unit Holder increases to at least a marketable parcel as provided in the Listing Rules.

34.5 Takeover

The power to sell lapses following the announcement of a takeover, but the procedure may be started again after the close of the offers made under the takeover.

34.6 Costs of sale

The RE or the purchaser of the Units must pay the costs of the sale or redemption as the RE decides.

34.7 Certificate

The proceeds of the sale or redemption will not be sent to the Unit Holder until the RE has received any certificate relating to the Units, or is satisfied that the certificate has been lost or destroyed.

34.8 RE as Unit Holder's attorney

To effect the sale or redemption of Units under this clause 34, the Unit Holder appoints the RE as the Unit Holder's attorney to do all acts and things and execute all documents which the RE considers necessary, desirable or reasonably incidental or appropriate to effect the sale or redemption of the Units.

35 Security interests

35.1 RE determines when clause applies

The RE may determine when this clause 35 applies to the Trust and when it ceases to apply. If the RE determines that it ceases to apply:

- (a) this clause 35 continues to apply to all Security Interests noted on the Register at the time of that determination; and
- (b) the RE must not accept any further notices under clause 35.2 after the time of that determination.

35.2 Form of notice

The RE may determine the form of notice which:

- (a) a Unit Holder or their duly appointed agent must give for a Security Interest to be noted on the Register; and
- (b) a Security Interest Holder must give in order for a Security Interest to be removed from the Register.

35.3 Entry of Security Interests on the Register

If a Unit Holder or their duly appointed agent gives the RE a notice as referred to in clause 35.2(a), the RE must cause a note of the Security Interest Holder's interest to be recorded in the Register in respect of the relevant Units.

35.4 RE not bound

The RE is not taken to be bound by, or obliged to enquire into, the terms of any Security Interest of which it has notice.

35.5 Removal of Security Interests from the Register

If a Security Interest Holder's interest is noted on the Register in respect of a Unit, the RE may not give effect to a transfer or redemption of the Unit without the written permission of the Security Interest Holder.

35.6 Rights attaching to Units in respect of which a Security Interest is recorded

Subject to the Corporations Act, while a Security Interest remains entered on the Register:

- (a) if the RE receives a direction (in such form as the RE determines) signed by the Unit Holder or their duly appointed agent to the effect that it must pay to the Security Interest Holder any distributions, whether on winding up or otherwise and whether of capital or income, which would, in the absence of such direction have been made or paid to the relevant Unit Holder, the RE may act on that direction until it is revoked by the Unit Holder or their duly appointed agent with the written consent of the Security Interest Holder;
- (b) when acting in good faith, the RE is not liable either to the Unit Holder or to the Security Interest Holder if a payment made to the Unit Holder or Security Interest Holder is not in accordance with clause 35.6(a);
- (c) the RE may provide to the Security Interest Holder any notice or information which would normally be provided to the Unit Holder; and
- (d) if the RE becomes aware that a dispute has arisen between a Unit Holder and a Security Interest Holder as to any right to a payment relating to Units in respect of which the Security Interest is noted on the Register, the RE may either:
 - (i) pay the disputed amount to the Security Interest Holder; or
 - (ii) pay the disputed amount into any court in which proceedings in relation to the dispute are to be conducted,

and the RE will not be liable either to the Unit Holder or the Security Interest Holder for any consequences of so doing.

36 Governing Law

This Constitution is governed by the laws of New South Wales. The RE and the Unit Holders submit to the non exclusive jurisdiction of courts exercising jurisdiction there.

EXECUTED as a deed poll

Schedule 1 Stapling provisions

On and from any Stapling Commencement Time determined by the Issuer, these Stapling Provisions:

- (a) apply to each Issuer in respect of its respective Stapled Entity and its Attached Securities;
- (b) apply to each Constituent Document and prevail over all other provisions of the Constituent Document, except to the extent provided in the Constituent Document or where this would result in a breach of the Corporations Act, the Listing Rules or other law; and
- (c) apply until they cease to apply in accordance with the Constituent Documents.

Unless the contrary intention appears, in this schedule a reference to a “**paragraph**” is a reference to a numbered provision of this schedule.

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, in this schedule capitalised terms not defined have the same meaning as in the Trust Constitution, and:

Accession Deed means the deed of that name between each Issuer and:

- (a) any new RE; or
- (b) any issuer of a New Attached Security,

by which that person accedes to the Stapling Deed.

Amounts has the meaning given in paragraph 10(c)(i).

Application Price means:

- (a) in respect of a Unit, the application price for the Unit calculated in accordance with clause 10 of the Trust Constitution or paragraph 4 of this schedule;
- (b) in respect of any Other Attached Security, the application price for the Other Attached Security;
- (c) in respect of a Stapled Security, the application price for a Stapled Security calculated in accordance with this schedule;
- (d) in respect of the issue of an Option, the amount (if any) determined by the RE under clause 5.2 of the Trust Constitution or paragraph 4.1(d)(iv); and
- (e) in respect of the issue of a Financial Instrument, the amount determined under clause 6.1(a) of the Trust Constitution.

ASIC Relief has the same meaning as in the Trust Constitution.

Attached Security in the context of:

- (a) the Trust Constitution, means a Unit;
- (b) the Constituent Document for any Other Attached Security, means those Attached Securities.

Attached Securities means any Securities an identical number of which are from time to time Stapled together to form a Stapled Security but does not include any Unstapled Security.

Constituent Documents means the constituent documents of a Stapled Entity and includes the Trust Constitution.

Controlled Entity means any subsidiary or any trust or other entity, whether or not a legal entity, which is owned or controlled by an entity for accounting purposes.

Corporate Action means any issues, bonus and rights issues, placements and redemptions and buy-backs of a Stapled Security.

CS Facility has the same meaning as clearing and settlement facility in the Corporations Act.

CS Facility Operator means the operator of the CS Facility.

Defaulted Attached Security means a partly paid Attached Security on which an instalment is due and payable but unpaid or in respect of which, a valid call has been made but has not been paid in the time specified in the call.

Defaulted Stapled Security means a Stapled Security where one or more Attached Securities is a Defaulted Attached Security.

Designated Foreign Investor means a Foreign Investor in respect of whom the Issuer has made a determination in accordance with clause 15.6.

Encumbrance means any:

- (a) security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement or any “security interest” as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth);
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) third party right or interest or any right arising as a consequence of the enforcement of a judgment,

or any agreement to create any of them or allow them to exist.

Foreign Investor means an Investor whose address on the Register is in a jurisdiction other than Australia.

Group means the Stapled Entities and each of their Controlled Entities.

Intra-Group Loan means a loan or financial assistance provided by a Stapled Entity to any entity in the Group including but not limited to guaranteeing or indemnifying or granting security in favour of that entity.

Investor means in this schedule 1 a person entered in the Register as a holder of a Stapled Security (which includes a Unit), but does not include a person in their capacity as holder of an Option or Financial Instrument unless the Option or Financial Instrument is an Attached Security.

Issuer:

- (a) in the context of the Trust Constitution, means the RE; and
- (b) in the context of the Constituent Document of any other Attached Security, means the issuer of that Attached Security.

Listed means being admitted to the official list of ASX as defined in the Listing Rules and **Listing** has a corresponding meaning.

Market Price of a Stapled Security on a particular day is:

- (a) the weighted average of the VWAP for the Stapled Security for each of the 10 Trading Days immediately before the relevant day (whether or not a sale was recorded on any particular day);
- (b) the price obtained pursuant to a bookbuild arranged by a reputable investment bank with experience in arranging bookbuilds in the Australian equity market, provided that the Auditor has provided written certification that the bookbuild was conducted in accordance with normal market standards; or
- (c) if:
 - (i) in the case of paragraph (a), Stapled Securities have not been Officially Quoted for at least 10 consecutive Trading Days before the relevant day; or
 - (ii) in the case of paragraphs (a) or (b), in the RE's opinion, a determination under paragraph (a) or (b) of this definition (as relevant) would not provide a fair reflection of the market value of the Stapled Security having regard to the nature of the proposed offer of Stapled Securities and the circumstances in which the proposed offer is made,

the price per Stapled Security determined by an adviser who:

- (iii) is independent of the RE; and
- (iv) has relevant market experience in determining the issue price of securities in circumstances similar to those in which the determination of the Market Price of a Stapled Security is being made,

to be the fair market price of the Stapled Security, having regard to:

- (v) the nature of the proposed offer of Stapled Securities for which purpose the Market Price of a Stapled Security is being calculated;
- (vi) the circumstances in which the proposed offer of Stapled Securities will be made; and

- (vii) the interests of Investors generally, including balancing the dilutionary effect of any such issue against the desirability of a successful capital raising.

New Attached Security means a Security that the RE has determined be Stapled to the Units and, if applicable, the other Stapled Securities in accordance with clause 15.3(a)(ii).

Officially Quoted means admitted for quotation by ASX under the Listing Rules including, if quotation is suspended for a continuous period of not more than 60 days, the period of suspension.

Other Attached Security means:

- (a) in respect of a Unit, an identical number of each Attached Security other than a Unit; and
- (b) in respect of any New Attached Security, an identical number of each Attached Security other than that New Attached Security.

Other Issuer means:

- (a) in respect of the RE, each Issuer other than the RE; and
- (b) in respect of the issuer of any Other Attached Security, each Issuer other than the issuer of the Other Attached Security.

Record Date has the same meaning as in the Trust Constitution.

Register means the register of Investors kept or caused to be kept by the Stapled Entities under paragraph 7 and the Corporations Act.

Registered means recorded in the Register.

Registrar means the person appointed to maintain the Register.

Reorganisation Proposal means:

- (a) any Realisation Transaction;
- (b) a Consolidation or Division proposal;
- (c) a Stapling Proposal;
- (d) a Top Hat Proposal;
- (e) a Spin-off Proposal;
- (f) an Exchange Proposal;
- (g) Simplification Proposal; or
- (h) any other proposal to reorganise or restructure any Stapled Entity which has substantially the same economic effect as one or more of (a) to (f) above, subject to an Ordinary Resolution,

(as all these terms are defined in the Trust Constitution).

Restapling has the meaning given in paragraph 9.3.

Restricted Securities has the meaning given in the Listing Rules.

Same Person means:

- (a) while the Trust is not Listed, either a single person or two (but not more than two) bodies, at least one of which is a trustee of a unit trust, and securities issued by those two bodies are linked or stapled; or
- (b) while the Trust is Listed, a single person.

Security means any right or interest in a managed investment scheme, unit, share, note, debenture or any right or interest or option to acquire a share, note or debenture.

Small Holding means a holding of securities which comprises less than a marketable parcel as provided in the Listing Rules.

Stapled Entity means an Australian or overseas company, trust, corporation or managed investment scheme whose Securities are Attached Securities and who is a party to the Stapling Deed or who has executed the Accession Deed.

Stapled Security means the stapled security created by the Stapling together of the Attached Securities.

Stapling means the linking together of Securities so that one Attached Security may not be transferred or otherwise dealt with without the Other Attached Securities. "**Stapled**" has a corresponding meaning.

Stapling Commencement Time means the most recent time at which the Issuer determines that the Stapling of Attached Securities commences including in accordance with clause 15.1.

Stapling Deed means a deed entered into between the Issuer and each Other Issuer setting out how they will co-operate in the conduct of the Stapled Entities as if they were one economic entity and the Stapled Securities were one security.

Stapling Matter means a matter specified in paragraph 2.3(b).

Trading Day has the same meaning as in the Listing Rules.

Transaction Documents means all regulatory, structuring, operational, finance and ancillary documents required to effect and maintain the Listing of the Stapled Entities and the Official Quotation of the Stapled Securities and to achieve the investment objectives of the Group, and any amending, supplemental and other document that the Issuer and the Other Issuers consider necessary or desirable in connection with those objectives.

Trust means the trust the subject of the Trust Constitution.

Trust Constitution means the constitution establishing the Trust of which this schedule forms an operative part.

Unit means a unit in the Trust.

Unstapled Security means a Security which is no longer Stapled.

Unstapling means the process that results in the Attached Securities no longer being Stapled to each other. **Unstapled** has a corresponding meaning.

Unstapling Event means one or more of the following events:

- (a) a special resolution of the members of each Stapled Entity is passed to Unstaple the Stapled Securities;

- (b) Stapling becomes unlawful or prohibited under the Listing Rules; or
- (c) a winding-up is commenced in respect of a Stapled Entity.

VWAP in respect of a Stapled Security for a Trading Day, means the volume weighted average of the Stapled Security prices for all sales of Stapled Securities recorded on ASX for that Trading Day. The RE may include, or may substitute, in VWAP calculations trading on another relevant financial market on which trading in the Stapled Securities is permitted. The RE may exclude sales that occur otherwise than in the ordinary course of trading on ASX or other financial market (such as special crossings, crossings prior to the commencement of normal trading, crossings during the closing phase and the afterhours adjust phase, overseas sales, sales pursuant to the exercise of options over Stapled Securities, and overnight crossings) and any other sales which the Issuers reasonably consider may not be fairly reflective of natural supply and demand.

1.2 Interpretation

Unless the contrary intention appears, the interpretation provisions in clauses 1.2 and 30 of the Trust Constitution apply to this schedule.

2 Stapling - general intention

2.1 Stapled Securities - general intention

The Attached Securities are intended to be Stapled to form a Stapled Security from the Stapling Commencement Time. Subject to paragraph 9 it is intended that:

- (a) the holders of one Attached Security will be identical to the holders of each Other Attached Security;
- (b) as far as the law permits, the Stapled Securities will be treated as one security;
- (c) the number of each Attached Security on issue at any time must equal the number of each Other Attached Security on issue;
- (d) no transfer of an Attached Security is to occur without each Other Attached Security being transferred at the same time from the same transferor to the same transferee; and
- (e) no Attached Security is to be issued unless each Other Attached Security is issued at the same time to the Same Person.

2.2 Transaction Documents

Without limiting the Constituent Documents, the Issuer is authorised to enter into the Transaction Documents and to perform its obligations under the Transaction Documents.

2.3 Stapling Matters

- (a) The rights and obligations attaching to each Attached Security are set out in the relevant Constituent Document.
- (b) Without limiting the Constituent Documents or the Corporations Act, each Investor, by acquiring a Stapled Security will be taken to have

consented to the Stapling of the Stapled Security and to each provision in the Constituent Documents, including the following Stapling Matters:

- (i) the Stapling of the Attached Securities;
 - (ii) any Reorganisation Proposal regarding the Attached Securities (subject to an Ordinary Resolution if required by the Constituent Document);
 - (iii) the disposal of any Defaulted Stapled Securities;
 - (iv) the disposal of any Small Holding of Stapled Securities;
 - (v) the restrictions on Stapled Securities that are Restricted Securities;
 - (vi) the Stapling of new Attached Securities to the Stapled Securities;
 - (vii) the Investor becoming a member of any new Stapled Entity and being bound by the Constituent Documents for any New Attached Security;
 - (viii) the Unstapling of one or more Attached Securities;
 - (ix) the Restapling of an Unstapled Security;
 - (x) the Unstapling of the Stapled Securities; and
 - (xi) the disposal of Stapled Securities of a Designated Foreign Investor in accordance with clause 15.6.
- (c) To effect a Stapling Matter, each Investor irrevocably appoints the Issuer as the Investor's:
- (i) agent and attorney in the Investor's name and on the Investor's behalf to do all acts and things and execute all documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect any Stapling Matter; and
 - (ii) proxy to vote at any meeting in favour of any resolution to effect a Stapling Matter.
- (d) Without limiting paragraph 2.3(c) or any provision of a relevant Constituent Document, to effect the Stapling of a New Attached Security to the Stapled Securities under paragraph 8, each Investor irrevocably appoints the Issuer as the Investor's agent and attorney in the Investor's name and on the Investor's behalf to:
- (i) agree to obtain any New Attached Security;
 - (ii) apply any distributions, redemption proceeds or other payments to obtain a New Attached Security;
 - (iii) where a New Attached Security comprises shares or an interest in shares or interests in a company or managed investment scheme, to agree to become a member of that company or managed investment scheme; and

- (iv) to do all acts and things and execute all applications, transfers, withdrawals and any other documents which the Issuer, in consultation with each Other Issuer, considers necessary, desirable or reasonably incidental to effect the transfer of the New Attached Security to the Investor under paragraph 8.
- (e) The Issuer may:
 - (i) appoint (and revoke the appointment of) substitute attorneys to exercise the powers given to the Issuer in relation to any Stapling Matter; and
 - (ii) do all acts and things and execute all documents under this paragraph 2.3 without needing further authority or approval from an Investor and may do so even if it has an interest in the outcome.
- (f) To the maximum extent permitted by law, the Issuer has no liability to any Investor or any Stapled Entity, and a Stapled Entity has no liability to any Investor, for any loss or disadvantage incurred by an Investor as a result, whether directly or indirectly, of the Issuer exercising its powers in relation to any Stapling Matter.

3 Dealing in Stapled Securities

3.1 Stapling

Subject to paragraph 9, on and from the Stapling Commencement Time, each Attached Security must be Stapled to each Other Attached Security to form a Stapled Security and the Issuer must not:

- (a) offer an Attached Security for subscription or sale unless an offer is made at the same time and to the Same Person for each Other Attached Security for issue or sale;
- (b) offer an Attached Security for subscription or sale unless the terms of that offer require each offeree to subscribe for or buy each Other Attached Security;
- (c) accept an application for an Attached Security if the applicant does not at the same time apply for the Other Attached Securities or if the Other Attached Securities will not be issued to the applicant at the same time as the issue of the Attached Securities to the applicant;
- (d) issue or sell an Attached Security to any person unless each Other Attached Security is also issued or sold to the Same Person at the same time;
- (e) issue any rights or options to acquire an Attached Security unless corresponding rights or options to acquire each Other Attached Security are issued at the same time and to the Same Person;
- (f) without the prior written consent of each Other Issuer, issue any Security or class of Security other than an Attached Security or any right or option to acquire any such Attached Security; and
- (g) permit a reinvestment by Investors in an Attached Security unless at the same time the Investor acquires each Other Attached Security which when issued or acquired are Stapled to the Attached Security. The Issuer may make provisions governing the amount of the reinvested

dividends/distributions to be used to subscribe for or acquire the Attached Security and the amount to be used to subscribe for or acquire the Other Attached Securities having regard to the application price of the Attached Securities.

Each Security issued by a Stapled Entity after the Stapling Commencement Time must be Stapled to each Other Attached Security immediately on the date of issue of the new Security.

3.2 Dealing in Attached Securities

- (a) **(No Unstapling)** On and from the Stapling Commencement Time, the Issuer must not:
- (i) do any act, matter or thing (including registering any transfer of any Attached Security); or
 - (ii) refrain from doing any act, matter or thing, if it would result directly or indirectly in any Attached Security no longer being Stapled to form a Stapled Security, other than in accordance with paragraph 9.
- (b) **(Attached Securities)** Subject to paragraph 9, on and from the Stapling Commencement Time, the Issuer must not:
- (i) cancel, buy-back or redeem an Attached Security unless at the same time there is a corresponding cancellation, buy-back or redemption of each Other Attached Security;
 - (ii) implement a Reorganisation Proposal involving an Attached Security unless at the same time there is a corresponding implementation of a Reorganisation Proposal involving each Other Attached Security; or
 - (iii) register any transfer of an Attached Security to any person unless each Other Attached Security is also transferred to the Same Person at the same time in a single instrument of transfer of Stapled Securities.
- (c) **(Exercise options)** The Issuer must not permit an Investor to exercise any rights or options to acquire an Attached Security unless the Investor exercises the corresponding rights or options to acquire each Other Attached Security at the same time.
- (d) **(Request for holding lock)** The Issuer must not request any applicable CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of an Attached Security from being registered on the CS Facility's sub register or registered on an issuer-sponsored sub register, as the case may be, unless a corresponding request is made in respect of each Other Attached Security.
- (e) **(Disposal)** The Issuer must not dispose of a Defaulted Attached Security unless at the same time each Other Attached Security is also disposed of in the same manner and to the Same Person.
- (f) **(Small Holdings)** The Issuer must not dispose of a Small Holding of an Attached Security unless at the same time the Small Holding of each Other Attached Security is also disposed of in the same manner and to the Same Person. A Small Holding must be disposed of in accordance with the Listing Rules and the Constituent Documents.

- (g) **(Designated Foreign Investors)** The Issuer must not dispose of, or cause the disposal of, an Attached Security of a Designated Foreign Investor unless at the same time each Other Attached Security of that Designated Foreign Investor is also disposed of in the same manner and to the Same Person.
- (h) **(Compliance with law)** The Issuer is not obliged to effect a buy-back, cancellation, redemption, transfer, issue or other Corporate Action in a manner inconsistent with any constitutional, contractual or fiduciary obligation or law by which it is bound, or if it does not have any necessary consent or approval.

3.3 Consistency with the Constituent Documents

The Issuer must use every reasonable endeavour to procure that each Attached Security is dealt with under the Constituent Document of their respective Stapled Entity in a manner consistent with the provisions relating to Stapled Securities in the Constituent Documents of each other Stapled Entity.

3.4 Joint quotation as Stapled Securities

Until all Attached Securities are Unstapled in accordance with provisions of this schedule, the Issuer must use reasonable endeavours to ensure that each Stapled Security which is Officially Quoted continues to be jointly Officially Quoted as a Stapled Security.

3.5 Joint certificates or joint holding statements

Subject to the Corporations Act, the Issuer may procure that joint certificates or joint holding statements are issued to evidence the holding of Stapled Securities comprising Attached Securities and Other Attached Securities.

3.6 Stapling and separate entities

Despite any other provision of this schedule, each Stapled Entity remains a separate legal entity, separately admitted to the Official List (if applicable), although the Attached Securities may be jointly Officially Quoted as Stapled Securities.

3.7 Exercise of Options while Stapling applies

An Option may only be exercised if, at the same time as an Attached Security is acquired pursuant to the exercise of an Option, the Same Person acquires each Other Attached Security to form a Stapled Security.

3.8 No joint venture or partnership

Nothing contained or implied in this schedule is to be construed as creating an association, joint venture or partnership among the Stapled Entities.

4 Allocation of Application Price

4.1 Application Price

- (a) Subject to paragraph 4.1(c), while Units are Officially Quoted as part of a Stapled Security, the application price payable for any Unit is the Market Price of a Stapled Security minus the Application Price of the Other Attached Securities, or the amount determined by the RE in accordance with paragraph 4.2.

- (b) Subject to paragraph 4.1(c), while the Units are not Officially Quoted but are Stapled, the application price payable for a Unit is the price calculated under clause 10.1(g) of the Trust Constitution, and the application price of Stapled Securities is the sum of that amount and the Application Price of the Other Attached Securities.
- (c) The RE may determine a different application price for any Units (subject to the Corporations Act as modified by any applicable ASIC Relief and the Listing Rules) in the case of:
 - (i) offers made at substantially the same time to persons who were Investors on a date determined by the RE:
 - (A) provided that all Investors are offered Stapled Securities in proportion to the value of the Investor's Stapled Securities (or, where the offer is made only to Investors who hold Stapled Securities in a Class, to the value of the Investor's Stapled Securities in that Class) at the relevant date on a pro rata basis, whether or not the right to acquire those Stapled Securities is renounceable; but
 - (B) an Investor may be excluded from the pro rata offer if to do so would not cause the RE to be in contravention of paragraph 601FC(1)(d) of the Corporations Act, as modified by ASIC Relief, whether or not the right of entitlement is renounceable.

If the Trust is a Registered Scheme and the RE is making an offer of Stapled Securities to Investors which otherwise complies with this paragraph 4.1(c)(i), the RE is not required to offer Stapled Securities to persons in the circumstances permitted under the applicable ASIC Relief and the Listing Rules.

Any offer made under this paragraph 4.1(c) must specify the period during which it may be accepted. The RE may adjust any entitlement to accord with the Listing Rules and, in the case of fractions, the RE must offer the next higher whole number of Units and Stapled Securities. Any Investor may renounce their entitlement in favour of some other person, unless the issue is expressed to be non-renounceable.

Any Stapled Securities offered for subscription under this paragraph 4.1(c) which are not subscribed for within the period for acceptance set by the RE may be offered for subscription by the RE to any person. The application price payable in relation to such further offer must not be less than that at which the Units and Stapled Securities were originally offered to Investors.

- (ii) If an underwriter has underwritten any offer for subscription of Stapled Securities under this paragraph 4.1(c), the underwriter may take up any Stapled Securities not subscribed for by Investors;
- (iii) a distribution reinvestment, where the application price is determined in accordance with paragraph 4.3.1;
- (iv) Units issued upon exercise of an Option, where the application price is determined in accordance with clause 10.1(e) of the Trust Constitution in the case of a proportionate offer (including a rights issue) complying with the Listing Rules and any

applicable ASIC Relief and otherwise in accordance with the remainder of this paragraph 4;

- (v) a placement of Stapled Securities that complies with the Listing Rules and any applicable ASIC Relief;
- (vi) a security purchase plan that complies with the Listing Rules and any applicable ASIC Relief, and
- (vii) any of the other circumstances set out in the Corporations Act, as modified by any applicable ASIC Relief.

4.2 Apportionment of Application Price

- (a) If a Unit is to be issued as part of a Stapled Security and the Trust Constitution contains a provision for the calculation or determination of the Application Price for a Stapled Security but not for the Unit, the RE must determine what part of the Application Price of a Stapled Security is to represent the Application Price of a Unit for the purposes of the Trust Constitution.
- (b) Unless otherwise agreed between the RE and the Other Issuers, the Application Price for a Stapled Security will be allocated between the Application Price of the Unit and the Application Price of the Other Attached Securities in the ratio that the net assets of the Trust and each relevant Stapled Entity (adjusted for the net market value of its investments) at the end of the relevant period immediately before the issue of the Stapled Security, bears to the amount of the aggregate net assets of those Stapled Entities (adjusted for the net market value of their investments) at the end of the relevant period immediately before the issue of the Stapled Security.
- (c) Where an option to acquire a Stapled Security is issued after the Stapling Commencement Time, the allocation of the issue price of the option must be determined under paragraph 6.
- (d) The allocation of the Application Price for a Stapled Security under this paragraph 4.2 must be consistent for each Stapled Security issued or transferred to each Investor at the same time.

4.3 Application Price if reinvestment applies

- (a) If a reinvestment of capital or income payable to an Investor under clause 16.16 applies while Units are Officially Quoted and Stapled, subject to the Listing Rules the aggregate of the Application Price for each additional Unit issued and the Application Price for the Other Attached Securities upon reinvestment is the price determined by the RE. If the RE has not determined the Application Price by the date at which Units are to be issued upon reinvestment, the price will be the average of the VWAP for Stapled Securities for each of the first 10 Trading Days from and including the third Trading Day after the Record Date for the Distribution Period (“**DRP VWAP Price**”).
- (b) While Units are not Officially Quoted but are Stapled, the application price payable for each additional Unit on a reinvestment of distributions of capital or income payable to an Investor under clause 16.16 of the Trust Constitution is the price determined by the RE. If the RE has not determined the application price by the date at which Units are to be issued or transferred upon reinvestment, the price for a Unit will be the Application Price calculated under clause 10.1(g) on the first Business

Day (as defined in the Trust Constitution) after the end of the Distribution Period to which the distribution relates.

- (c) If the amount to be reinvested in additional Stapled Securities results in a fraction of a Stapled Security, the number of Stapled Securities issued will be rounded down to the nearest whole Stapled Security and any remaining amount becomes an asset of the Trust or Stapled Entity to which the distribution relates.

5 Partly Paid Stapled Securities

5.1 Payment of Application Price by instalments

The Application Price of Stapled Securities may be paid in instalments.

5.2 Determination of amount and timing of instalments

In consultation with each Other Issuer, the Issuer may determine that Stapled Securities are to be offered for sale or subscription on terms that the Application Price is payable by instalments of such amounts and at such times as they determine (including by a single instalment).

5.3 Variation or waiver of terms

Subject to any applicable statutory duty requiring an Issuer to treat Investors of the same class equally, and those of different classes fairly, where Stapled Securities are offered for sale or subscription on terms determined and set out in accordance with paragraph 5.2, those terms may be varied, or compliance with them waived, only with the consent of the Issuer. The variation or waiver must not take effect during the currency of the offer document pursuant to which the Units were offered for sale or subscription.

5.4 Notice of instalments

Subject to the Listing Rules and other than in relation to an initial instalment payable on subscription for a Stapled Security, the RE must give each holder of a partly paid Attached Security a notice, specifying the amount per Attached Security of the instalment payable and the due date, no later than 14 days before the payment of an instalment is due unless the terms of the offer for the partly paid Attached Security provide otherwise. Failing to give a notice or the non-receipt of notice by the holder does not affect the obligation of the holder to pay the instalment.

5.5 Payment of instalments

Subject to the Listing Rules:

- (a) the payment of an instalment in respect of an Attached Security may be revoked or postponed by the Issuer;
- (b) an instalment is taken to be due on the date determined by the Issuer;
- (c) the non-receipt of a notice that an instalment is due by, or the accidental omission to give a notice that an instalment is due to an Investor, does not invalidate the instalment being due;
- (d) and subject to the Corporations Act and paragraph 5.3, any liability of an Investor in respect of money unpaid on an Investors' partly paid Attached Securities may be extinguished in full or in part by the Issuer; and

- (e) any instalment which, by the terms of issue of the Attached Security, becomes payable on issue of the partly paid Attached Security or at any date fixed by or in accordance with the terms of issue, is taken to be an instalment of which the Investors have received notice in accordance with paragraph 5.4. In the case of non-payment, all the provisions of this schedule as to payment of interest, disposal or otherwise apply as if the notice had been given.

5.6 Failure to pay instalments

If an Investor fails to pay in full any instalment due on a partly paid Attached Security on or by the day specified for payment, the RE may serve a notice on that Investor requiring payment of the unpaid instalment and any interest calculated from the due date until payment at a fair market rate as determined by the RE. The notice must specify a time and day (not earlier than 7 days from the date of service of the notice) on or by which the payment is to be made. The notice must also state that in the event of non-payment by that specified time and day, the partly paid Attached Securities in respect of which all or part of the instalment remains unpaid, may be forfeited.

5.7 If requirements of any notice not complied with

If the requirements of any notice issued under paragraph 5.6 are not complied with:

- (a) any partly paid Attached Security in respect of which the notice has been given (together with the Other Attached Securities) may at any time after the date specified in the notice for payment (and before payment of the instalment and any interest and expenses owing), be disposed of by the Issuer; and
- (b) subject to the Listing Rules, the Corporations Act and this schedule, all voting rights, entitlements to the distribution of Distributable Income and other rights in connection with the partly paid Attached Security and the Other Attached Securities in respect of which the notice has been given are suspended until reinstated by the Issuer.

5.8 Disposal of Defaulted Attached Securities

- (a) If any Defaulted Attached Security is offered for sale under this paragraph 5.8, the Issuer must procure that each Other Attached Security is also offered for sale so that the whole Stapled Security is offered for sale.
- (b) Attached Securities may be sold under this paragraph 5 even if they are fully paid if there is default in payment of a call on a Defaulted Attached Security.
- (c) If a Defaulted Attached Security includes a Unit, then the price for the Defaulted Attached Security must be determined in accordance with clause 7.10 of the Trust Constitution. Otherwise, a Defaulted Attached Security (together with the Other Attached Securities) may be disposed of by the Issuer or their agent, at a price determined by the Issuer in accordance with any applicable ASIC Relief.
- (d) Any offer of Defaulted Attached Securities which are to be sold under paragraph 5.8(c) must be accompanied by a corresponding offer of the Other Attached Securities. The offer is capable of acceptance only if the recipient acquires an identical number of Defaulted Attached Securities and the Other Attached Securities.

- (e) Subject to the Listing Rules and the conditions of any applicable ASIC Relief, the Issuer or their agent may sell or otherwise dispose of Defaulted Stapled Securities:
 - (i) in the ordinary course of trading on ASX or other relevant financial market on which trading of the Stapled Securities is permitted; or
 - (ii) by private treaty or public auction.
- (f) The sale of Defaulted Stapled Securities may be on the basis that the person to whom the Defaulted Stapled Securities are sold ("**Transferee**") is not liable to pay the outstanding call or any future calls.
- (g) At any time before a sale or disposition of Defaulted Stapled Securities, the Issuer may cancel the sale or disposition upon such terms as the Issuer thinks fit.
- (h) Without limiting paragraph 5.8(c), the Issuer may set a reserve price for a Defaulted Stapled Security at any auction in accordance with any applicable ASIC Relief ("**Reserve Price**").
- (i) If the Issuer or their agent is unable to sell the Defaulted Stapled Securities for a price not less than the Reserve Price then the Issuer may sell or otherwise dispose of the Defaulted Stapled Securities at any price it can obtain. The Issuer is not obliged to offer these Defaulted Stapled Securities to Investors before disposing of them.

5.9 Evidence of Enforcement

A statement signed by an authorised officer of the Issuer that a Defaulted Stapled Security has been disposed of on a specified date is conclusive evidence of those facts as against all persons claiming to be entitled to the Defaulted Stapled Security.

5.10 Consideration for sold Defaulted Stapled Securities

- (a) Where a Defaulted Stapled Security is sold, an Issuer nominated by each Other Issuer by agreement may:
 - (i) receive the consideration given for a Defaulted Stapled Security; and
 - (ii) execute a transfer of the Defaulted Stapled Security in favour of the Transferee.
- (b) Unless otherwise agreed between the RE and the Other Issuers, the amount received for a Unit on the sale of a Defaulted Stapled Security is the amount received less the fair value for the Other Attached Securities, as determined by the RE.
- (c) Where a Defaulted Stapled Security is offered for sale under this paragraph 5, the obligations of the Issuer are subject to the requirements of any applicable law, the Listing Rules, any consent or other approval from any necessary authority and any other terms of the relevant Constituent Document.
- (d) The Issuer must then Register the Transferee as holder of that Stapled Security. On registration, the Transferee is not obliged to ensure that any part of the money which the person has paid for the Stapled Security is paid to the former holder of the Stapled Security nor is the

Transferee's title to that Stapled Security affected by any irregularity or invalidity in the proceedings in relation to the forfeiture or sale of that Stapled Security.

5.11 Deductions from consideration for Defaulted Attached Securities

- (a) The proceeds of the sale of a Defaulted Stapled Security must be applied to pay:
 - (i) first, the expenses incurred by the relevant Issuer, its agents and assignees in respect of the sale;
 - (ii) then, any expenses necessarily incurred in respect of the enforcement of the Issuer's rights;
 - (iii) then, the calls on the Attached Securities that are due and unpaid; and
 - (iv) then, any unpaid interest on the call and any other amounts payable.
- (b) The Issuer may retain the amounts deducted, but any balance remaining must be paid to the Investor whose Stapled Securities were sold. If there is a certificate that relates to the Attached Security or the Other Attached Security, the balance does not have to be paid until the Investor delivers the certificate to the relevant Stapled Entity.

5.12 Holder of Defaulted Stapled Securities

- (a) The holder of a Defaulted Stapled Security which has been sold under this paragraph 5 ceases to be an Investor, ceases to hold a right or interest in the Stapled Entities and ceases to be a member of each Stapled Entity.
- (b) The former Investor has no claims or demands against the Issuer in respect of a Defaulted Stapled Security that has been sold but remains liable to pay to the Issuer or any assignee of the Issuer all money which at the date of sale was payable by the former Investor to the Issuer in respect of the sold Defaulted Stapled Security (including interest owing under paragraph 5.6 and expenses).
- (c) The former Investor's liability ceases if the Issuer, or any assignee, receives payment in full and, if applicable, interest in respect of the sold Defaulted Stapled Security.

5.13 Liability of holder of Defaulted Stapled Securities to underwriter

Where:

- (a) the Issuer has appointed an underwriter to underwrite the payment of a call in respect of any Stapled Securities; and
- (b) in discharging its obligations, the underwriter has purchased Stapled Securities at a public auction or otherwise as contemplated by the relevant underwriting agreement at a price which is more than the market price of a Stapled Security (in respect of which the relevant call has been paid); and
- (c) the Issuer is required to pay the underwriter in respect of each Stapled Security purchased in accordance with paragraph (b) of this paragraph, an amount equal to the difference between the Market Price of a Stapled

Security (in respect of which the relevant call has been paid) and the price paid by the underwriter for the Stapled Security,

then the former holder of those Stapled Securities is liable to the Issuer in respect of the relevant Defaulted Stapled Securities and may be sued for:

- (i) all money payable by the Issuer to the underwriter as contemplated by paragraph (c) of this paragraph;
- (ii) interest (as provided under this schedule); and
- (iii) all costs incurred by the Issuer in procuring payment from the former Investor.

5.14 Assignment of right of action

The Issuer must ensure that where the Issuer is liable to the underwriter as contemplated by paragraph 5.3, the Issuer's liability to the underwriter may be satisfied by the assignment of the Issuer's right of action against the former Investor in full satisfaction of such liability of the Issuer to the underwriter.

6 Application Price of options over Stapled Securities

Subject to the Corporations Act (including the conditions of any applicable ASIC Relief) and the Listing Rules, while the Trust is a Registered Scheme, the RE and the Stapled Entities may issue options over Stapled Securities:

- (a) at an application price (which may be nil) determined by the RE and the Stapled Entities if permissible under the Corporations Act or, if such determination may not be made, at a nil Application; and
- (b) on the basis that the Application Price for a Unit as a component of a Stapled Security to be issued on exercise of the option is a price determined:
 - (i) while the Units are Officially Quoted, in accordance with paragraphs 4.1 and 4.2 of this schedule;
 - (ii) while the Stapled Securities are not Officially Quoted, in accordance with the terms of ASIC Relief for a rights issue (if applicable) and otherwise in accordance with clause 10.1(g) of the Trust Constitution.

7 Single Register

Subject to the Corporations Act, a single Register may be kept in which details of the holders of the Attached Securities are recorded.

8 Stapling of New Attached Securities

- (a) A determination under clause 15.3(a)(ii) that a Security is a New Attached Security may only be made if:
 - (i) while the Units are Officially Quoted, the New Attached Security is also Officially Quoted or ASX has indicated in writing that it

- will grant permission for the New Attached Security to be Officially Quoted;
- (ii) while the Units are Officially Quoted, ASX has indicated in writing that it will approve the addition of the New Attached Security to the Stapled Securities;
 - (iii) each Other Issuer (including the issuer of the New Attached Security) has agreed:
 - (A) to the Stapling of the New Attached Security to the Stapled Security; and
 - (B) that the Stapling of the New Attached Security is in the best interest of Investors as a whole and is consistent with the then investment objectives of the Group; and
 - (iv) the Constituent Documents in relation to the New Attached Security will have provisions giving effect to the Stapling (including provisions in substantially the form of this schedule);
 - (v) the issuer of the New Attached Security has agreed to enter into the Accession Deed;
 - (vi) where the New Attached Security is partly-paid, or approval from Investors is required to the transaction, any required approval of the members of each Stapled Entity has been obtained; and
 - (vii) the number of New Attached Securities to be allocated is identical to the number of Stapled Securities on issue.

9 Unstapling

9.1 Procedure for Unstapling

Subject to this paragraph 9, from the Stapling Commencement Time each Attached Security will remain Stapled to each other Attached Security for so long as the Stapled Securities remain on issue.

9.2 Unstapling an Attached Security

- (a) A determination under clause 15.3(a)(ii) to Unstaple one or more Attached Securities from the Stapled Security may only be made:
 - (i) while the Stapled Securities are Officially Quoted, if ASX has indicated in writing that it will grant permission for the Unstapling of the Attached Security or Attached Securities from the Unit and the Unit and any remaining Attached Securities will remain Officially Quoted as a Unit or a Stapled Security;
 - (ii) if each Other Issuer has agreed:
 - (A) to the Unstapling; and
 - (B) that the Unstapling of the Attached Security from the Stapled Security is not contrary to the interests of Investors as a whole; and

- (iii) if the Stapling Provisions will cease to apply in respect of each Attached Security which is to be Unstapled.
- (b) After the Unstapling, the references to the Unstapled Security will be removed from the Register.

9.3 Restapling

If an Issuer determines that its Attached Securities are to be Unstapled under paragraph 9.2(a), this does not prevent the Issuer of the Unstapled Security subsequently determining that the Stapling Provisions should recommence in respect of that Unstapled Security (“**Restapling**”).

9.4 Unstapling the Stapled Securities

- (a) Subject to paragraph 9.4(b), the Corporations Act, the Listing Rules and the relevant Constituent Documents, the Issuer must determine that an Attached Security or the Attached Securities (as applicable) will be Unstapled on the occurrence of an Unstapling Event affecting that Attached Security.
- (b) A determination under paragraph 9.4(a) may only be made if:
 - (i) ASX has indicated in writing that it will grant permission for the Unstapling of the Attached Security; and
 - (ii) each Other Issuer has agreed:
 - (A) to the Unstapling of the Attached Security; and
 - (B) that the Unstapling of the Attached Security is not contrary to the interest of Investors as a whole.
- (c) On and from any date determined under paragraph 9.4(a), the Issuer must procure that the Attached Security is Unstapled and that the Stapling Provisions cease to have effect in respect of that Attached Security.

10 Duties and obligations of the Issuer

10.1 Duties in relation to Stapling

Despite any provision of the Constituent Documents, or any rule of law (but subject to the Corporations Act as modified by any applicable ASIC Relief) while Stapling applies, in exercising any power or discretion, the Issuer may have regard to the interests of Investors as a whole and not only to the interests of the holders of the relevant Attached Securities considered separately.

10.2 Reference to power or discretion

References in the Constituent Documents to the exercise of any powers or discretion include the carrying out of the Issuer’s functions and duties and identifying the Investor’s rights and interests.

11 Meetings of Investors

11.1 Meetings

While Stapling applies, meetings of holders of Attached Securities may be held in conjunction with meetings of holders of the Other Attached Securities. Subject to the Corporations Act, the Issuer may make such rules for the conduct of such meetings as the Issuer determines.

11.2 Representatives form while Stapling applies

Subject to the Corporations Act, the form of proxy used to appoint a proxy to vote on behalf of an Investor in respect of an Attached Security may be the same form as they use to appoint a proxy in respect of the Other Attached Securities which they hold.

11.3 Other attendees

The auditor of each Stapled Entity and the representatives of each Issuer may attend and speak at any meeting of Investors, or invite any other person to attend and speak at the meeting.

12 General

12.1 Other capacities

Subject to the Corporations Act, the RE (and any of its associates to the extent applicable) may:

- (a) deal with itself (as trustee of the Trust or in another capacity) and any Stapled Entity (or their associates) or with any Unit Holder, including to engage any of its associates to provide services to the RE or to redeem Units it has acquired as a result of forfeiture and vesting under clause 7.6;
- (b) be interested in any contract or transaction with itself (as trustee of the Trust or in another capacity) or any Stapled Entity (or their associates) or with any Unit Holder or any other person; and
- (c) act in the same or a similar capacity in relation to any other managed investment scheme or trust,

and retain for its own benefit any profits or benefits derived from any of these acts, dealings, relationships, capacities, contracts or transactions.

12.2 Expenses in relation to the Trust

- (a) A reference to “Relevant Security” in clause 26.6 of the Trust Constitution is a reference to it as part of a Stapled Security, a reference to “Trust” is a reference to the Trust as part of the Group and a reference to “Register” includes any single register kept in which details of the holders of the Attached Securities are recorded.
- (b) Clause 26.6 of the Trust Constitution is taken to also include expenses in connection with:
 - (i) establishing, administering and managing the Stapling, including the costs incurred in enforcing Stapling, the Stapling of New Attached Securities, the Unstapling of an Attached Security, the

Restapling of Unstapled Attached Securities and the Unstapling of the Stapled Securities; and

- (ii) organising, convening and holding meetings of Investors, implementing any Resolutions and communicating with Investors.

12.3 Small Holdings

A reference to a “Small Holding” in each Constituent Document is taken to be a reference to a small holding of Stapled Securities (and other references to the relevant Attached Securities in each case are to be construed accordingly).

12.4 Intra-Group Loans

Subject to the Corporations Act as modified by any applicable ASIC Relief, without limiting the Constituent Documents, the RE may, in its capacity as trustee of the Trust, and each Other Issuer may, enter into Intra-Group Loans.

12.5 Notice to other Stapled Entities

On or before commencement of a winding up of a Stapled Entity, the Issuer must give each Other Stapled Entity written notice that the Stapled Entity is to be wound up.

12.6 Other Attached Security

If a New Attached Security, which is an interest in a trust, is to be Stapled to the Stapled Securities, then paragraphs 4.1(a), 4.1(c), 4.2(a), 4.3, 12.1 and 12.2 apply in relation to that New Attached Security with the necessary changes.

Schedule 2 AMIT Provisions

1 Definitions and Interpretation

1.1 Definitions

Unless the contrary intention appears, in this schedule capitalised terms not defined have the same meaning as in the Trust Constitution, and:

AMIT Cost Base Increase Amount has the meaning given to that phrase in the AMIT Regime.

AMIT Income Year means a year of income for the purposes of the Tax Act that the Trust is an AMIT.

AMMA Statement has the meaning given to that phrase in section 276-460 of the Tax Act.

Constituent Documents has the same meaning as the phrase “constituent documents” in section 276-210(3) of the Tax Act.

Determined Unit Holder Component has the meaning given to that phrase in section 276-205 of the Tax Act.

Determined Trust Component has the meaning given to that phrase in section 276-255 of the Tax Act.

Discovery Year has the meaning given to that phrase in section 276-345 of the Tax Act.

Unit Holder Component has the meaning given to that phrase in section 276-210 of the Tax Act.

Unit Holder Objection Choice means a choice made by a Unit Holder under the AMIT Regime for the Unit Holder’s Determined Unit Holder Component to be the Unit Holder’s Unit Holder Component, including a choice made by a Unit Holder under section 276-205(5) of the Tax Act.

Over has the meaning given to that phrase in section 276-345 of the Tax Act.

Trust Component has the meaning given to that phrase in section 276-260 of the Tax Act.

Under has the meaning given to that phrase in section 276-345 of the Tax Act.

2.1 AMIT election

The RE may make an election under the AMIT Regime to determine the Trust to be an AMIT with effect from the commencement of any Financial Year of the Trust.

2.2 General provisions

The RE has, without limiting its other rights and powers provided for under the Constitution and this Schedule 2 all of the powers and rights which are necessary or desirable to enable:

- (a) the Trust to be eligible to apply the AMIT Regime;
- (b) the RE to comply with the requirements of the AMIT Regime;
- (c) the Trust to be properly administered and operated under the AMIT Regime; and
- (d) the RE to maintain equity among Unit Holders in the operation of the AMIT Regime.

2.3 Specific powers

The RE may under the AMIT Regime in respect of an AMIT Income Year:

- (a) determine the taxable income of the Trust for each Financial Year, including a determination of the taxable income of a particular category, source or character for tax purposes. This includes determining all of the Trust's Determined Trust Components and Trust Components under the AMIT Regime for any AMIT Income Year;
- (b) make an attribution of the taxable income of the Trust to Unit Holders under the AMIT Regime, including an attribution of taxable income of a particular category, source or character for tax purposes. This includes determining all of each Unit Holder's Determined Unit Holder Components and Unit Holder Components under the AMIT Regime for any AMIT Income Year;
- (c) make an alteration to the RE's determination of the taxable income of the Trust for a Financial Year, or the RE's attribution of the taxable income of the Trust to Unit Holders under the AMIT Regime, including a determination or attribution of taxable income of a particular category, source or character for tax purposes. This includes making alterations to the Trust's Determined Trust Components and Trust Components and a Unit Holder's Determined Unit Holder Components and Unit Holder Components under the AMIT Regime for any AMIT Income Year as a result of any Unders or Overs;
- (d) determine whether to issue an AMMA Statement to any Unit Holder;
- (e) determine what information should be contained in any such AMMA Statement;
- (f) issue an AMMA Statement to any Unit Holder; and
- (g) amend an AMMA Statement that has been issued to a Unit Holder, and determine the basis upon which the AMMA Statement is to be amended;

2.4 Unit Holders' acknowledgement regarding choice for unders/overs

Each Unit Holder acknowledges or is taken to acknowledge that the RE has, under the AMIT Regime in respect of an AMIT Income Year:

- (a) a choice with respect to how the RE is to address any amounts which may give rise to an Unders or Overs of a particular character for the

Trust, including whether such amounts should be addressed by the RE by:

- (i) issuing amended AMMA Statements to Unit Holders under section 276-455(4) of the Tax Act, as amended by the AMIT Regime, for the year of income for the Trust to which the Under or Over relates; or
 - (ii) treating the amount as an Under or Over of a particular character for the Trust, and adjusting the Trust's Trust Component of that particular character in the Discovery Year for the relevant amount under section 276-305 of the Tax Act, as amended by the AMIT Regime; and
- (b) choices made by the RE pursuant to paragraph 2.3(a) may result in:
- (i) greater amounts of a character relating to assessable income or lesser amounts of a character relating to tax offsets being attributed to a Unit Holder; or
 - (ii) greater amounts of a character relating to assessable income or lesser amounts of a character relating to tax offsets being attributed to a Unit Holder in an earlier income year

than if the RE did not make that choice or made the choice in a different way.

2.5 RE's limitation of liability for AMIT Regime powers

Without limiting clause 23, to the maximum extent permitted by law but subject to the Corporations Act while the Trust is a Registered Scheme, the RE does not incur any liability and it is not obliged to account to anyone (including any Unit Holder or former Unit Holder) nor is it liable for any loss or damage as a result of the exercise of any power, discretion or choice under this paragraph 2 of Schedule 2, or in respect of any determination of fact or law made as part of, or as a consequence of, any exercise of such a power, discretion or choice despite any error or miscalculation in any provision made for Tax.

3 Distributable Income

3.1 Provisions constitute determination of Distributable Income

Without limiting the RE's powers under clause 16.2, including the RE's powers to determine that the Distributable Income is to be otherwise determined prior to the end of the relevant period, for any Distribution Period or Financial Year that is within or is an AMIT Income Year, the provisions of this Schedule 1 will constitute a determination by the RE prior to the end of the Distribution Period or Financial Year that the Distributable Income of the Trust for that Distribution Period or Financial Year will be equal to the aggregate of:

- (a) the amounts which the RE determines to be the AMIT Cost Base Increase Amount for all Units in the Trust on issue during the relevant period, determined as if the relevant period is a year of income for the purposes of the Tax Act; and
- (b) any additional amounts which the RE determines to be appropriate for distribution in the period as tax deferred amounts.

3.2 Power to accumulate

- (a) The RE may, in respect of any Distribution Period, exercise a power prior to the end of the Distribution Period to accumulate all or any part of the Distributable Income of that Distribution Period that has not already been distributed by the Trustee as a Redemption Gains Entitlement for the benefit of the Unit Holders of the Trust at the end of the Distribution Period.
- (b) If the RE exercises its power pursuant to this paragraph 3.2 of this Schedule 1, then:
 - (i) for the purposes of clause 16.4, variable “C” will be reduced to the extent that it includes an amount of Distributable Income that the RE has determined to accumulate pursuant to this paragraph 3.2; and
 - (ii) the Unit Holders will not be presently entitled under clause 16.7 to any amount of Distributable Income that the RE has determined to accumulate pursuant to this paragraph 3.2.
- (c) Amount accumulated for the benefit of Unit Holders continue to form part of the Assets and no Unit Holder has any particular right to or interest in those amounts. Amounts accumulated for the benefit of Unit Holders are not Liabilities of the Trust.

4 Attribution of taxable income to member

4.1 RE must make “fair and reasonable” allocation

- (a) Following the end of a Financial Year which is an AMIT Income Year, the RE must attribute the taxable income of the Trust for the Financial Year to Unit Holders under the AMIT Regime, including the attribution of taxable income of each particular category or source (or both) for tax purposes to Unit Holders.
- (b) The RE must perform the attribution under paragraph (a), including the attribution of taxable income of each particular category or source (or both), in accordance with the following principles:
 - (i) the amount of each Unit Holder’s Unit Holder Components and Determined Unit Holder Components of a particular character is so much of the Trust’s Determined Trust Component of that particular character as is attributable to the Units held by the Unit Holder;
 - (ii) the attribution must be worked out on a fair and reasonable basis, in accordance with this Constitution and any other documents that constitute Constituent Documents for the Trust; and
 - (iii) the RE must not attribute any part of a Determined Trust Component of the Trust to a Unit Holder’s Units because of the tax characteristics of the Unit Holder.

4.2 Attribution must be in accordance with existing distribution provisions

Without limiting paragraph 4.1(b) of this Schedule 2, the RE may determine that it will attribute the taxable income of the Trust for a Financial Year in accordance

with this paragraph 4.2. If the RE so determines, then the RE must attribute in respect of an AMIT Income Year to each Unit Holder:

- (a) so much of any Determined Trust Components of the Trust for the Financial Year as the RE reasonably determines are reflected in the Unit Holder's Income Entitlements for the Financial Year; and
- (b) so much of any Determined Trust Components of the Trust for the Financial Year as the RE reasonably determines would be reflected in any Income Entitlements that the Unit Holder or former Unit Holder would have become entitled to at the end of a Distribution Period if the Trustee had not exercised its power to accumulate Distributable Income pursuant to paragraph 3.2.

5 Unit Holder's objections

5.1 Unit Holder must notify, provide information and indemnify RE in relation to objections

If a Unit Holder objects to the basis of the attribution of the taxable income of the Trust for the purposes of the AMIT Regime, including by making a Unit Holder Objection Choice, the Unit Holder agrees to:

- (a) provide the RE with written notice of the Unit Holder's intention to make an objection at least five Business Days prior to notifying the Commissioner of Taxation of its objection;
- (b) include, in the notice provided to the RE, a summary of the reasons why the Unit Holder considers the attribution to be inappropriate;
- (c) provide to the RE any information the RE reasonably requests in order to assess the Unit Holder's objection or proposed objection; and
- (d) indemnify the RE against all costs and liabilities incurred by the RE as a result of the objection or proposed objection.

5.2 Unit Holders acknowledge consequences if objection made

Each Unit Holder is taken to agree that if any Unit Holder makes an objection to the basis of attributing the taxable income of the Trust under the AMIT Regime, including by making a Unit Holder Objection Choice:

- (a) it may be necessary or desirable for the RE to amend its attribution of the relevant taxable income to the Unit Holders and issue amended AMMA Statements to Unit Holders;
- (b) the RE may issue or reissue any AMMA Statement to a Unit Holder;
- (c) the Determined Unit Holder Components of the Unit Holder and any other Unit Holders in the Trust may, under the AMIT Regime, be equal to the Unit Holder Components of the Unit Holder and any other Unit Holders in the Trust; and
- (d) the Determined Trust Components of the Trust may, under the AMIT Regime, be equal to the Trust Components of the Trust.

5.3 Limitation of liability

The RE has no liability in respect of any act, matter or thing done or omitted to be done by a Unit Holder in relation to an objection to the basis of attribution of the taxable income of the Trust under the AMIT Regime, including by the Unit Holder making a Unit Holder Objection Choice.

6 RE indemnity

6.1 RE has a right to be indemnified for Tax payable

Without limiting clause 24 each Unit Holder is required to indemnify the RE for:

- (a) any Tax payable by the RE as a result of the application of the AMIT Regime which the RE reasonably determines relates to the Unit Holder, Units held by the Unit Holder, or an attribution of taxable income made to the Unit Holder; and
- (b) any other costs, expenses or liabilities incurred by the RE as a result of being liable to such Tax, and claiming on the indemnity provided by the Unit Holder under paragraph 6.1 of this Schedule 2 or under the AMIT Regime.

6.2 RE may prescribe terms and conditions

The RE may prescribe particular terms and conditions which apply in the event that the RE is entitled to be indemnified by a Unit Holder under paragraph 6.1 of this Schedule 2, or under the AMIT Regime.

6.3 Methods through which indemnity may be satisfied

The Unit Holders agree that the RE may, if it is entitled to be indemnified by a Unit Holder under paragraph 6.1 of this Schedule 2, or under the AMIT Regime undertake the following actions in order to satisfy that indemnity:

- (a) deduct from any amounts owing to the particular Unit Holder the aggregate of any amounts which the RE is entitled to be indemnified under paragraph 6.1 of this Schedule 2, or under the AMIT Regime; and
- (b) compulsorily redeem such number of units held by the Unit Holder which the RE reasonably determines is sufficient to cover the amounts for which the RE is entitled to be indemnified under paragraph 6.1 of this Schedule 2, or under the AMIT Regime.

6.4 Right of indemnity if notice provided

The Unit Holders agree that the RE may, if it is provided with a notice under the AMIT Regime which results in a liability to pay or remit any monies to the Commissioner of Taxation in relation to the Trust, deduct from any amounts owing to the particular Unit Holder the aggregate of:

- (a) such amount as the RE reasonably determines represents the amount which the RE is liable to pay or remit to the Commissioner of Taxation as a result of the provision of the notice by the Unit Holder; and
- (b) any other costs, expenses or liabilities incurred by the RE as a result of receiving the notice from the Unit Holder and being liable to pay or remit monies to the Commissioner of Taxation as a result of the notice.

Schedule 3 Redemption Scheme provisions

The provisions in this Schedule 3 are operative and prevail over all other provisions of this Constitution except to the extent this would result in a breach of the Corporations Act, the Listing Rules or other law. Unless the contrary intention appears, in this schedule a reference to a “**paragraph**” is a reference to a numbered provision of this schedule.

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, in this schedule capitalised terms not defined have the same meaning as in this Constitution, and:

"Capital Return" means such amount per Scheme Unit as the RE determines in its absolute discretion in relation to the LWR Proposal, to be paid in cash in respect of Non Election Units and to be applied to subscribe for securities in LWR other than Units, in respect of Election Units.

"CHDBWT" means Charter Hall Direct BW Trust (ARSN 168 191 133).

"Constitutional Amendment Resolution" means the special resolution of Unit Holders made in accordance with section 601GC(1)(a) of the Corporations Act to modify this Constitution including to insert this Schedule 3.

"Election Date" means such date as the RE determines.

"Election Form" means an election, application or such other form as the RE approves or determines evidencing the election by a Scheme Unit Holder to acquire LWR Securities (other than Units) in lieu of having their Scheme Units redeemed for the Scheme Consideration.

"Election Unit Holder" means a Scheme Unit Holder (who is not a Foreign Unit Holder) who has lodged a valid Election Form on or before the Election Date.

"Election Units" means Scheme Units held by an Election Unit Holder on the Record Date.

"First Offer Document for Stapled Securities" means the first product disclosure statement, prospectus, information memorandum or any combination of them in which Stapled Securities are first offered.

"Foreign Unit Holder" means a Scheme Unit Holder who has a Registered Address outside Australia and New Zealand unless the RE determines that it is lawful and not unduly onerous to allow some or all Scheme Unit Holders in a jurisdiction outside Australia and New Zealand to receive the LWR Election having regard to: the number of Scheme Unit Holders in that jurisdiction; the number and value of Scheme Units held by Scheme Unit Holders in that jurisdiction; and the costs of and process for seeking advice as to the requirements for doing so in relation to that jurisdiction and/or the costs of complying with legal requirements and the requirements of any relevant regulatory authority applicable to the extension of the LWR Election to Scheme Unit Holders in that jurisdiction, and the RE also determines that it would be in the best interests of all Scheme Unit Holders to exclude the Scheme Unit Holders in that jurisdiction from receiving the LWR Election.

"Implementation Date" means the date determined by the RE as the date on which the LWR Proposal will be implemented.

"LWR" means the stapled group to be comprised of a number of Charter Hall managed entities including the Trust, called Charter Hall Long WALE REIT, and listed on the ASX.

"LWR Election" means the election by a Scheme Unit Holder to apply their Capital Return to acquire LWR Securities (other than Units) under the LWR Proposal.

"LWR IPO Price" means the price at which an LWR Security is offered pursuant to the initial public offering by LWR.

"LWR Proposal" means the proposed formation, listing on ASX and initial public offering of LWR, involving the redemption of Non Election Units for the Scheme Consideration and the issue of LWR Securities (other than Units) pursuant to the LWR Election.

"LWR Securities" means the securities of the entities comprising LWR which are to be listed on the ASX.

"Non Election Units" means Scheme Units in respect of which no valid Election Form was received by the Election Date and Scheme Units held by Foreign Unit Holders.

"Portfolio" means the real property assets of the fund whether held directly or via one or more wholly or partially owned sub-trusts.

"Quotation Date" means the date that LWR Securities are Officially Quoted (including on a conditional and deferred settlement basis).

"Record Date" is the time and date determined by the RE for determining which Unit Holders are Scheme Unit Holders eligible to participate in the LWR Proposal.

"Redemption Implementation Date" means the date on which Non Election Units are redeemed in accordance with paragraph 6 of this Schedule 3.

"Registered Address" means, in relation to a Scheme Unit Holder, the address of the Scheme Unit Holder as recorded in the Register.

"Scheme" means unless the context otherwise requires, for the purposes of Schedule 3, the arrangements under which the RE makes a Capital Return in respect of each Scheme Unit and:

- (a) redeems all Non Election Units (or the Units into which the Non Election Units are consolidated or subdivided into in accordance with the LWR Proposal) for an amount equal to the Scheme Consideration less the Capital Return per Non Election Unit (or the equivalent number of Units into which a Non Election Unit are consolidated or subdivided into in accordance with the LWR Proposal);
- (b) in respect of Election Units, applies that Capital Return to subscribe for one security in each other entity comprising LWR other than the Trust for each Unit held by an Election Unit Holder immediately prior to the subscription for those securities.

"Scheme Consideration" means the Scheme NTA as determined by the RE on the Scheme NTA Calculation Date.

"Scheme NTA" means the Net Asset Value per Scheme Unit as at the LWR Implementation Date calculated on the basis that the value of the Portfolio is equal to a 1% premium to the value of the Portfolio determined by way of independent valuations as at 30 June 2016 other than the Fund's interest in the property at 364-426 Old Geelong Road, Hoppers Crossing, Victoria, which will be valued at \$45.5 million for the purposes of this calculation.

"Scheme NTA Calculation Date" means the date that is 7 days prior to the date that LWR Securities are Officially Quoted (including on a conditional and deferred settlement basis) or such other date as the RE determines.

"Scheme Meeting" means a meeting of Unit Holders to consider and, if thought fit, pass the Constitutional Amendment Resolution.

"Scheme Unit Holder" means a holder of Scheme Units as at the Record Date.

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

2 Implementation of LWR Proposal

2.1 Obligations of RE and Unit Holders

- (a) Each Unit Holder and the RE must do all things which the RE considers necessary or desirable to give effect to the LWR Proposal.
- (b) The RE has power to do all things which it considers are necessary, desirable or reasonably incidental to give effect to the LWR Proposal.
- (c) The RE may do any act, matter or thing pursuant to this Schedule 3 notwithstanding that it has an interest in the act, matter or thing or any consequence thereof.
- (d) This Schedule 3:
 - (i) binds the RE and all Unit Holders including those who did not attend the Scheme Meeting, those who did not vote at that meeting and those who voted against the resolution at that meeting; and
 - (ii) has effect notwithstanding any other provision of this Constitution and any provision of this Constitution which is inconsistent with this Schedule 3 does not operate to the extent of that inconsistency except to the extent this would result in a breach of the Corporations Act, the Listing Rules or other law.

2.2 Covenants by Scheme Unit Holders

Each Scheme Unit Holder:

- (a) if they hold Non Election Units, agrees to the redemption of all of their Non Election Units in accordance with this Schedule 3;
- (b) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this Schedule 3;
- (c) without the need for any further act, irrevocably appoints the RE and each of its directors and officers, jointly and severally, as that Scheme Unit Holder's attorney and agent for the purpose of executing any document (including for Scheme Unit Holders holding Election Units, completing and executing any application for one or more securities comprising LWR in application of the Capital Return in respect of those Election Units) or doing any other act the RE considers necessary, desirable or reasonably incidental to give full effect to the LWR Proposal and the Scheme, this Schedule 3, and the transactions contemplated by them;
- (d) consents to the RE, as agent and attorney appointed under paragraph (c), sub-delegating its functions, authorities or powers under paragraph (c) to all or any of its directors or other officers (jointly, severally or jointly and severally);

- (e) consents to the RE doing all things and executing all deeds, instruments, applications or other documents as may be necessary or desirable to give full effect to the LWR Proposal and the Scheme, this Schedule 3 and the transactions contemplated by them; and
- (f) agrees to provide the RE with such information as the RE may reasonably require to comply with any law in respect of the Scheme and the transactions contemplated in this Schedule 3.

2.3 Dealings in Units

- (a) For the purpose of establishing the persons who are Scheme Unit Holders and the Units that are Scheme Units, dealings in Units will only be recognised if registrable transfers or transmission applications in respect of those dealings are received by the RE (or by any agent that the RE has appointed to maintain the Register on behalf of the RE) by the Quotation Date or such other date as the RE determines.
- (b) Subject to the other provisions of this Schedule 3, the RE will not accept for registration, nor recognise for any purpose, any transfer or transmission application or other dealing:
 - (i) in respect of Scheme Units by a Scheme Unit Holder who has submitted an Election Form, after the Election Date or such other date as the RE determines; and
 - (ii) in respect of any other Units, received after the Quotation Date or such other date as the RE determines (or received prior to the Quotation Date, or such other date as the RE determines, not in registrable form).
- (c) The RE will maintain or procure the maintenance of the Register in accordance with this paragraph 2.3. The Register immediately after registration of registrable transfers or transmission applications of the kind referred to in paragraph 2.3(a) will solely determine the persons who are Scheme Unit Holders and their entitlements to the Scheme Consideration and the Units which are Scheme Units.
- (d) From the Quotation Date until the later of the completion of the implementation step in paragraph 8 of this Schedule 3, no Unit Holder may deal with Units in any way except as set out in this Schedule 3 and any attempt to do so will have no effect.
- (e) Nothing in this paragraph 2.3 restricts dealings in Units as a component of LWR Securities, including on a conditional and deferred basis.

2.4 Prevention of splitting of holdings

If the RE is of the opinion that several Scheme Unit Holders have, before the Record Date, been party to a unitholder splitting, division or acquisition in an attempt to obtain an advantage by reference to the rounding provided for in the calculation of the conversion contemplated under this Schedule 3, the RE may give notice to those Scheme Unit Holders:

- (a) setting out the names and registered addresses of all of them;
- (b) stating the RE's opinion; and
- (c) attributing to one of them specifically identified in the notice the Scheme Units held by all of them,

and, after the notice has been so given, the Scheme Unit Holder specifically identified in the notice must, for the purposes of implementation of the LWR Proposal, be taken to hold all those Scheme Units and each of the other Scheme Unit Holders whose names are set out in the notice must, for the purposes of implementation of the Proposal, be taken to hold no Scheme Units.

3 Capital Return

On the Implementation Date, the RE must make the Capital Return to all Scheme Unit Holders on a pro rata basis and in the case of Non Election Units, the amount of such Capital Return will constitute a part payment of the Scheme Consideration.

4 Consolidation

- (a) Following the implementation step described in the preceding paragraph, the RE must convert each Scheme Unit, into that number of Units as is calculated by applying a conversion ratio determined by the RE, provided that the consolidation will be rounded to ensure that following consolidation each Scheme Unit Holder holds that number of Units as is equal to the conversion ratio determined by the RE multiplied by the number of Scheme Units they held prior to the conversion, rounded up to the nearest whole number.
- (b) The conversion ratio determined by the RE in paragraph 4(a) above must be a ratio which will result in each Election Unit Holder holding an aggregate number of LWR Securities after the implementation of the LWR Proposal as is calculated by the following formula (rounded up or down to the nearest whole LWR Security as determined by the RE):

$$\frac{\text{Number of Election Units held by the Election Unit Holder on the Record Date}}{\text{Scheme Consideration}} \times \frac{\text{LWR IPO Price}}{\text{LWR IPO Price}}$$

5 Issue of Units under IPO

Following the implementation step described in the preceding paragraph, the RE must issue new Units as components of LWR Securities to successful applicants for LWR Securities under the First Offer Document for Stapled Securities with the LWR Securities to be issued at an application price of \$4.00 per LWR Security or such other amount as the RE determines with the application price payable for each new Unit to be the issue price of the LWR Security minus the application price of the other components of the LWR Security.

6 Redemption

- (a) Following the implementation step described in the preceding paragraph:
- (i) all of the Non Election Units (including as adjusted in accordance with paragraph 4) will be redeemed for an amount calculated in accordance with paragraph 6(b)(ii) and all rights and entitlements attaching thereto will cease without the need for any further act by any Scheme Unit Holder (other than acts performed by the RE (or its directors or officers) as attorney or agent of the Scheme Unit Holders under this Schedule 3); and
- (ii) the RE may do all things necessary and execute all documents for and on behalf of the holders of Non Election Units to effect such redemption.
- (b) Subject to the provisions of this Schedule 3 and the LWR Election, each Scheme Unit Holder who holds Non Election Units on the Record Date will be entitled to receive from the RE an aggregate amount equal to:
- (i) the Capital Return made in respect of the Non Election Units held by that Scheme Unit Holder at the Record Date; and

- (ii) an amount equal to the Scheme Consideration multiplied by the number of Non Election Units held by that Scheme Unit Holder at the Record Date less the amount of the capital return in paragraph 6(b)(i).
- (c) The RE will pay the amounts under paragraph 6(b) to each Scheme Unit Holder who held Non Election Units at the Record Date within 10 Business Days after the redemption of those Non Election Units (as adjusted in accordance with paragraph 4) by:
 - (i) dispatching or procuring the dispatch to the relevant Scheme Unit Holder by pre-paid post to its Registered Address a cheque in Australian currency drawn on an Australian bank in the name of that Scheme Unit Holder; or
 - (ii) depositing into the account nominated by the relevant Scheme Unit Holder for receipt of distributions.
- (d) In the case of Non Election Units that were held by joint holders on the Record Date, payment under paragraph 6(c) may be made in either or both of the names of those joint holders and a payment to any one of those joint holders will discharge the RE in respect of the payment.
- (e) If a fractional entitlement to a cent arises from the calculation of the amount payable to a former holder of Non Election Units under paragraph 6(b), then any such fractional entitlement to a cent shall be rounded up or down or to the nearest whole number of cents, as the RE determines.

7 Issue to rollover investors

7.1 LWR Election

Following the implementation step described in the preceding paragraph, the RE will do all things necessary and will execute all documents for and on behalf of the Election Unit Holders to apply the Capital Return made under paragraph 3 to the subscription for one unit or share in each of the other entities comprising LWR for each Election Unit held by an Election Unit Holder such that each Election Unit Holder holds an equal number of all of the component securities of LWR Securities (including the Units they held prior to this implementation step).

7.2 Issue of Units to CHDBWT unitholders

- (a) The RE may issue Units to holders of units in CHDBWT on the Record Date at an issue price calculated in accordance with paragraph 7.2(c).
- (b) The application monies for the Units to be issued in accordance with paragraph 7.2(a) are to be funded by way of a capital return made by CHDBWT and compulsorily paid by the responsible entity of CHDBWT on behalf of the holders of units in CHDBWT in accordance with the CHDBWT constitution.
- (c) The issue price for the Units issued in accordance with this paragraph 7.2, which at the time of issue must be in a class of interests that are Officially Quoted, will be equal to the issue price of the Units under paragraph 5.

8 Stapling

Following the implementation step described in the preceding paragraph, the RE will do all things necessary to ensure that all Units then on issue are Stapled to each of the other component securities comprising LWR Securities (each of which will become an Attached Security) and that the Stapling Commencement Time will be as soon as reasonably possible following the implementation step described in the preceding paragraph.

9 Issue of further Units under IPO

Following and or prior to the implementation step described in the preceding paragraph, the RE may issue further new Units as components of LWR Securities to applicants for LWR Securities under the First Offer Document for Stapled Securities with the LWR Securities to be issued at an application price of \$4.00 per LWR Security or such other amount as the RE determines with the application price payable for each new Unit to be the issue price of the LWR Security minus the application price of the other components of the LWR Security.

10 Capital Reallocation

- (a) Following the implementation step described in the preceding paragraph, the RE may undertake a capital reallocation to one or more Stapled Entities in accordance with clause 16.21 of this Constitution in an amount determined by the RE at its sole discretion.
- (b) Any capital reallocation undertaken in accordance with paragraph 10(a) must be undertaken on the Implementation Date.

11 General

11.1 Status of Scheme Units

The Scheme Unit Holders are deemed to have warranted to the RE that as at the Redemption Implementation Date all Scheme Units will be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.

11.2 Liability of RE

The RE has no liability of any nature whatsoever beyond the Assets to Unit Holders arising, directly or indirectly, from the RE doing or refraining from doing any act, matter or thing (including the execution of a document) pursuant to or in connection with the implementation of the LWR Proposal.

11.3 Income distribution

The RE may make a special distribution to Scheme Unit Holders of income in respect of its estimate of accrued income in respect of the period commencing at the end of the last distribution period and ending on the Implementation Date.

11.4 Fees payable to Charter Hall Direct Property Management Limited

Charter Hall Direct Property Management Limited will be paid an amount equal to \$5,226,740.00 in respect of a disposal fee and \$X in respect of a performance fee on the LWR Implementation Date. \$X is based on 15% over a 10% IRR and will be equal to \$5,324,631.79 assuming that the total Cash Consideration is \$154,554,000 and the LWR Implementation Date is 12 October 2016. To the extent these variables change, \$X will be calculated on a consistent basis and adjusted accordingly.

11.5 Fractions and Rounding

- (a) In implementing the LWR Proposal, the RE may round entitlements for any purpose (including in respect of acquiring LWR Securities (other than Units) pursuant to the LWR Proposal) up or down, or to the nearest whole number or unit, in its discretion.
- (b) Any excess application or other money or property which results from rounding under any provision of this Constitution becomes an Asset of the Trust.