

BLUE TOWER TRUST DEED

Consolidated as at May 2004

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TRUST DEED

THIS DEED POLL dated

14 MAY

2004

BY **LEYSHON CORPORATION LIMITED** ACN 090 257 480 having its registered office at Level 4, 10 Felix Street, Brisbane, Queensland
(**'Manager'**)

BACKGROUND

- A. By trust deed dated 1 August 2003 (**'Trust Deed'**) Blue Tower Brisbane Pty Ltd ACN 105 735 126 established the Trust and was appointed Manager.
- B. The Unit Holders, by Extraordinary Resolutions on 13 April 2004, approved:
 - (i) the retirement of Blue Tower Brisbane Pty Ltd ACN 105 735 126 as Manager of the Trust; and
 - (ii) the appointment of Leyshon Corporation Limited ACN 090 257 480 as Manager of the Trust.
- C. By Deed of Amendment dated 13 May 2004, the Trust Deed was amended by the Manager in accordance with the provisions of the Trust Deed.
- D. This consolidated Trust Deed incorporates all amendments made to the Trust Deed by the Deed of Amendment.
- E. The Manager has agreed to manage the Fund and the Trust for the Unit Holders.
- F. This Deed is made with the intent that the benefits and obligations herein will enure not only to the Manager but also, to the extent provided in this Deed, to every person who is, or becomes, a Unit Holder, and be binding on both the Manager and the Unit Holders.

OPERATIVE PROVISIONS

1. PRELIMINARY

In this Deed and in any instrument, supplemental deed, agreement or other document made, entered into, executed or issued under this Deed, unless a contrary intention appears, the following expressions will have the following meaning:

'AAPIPA' means Australian and Asia/Pacific Institute of Property Auditors Pty Ltd ACN 083 601 110.

'Accounting Standard' has the meaning given to that term in Section 9 of the Corporations Act;

'Affiliate' means any Person whose relationship with the Manager is of such a nature that a reasonable person might consider that dealings between them would not be at arm's length and includes an Associate;

'Applicant' means a person who has completed and lodged with the Manager an Application Form and has paid to the Manager their Contribution;

'Application Form' means the application form provided by the Manager and included in, or accompanying, a product disclosure statement or other offer document in relation to an offer of Units;

'Approved Market Analyst' means any person, independent of the Manager, who is duly qualified to advise on the appropriate trading window for the purposes of ascertaining from time to time 'Current Market Price' under this document;

'Approved Valuer' means a valuer, or, if that valuer is a company or firm, a person employed in the valuation by the company or firm, who:

- (a) is authorised to practise as a valuer under the law of the State where the relevant Real Estate is located;
- (b) has at least 5 years continuous experience in valuation of commercial properties in the region where the relevant Real Estate is located;
- (c) is appointed and instructed in writing by the Manager; and
- (d) is independent of the Manager;

'Asset Management Agreement' means the asset management agreement between the Manager, AAPIPA and Leyshon, relating to the acquisition, refurbishment and sale of the Real Estate;

'Assets' means Authorised Investments or any entitlement to Authorised Investments and Cash or any entitlement to Cash forming for the time being a constituent part of the Fund;

'Associate' means an Associate as defined in Division 2 of Part 1.2 of the Corporations Act;

'Auditor' means:

- (a) a person who is a chartered accountant and a registered company auditor under the Corporations Act; or
- (b) a firm of chartered accountants, at least one member of which is a registered company auditor,

and where more than one of the above is appointed by the Manager, includes each of them;

'Authorised Investment' of the Fund means:

- (a) deposits (whether secured or unsecured) with a Bank, bills of exchange, certificates of deposit and negotiable certificates of deposit issued by a Bank and bills of exchange or similar instruments accepted and endorsed by a Bank;
- (b) deposits with, and promissory notes, debentures, debenture stock, stock, inscribed stock, shares, bonds, bills or similar securities issued by the Commonwealth of Australia or any Australian State or Territory or any semi-governmental body or statutory authority where repayment of the principal and interest is guaranteed in each case by the Commonwealth Government or by a State or Territory Government;
- (c) any investment authorised by the *Trusts Act 1973 (Qld)* or any law of the Commonwealth of Australia;
- (d) real property;
- (e) Cash; and
- (f) fixed interest securities, equities, and related securities and interests in registered managed investment schemes (including where the managed investment scheme invests in direct real property or mortgages) but does not include a Derivative.

'Bank' or 'Banking Corporation' will have the meaning ascribed to that term in Section 9 of the Corporations Act;

'Business Day' means any day on which trading Banks are open for business in Brisbane;

'Cash' includes currency, coin, cash at bank, payment orders, cheques, transfers and drafts;

'Certificate' means a certificate of title to a Unit issued under this Deed;

'Commencement Date' means the date of this Deed;

'Company' includes 'corporation' (as that term is defined in Section 9 of the Corporations Act), public authority or body corporate or politic;

'Compliance Committee' means a compliance committee for the Trust for the purposes of the Corporations Act;

'Contributions' means the contributions, including the Issue Price, to be made by the Applicant in accordance with clause 5(a) and as may be required by the then current prospectus, product disclosure statement or other offer document for the Units.

'Corporations Act' means the *Corporations Act 2001 (Cth)* and the Regulations;

'Costs and Disbursements' includes, without limitation, legal costs (on an indemnity basis) and fees of professional advisers, stamp duty, valuation fees, registration fees and all other usual and proper costs, charges, expenses and outgoings (including without limitation, commission payments and brokerage);

'Court' means the Supreme Court of Queensland;

'Current Market Price' of a Unit means:

(a) the volume weighted average price per Unit for sale on the relevant Exchange (excluding any special crossings) for the period of 30 trading days (or such longer period as determined by the Manager after consideration of the volume and number of transactions and any other factors that the Manager considers relevant and which in the opinion of an Approved Market Analyst is a reasonable period of trading days to have regard to, to fairly arrive at the current market price of the Unit) immediately prior to the relevant day (whether or not a sale was recorded on any particular day); or

(b) if:

(i) Units have not been Officially Quoted for at least 30 consecutive trading days before the relevant day; or

(ii) in the Manager's opinion a determination under paragraph (a) of this definition would not provide a fair reflection of the current market value of the Unit,

the Current Market Price will be an amount, calculated in a manner which complies with the Corporations Act and which (if applicable) is as set out in the prospectus, product disclosure statement or other offer document for the Units, and which in the opinion of an Approved Valuer will approximate the fair market price of the Units;

'Custodian' means the person (if any) appointed by the Manager from time to time as Custodian of the Property. If no custodian is appointed then references to the Custodian are to the Manager.

'Deed' means this Deed Poll as originally executed and as it may from time to time be amended, and is the constitution for the Trust;

'Derivative' has the meaning set out in section 761D of the Corporations Act (excluding Foreign Exchange Contracts).

'Distribution' means the distribution of income or capital of the Trust under this document.

'Distributable Amount' means, in relation to the Trust, any amount determined by the Manager from time to time to be distributed to Unit Holders;

'Equity Investors' has the same meaning as in the Asset Management Agreement;

'Exchange' means any recognised stock exchange the official list of which the Trust is admitted to from time to time;

'Extraordinary Resolution' means a resolution of which notice has been given in accordance with clause 24.2(c) and that has been passed by at least 75% of the total votes that may be cast by Unit

Holders entitled to vote on the resolution (including Unit Holders who are not present in person or by proxy);

'Financial Statements' has the meaning given to that term in Section 9 of the Corporations Act;

'Financial Year' means the period of 12 months ending on the 30th day of June in each year during the continuance of this Deed and includes the period commencing on the date of this Deed and expiring on the next succeeding 30th day of June and any period between the 30th day of June last occurring before the termination of the Trust and the termination of the Trust;

'Financier' means the lender of any money to the Manager on behalf of the Trust;

'Foreign Exchange Contract' has the meaning set out in section 761A of the Corporations Act;

'Foreign Unit Holder' means a Unit Holder whose address on the Register is a place outside Australia or, if the Trust is Officially Quoted, outside Australia and New Zealand;

'Fund' means all real and other property of any kind whatsoever, including the Real Estate, which may from time to time be paid to, received or held by, the Manager (other than the Manager's fees and expenses) or held on their behalf for the benefit of the Unit Holders under the provisions of this Deed whether pending investment or not and any investments for the time being representing the same and any income derived therefrom and accruals and capital accretions thereto howsoever arising;

'GST' has the meaning provided in the GST Act;

'GST Act' means *A New Tax System (Goods & Services Tax) Act 1999* as amended;

'GST Value' has the same meaning as 'Value' in the GST Act;

'Income' means all amounts which are, or would be recognised as, income by the application of generally accepted accounting principles;

'Income of the Trust' includes all Income received from the Fund;

'Issue Price' means:

- (a) while the Units are not Officially Quoted, \$1 per Unit plus the Issue Provision; or
- (b) upon an initial public offering on the Bendigo Stock Exchange Limited, \$1.00 per Unit; or
- (c) while the Units are Officially Quoted or upon an initial public offering on any Exchange other than Bendigo Stock Exchange Limited, the Current Market Price;

'Issue Provision' means the amount (if any) reasonably determined by the Manager from time to time in respect of, or as an allowance for, reasonable costs and disbursements, commissions, expenses, legal fees, brokerage, capital raising, underwriting, stamp duty, Taxes and other costs that may reasonably be incurred or are expected to be incurred in connection with the issue of Units.

'Leyshon' means Leyshon Operations Pty Ltd ACN 074 603 580.

'Liabilities' means any and all liabilities of any nature recognised by generally accepted accounting principles and practice, whether such liabilities are absolute, accrued, actual, contingent, present or future, liquidated or unliquidated, matured or unmatured including without limitation, any Taxes, Relevant Taxes, imposts or duties (however called or imposed) of any nature whatsoever;

'Licence' means the Australian Financial Services Licence issued by ASIC to the Manager;

'Listed' means admitted to and not removed from the official list of the Exchange;

'Listing Rules' means the official listing rules of the Exchange and any other rules of the Exchange which are applicable while the Trust is admitted to the official list of the Exchange, except to the extent of any express written waiver by the Exchange;

'Manager' means Leyshon Corporation Limited ACN 090 257 480 and includes any company appointed as responsible entity (as defined in the Corporations Act) to undertake the management of the Trust pursuant to the provisions hereof (whether original, additional or substituted);

'Month' means calendar month;

'Net Income' means in relation to the Trust, 'net income' as that term is defined in section 95 of the Tax Act as calculated each Financial Year;

'New Unit Holder' means a person who has applied for New Units;

'New Units' means Units issued or to be issued;

'Notice' means a notice, circular, statement, document, communication or information;

'Officially Quoted' means official quotation by the Exchange;

'Ordinary Resolution' means a resolution passed at a meeting of Unit Holders duly convened and held in accordance with the provisions of this Deed by a majority of the Persons voting thereat (whether present in person, or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority of the votes cast on such poll;

'Person' includes a Company, trust (including a person or body of persons acting on behalf of a trust), firm or body of persons;

'Property' means the property comprising the Fund including the Real Estate;

'Purchase Price' means in relation to the Property the purchase price for that property set out in the contract of sale;

'Quarter' means a calendar quarter;

'Real Estate' means any interest in the real property held by the Trust, including the real property known as Comalco Place, 12 Creek Street, Brisbane;

'Record Date' means the date determined by the Manager for determining the persons who are entitled to Distributable Amounts, new Units, or any other entitlement;

'Redemption Amount' means such amount per Unit as determined by the Manager in accordance with this Deed, the Corporations Act and the Listing Rules (as applicable) less the Redemption Provision (if any).

'Redemption Provision' means the amount (if any) determined by the Manager in respect of, or as an allowance for, costs and disbursements, commissions, expenses, legal fees, brokerage, stamp duty, Taxes and other costs that may be incurred or are expected to be incurred by the Manager or its Associates in connection with:

- (a) the redemption of Units (as applicable);
- (b) the realisation and conversion into Cash of Property to satisfy the payment of the Redemption Amount;
- (c) where all or part of the Redemption Amount is paid by transferring Property, the valuation and transfer of the Property; and
- (d) the acquisition of Units by an Associate of the Manager to fund a redemption of Units;

'Register' means the register of Unit Holders;

'Regulations' means the Corporations Regulations;

'Related', when used in relation to a Company, has a meaning consistent with Section 50 of the Corporations Act;

'Relevant Law' includes an act of any Parliament, code, ordinance, statute or any rules, regulations, bylaw, orders or other subordinate legislation made pursuant thereto;

'Relevant Person' means, for the purpose of clause 33, a Person who at any time is, was or becomes an Unit Holder or the successor of any such Person;

'Relevant Tax' for the purpose of clause 33, includes, without limitation, any:

- (a) present or future stamp or documentary taxes, or any other excise or property taxes, GST, charges or similar levies, interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed;
- (b) taxes, levies, imposts, duties, deductions or withholdings (however called), interest, GST, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed of any nature whatever, whenever and however imposed, and all liabilities with respect thereto;
- (c) taxes, GST, interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed upon:
 - (i) Contributions;
 - (ii) the Fund or Income, capital gains, profits, transactions, accounts, accruals, receivables, or any change in the worth or value of any property; or
 - (iii) the Manager in its capacity as trustee and Manager of the Fund; or
- (d) all such taxes and imposts to include, without limitation, all imposts made pursuant to the Tax Act, financial institutions duty, debits tax, GST, withholding tax, stamp or documentary taxes, or any other excise or property taxes, charges or similar levies (however called) imposed, levied, collected, withheld or assessed by Australia or any political subdivision in, or of, Australia or any other jurisdiction from, or to, which a payment is made by, or on behalf of, an Unit Holder or pursuant to any legislation enacted, proclaimed or otherwise brought into operation by any of the foregoing;

'Resolution' means a Special, Ordinary, or Extraordinary Resolution;

'Special Resolution' means a resolution passed at a meeting of Unit Holders duly convened and held in accordance with the provisions of this Deed by a majority consisting of not less than 75% of the Persons voting thereat (whether present in person, or by attorney, proxy or representative) upon a show of hands and if a poll is validly demanded then by a majority consisting of not less than 75% of the votes cast on such poll;

'Supply' has the same meaning as in the GST Act;

'Tax Act' means the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)* as amended and the regulations made thereunder from time to time;

'Tax Income' means the 'net income' of the Trust as defined in section 95 of the Tax Act;

'Tax Invoice' has the same meaning as in the GST Act;

'Taxable Supply' has the same meaning as in the GST Act;

'Taxation Amount' for the purpose of clause 33 means in relation to a Relevant Person an amount of Relevant Tax referable to that Relevant Person including, without limitation, an amount of Relevant Tax imposed on account of or in respect of:

- (a) that Relevant Person;
- (b) a receipt or deemed receipt from, on behalf of, or in relation to, that Relevant Person;
- (c) a sum paid or payable to or applied or applicable on behalf of that Relevant Person or a Unit registered in the name of or transferred to or by that Relevant Person;
- (d) an amount of Relevant Tax which that Relevant Person is primarily liable to pay; and
- (e) an amount paid or payable to any Person intended bona fide to reimburse that Person for an amount of Relevant Tax referred to in paragraphs (a) or (b) of this definition which is paid or payable by that Person;

'Taxes' includes, without limitation, any:

- (a) present or future stamp or documentary taxes, or any other excise or property taxes, GST, charges or similar levies, interest, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed which arise from any payment made to or by the

Manager under this Deed or any other instrument delivered hereunder or which are imposed on the Manager in respect of the Trust or any of the Authorised Investments thereof;

- (b) taxes, levies, imposts, duties, deductions or withholdings (however called), interest, GST, penalties, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed of any nature whatever, whensoever and howsoever imposed, and all liabilities with respect thereto which arise from any payment made to the Manager under this Deed or any other instrument delivered hereunder; or
- (c) taxes, interest, penalties, GST, charges, fees or other amounts (if any) imposed, levied, collected, withheld or assessed upon:
 - (i) Contributions;
 - (ii) the Trust, or the Income, capital gains, profits, transactions, accounts, accruals, receivables or any change in the worth or value of the Fund or the Authorised Investments; or
 - (iii) the Manager in its capacity Manager of the Trust,

all such taxes and imposts to include, without limitation, all imposts made pursuant to the Tax Act, financial institutions duty, debits tax, withholding tax, GST, stamp or documentary taxes, or any other excise or property taxes, charges or similar levies (howsoever called) imposed, levied, collected withheld or assessed by Australia or any political subdivision in, or of, Australia or any other jurisdiction from, or to, which a payment is made by, or on behalf of an Unit Holder or pursuant to any legislation enacted, proclaimed or otherwise brought into operation by any of the foregoing;

'Trust' means the Trust established by this Deed;

'Unit' means an undivided share in the Fund as provided in clause 7;

'Unit Holder' means a person whose name is for the time being entered in the Register as the holder of a Unit and includes persons jointly so registered;

'Value' when used in relation to any Property means on each Valuation Date the value established by an Approved Valuer;

'Valuation Date' means the latest date on which a valuation is conducted by an Approved Valuer after commencement of the operation of this Deed.

2. INTERPRETATION

- (a) The captions, headings and marginal notes contained in this Deed are inserted only as a matter of convenience and in no way define, limit, describe or affect the scope, intention, construction or effect of any of the provisions contained or implied in this Deed.
- (b) In this Deed:
 - (i) words importing any gender include the other gender and the plural includes the singular and vice versa;
 - (ii) unless otherwise defined, a word or phrase which is given a special meaning by the Corporations Act will, where the context permits, have the same meaning in this Deed except that to the extent of any inconsistencies between meanings in this Deed and the Corporations Act, the special meaning given by this Deed will prevail;
 - (iii) all references to any clause or provision of this Deed are references to such clause or provision as modified, altered or varied from time to time in accordance with this Deed;
 - (iv) all references to sums of money are to amounts in Australian dollars unless otherwise expressly stated;
 - (v) all references to time mean Queensland local time; and

- (vi) all references to a Relevant Law whether referred to as such or by name (whether that name is the one currently used or a superseded one) in this Deed include that Relevant Law for the time being in force, as amended, or re-enacted, from time to time and any Relevant Law enacted in lieu of such Relevant Law, whether or not passed by the same Parliament and whether or not incorporating or adopting (wholly or in part) any Relevant Law passed by another Parliament, and all references to a section, clause or other provision (or any part of a section, clause or provision) in any such Relevant Law will be read in a corresponding manner.

3. CLOSING DATE

The closing date is the date on which the offer for investment in the Trust closes.

4. CONSTITUTION OF THE TRUST

- (a) The Manager is hereby appointed as the trustee of the Trust and the Fund for the Unit Holders and the Manager agrees to act as the trustee for the Unit Holders upon and subject to the terms and conditions contained in this Deed.
- (b) The Manager declares that it holds and will at all times hold the Fund on trust for the Unit Holders subject to the provisions of this Deed.
- (c) The appointment of the Manager as manager of the Trust is hereby confirmed and the Manager agrees to manage the Trust upon and subject to the terms and conditions contained in this Deed.
- (d) This Deed is made with the intention that the benefits and obligations hereunder may enure not only to the Manager but also to the extent provided to every Unit Holder, and the Units will be held upon and subject to the provisions contained in this Deed.
- (e) The terms and conditions of this Deed will be binding on the Manager and each Unit Holder and all Persons claiming through them respectively as if each such Unit Holder was a party to this Deed.

5. CONTRIBUTIONS

- (a) Each Applicant will at the time of lodging an Application Form for Units pay to the Manager appointed by the Manager, their Contribution.
- (b) No Applicant is eligible to become a Unit Holder unless their Contribution is accompanied by an Application Form duly completed in accordance with the instructions set out in the Application Form. The Manager has the sole discretion whether to accept or reject an application in whole or in part without giving reasons. Where the Manager determines to reject an Application, it must give written notice to the Applicant within a reasonable time after receipt of the Application. The Manager must within 10 business days after giving notice of rejection, refund the Application money to the Applicant.
- (c) All Contributions will be held in an interest bearing account established and maintained by the Manager in the name of the Manager or the Custodian on behalf of the Trust with any financial institution pending the allotment of Units to the Unit Holder.
- (d) The Manager will calculate each Unit Holder's share of the interest earned on the Contributions less any Taxes and bank charges and the Manager will account to each Unit Holder for the amount so calculated within 21 days after allotment of Units to the Unit Holder.

6. APPLICATION OF CONTRIBUTIONS AND FUND

- (a)** Subject to this Deed and the requirements of the Corporations Act, the aggregate of the Contributions will be applied by the Manager on behalf of the Unit Holders at the direction of the Manager:
 - (i)** to invest in Authorised Investments from time to time, including payment of all acquisition costs of the Real Estate, and costs and disbursements relating to the acquisition of the Real Estate;
 - (ii)** in the maintenance and management of the Fund on behalf of the Unit Holders in accordance with the terms of this Deed; and
 - (iii)** for any other purposes permitted by the Deed.
- (b)** If insufficient Contributions are achieved by a particular closing date, the Manager will forthwith return to each New Unit Holder their Contribution together with the New Unit Holder's share of the interest from the date of deposit of that New Unit Holder's Contribution under clause 5 less any Tax and bank or other charges.

7. THE FUND

- (a)** The beneficial interest in the Fund will be divided into Units. Subject to the terms of issue, every Unit confers an equal interest in the Fund but not an interest in any particular part of the Fund.
- (b)** The Manager has all the powers of a natural person and a body corporate, including the power from time to time to make distributions from the Fund to the Unit Holders as the Manager deems surplus to the needs of the Trust.

8. APPLICATION FOR UNITS

8.1 Time for Settlement

- (a)** The Manager will not offer any Unit for subscription or purchase, or issue invitations to subscribe for or buy Units unless it has complied with the Corporations Act in relation to that Unit.
- (b)** The Manager in its absolute discretion may accept or refuse any application for Units in part or in whole and it will not be required to assign any reasonable ground for such refusal. Where the Manager refuses an application for Units in part or in whole, it will give written notice of its refusal to the Applicant, and will return to the Applicant the Contribution paid by the Applicant, within a reasonable period after making the decision to refuse the application.

8.2 Issue Price of Unit

- (a)** This clause 8.2 is at all times subject to the Corporations Act, any applicable ASIC policy, and the Listing Rules (if applicable).
- (b)** Except as set out in this clause 8.2, the Manager will not sell or issue, or permit to be issued, Units at a price which is less than the Issue Price.

Rights Issues

- (c)** Where:
 - (i)** the Units are offered to all Unit Holders on the Record Date at substantially the same time and on a *pari passu* basis (whether or not the right of entitlement is renounceable);
 - (ii)** all the Units offered are in the same class; and
 - (iii)** the Units are offered for subscription at the same price,

the Units may be issued at a price determined by the Manager, provided the price will be an amount not less than 60% of the Issue Price calculated at the close of the Business Day of the offer or, if the Trust is Listed, at the close of the Business Day of the announcement of the offer by the Manager to the Exchange.

- (d) For the purposes of an offer of Units for sale or issue, if the Manager reasonably considers it would be in the best interests of Unit Holders to exclude Foreign Unit Holders and not unfair to those Foreign Unit Holders, the Manager may sell to whom the Manager sees fit, the Units that the Foreign Unit Holders would have been entitled to but for the fact that they are Foreign Unit Holders, instead of issuing or selling the Units to the Foreign Unit Holders, taking reasonable steps to maximise the sale price net of expenses of the sale and promptly pay to the Foreign Unit Holders the net sale price.

Placements

- (e) If the Trust is Officially Quoted, and the Units (or class of Units) have not been suspended from the Official Quotation, provided the Units are not issued to the Manager or an Associate of the Manager, the Units may be issued at a price determined by the Manager provided that where:
- (i) the Units, together with any Units issued within a period of 1 year prior to the date of the proposed issue (but excluding an issue approved or ratified by Unit Holders in accordance with the provisions of this clause 8) would, immediately after the issue, comprise more than 15% of either all the Units on issue or the Units in the same class as the Units to be issued; or
 - (ii) the price at which the Units are to be issued is less than 90% of the Issue Price calculated on the Business Day immediately preceding the date of issue of the Units, the following conditions must be satisfied:
 - (iii) the Unit Holders must approve the issue by ordinary resolution:
 - (A) if the Units are in a particular class, Unit Holders in that class must approve the issue;
 - (B) unless the Manager reasonably considers that the issue will not adversely affect the interests of Unit Holders in any other class, Unit Holders in that other class must approve the issue;
 - (C) any notice convening a meeting to vote on the issue must contain particulars of the use to be made of the money raised by the issue, and other material required by the Listing Rules, and otherwise comply with the Listing Rules.

Reinvestment Plan

- (f) Where:
- (i) under an arrangement the whole or any part of any money payable to a Unit Holder under this Deed, by way of Distributable Amounts, is applied in payment for the subscription of Units;
 - (ii) all Units issued are of the same class or classes;
 - (iii) the price of all such Units of each class issued at substantially the same time is the same; and
 - (iv) subject to clause 8.3, all Unit Holders may from time to time elect to participate in the arrangement as to the whole or some proportion of a Distributable Amount which is payable to the Unit Holder,

the Units may be issued at a price determined by the Manager, provided the price will be an amount not less than 90% of the Issue Price calculated on the Business Day immediately after the Record Date for the relevant Distributable Amount.

8.3 Rounding of Issue Price

The Issue Price may be rounded up or down as the Manager thinks fit.

8.4 Issues in excess of Issue Price

- (a) Notwithstanding any other provisions of this clause 8 the Manager may issue Units at its discretion at a price which exceeds the Issue Price by up to 50%.

9. INVESTMENT OF THE FUND

The Fund may, pending its application in accordance with the terms of this Deed, be invested in Authorised Investments in the name of the Manager on behalf of the Trust.

10. INCOME OF THE TRUST

10.1 Collection of Income

- (a) The Manager will collect, receive and get in the Income of the Trust and will pay it into an account in the name of the Manager on behalf of the Trust. The Manager will make all the payments relating to the Trust from this account.
- (b) Clause 10.1(a) is not to be interpreted to restrict the Manager engaging property managers or others to get in Income of the Trust into a trust account maintained by them or to make payments relating to the Trust from that trust account.

10.2 Income of the Trust

The decision of the Manager as to whether any item is income or capital shall be final.

10.3 Determination of Distributable Amount

The Distributable Amount of the Trust for a Quarter, Financial Year or any other period will be such amount as the Manager determines, and the Manager is deemed to determine the Distributable Amount for a period to include the amounts actually paid to the Manager pursuant to the Asset Management Agreement to which the Unitholders are entitled for that period as Equity Investors.

10.4 Apportionment and Distribution of Amount Categories

The Manager may keep separate accounts of different categories and sources of Income and allocate the Income from any category or source to any Unit Holder.

10.5 Distribution Equalisation Reserve

The Manager may require the withholding from distribution to Unit Holders during any Month, Financial Year or any other period, an amount which the Manager considers is necessary to minimise variability in income distributions over Quarters, Financial Years or any other period.

10.6 Time for Distribution of Distributable Amount Distributions

The Distributable Amount for a Quarter must be distributed by the Manager to Unit Holders no later than the date specified in clause 10.9.

10.7 Income Entitlements

The Distributable Amount of the Trust for any period will be credited to a distribution account and after payment of all Taxes will be distributed to Unit Holders registered at the close of business on the last day of the previous Quarter to which the distribution relates in proportion to their Units.

10.8 Entitlement to Distributable Amount of the Trust

Persons registered as Unit Holders at the close of business on the last day of a Quarter will be presently entitled (within the meaning of the *Income Tax Assessment Act*) to the Distributable Amount of the Trust in accordance with clause 10.7 for that Quarter.

10.9 Distribution of Income of Trust

The Manager will make distributions Quarterly during each Financial Year. Distributions will be made within 21 days after the end of each Quarter.

10.10 Present Entitlement at Year End

At the end of the Financial Year, the Unit Holders will be presently entitled to the Net Income derived during the Financial Year in proportion to their Units.

10.11 Other Distributions

The Manager may at any time determine that capital or income be distributed to the Unit Holders.

11. COMMENCEMENT, PERIOD AND TERMINATION OF THE TRUST

11.1 Commencement

The Trust will commence on the Commencement Date and, unless otherwise provided in this Deed, the Trust will continue for a period of 80 years from the Commencement Date.

11.2 Termination

- (a) If the Manager is removed or retires from the management of the Trust, and the relevant meeting does not appoint a replacement manager, or the replacement manager appointed by the meeting does not accept that appointment, then the Manager must determine the Trust and the provisions of clause 11.2(c) shall apply to such determination.
- (b) If:
 - (i) at a meeting of Unit Holders an Extraordinary Resolution is passed directing the Manager to wind up the Trust;
 - (ii) the Court makes an order directing the Manager to wind up or determine the Trust; or
 - (iii) if the Manager determines that the Trust should be wound up;then the Manager shall do so and the provisions of clause 11.2(c) shall apply.
- (c) Upon determination of the Trust, the Manager shall realise all Authorised Investments and other Assets, and, after deduction of all fees provided for in the Asset Management Agreement and otherwise in this Deed, shall distribute the net proceeds of the realisation of the Authorised Investments and other Assets among the Unit Holders in proportion to the Units in respect of which they are respectively registered as holders, provided always that the Manager shall be entitled to retain its costs, charges and expenses, including its remuneration, and shall be entitled to retain for so long as it thinks fit such amount which in its opinion may be required to meet all claims, demands and expenses incurred or expected to be incurred by the Trust on the determination thereof, provided further that a distribution shall be made only against delivery to the Manager of such evidence as the Manager may require of the Unit Holder's entitlement thereto and against delivery to the Manager of such form of receipt and discharge as may reasonably be required by the Manager. Such net proceeds shall be distributed to the Unit Holders as soon as practicable and in any case not later than 2 months after the settlement of the sale of all the Real Estate.
- (d) If the requisite number of Unit Holders wish the Trust to be wound up earlier than in accordance with the foregoing provisions, then a meeting of Unit Holders may be called in accordance with the provisions of this Deed to consider and vote on an Extraordinary Resolution directing the Manager to wind up the Trust.
- (e) Upon the termination of the Trust, the Manager shall prepare final accounts of the Trust and shall cause those accounts to be audited by the Auditor.

11.3 Further Issue of Units

- (a) Notwithstanding anything else contained in this Deed, and subject to the Corporations Act and the Listing Rules (if applicable), the Manager during the term of the Trust may determine to create and issue further interests or Units in the Trust. The purpose of the creation and issue of the further interests or Units may be for any reason including:
 - (i) reduction of debt;
 - (ii) further development of the Real Estate;
 - (iii) acquisition of adjoining land to the Real Estate;
 - (iv) expenditure which is in the opinion of the Manager necessary or desirable for the preservation or advancement of an asset of the Trust; or
 - (v) any other reason where the Manager reasonably believes it is in the best interests of the Unit Holder to do so.
- (b) The further interests or Units created and issued under this clause 11.3 may be of the same class or of a different class to those already on issue.

12. SALE OF REAL ESTATE

- (a) The ultimate sale of the Property may occur:
 - (i) upon termination of the Trust; and
 - (ii) where the Manager is of the opinion it is in the best interests of Unit Holders, but in any event, must occur in accordance with the Asset Management Agreement.
- (b) The Manager will as soon as practicable (but not later than 2 months after settlement of the sale pursuant to clause 12(a)) deal with the proceeds of sale in accordance with clause 8.4 of the Asset Management Agreement.
- (c) Where the ultimate sale of the Property occurred upon termination of the Trust, the Manager will divide the balance on a pro rata basis according to each Unit Holder's Units and distribute it to the relevant Unit Holder or at its direction.

13. WITHDRAWING FROM THE SCHEME

13.1 Right to withdraw

- (a) Subject to the Corporations Act, a Unit Holder may not withdraw from the Trust other than by transfer of Units pursuant to clause 14 or pursuant to a withdrawal offer made by the Manager to Unit Holders under this clause 13 ('Withdrawal Offer').
- (b) The Manager is not at any time obliged to make a Withdrawal Offer.

13.2 Withdrawal Offer

- (a) A Unit Holder may only redeem Units in accordance with the terms of any current Withdrawal Offer made by the Manager under this Deed and not otherwise.
- (b) If there is no Withdrawal Offer currently open for acceptance by Unit Holders, a Unit Holder has no right to redeem Units and thereby withdraw from the Trust.

13.3 Unit Holder cannot deal with Unit after acceptance of Withdrawal Offer

A Unit Holder cannot deal with a Unit after the Unit Holder has accepted a Withdrawal Offer made by the Manager under this clause 13.

13.4 Conditions of withdrawal

The terms of any Withdrawal Offer made by the Manager under this clause 13 may impose conditions including (but not limited to) the following:

- (a) Unit Holders can only redeem Units which have been held for a specified minimum period;
- (b) Unit Holders will only be permitted to redeem a specified percentage of their Units during a specified period; and
- (c) the Redemption Amount not be paid directly to the Unit Holder but be applied on behalf of the Unit Holder to acquire securities in another entity or interests in a managed investment scheme that is registered pursuant to the Corporations Act.

13.5 Buy-back of Units

- (a) While the Trust is Listed, the Manager may, subject to and in accordance with the Corporations Act and any requirements under the Listing Rules, purchase Units on the Exchange and cause the Units to be cancelled.
- (b) No Redemption Amount is payable upon cancellation of the Units bought back on the Exchange under clause 13.5(a).

14. TRANSFER OF UNITS

14.1 Transfer

A Unit Holder may transfer their Units only in accordance with the provisions of this Deed and, in particular, the transferee must agree to be bound by the provisions of this Deed.

14.2 Instrument of Transfer

- (a) Where a Unit is not Officially Quoted:
 - (i) A transfer of a Unit, which is not Officially Quoted, will not be registered unless a stamped transfer of the Units in the Trust is delivered to the Manager together with the Certificate or Certificates (if issued) in respect of the Units to be transferred.
 - (ii) The Manager will not be required to effect any transaction or dealing in any Unit on behalf of or for the benefit of or at the request of any Unit Holder unless the Unit Holder has paid or otherwise provided for, to the Manager's satisfaction, all duties, Taxes, governmental charges, transfer fees, registration fees, brokerage fees and other charges (whether similar to the foregoing or not) which may have become or may be payable in respect of the transaction or dealing. The Manager is entitled, if it thinks fit, to pay and discharge all or any of those duties and charges on behalf of the Unit Holder concerned and retain the amount so paid out of any moneys to which the Unit Holder may be, or become, entitled.
 - (iii) Provided that the Trust is not Listed, the Manager may decline to register any transfer during the period that the Register is closed pursuant to clause 16(g), or for any other reason.
 - (iv) Every instrument of transfer of a Unit which is registered will be retained by the Manager for such period as the Manager may determine, after which (subject to the provisions of any law or this Deed to the contrary) the Manager may destroy it.
 - (v) If the Unit to be transferred is not Officially Quoted, where the Manager refuses to register any instrument of transfer, within 2 months after the date on which the instrument was deposited with the Manager in a registrable form, the Manager will give Notice of the refusal to the Person who deposited it and any instrument of transfer which the Manager refuses to register will (except in the case of suspected fraud) be returned to the Person depositing it upon request by such Person within 2 months of the giving of the Notice.

- (b) Where a Unit is Officially Quoted:
- (i) any transfer of a Unit which is Officially Quoted must be effected in accordance with the Listing Rules;
 - (ii) the form of transfer must be in writing and comply with the Corporations Act and the Listing Rules;
 - (iii) where the Manager refuses to register the transfer, within 5 days after the date on which the instrument of transfer was deposited with the Manager in a registrable form, the Manager will give Notice of the refusal to the person who deposited it and any instrument of transfer which the Manager refuses to register will (except in the case of suspected fraud) be returned to the Person depositing it upon request by such Person within 5 days of the giving of the Notice. The Notice will state the reasons for the refusal.
- (c) The transferor of a Unit remains the holder of the Unit until the name of the transferee is entered in the Register.
- (d) The Manager may decline to register any instrument of transfer where in the Manager's opinion the transfer may contravene any legislation or guidelines issued by or on behalf of the Government of the Commonwealth of Australia in respect of ownership of assets by persons not being Australian persons, or when required to do so by the law, the Corporations Act or any of the Listing Rules.
- (e) Subject to the Listing Rules, the Manager may suspend registration of transfers of Units at the times and for the periods it thinks fit.
- (f) The Manager is not required or obliged to repurchase or purchase any Units from a Unit Holder. A Unit Holder may only withdraw from the Trust by way of a transfer or transmission or as otherwise provided in this Deed.

15. TRANSMISSION

- (a) In the case of the death of a Unit Holder, the survivor of the deceased Unit Holder where they were a joint holder of a Unit, or the executor or administrator of the deceased Unit Holder where they were the sole owner of a Unit, will be the only Person recognised by the Manager as having any title to any Unit registered in their name.
- (b) Subject to clause 15(e), any Person becoming entitled to any Unit in consequence of the death or bankruptcy or lunacy of an Unit Holder or otherwise by operation of law may, upon such evidence being produced as may from time to time be required by the Manager and subject as hereinafter provided, elect either to be registered himself as holder of the Unit or to have some Person nominated by them registered as the holder thereof.
- (c) Subject to clause 15(e), if the Person so becoming entitled will elect to be registered, they will deliver or send to the Manager an executed notice in writing in the form prescribed by the Manager or in such other form as the Manager may approve stating such election. If the Person so becoming entitled elects to have their nominee registered, they will testify the election by delivering or sending to the Manager a form of transfer of the Unit to that nominee. All the provisions of this Deed relating to the registration of transfers of Units will be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy or lunacy of the Unit Holder had not occurred and the notice or transfer was a transfer executed by such Unit Holder.
- (d) A Person becoming entitled to a Unit in consequence of the death, bankruptcy or lunacy of a Unit Holder or otherwise by operation of law will be entitled to receive and may give a discharge of all moneys payable in respect of the Unit but will not be entitled to receive notices of or to attend or vote at any meetings of Unit Holders until the Person has become registered as the holder of the Unit.

- (e) For the purposes of this clause, an application by a personal representative of a deceased Unit Holder for registration as the holder of Units in place of the deceased Unit Holder will be deemed to be an instrument of transfer effecting a transfer of the Unit to the personal representative.
- (f) The production to the Manager of a document that is under the laws of a State or Territory of Australia, sufficient evidence of probate of the will, or letters of administration of the estate of a deceased Unit Holder having been granted to a Person will be accepted by the Manager as sufficient evidence of the grant.

16. REGISTERS

- (a) The Manager will keep and maintain or cause to be kept and maintained an up-to-date Register of Unit Holders in such form and containing such particulars as are required by the Corporations Act or any declaration, exemption or ruling granted or made thereunder, and such other particulars as the Manager may from time to time consider appropriate.
- (b) Subject to clause 16(a), there will be entered in the Register:
 - (i) the names, addresses and descriptions of the Unit Holders from time to time;
 - (ii) the Units from time to time held by each Unit Holder;
 - (iii) the date at which the name of each Unit Holder was entered in the Register in respect of their Units; and
 - (iv) the date at which any person ceased to be the holder of Units.
- (c) The information relating to a Unit Holder (or any of it) may be expunged from the Register at any time after the first day of the Financial Year occurring 7 years after the Financial Year in which the Unit Holder ceased to be the holder of Units.
- (d) Subject to clause 16(e), any Unit Holder will be entitled to:
 - (i) inspect the Register, and any Unit Holder, free of charge, and in the case of any other Person, upon payment for each inspection of the maximum amount prescribed by the Corporations Act or Regulations or such lesser amount as the Manager may from time to time require; and/or
 - (ii) obtain a copy of the Register, free of charge, and in the case of the Unit Holder or other Person, at a charge prescribed by the Manager from time to time provided that any such charge will not exceed (for each copy) the maximum amount prescribed from time to time by the Corporations Act or Regulations,

during normal business hours on any Business Day.

- (e) Clause 16(d) will not require the Manager to make available or provide copies of the Register in excess of their obligations to do so under the Corporations Act.
- (f) The Manager may after receiving a written request from any Unit Holder resident in such State or Territory make available for inspection by the Unit Holder a complete list of all Unit Holders whether or not resident in that State or Territory.
- (g) Provided the Trust is not Listed, the Manager may close the Register or part of the Register for any time or times but so that no part of the Register will be closed for more than 30 days in the aggregate in each calendar year. Closure of the Register if the Trust is Listed must only be in strict adherence to all applicable Listing Rules and as directed by or with the prior consent of the Exchange.
- (h) Each Unit Holder will give the Manager Notice of any change of name or address on the part of such Unit Holder and the Manager, upon receiving such notification, will alter, or cause to be altered, the Register accordingly.

17. REIMBURSEMENT OF MANAGER EXPENSES

- (a) All costs, charges and expenses properly incurred in connection with the establishment, administration, management and winding up of the Trust by the Manager or the performance of its duties under this Deed will be paid out of the Fund, and where the Manager pays such costs, charges and expenses the Manager will, in addition to the remuneration payable under clause 18 be indemnified and will be entitled to be reimbursed out of the Fund in respect of such costs, charges and expenses and any GST payable by the Manager in respect of those costs, charges and expenses.
- (b) Without limiting the generality of clause 17(a), such costs, charges and expenses will include but are not limited to the following:
 - (i) all costs, charges and expenses incurred in connection with the acquisition, improvement, management, custody, transfer, financing or disposal of the Authorised Investments, including commissions, procuration fees, brokerage, legal fees, bank charges and stamp duty;
 - (ii) the fees and expenses of the Auditor;
 - (iii) stamp duty;
 - (iv) all costs, charges and expenses incurred in connection with the borrowing of money on behalf of the Trust or in connection with the Real Estate including stamp duty, establishment fees, legal fees and interest together with discount and acceptance fees in respect of bill facilities;
 - (v) all Taxes and GST (save those payable in respect of the Income of the Manager) whether payable or which may become payable in respect of the Fund;
 - (vi) fees and charges of any regulatory authority including, without limitation, local government, titles office and Office of State Revenue;
 - (vii) fees and expenses of any Approved Valuer and of any solicitor, barrister, broker, computer expert or other expert from time to time employed by the Manager in the discharge of its duties under this Deed but no reimbursement of the fees and expenses of such expert will be paid from the Fund where such expert is appointed to perform the functions of the Manager;
 - (viii) all costs, charges and expenses of and incidental to the preparation, execution and stamping of this Deed, or any deeds or plans supplemental hereto;
 - (ix) asset management fees, project management fees, construction management and development management fees;
 - (x) the costs of convening and holding any meeting of Unit Holders;
 - (xi) costs of printing, postage and other fees in respect of all electronic transfers or cheques, accounts, distribution statements, notices and other documents posted to all or any Unit Holders in accordance with provisions of this Deed including envelopes;
 - (xii) all costs charges and expenses incurred in relation to the preparation and distribution of any periodical or other report or document required by law to be prepared in respect of the Fund or the Real Estate or prepared by the Manager in good faith in respect of the Fund or the Real Estate;
 - (xiii) expenses in connection with the keeping and maintaining of accounting records and registers (including the Register);
 - (xiv) all agents' fees and expenses;
 - (xv) any monies advanced by the Manager (or any other person) to secure the Real Estate including option fees and deposits;
 - (xvi) costs and disbursements incurred by or on behalf of the Manager in connection with the retirement of the other of them and the appointment of a substitute;
 - (xvii) costs and disbursements incurred by the Manager in the initiation, conduct and settlement of any court proceedings to enforce any provisions of the Deed;
 - (xviii) insurance premiums involved in insuring the Real Estate or any Asset;

- (xix) costs and disbursements incurred in the preparation and lodgement of returns under the Corporations Act or any other statute;
 - (xx) costs of acquiring, establishing and developing computer software systems required for the administration of the Trust;
 - (xxi) costs and expenses incurred in conversions, rearrangements or reorganisations that are associated with complying with any law;
 - (xxii) all other costs and disbursements in connection with the management and administration of the Trust and the performance of the functions and duties of the Manager under the Deed;
 - (xxiii) all costs and disbursements in connection with the establishment, management and maintenance of any listing on any exchange or secondary market of the Trust and the performance of the functions and duties of the Manager under the Deed;
 - (xxiv) any costs incurred by the Manager arising out of the matters contained in clause 21;
 - (xxv) all costs, charges and expenses (including legal, accounting, tax, financial and other services) of establishing the Trust and including the preparation, due diligence, registration, promotion and distribution of any document prepared in respect of the Deed, or the Fund;
 - (xxvi) all costs, charges and expenses (including legal, accounting, tax, financial and other services) in respect of the acquisition, refurbishment, leasing and ultimate sale of the Real Estate; and
 - (xxvii) insurances, including insurance premiums payable in respect of any Property, and insurance policies with respect to insurance cover for the Manager, its directors, employees, officers and agents and Compliance Committee members.
- (c) No person will be ineligible or disqualified for payment under this clause because they are related to, or Associates of, the directors of the Manager.
 - (d) The Manager may pay its reimbursement out of the Fund in priority to any claim by the Unit Holders.
 - (e) The Manager will be entitled to pay commission or brokerage to any agent or broker who has introduced a Unit Holder to the Manager, such amount to be paid out of the Manager's own funds. The amount of commission or brokerage may be determined by agreement between the Manager and the agent or broker.
 - (f) All Taxes incurred in connection with the Trust by the Manager will be paid out of the Fund, and where the Manager pays such Taxes, the Manager will in addition to the remuneration payable to it under clause 18 be indemnified and will be entitled to be reimbursed out of the Fund in respect of such Taxes.

18. REMUNERATION OF MANAGER

18.1 Fees payable from the Fund

The Unit Holders acknowledge that:

- (a) subject to clause 18.1(b) and the Manager's right to recoup its expenses under this Deed, no performance fees or management fees are payable to the Manager under this Deed; and
- (b) the Asset Management Agreement particularises certain payments to which Leyshon and AAPIPA are entitled in relation to the performance of their duties as Asset Manager for the Property (as those terms are defined in the Asset Management Agreement) on behalf of Unit Holders. If the Manager makes any such payments, the Manager is entitled to reimbursement of those payments and to be indemnified by the Fund with respect to such payments notwithstanding any other provision of this Deed. Such payments which are the subject of the Asset Management Agreement include:

- (i) A management fee equal to 0.5% per annum of the Fund value calculated monthly and payable monthly in advance for each Financial Year. For the purposes of this sub-clause only, Fund value shall be that amount calculated in accordance with the last audited financial statements of the Trust less any adjustments necessary due to the purchase or sale of Property since the balance date of those last audited financial statements. During the period from the last date of audited financial statements until audited financial statements are next issued, the proforma financial statements of the Trust may be used as the basis for the calculation of this management fee. If any monthly instalments remain unpaid upon the sale of the Property or removal of the Manager, they will be paid upon the date of settlement of the sale of the Property or the date of removal of the Manager, whichever is the earlier. No fee is payable to the Manager where the Manager is removed for reasons of breach of its duties or the law;
 - (ii) An acquisition fee of 2% of the Property's purchase price paid at settlement of acquisition of the Property, payable on the latter of settlement of acquisition of the Property and the raising of \$30 Million in equity. In the event the \$30 Million in equity is not raised by settlement of acquisition of the Property, an additional fee calculated as 6% per annum of the 2% of the Property's purchase price will also form part of the acquisition fee;
 - (iii) A fee of 30% of the Investment Return;
 - (iv) A guarantee fee of 1% per annum of \$10 million payable monthly in arrears for the provision of a \$10 million corporate guarantee to the financiers of a debt facility provided to the Manager on behalf of the Unit Holders;
 - (v) Any other fees to which the Manager is entitled from time to time pursuant to any other provision of this document;
- (c) A redemption fee for each redemption of Units equal to 2% of the Redemption Amount. This fee must be deducted from, and paid out of, the Redemption Price..

18.2 Fees upon removal of the Manager

This clause 18.2 has effect as if its sub-clauses consisted of separate covenants. If sub-clause 18.2(b) becomes invalid or unenforceable for any reason then the invalidity or unenforceability does not affect sub-clause 18.2(c).

- (a) Only clause 18.2(b) or clause 18.2(c) may apply at any one time.
- (b) In the event the Manager is removed as Manager of the Fund without the consent of the Manager, for any reason other than negligence or fraud, in consideration of the work performed by the removed Manager in the establishment of the Trust prior to its removal as Manager, the Manager shall be paid a fee of 2% of the Fund (as valued by an Approved Valuer in the most recent valuation provided to the Manager) which fee is payable immediately prior to the Manager's replacement as Manager of the Trust.
- (c) In the event that clause 18.2(b) is declared or determined to be invalid or unenforceable, or otherwise at the Manager's discretion, the removed Manager may declare that the following provisions alternatively apply in the event of its removal as Manager of the Trust:
 - (i) if the Manager is removed (for reasons other than for a breach of its duties or the law) as the Manager of the Trust, the replacement Manager will cause to be valued the Property as at the date of removal and within 60 days of the removal cause the removed Manager to be paid out of the Trust the performance fee referred to in clause 18.2;
 - (ii) if the removed Manager becomes entitled to a payment pursuant to this clause then its successors as Manager are not entitled to any payment of the performance fee referred to in clause 18.1.

18.3 GST

If any Supply made by the Manager to the Unit Holders under this Deed or any variation to it is a Taxable Supply then:

- (a) in addition to any consideration payable by the Trust to the Manager under this Deed, the Manager shall be entitled to recover from the Trust an additional amount on account of GST, such amount to be equal to the amount of the Manager's GST liability in respect of the Supply calculated in accordance with the GST Act and on the basis that the consideration otherwise payable under this Deed is the GST Value of the Taxable Supply and shall be recoverable at the same time as any of the consideration is payable under this Deed.
- (b) the Manager may in its absolute discretion review the Trust's obligations under clause 18.1 of this Deed and reduce the amount payable by the Trust to the Manager under that clause.
- (c) the Manager and the Unit Holders acknowledge and agree that each Supply made under this Deed is made:
 - (i) on a progressive or periodic basis;
 - (ii) for consideration that is to be provided on a progressive or periodic basis; and
 - (iii) each progressive or periodic component of the Supply is to be treated as a separate Supply.

19. LIABILITY OF THE MANAGER

Without in any way limiting the covenants given by the Manager hereunder and in accordance with the requirements of the Law and without prejudice to any indemnity allowed by law or elsewhere herein given to the Manager it is hereby expressly declared as follows:

- (a) The Manager is authorised to take all actions necessary to give effect to the terms of the Asset Management Agreement.
- (b) Subject to the Corporations Act the Manager will not incur any liability to anyone in respect of any failure to perform or do any act or thing which by reason of any provision of any present or future law of the Commonwealth of Australia or any State or Territory thereof or any ordinance rule regulation or by-law made pursuant thereto or of any decree order or judgment of a competent Court the Manager will be hindered, prevented or forbidden from doing or performing.
- (c) Subject to the Corporations Act the Manager will not be liable to account to any Unit Holder or otherwise for any payments made by the Manager in good faith to any duly empowered authority of the Commonwealth of Australia or any State or Territory (including any local government authority or semi-governmental instrumentality) thereof for Taxes or other charges on the Fund or otherwise or with respect to any transaction under this Deed notwithstanding that any such payment ought not or need not have been made.
- (d) Subject to the Corporations Act, and except in the case of fraud or dishonesty or wilful neglect, the Manager is not responsible to Unit Holders for any loss suffered in respect of the Trust. Without limiting anything in the first sentence of this clause, when acting in good faith without fraud, the Manager will not be liable to any Unit Holder or any future Manager, Unit Holder, or any other person:
 - (i) for loss caused by:
 - (A) the Manager's acts or omissions in reliance on:
 - (I) the Register; or
 - (II) the authenticity of any documents;if the Manager has no reason to believe the relevant material not to be authentic;
 - (B) any act or omission required by law or by any court of competent jurisdiction;

- (C) any particular price or reserve not having been realised;
- (D) any act by the Manager giving effect to the arrangements set out in the Asset Management Agreement;
- (E) any unnecessary payment having been made to any fiscal authority; or
- (F) the act or omission of any operator of any securities title, transfer or holding system; and

to any greater extent than the amount which the Manager is entitled to, and does, recover through its right of indemnity from the Trust in accordance with this Deed.

- (e) The Manager may validly act upon the opinion or advice of or information obtained from barristers and solicitors whether instructed by the Manager or by any third party, and the Manager may act upon any statement of or information obtained from any bankers, accountants, Approved Valuers or other Persons believed by the Manager in good faith to be expert in relation to the matters upon which they are consulted. The Manager will not be liable for anything done or suffered by it in good faith (which will not include any loss occasioned to a Unit Holder to the extent that such loss may be attributable to the Manager's neglect or default) in reliance upon such opinion, advice, statement or information provided that:
 - (i) any such barristers, solicitors, bankers, accountants, Approved Valuers and other Persons consulted are independent of the Manager; and
 - (ii) in any case where the Manager is seeking to be indemnified out of the Fund in relation to any matters upon which such bankers, accountants, Approved Valuers or other Persons have been consulted the Manager undertakes to supply the Unit Holders, at its own expense, with all information in its possession or over which it has control which may be relevant to any decision by them to so indemnify the Manager.
- (f) Except so far as herein otherwise expressly provided, the Manager will as regards all the trusts, powers, authorities and discretions vested in it, have absolute and uncontrolled discretion as to the exercise thereof, whether in relation to the manner or as to the mode of and time for the exercise thereof, and in the absence of fraud or breach of trust, the Manager will be in no way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof.
- (g) Subject to any statute or rule of law, nothing in this Deed will prevent the Manager or any subsidiary of the Manager or the directors or officers of the Manager or of such subsidiary from at any time contracting or acting in any capacity as representative or agent or entering into any financial, banking, agency or other transaction with the other of them or any Unit Holder or any company in or with which any part of the Fund is invested by the Manager in the performance of any of the duties or obligations imposed upon the Manager pursuant to the terms of this Deed, and provided further that any such person or corporation will act in connection with such transactions in a fiduciary relationship of utmost good faith to all Unit Holders.
- (h) The Manager may appoint any officer (whether jointly or severally) to exercise for or on behalf of the Manager all or any of the powers and authorities exercisable by the Manager under the provisions of this Deed.
- (i) The Manager will be entitled to rely on any person as to the validity of any signature on any transfer form, application or other instrument given under the provisions of this Deed and will not in any way be liable to make good out of its own funds any loss incurred by any person in the event of such signature being forged or otherwise ineffective, which loss (if any) will, subject to any right of reimbursement from any other person be treated as an expense relating to the Trust.
- (j) No Unit Holder will be entitled to require the transfer to him of any Asset nor be entitled to interfere with or question the exercise or non-exercise by the Manager of any of the trusts,

powers, authorities or discretions conferred upon them by this Deed or in respect to any Asset.

- (k) Should the Manager purchase any Authorised Investment in regard to which there is a Liability, the Manager will have a right of indemnity in respect of any such Liability.
- (l) Except as modified or excluded by the Deed, all powers authorities and discretions vested in and all indemnities allowed to trustees pursuant to the provisions of the *Trusts Act 1973 (Old)* or in equity or at common law are deemed to be included in this Deed and all such powers authorities and discretions are vested in and such indemnities are allowed to the Manager.
- (m) The Manager will be entitled to commence, institute, carry on and prosecute all actions, suits and proceedings at law to procure compliance with the provisions of this Deed, and to obtain and recover any moneys payable to it or to enforce the payment thereof or for damages against any person arising out of any loss suffered by Unit Holders and to pursue the same to judgment, decree, order and execution or to discontinue, become non-suited in or abandon or otherwise to act therein as the Manager may determine, and the Manager will be indemnified in respect of all costs, charges and expenses incurred by it in respect to any such action, suit or proceeding.

20. DUTIES OF THE MANAGER

20.1 Property to be valued before Dealing

The Manager will ensure that the Property is not acquired or disposed of by, or on behalf of, the Manager, unless it has been valued by an Approved Valuer.

20.2 Valuer's Qualifications

The Manager may, from time to time, appoint and instruct an Approved Valuer to value the Property of the Trust.

20.3 Valuer to be Independent

The Manager will strive to ensure that the appointed Approved Valuer does not have a pecuniary interest that could conflict with the proper valuation of the Property.

20.4 Valuation Criteria

For the purposes of determining the value of the Property, the Manager may include in its instructions to the Approved Valuer instructions to the effect that the method by which the Property is to be valued is that which assumes:

- (a) that it takes into account the value of all estates in the Property that are not held by the Manager; and
- (b) that the price at which the Property may reasonably be expected to be sold at the date of the valuation assumes:
 - (i) a willing, but not anxious, buyer and seller; and
 - (ii) a reasonable period within which to negotiate the sale, having regard to the nature and situation of the Property and the state of the market for properties of the same kind; and
 - (iii) that the Property was reasonably exposed to that market; and
 - (iv) that no account is taken of the value or other advantage or benefit, additional to market value, to the buyer incidental to ownership of the Property being valued; and
 - (v) that the owners have sufficient resources to allow a reasonable period for the exposure of the properties for sale; and

- (vi) that the owners have sufficient resources to negotiate an agreement for the ultimate sale of the Property;
- (c) that the Approved Valuer only takes account of instructions given by the Manager; and
- (d) that the valuation is based on all the information that the Approved Valuer needs for the purposes of the valuation being made available by or on behalf of the Manager.

20.5 Instructions about Valuation Report

The Manager will instruct the Approved Valuer that the report of the valuation may:

- (a) state whether or not the report includes a valuation of the Property that is derived from the earnings obtained from the Property, and, if it does so, set out the earnings of the Property and the multiple of those earnings used to calculate the valuation (in this sub-clause called 'capitalised value'); and
- (b) set out, to the best of the knowledge of the Approved Valuer, the sale prices and capitalised values of properties of a similar nature and situation to the Property being valued that have been sold within a reasonable period before the preparation of the report; and
- (c) if prices and capitalised values referred to in the preceding sub-clause are not ascertainable by the Approved Valuer, contain a statement to that effect and set out prices at which willing, but not anxious, buyers and sellers have been negotiating the sale of properties of a similar nature and situation to the Property within a reasonable period before the preparation of the report; and
- (d) if the property referred to in clauses 20.5(b) and 20.5(c) are not ascertainable by the Approved Valuer, contain a statement to that effect and state whether or not the earnings for a period in respect of any lease or licence in the Property (in this sub-clause called 'first amount') that is not held by the Trustee, are more or less than, or equal to, the earnings for the period in respect of the lease or licence that might reasonably be expected if that period commenced at the date of the valuation of the Property (in this sub-clause called 'second amount'); and
- (e) if in any case the first amount is less than the second amount, contain a calculation of the capitalised value of the lease or licence derived from the second amount and include a statement of:
 - (i) the proportion of the period to which the earnings that comprise that sum relate; and
 - (ii) the amount of the costs of the Trust in relation to those earnings; and
 - (iii) any other assumption on which the calculation is based.

20.6 Valuation where significant change

- (a) The Manager will cause the Property to be valued at regular intervals and in any event at such times as the Manager reasonably believes it is in the interest of Unit Holders that there has been a significant change in the value of the Property and that is in the best interests of the Unit Holders to do so.

20.7 Other duties of the Manager

- (a) In addition to other duties of the Manager set out in this document, the Manager will:
 - (i) act honestly;
 - (ii) exercise the degree of care and diligence that a reasonable person would exercise if they were in the Manager's position;
 - (iii) act in the best interests of Unit Holders and, if there is a conflict between the Unit Holder's interests and its own interests, give priority to the Unit Holder's interests;
 - (iv) treat the Unit Holders who hold Units of the same class equally and Unit Holders who hold Units of different classes fairly;

- (v) not make use of information acquired through being the Manager in order to:
 - (A) gain an improper advantage for itself or another person; or
 - (B) cause detriment to the Unit Holders;
 - (vi) ensure that the Trust's constitution meets the requirements of sections 601GA and 601GB of the Corporations Act;
 - (vii) comply with the Trust's compliance plan;
 - (viii) ensure that Property is:
 - (A) clearly identified as Property; and
 - (B) held separately from property of the Manager and property of any other Trust or managed investment scheme (as defined in the Corporations Act);
 - (ix) ensure that all payments out of Property are made in accordance with this document and the Corporations Act;
 - (x) report to ASIC any breach of the Corporations Act that:
 - (A) relates to the Trust; and
 - (B) has had, or is likely to have, a materially adverse effect on the interests of Unit Holders;
 as soon as practicable after it becomes aware of the breach; and
 - (xi) carry out or comply with any other duty, not inconsistent with the Corporations Act, that is conferred on the Manager by this document.
- (b) The Manager is expressly authorised to open and maintain bank accounts on behalf of the Trust.
 - (c) The Manager will keep or cause to be kept lists and records of Unit Holders and their Units.
 - (d) The Manager will ensure that Certificates are issued for Unit Holders' Units and are replaced when necessary. The Manager will cause the issue of Certificates to Unit Holders setting out their respective Units not more than 2 months after the allotment of those Units or within such other time period as may be required by the Listing Rules.
 - (e) The Manager will treat Unit Holders equally and fairly between them.
 - (f) The Manager may take such steps as will be necessary to ensure that this Deed is amended from time to time to comply with any Relevant Law affecting the same.
 - (g) The Manager will lodge for each Financial Year such tax returns on behalf of the Trust as may be required by the Tax Act.
 - (h) The Manager will for each Financial Year forward to each Unit Holder a statement of the necessary details to assist the Unit Holder in completion of those parts of any tax return for that Financial Year.
 - (i) The Manager will ensure that no Real Estate will be purchased on behalf of the Unit Holders other as authorised under this Deed.
 - (j) The Manager will insure and keep insured in the name of the Manager if appointed on behalf of the Trust, the Property to its full insurable value on a replacement and reinstatement basis and its rents and profits against loss or damage by fire and against the other usual risks against which a prudent owner of property of a similar type to the Property would insure. The cost of all such insurances will be borne by the Fund.

20.8 Preparation of financial statements

- (a) A financial report and directors' report for the Trust must be prepared for each Financial Year in accordance with the requirements of the Corporations Act.
- (b) The financial report for a Financial Year must comply with the Accounting Standards.
- (c) The financial report must comply with any further requirements in the Regulations.

20.9 True and fair view

The Financial Statements and notes for a Financial Year must give a true and fair view of:

- (a) the financial position and performance of the Trust; and
- (b) if consolidated Financial Statements are required - the financial position and performance of the consolidated entity.

20.10 Audit of annual financial report

- (a) The Trust must have the financial report for the Financial Year audited in accordance with Division 3 of Part 2M.3 of Chapter 2M of the Corporations Act and obtain an Auditors report.
- (b) The Manager must report to Unit Holders for a Financial Year by either:
 - (i) sending Unit Holders copies of:
 - (A) financial report for the year; and
 - (B) a report on the Trust for the year similar in nature to a directors' report required by section 298 - 300 of the Corporations Act; and
 - (C) the Auditor's report on the financial report; or
 - (ii) sending Unit Holders a concise financial report for the year of the complies, so far as is possible with the Corporations Act.
- (c) The Trust must report to its Unit Holders within 4 months after the end of the Financial Year.

20.11 Unit Holders choices for Annual Financial Information

- (a) A Unit Holder may request the Manager:
 - (i) not to send them the annual financial reports; or
 - (ii) to send them a full financial report and the director's report and Auditors report.
- (b) A request may be a standing request or for a particular Financial Year. The Unit Holder is not entitled to a report for a Financial Year earlier than the one before the Financial Year in which the request is made.
- (c) The time for complying with a request under paragraph (a)(ii) is:
 - (i) 7 days after the request is received; or
 - (ii) 4 months after the end of the Financial Year;whichever is the later.
- (d) A full financial report, director's report and Auditors report are to be sent free of charge unless the Unit Holder has already received a copy of them free of charge.

21. RIGHTS AND POWERS OF THE MANAGER

21.1 General Powers

Subject to the provisions of this Deed, the Manager has all the powers and rights over and in respect of the Fund as if it were the absolute and beneficial owner of the Fund.

21.2 Power to appoint agent (section 601FB(2))

The Manager has power to appoint an agent, or otherwise engage a person, to do anything that it is authorised to do in connection with the Trust.

21.3 Authority for agent (section 601FB(3))

An agent appointed, or a person otherwise engaged, by:

- (a) the agent or person referred to in clause 21.2; or
- (b) a person who is taken under this clause to be an agent of the Manager,

to do anything that the Manager is authorised to do in connection with the Trust is taken to be an agent appointed by the Manager to do that thing for the purposes of clause 21.2.

21.4 Liability of agent (section 601FB(4))

If:

- (a) an agent holds any Assets on behalf of the Manager; and
- (b) the agent is liable to indemnify the Manager against any loss or damage that:
 - (i) the Manager suffers as a result of a wrongful or negligent act or omission of the agent; and
 - (ii) relates to a failure by the Manager to perform its duties in relation to the Trust;then any amount recovered under the indemnity forms part of the Assets.

21.5 Management Powers

The Unit Holders hereby authorise the Manager to generally act and have such power in the management of the Fund as it would if it was the owner thereof and including without limitation the power to:

- (a) manage, improve and enhance the value of the Fund and to do all matters incidental thereto;
- (b) collect and receive all income and capital receipts arising from the Fund;
- (c) sell or dispose of any part or all of the Property when determined appropriate;
- (d) invest any surplus funds in an Authorised Investment or as may be required under any financing arrangement;
- (e) take or defend any Court or Arbitration action to protect the interests of the Unit Holders;
- (f) deal with any authorities (public or otherwise);
- (g) keep records relating to all financial transactions and prepare any necessary Income Tax, GST and other returns to report on such matters to Unit Holders and to pay the costs and expenses related thereto;
- (h) nominate auditors;
- (i) operate any accounts and cheque accounts as are deemed necessary by the Manager;
- (j) delegate its authorities to such persons or corporations as it thinks fit;
- (k) appoint any financial, legal, accounting, property valuer, architect, engineer, project manager, development manager or other expert to advise it in relation to the exercise of its authorities referred to in this clause;
- (l) make all necessary payments required for the proper management of the Trust including payments to be made under any financial arrangement in respect of the Real Estate and the interests of the Unit Holders;
- (m) negotiate and make any financing arrangements (including any borrowing and raising any funds or negotiating any financial instruments or other facilities) in the opinion of the Manager required for the purpose of any of the matters set out herein or otherwise in the interest of the Unit Holders;
- (n) negotiate and make arrangements and agreements for the purpose of protecting the Unit Holders and their interests from adverse movements in interest rates including but not

limited to entering into forward rate contracts, the payment of fees and premiums on hedging contracts entered into to promote such protection;

- (o) employ any necessary personnel or engage contractors and subcontractors as the Manager deems necessary; and
- (p) generally to do all things necessary to give effect to this Deed.

21.6 Specific Powers

Without limiting the application of clause 21.1, the Manager may:

- (a) grant mortgages, fixed and floating charges or third party mortgages raise funds and sign such other documents including guarantees or indemnities in favour of the Financier or any other financier over the Property and the income of the Property as are required to obtain any loans or any other finance or facility the Manager considers necessary or prudent;
- (b) enter into leases or other agreements relating to the Property;
- (c) sign and do all things as required for the management of the Trust;
- (d) refurbish the Property; and
- (e) sell the Property when deemed appropriate.

21.7 Contracting Services

- (a) Nothing in this Deed will prohibit the Manager from contracting with or obtaining the services of or remunerating any Associate or related party of the Manager, or a director or shareholder of the Manager.
- (b) Where the Manager intends to conduct business in accordance with clause 7(a), it will at all times comply with the requirements of Part 5C.7 of the Corporations Act.

22. RETIREMENT OR REMOVAL OF MANAGER

22.1 Retirement of the Manager

- (a) If the Manager wants to retire, it must call a Unit Holders' meeting to explain its reason for wanting to retire and to enable the Unit Holders to vote on an Extraordinary Resolution to choose a new Manager.
- (b) If the Unit Holders choose a manager pursuant to clause 22.1(a) and that person has consented, in writing, to becoming the new Manager:

22.2 Removal of the Manager by Unit Holders

If the Unit Holders want to remove the Manager, they must firstly comply with the provisions of clause 37 of this Deed and then call a meeting of Unit Holders to consider and vote on:

- (a) an Extraordinary Resolution that the current Manager should be removed; and
- (b) an Extraordinary Resolution choosing a Person to be the new Manager.

22.3 Obligations of Former Manager

If the Manager of the Trust changes, the former Manager must:

- (a) as soon as practicable give the new Manager any books in the former Manager's possession or control that the Corporations Act requires to be kept in relation to the Trust; and
- (b) give other reasonable assistance to the new Manager to facilitate the change of manager.

22.4 Rights, obligations and liabilities of former Manager

- (a) If the Manager of the Trust changes, the rights, obligations and liabilities of the former Manager in relation to the Trust become rights, obligations and liabilities of the new Manager.
- (b) Despite clause 24.4(a), the following rights and liabilities remain rights and liabilities of the former Manager:
 - (i) any right of the former Manager to be paid fees for the performance of its functions before it ceased to be the manager;
 - (ii) any right of the former Manager to be indemnified for expenses it incurred before it ceased to be the manager;
 - (iii) any right, obligation or liability that the former Manager had as a Unit Holder in the Trust; and
 - (iv) any liability for which the former Manager could not have been indemnified out of the property of the Trust if it had remained the Trust's manager.

22.5 Forced Retirement

The Manager will retire in the following circumstances:

- (a) if the Manager is placed into liquidation, other than for the purpose of amalgamation, reconstruction or a purpose of a similar kind, or in official management;
- (b) if the Manager ceases to carry on business;
- (c) if a receiver, or a receiver and manager is appointed in relation to the property of the Manager and is not removed or withdrawn within 30 days of the appointment.

23. AUDITOR

23.1 Appointment

- (a) The Manager will appoint the Auditor. The appointments will be a registered company auditor according to the provisions of the Corporations Act.
- (b) The appointee may be the auditor of the Manager unless otherwise determined by an Ordinary Resolution of Unit Holders.
- (c) The remuneration of the Auditor shall be determined by the Manager and be paid as an expense of the Trust. Subject to the Corporations Act the Auditor can be one and the same person or different persons as the Manager may determine.

23.2 Removal of Auditor by Unit Holder

The Unit Holders may at any time cause the Auditor to retire from its office by:

- (a) lodging with the Manager a written request signed by the holders of at least 75% of the Units (determined as at the date the request is lodged) requesting that the Auditor retire from its office; or
- (b) resolving, by Extraordinary Resolution, that the Auditor be requested to retire from its office,

and in either event, the Manager shall by notice to the Auditor remove them, and where a majority of the Unit Holders in writing or pursuant to such Special Resolution have nominated a person to be the new auditor and that person is qualified to be the Auditor, the Manager shall appoint that person to be the new auditor.

23.3 Vacancy

In the event of any vacancy in the office of Auditor occurring under this clause or otherwise, the Manager shall appoint the Auditor.

24. MEETINGS OF UNIT HOLDERS

24.1 Manager's power to call Unit Holder's meeting

The Manager may call a meeting of the Unit Holders at any time.

24.2 Unit Holders' power to call a meeting

- (a) The Manager must call and arrange to hold a meeting of the Unit Holders to consider and vote on a proposed resolution on the request of the Unit Holders with at least 10% of the votes that may be cast on the resolution;
- (b) The request by the Unit Holders must:
 - (i) be in writing; and
 - (ii) state any resolution to be proposed at the meeting; and
 - (iii) be signed by the Unit Holders proposing to move the resolution.
- (c) The request may be accompanied by a statement about the proposed resolution provided by the Unit Holders making the request.
- (d) Separate copies of a document setting out the request and statement (if any) may be used for signing by Unit Holders if the wording of the request and statement (if any) is identical in each copy.
- (e) The percentage of the votes that Unit Holders have is to be worked out as at the midnight before the request is given to the Manager.
- (f) The Manager must call the meeting within 21 days after the request is given to it. The meeting must be held not later than 2 months after the request is given to the Manager.
- (g) The Manager must give to each of the Unit Holders a copy of the proposed resolution and statement (if any) at the same time, or as soon as practicable afterwards, as it gives notice of the meeting. The Manager must distribute the copies in the same way in which it gives notice of the meeting.
- (h) The Manager does not have to distribute a copy of the resolution or statement if either is more than 1,000 words long or defamatory.
- (i) The Manager is responsible for the expenses of calling and holding the meeting and making the distribution. The Manager may meet those expenses from the Fund.

24.3 Failure of Manager to call meeting of the Unit Holders

- (a) Unit Holders with more than 50% of the votes carried by Units held by the Unit Holders who make a request under 24.2 may call and arrange to hold a meeting of the Unit Holders and distribute the statement (if any) if the Manager does not do so within 21 days after the request is given to the Manager.
- (b) The meeting must be called and the statement is to be distributed in the same way, so far as is possible, in which meetings of the Unit Holders may be called by the Manager and information is distributed to Unit Holders by the Manager. The meeting must be held not later than 3 months after the request is given to the Manager.
- (c) To call the meeting the Unit Holders requesting the meeting may ask the Manager for a copy of the Register. The Manager must give the Unit Holders requesting the meeting the copy of the Register without charge.

- (d) The reasonable expenses of calling the meeting must be paid by the Trust.

24.4 Calling of meetings of Unit Holders by Unit Holders

- (a) Unit Holders who hold Units carrying at least 50% of the votes that may be cast at a meeting of Unit Holders may call and arrange to hold a meeting of the Unit Holders to consider and vote on a proposed Special Resolution or a proposed Extraordinary Resolution. The Unit Holders calling the meeting must pay the expenses of calling and holding the meeting.
- (b) The meeting must be called in the same way, so far as is possible, in which meetings of the Unit Holders may be called by the Manager.
- (c) The percentage of the votes carried by Units that Unit Holders hold is to be worked out as at the midnight before the meeting is called.

25. HOW TO CALL MEETINGS OF UNIT HOLDERS

25.1 Notice of Meetings

- (a) At least 21 days' notice must be given of a meeting of Unit Holders.
- (b) Written notice of a meeting of Unit Holders must be given to:
 - (i) each Unit Holder entitled to vote at the meeting;
 - (ii) each director of the Manager; and
 - (iii) the Auditor.
- (c) Notice to joint Unit Holders need only be given to the joint Unit Holders named first in the Register.
- (d) The Manager may give notice of the meeting to a Unit Holder:
 - (i) personally; or
 - (ii) by sending it by post to the address for the Unit Holder in the Register or an alternative address (if any) nominated by the Unit Holder; or
 - (iii) by sending it to the fax number or electronic address (if any) nominated by the Unit Holder.
- (e) A defect in the notice given or failure to receive the notice does not invalidate a meeting.
- (f) A notice of meeting sent by post is taken to be given 3 days after it is posted. A notice of meeting sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent.

25.2 Auditor entitled to other communications

The Manager must give the Auditor all communications relating to the meeting that a Unit Holder is entitled to receive.

25.3 Contents of Notice of Meeting of Unit Holders

- (a) A notice of a meeting of Unit Holders must:
 - (i) set out the place, date and time for the meeting (and, if the meeting is to be held in 2 or more places, the technology that will be used to facilitate this);
 - (ii) state the general nature of the meeting's business;
 - (iii) if a Special Resolution or an Extraordinary Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution or Extraordinary Resolution and state the resolution; and
 - (iv) contain a statement setting out the following information:
 - (A) that the Unit Holder has a right to appoint a proxy;

- (B) that the proxy does not need to be a Unit Holder; and
- (C) that if the Unit Holder appoints 2 proxies the Unit Holder may specify the proportion or number of votes the proxy is appointed to exercise.

25.4 Notice of adjourned meetings

When a meeting is adjourned, a new notice of the adjourned meeting must be given if the meeting is adjourned for one month or more.

26. UNIT HOLDERS' RIGHTS TO PUT RESOLUTIONS AT MEETINGS OF UNIT HOLDERS

26.1 Unit Holders' resolutions

- (a) The following Unit Holders may give the Manager notice of a Special Resolution or an Extraordinary Resolution that they propose to move at a meeting of Unit Holders:
 - (i) Unit Holders with at least 75% of the votes that may be cast on the resolution; or
 - (ii) at least 50 Unit Holders who are entitled to vote at a meeting of Unit Holders.
- (b) The notice must:
 - (i) be in writing;
 - (ii) set out the wording of the proposed resolution; and
 - (iii) be signed by the Unit Holders giving the notice.
- (c) Separate copies of a document setting out the notice may be used for signing by Unit Holders if the wording of the notice is identical in each copy.
- (d) The percentage of the votes that Unit Holders have is to be worked out as at the midnight before the Unit Holders give the notice.

26.2 Manager giving notice of Unit Holders' resolutions

- (a) If a Manager has been given notice of a Special Resolution or an Extraordinary Resolution under 26.1, the resolution is to be considered at the next meeting of Unit Holders that occurs more than 2 months after the notice is given.
- (b) The Manager must give all the Unit Holders notice of the resolution at the same time, or as soon as practicable afterwards, and in the same way, as it gives notice of a meeting.
- (c) The Manager is responsible for the cost of giving Unit Holders notice of the resolution if the Manager receives the notice in time to send it out to Unit Holders with the notice of meeting.
- (d) The Unit Holders requesting the meeting are jointly and individually liable for the expenses reasonably incurred by the Manager in giving Unit Holders notice of the resolution if the Manager does not receive the Unit Holders' notice in time to send it out with the notice of meeting.
- (e) The Manager need not give notice of the resolution:
 - (i) if it is more than 1,000 words long or defamatory; or
 - (ii) if the Unit Holders making the request are to bear the expenses of sending the notice out, unless the Unit Holders give the Manager a sum reasonably sufficient to meet the expenses that it will reasonably incur in giving the notice.

26.3 Unit Holders' statements to be distributed

- (a) Unit Holders may request a Manager to give to all its Unit Holders a statement provided by the Unit Holders making the request about:
 - (i) a resolution that is proposed to be moved at a meeting of Unit Holders; or

- (ii) any other matter that may be properly considered at a meeting of Unit Holders.
- (b) The request must be made by Unit Holders with at least 10% of the votes that may be cast on the resolution;
- (c) The request must be:
 - (i) in writing; and
 - (ii) signed by the Unit Holders making the request; and
 - (iii) given to the Manager.
- (d) Separate copies of a document setting out the request may be used for signing by Unit Holders if the wording of the request is identical in each copy.
- (e) The percentage of the votes that Unit Holders have is to be worked out as at the midnight before the request is given to the Manager.
- (f) After receiving the request, the Manager must distribute to all the Unit Holders a copy of the statement at the same time, or as soon as practicable afterwards, and in the same way, as it gives a notice of a meeting.
- (g) The Unit Holders making the request are jointly and individually liable for the expenses reasonably incurred by the Manager in making the distribution if the Manager does not receive the statement in time to send it out with the notice of meeting.
- (h) The Manager need not comply with the request:
 - (i) if the statement is more than 1,000 words long or defamatory; or
 - (ii) if the Unit Holders making the request are responsible for the expenses of the distribution, unless the Unit Holders give the Manager a sum reasonably sufficient to meet the expenses that it will reasonably incur in making the distribution.

27. HOLDING MEETINGS OF UNIT HOLDERS

27.1 Time and place of meeting of Unit Holder

A meeting of Unit Holders must be held at a reasonable time and place.

27.2 Technology

A Manager may hold a meeting of the Unit Holders at 2 or more venues using any technology that gives the Unit Holders as a whole a reasonable opportunity to participate.

27.3 Quorum

- (a) The quorum for an Ordinary Resolution shall be at least 1 person holding or representing by proxy or attorney at least 10% of the Units by both number and value. The quorum necessary for a Special Resolution shall be at least 2 persons holding or representing by proxy or attorney at least 20% of the Units by both number and value. The quorum for an Extraordinary Resolution shall be at least 2 persons holding or representing by proxy or attorney, at least 51% of the Units by value. If a quorum is not present within 30 minutes of the time specified for a meeting, the meeting will be adjourned to a date and time 7 days after the original time of the meeting and at the same place as the original meeting by written notice to all parties. Any party in attendance (in person or by alternate) at that adjourned meeting will constitute a quorum.
- (b) In determining whether a quorum is present, each individual attending as a proxy or body corporate representative is to be counted separately. However, if a Unit Holder has appointed more than one proxy or representative, these proxies or representatives only count as one person. If an individual is attending both as a Unit Holder and as a proxy or body corporate representative they shall all only be counted as one individual.

- (c) A meeting of Unit Holders that does not have a quorum present within 30 minutes after the time for the start of the meeting set out in the notice of meeting is adjourned to the date, time and place the Manager specifies. If the Manager does not specify one (1) or more of those things, the meeting is adjourned to:
 - (i) if the date is not specified—the same day in the next week; and
 - (ii) if the time is not specified—the same time; and
 - (iii) if the place is not specified—the same place.
- (d) If no quorum is present at the resumed meeting within 30 minutes after the time for the start of the meeting, the meeting is dissolved.

27.4 Chairing meetings of Unit Holders

- (a) Subject to clauses 27.4(b) and 27.4(c), the Manager may, in writing, appoint an individual to chair a meeting of Unit Holders.
- (b) The Unit Holders present at a meeting called by the Manager must elect a Unit Holder present to chair the meeting (or part of it) if:
 - (i) a chairperson has not previously been appointed to chair the meeting; or
 - (ii) a previously appointed chairperson is not available, or declines to act for the meeting (or part of the meeting).
- (c) The Unit Holders present at a meeting called under clause 24.2, clause 24.3 or clause 24.4 must elect a Unit Holder present to chair the meeting.

27.5 Auditors' right to be heard at meetings of Unit Holders

- (a) The Auditor are entitled to attend any meeting of the Unit Holders.
- (b) An auditor is entitled to be heard at the meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.
- (c) An auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any meeting of the Unit Holders.

27.6 Adjourned meetings

- (a) A resolution passed at a meeting resumed after an adjournment is passed on the day it was passed.
- (b) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

28. PROXIES AND BODY CORPORATE REPRESENTATIVES

28.1 Who can appoint a proxy

- (a) A Unit Holder who is entitled to attend and cast a vote at a meeting of Unit Holders may appoint a person as the Unit Holder's proxy to attend and vote for the Unit Holder at the meeting.
- (b) The appointment may specify the proportion or number of votes that the proxy may exercise.
- (c) A Unit Holder may appoint one or 2 proxies. If the Unit Holder appoints 2 proxies and the appointment does not specify the proportion or number of the Unit Holder's votes each proxy may exercise, each proxy may exercise half of the votes.
- (d) Fractions of votes resulting from the application of clauses 28.1(b) and 28.1(c) are to be disregarded.

28.2 Rights of proxies

- (a) A proxy appointed to attend and vote for a Unit Holder has the same rights as the Unit Holder:
 - (i) to speak at the meeting; and
 - (ii) to vote (but only to the extent allowed by the appointment).
- (b) A proxy is entitled to vote on a show of hands.
- (c) A proxy's authority to speak and vote for a Unit Holder at a meeting is suspended while the Unit Holder is present at the meeting.

28.3 Manager sending appointment forms or lists of proxies must be sent to all Unit Holders

If the Manager sends a Unit Holder a proxy appointment form for a meeting or a list of persons willing to act as proxies at a meeting:

- (a) if the Unit Holder requested the form or list—the Manager must send the form or list to all Unit Holders who ask for it and who are entitled to appoint a proxy to attend and vote at the meeting; or
- (b) otherwise—the Manager must send the form or list to all its Unit Holders entitled to appoint a proxy to attend and vote at the meeting.

28.4 Appointing a proxy

- (a) An appointment of a proxy is valid if it is signed by the Unit Holder making the appointment and contains the following information:
 - (i) the Unit Holder's name and address;
 - (ii) the Trust's name;
 - (iii) the proxy's name or the name of the office held by the proxy; and
 - (iv) the meetings at which the appointment may be used.
- (b) An appointment of a proxy remains valid even if clause 28.4(a) is not strictly complied with, provided in the reasonable opinion of the Manager the intentions of the Unit Holder is clear.
- (c) An undated appointment is taken to have been dated on the day it is given to the Manager.
- (d) An appointment may specify the way the proxy is to vote on a particular resolution. If it does:
 - (i) the proxy need not vote on a show of hands, but if the proxy does so, the proxy must vote that way; and
 - (ii) if the proxy has 2 or more appointments that specify different ways to vote on the resolution—the proxy must not vote on a show of hands; and
 - (iii) if the proxy is the chairperson—the proxy must vote on a poll, and must vote that way; and
 - (iv) if the proxy is not the chairperson—the proxy need not vote on a poll, but if the proxy does so, the proxy must vote that way.
- (e) If a proxy is also a Unit Holder, this clause does not affect the way that the person can cast any votes they hold as a Unit Holder.
- (f) The appointment of a proxy does not have to be witnessed.
- (g) The later appointment of a proxy revokes an earlier appointment, if both appointments could not be validly exercised at the meeting.

28.5 Proxy documents

- (a) For an appointment of a proxy for a meeting of Unit Holders to be effective, the following documents must be received by the Manager at least 48 hours before the meeting:
 - (i) the proxy's appointment; and
 - (ii) if the appointment is signed by the appointor's attorney, the authority under which the appointment was signed or a certified copy of the authority.
- (b) If a meeting of Unit Holders has been adjourned, an appointment and any authority received by the Manager at least 48 hours before the resumption of the meeting are effective for the resumed part of the meeting.
- (c) A Manager receives an appointment authority when it is received at any of the following:
 - (i) the Manager's registered office;
 - (ii) a fax number at the Manager's registered office; or
 - (iii) a place, fax number or electronic address specified for the purpose in the notice of meeting.

28.6 Ineffective appointment

An appointment of a proxy is ineffective if:

- (a) the Manager receives either or both the appointment or authority at a fax number or electronic address; and
- (b) a requirement (if any) in the notice of meeting that:
 - (i) the transmission be verified in a way specified in the notice; or
 - (ii) the proxy produce the appointment and authority (if any) at the meeting;is not complied with.

28.7 Validity of proxy vote

- (a) Unless the Manager has received written notice of the matter before the start or resumption of the meeting at which a proxy votes, a vote cast by the proxy will be valid even if, before the proxy votes:
 - (i) the appointing Unit Holder dies; or
 - (ii) the Unit Holder is mentally incapacitated; or
 - (iii) the Unit Holder revokes the proxy's appointment; or
 - (iv) the Unit Holder revokes the authority under which the proxy was appointed by a third party; or
 - (v) the Unit Holder transfers the Units in respect of which the proxy was given.
- (b) A proxy who is not entitled to vote on a resolution as a Unit Holder may vote as a proxy for another Unit Holder who can vote if their appointment specifies the way they are to vote on the resolution and they vote that way.

28.8 Body corporate representative

- (a) A body corporate may appoint an individual as a representative to exercise all or any of its powers at a meeting of Unit Holders. The appointment may be a standing one.
- (b) The appointment must set out what the representative is appointed to do and may set out restrictions on the representative's powers. If the appointment is to be by reference to a position held, the appointment must identify the position.
- (c) A body corporate may appoint more than one representative but only one representative may exercise the body's powers at any one time.

- (d) Unless otherwise specified in the appointment, the representative may exercise, on the body corporate's behalf, all of the powers that the body could exercise at a meeting or in voting on a resolution.

29. VOTING AT MEETINGS OF UNIT HOLDERS

29.1 How many votes a Unit Holder has

- (a) On a show of hands, each Unit Holder has one vote.
- (b) On a poll, each Unit Holder has one vote for each dollar of equity subscribed for that Unit Holder's Unit.

29.2 Jointly held Units

If a Unit is held jointly and more than one Unit Holder votes in respect of that Unit, only the vote of the Unit Holder whose name appears first in the Register counts.

29.3 Manager and associates cannot vote if interested in resolution

Other than in respect of a resolution pursuant to clause 22.2, the Manager and its Associates are not entitled to vote their Units on a resolution at a meeting of Unit Holders if they have an interest in the resolution or matter other than as a Unit Holder.

29.4 How to determine the value of a Unit

Subject to the Corporations Act, each Unit Holder on a poll shall have one vote for each one dollar of equity subscribed for that Unit Holder's Unit.

29.5 Objection to a right to vote

A challenge to a right to vote at a meeting of Unit Holders:

- (a) may only be made at the meeting; and
- (b) must be determined by the chairperson, whose decision is final.

29.6 Votes need not all be cast in the same way

On a poll a person voting who is entitled to 2 or more votes:

- (a) need not cast all their votes; and
- (b) may cast their votes in different ways.

29.7 How voting is carried out

- (a) A Special Resolution or an Extraordinary Resolution put to the vote at a meeting of Unit Holders must be decided on a poll.
- (b) Any other resolution put to the vote at a meeting of Unit Holders must be decided on a show of hands unless a poll is demanded. The resolution is passed on a poll if it has been passed by at least 50% of the votes cast by Unit Holders entitled to vote on the resolution.
- (c) On a show of hands, a declaration by the chairperson is conclusive evidence of the result. Neither the chairperson nor the minutes need to state the number or proportion of the votes recorded in favour or against.

29.8 Matters on which a poll may be demanded

- (a) A poll may be demanded on any resolution.
- (b) A poll cannot be demanded on any resolution concerning:
 - (i) the election of the chairperson of a meeting; or

- (ii) the adjournment of a meeting.
- (c) A demand for a poll may be withdrawn.

29.9 When a poll is effectively demanded

- (a) At a meeting of Unit Holders, a poll may be demanded by:
 - (i) at least five (5) Unit Holders present entitled to vote on the resolution; or
 - (ii) Unit Holders present with at least 10% of the votes that may be cast on the resolution on a poll; or
 - (iii) the chairperson.
- (b) The poll may be demanded:
 - (i) before a vote is taken; or
 - (ii) before the voting results on a show of hands are declared; or
 - (iii) immediately after the voting results on a show of hands are declared.
- (c) The percentage of votes that Unit Holders have is to be worked out as at close of business on the day before the poll is demanded.

30. MINUTES AND UNIT HOLDERS' ACCESS TO MINUTES

30.1 Minutes

- (a) A Manager must keep minute books in which it records within one month:
 - (i) proceedings of meetings of Unit Holders; and
 - (ii) resolutions of meetings of Unit Holders.
- (b) The Manager must ensure that minutes of a meeting are signed within a reasonable time after the meeting by the chairperson of the meeting or the chairperson of the next meeting.
- (c) The Manager must keep the minute books at:
 - (i) its registered office; or
 - (ii) its principal place of business in Australia; or
 - (iii) another place approved by ASIC.
- (d) A minute that is so recorded and signed is evidence of the proceeding or resolution to which it relates, unless the contrary is proved.

30.2 Unit Holders' access to minutes

- (a) The Manager must ensure that the minute books for the meetings of Unit Holders are open for inspection by Unit Holders free of charge.
- (b) A Unit Holder may ask the Manager in writing for a copy of any minutes of a meeting of the Unit Holders or an extract of the minutes.
- (c) The Manager is entitled to charge a Unit Holder a copying fee of not more than \$0.50 per page or an amount not exceeding any amount prescribed, whichever is the lesser.

31. CHANGING THE DEED

31.1 Power to amend

- (a) The Deed may be modified, or repealed and replaced with a new deed:
 - (i) by Extraordinary Resolution of the Unit Holders; or
 - (ii) by the Manager if the Manager reasonably considers the change will not adversely affect Unit Holders' rights.

- (b) If the Corporations Act or any declaration or exemption from the provisions of the Corporations Act granted by the ASIC requires that this Deed contain certain provisions, then those provisions:
 - (i) are deemed to be incorporated into this Deed at all times at which, and to the extent to which, they are required to be included; and
 - (ii) prevail over any other provisions of this Deed to the extent of any inconsistency.

32. LIMITATION OF LIABILITY OF UNIT HOLDERS

- (a) Subject to the Corporations Act, the Manager is to be indemnified by the Unit Holders from the Assets of the Trust for all loss, debts, Liabilities, damages, costs, charges, expenses and outgoings incurred by it in performing its functions and duties and exercising its powers under this Deed or at law.
- (b) The provisions of clause 32 are not to be construed in any way as requiring an obligation of any Unit Holder to personally indemnify or create an obligation to pay the Manager or a creditor of the Trust to any extent beyond their Unit Holding in the Trust.
- (c) Subject to the Corporations Act and to the extent allowed by the Corporations Act, the indemnity under 32(a):
 - (i) includes any loss, debts, Liabilities, damages, costs, charges, expenses and outgoings incurred as a direct or indirect result of any act or omission of an agent or delegate appointed by the Manager;
 - (ii) is a continuing indemnity which applies to all acts and omissions of the Manager even though the Manager may not be the Manager at the time the claim is made; and
 - (iii) is in addition to any indemnity the Manager may have at law or in equity.

33. TAXATION LIABILITY OF THE MANAGER

- (a) The Manager may deduct or require to be deducted from any amount otherwise payable to or to be applied in respect of a Relevant Person an amount equal to the Taxation Amount of that Relevant Person which is payable or anticipated to become payable by the Manager on its own account or out of the Fund.
- (b) Amounts deducted under clause 33(a) will be applied in:
 - (i) payment of the Taxation Amount of the Person or authority entitled thereto;
 - (ii) reimbursement of the Manager of any corresponding amount paid from its own funds; or
 - (iii) payment to the Relevant Person of any amount deducted pursuant to clause 33(a) which is not required for the purposes of this clause 33(b)
 and pending such application will form part of the Fund.
- (c) Except to the extent to which the relevant Taxation Amount has been deducted pursuant to clause 33(a):
 - (i) the Manager will be entitled to be indemnified by each Relevant Person for the Taxation Amount of that Relevant Person paid by the Manager except to the extent to which the Manager is reimbursed out of the Fund in respect of that amount; and
 - (ii) the Manager on account of the Fund will be entitled to be indemnified by each Relevant Person for the Taxation Amount of that Relevant Person paid out of the Fund and for the amount of any reimbursement of the Taxation Amount paid to the Manager.
- (d) The Manager on its own account and on account of the Trust will be entitled to be paid by the Relevant Person interest on the amount outstanding for which each is entitled to be indemnified from the date on which the payment in respect of which right of indemnity has

arisen was made at the rate equal to the 90 day bank bill (bid) rate/SWAP reference rate. Nothing in this clause will oblige the Manager, whether on its own account or on account of the Trust, to seek payment of such interest.

- (e) If the Manager on its own account or on account of the Trust becomes entitled to be indemnified pursuant to clause 33(c), or the Manager on its own account and on account of the Trust:
 - (i) may deduct or require to be deducted from any amount otherwise payable to or be applied in respect of the Relevant Person the amount for which it or the relevant Fund(s) is entitled to be indemnified (together with interest thereon pursuant to clause 33(d) hereof) and apply such amount on account of such interest and right of indemnity;
 - (ii) may by written Notice to the Relevant Person require the amounts for which it is entitled to be indemnified, together with interest, to be paid on or before such date (not earlier than the expiration of 21 days from the date of service of the Notice) as the Notice may specify and the Notice will state that in the event of such payment not being made on or before that date, any Units registered in the name of the Relevant Person will be liable to be caused to be redeemed to recover such amount.
- (f) If the requirements of the Notice under clause 33(e)(ii) are not complied with by the Relevant Person within the time specified therein, the Manager may:
 - (i) cause the Units held by the Relevant Person which were specified in such Notice or such part of it as the Manager may in its discretion determine to be sold by the Manager at whatever price the Manager deems fit, and the Manager is hereby authorised by the Relevant Person to take such steps and to sign such documents in the name of the Relevant Person as may be necessary for the sale and transfer of the Relevant Person's Units and to account to the Unit Holder for the proceeds thereof after deducting all reasonable expenses in relation to the sale;
 - (ii) appoint a Person to execute on behalf of the Relevant Person a transfer of such Units; and
 - (iii) in priority to any transfer by the Relevant Person, complete the sale.
- (g) The proceeds of the sale of the Units will be applied:
 - (i) first, on account of the amount in respect of which the Notice pursuant to clause 33(e)(ii) was given; and
 - (ii) secondly, in payment of the balance (if any) remaining to the Relevant Person.
- (h) The Manager may, by Notice to a Relevant Person, require that Relevant Person to furnish in writing within 14 days of service of such Notice to the Manager such particulars regarding the Relevant Person, or their holding of Units or any other matter in connection therewith as may be specified in the Notice being particulars which are required by the Manager to enable the Manager to determine whether there exists or may in the future exist a Taxation Amount in relation to that Relevant Person and that Relevant Person will furnish such particulars within 14 days of service of such Notice.
- (i) If any particular furnished to the Manager pursuant to clause 33(h) ceases to be correct for any reason it will be the duty of the Relevant Person who furnished such particular, if that person is a Unit Holder at the time such particular ceases to be correct, promptly to give to the Manager (as the case may be) Notice of the fact that the particular is no longer correct, and to furnish to the Manager such particulars as are, at the time of such notification, correct in lieu of the particular which has ceased to be correct.
- (j) If a Relevant Person fails to provide a particular specified in a Notice in accordance with clause 33(h) or which he is required to provide pursuant to clause 33(i), the Manager will be entitled to make such assumptions as it thinks fit as to the particular, and the Relevant Person will have no claim against the Manager or the Trust for any loss suffered as a result of such assumption being incorrect.

- (k) Without limiting the preceding provisions of this clause 33, the Manager on its own account and on account of the Trust will be entitled to be indemnified by any person who supplies an incorrect particular pursuant to clause 33(h) or fails to give the Manager Notice pursuant to clause 33(i) hereof that a particular has ceased to be correct, for any loss suffered as a result of the Manager acting on the basis of the incorrect particular. The Manager on its own account and on account of the Trust, and the Manager will be entitled to be indemnified irrespective of whether the relevant particular was furnished or notified to the Manager.
- (l) If the Manager, on its own account or on account of the Trust, is be entitled to be indemnified pursuant to clause 33(c), the provisions of clauses 33(g) to 33(j) inclusive will, mutatis mutandis, apply.
- (m) Nothing in this clause 33 will prejudice or affect any right or remedy which any other clause in this Deed or any law may confer or purport to confer on the Manager, and as between the Manager and every Relevant Person, his executor, administrator and estate, wheresoever constituted or situate, any right or remedy which this Deed or such Corporations Act will confer or purport to confer on the Manager will be enforceable by it.
- (n) The Unit Holders are responsible for their own income tax returns.

34. INDEMNITY FOR COMPLIANCE COMMITTEE MEMBERS

34.1 Indemnity

Subject to, and so far as permitted by, the Corporations Act, the Manager must, to the extent the person is not otherwise indemnified, indemnify every member of the Compliance Committee against a Liability:

- (a) incurred as a Compliance Committee member to a person (other than the Manager or a related body corporate), unless the Liability arises out of conduct involving a lack of good faith; and
- (b) for costs and expenses incurred by the Compliance Committee member in defending civil or criminal proceedings in which judgment is given in favour of the member or in which the member is acquitted, or in connection with an application in relation to those proceedings in which the court grants relief to the member under the Corporations Act.

34.2 Insurance

Subject to, and to the extent permitted by, the Corporations Act, the Manager may enter into, and pay premiums on, a contract of insurance for a person who is or has been a member of the Compliance Committee.

34.3 Continuing indemnity

The indemnity in favour of Compliance Committee members under this clause 34 is a continuing indemnity. It applies in respect of all acts done by a person while a member of the Compliance Committee even though the person is not a member at the time the claim is made.

34.4 Deeds

Subject to the Corporations Act and without limiting a person's rights under this clause 34, the Manager may enter into an agreement with a person who is or has been a member of the Compliance Committee to give effect to the rights of the person under this clause 34 on any terms that the Manager thinks fit.

35. NOTICES

35.1 Notices to and by Unit Holders

- (a) A Notice may be given under this Deed to any Unit Holder personally, or by leaving it at their address as stated in the Register, or by sending it addressed to the Unit Holder at such address by ordinary pre-paid post, or if that address is outside Australia by pre-paid airmail. In the case of joint Unit Holders a Notice given to the joint Unit Holder whose name appears first in the Register will be sufficient notice to all such joint Unit Holders.
- (b) Any Notice sent by post will be deemed to have been served at the expiration of 48 hours after posting, and in proving service it will be sufficient to prove that the envelope or wrapper containing the Notice was properly addressed and posted.
- (c) Any Notice by advertisement will be deemed to have been served on the day of publication of the newspaper containing the advertisement.
- (d) The signature to any Notice to be given by the Manager may be written or printed.
- (e) Subject to the Corporations Act, where a given number of days' Notice or Notice extending over any other period is required to be given, either the day of service or the day upon which the Notice will expire (but not both) will be reckoned in the number of days or other period.
- (f) Every person who, by operation of law, equity or other means whatsoever, becomes entitled to any Unit or any part thereof, will be bound by every Notice which, prior to their name and address being entered into the Register as being duly given to the Person from whom they derive their title.
- (g) Any Notice delivered or sent by post to, or left at, the address as stated in the Register or address for service of any Unit Holder, if an individual, in pursuance of the provisions of this Deed will (notwithstanding that the Unit Holder, if an individual, is then deceased and whether or not the Manager has notice of his death) be deemed to have been duly served in respect of their Units.
- (h) Without limiting the generality of any other clause of this Deed, any notice, request or application (including, without limitation, a Notice to be given by a Unit Holder) will be given to the Manager at its registered office, at any of its principal places of business in each State or Territory of Australia, or at such other places as the Manager may from time to time determine and advise in a Notice to Unit Holders.

35.2 Notices to the Manager and Unit Holder

- (a) Any Notice required by this Deed to be given or made by the Manager or the Unit Holder to the other of them will be given or made in writing and addressed to the general manager, secretary or a director of the party to whom it is intended to be given or made at its address as hereinbefore appearing (or to such other officer and or such other address as may from time to time be notified by that party to the other as the appropriate officer and/or address for service of Notice pursuant to this Deed).
- (b) A Notice referred to in clause 35 will be signed by a duly authorised officer on behalf of the other giving or making it provided that such Notice may be given, sent or made by facsimile transmission, hand delivery or ordinary mail with postage pre-paid.
- (c) Any Notice referred to in clause 35 will be deemed to have been given, sent or made:
 - (i) when received by the general manager, the secretary or a director of the party to whom it is addressed or other officer notified in accordance with clause 35; or
 - (ii) clear Business Days after being deposited in the mail with postage pre-paid; or
 - (iii) if sent by facsimile transmission, when receipt is acknowledged.

36. MISCELLANEOUS

36.1 Access to Records and Deeds

- (a) Subject to all applicable Acts, applications for New Units and instruments of transfer and transmission will be retained by the Manager 7 years from the completion of the transaction to which the instrument relates after which time the same may be destroyed in the absolute discretion of the Manager.
- (b) The Manager will provide a copy of this Deed and of any supplemental deed free of charge to any Unit Holder who requests it or to any other person upon payment of the fee as prescribed by the Manager.
- (c) A copy of this Deed and of any supplemental deed will at all times during business hours be made available by the Manager at its registered office in Brisbane for inspection.
- (d) Unit Holders will be entitled to receive from the Manager additional copies of this Deed and of any supplemental deeds (if any) on payment to the Manager (for retention by the Manager) of the sum of \$25.00 or such other sum as the Manager prescribes.

36.2 Cheques/Account Details and Distributions

- (a) Each Unit Holder must give the Manager details of a bank account into which any moneys payable to that Unit Holder under the provisions of this Deed is to be paid by the electronic transfer of funds. The Manager is not obliged to make payments to a Unit Holder other than by the electronic transfer of funds.
- (b) Notwithstanding clause 36.2(a), any moneys payable to a Unit Holder under the provisions of this Deed may be paid by a crossed 'not negotiable' cheque made payable to the Unit Holder or bearer and sent through the post to the registered address of such Unit Holder in the case of joint Unit Holders made payable to the joint Unit Holders or bearer and sent to the registered address of that joint Unit Holder whose name stands first in the Register.
- (c) Payment of every such cheque if duly presented and paid will be satisfaction of the moneys payable and will be a good discharge of the Manager.
- (d) Where there is an electronic transfer of funds confirmation from the bank of the Unit Holder of receipt of the moneys will be satisfaction of the moneys payable and will be a good discharge of the Manager.

36.3 Government intervention

- (a) If at any time during the period of the Fund the Manager is required by the Federal Government or the Government of any State or Territory or by any Relevant law to lodge approved deposits, securities or bonds for the additional protection of Unit Holders, the Manager will provide the same from its own resources and it will have no claim on the Fund or the other of them for such purposes provided always that unless the Manager complies with all such requirements as aforesaid or if any statutory obligation is placed upon the Manager which it is not willing to accept, then the Manager will be at liberty to resign from office as Manager of the Fund or to terminate the Fund or to appoint or engage another Manager who is willing to comply with such requirements as aforesaid in the place of the Manager who will be deemed immediately upon such appointment or engagement to have retired as such and who will:
 - (i) thereupon deliver all registers, books of account and all other books, deeds, documents and writings in any way relating to the Fund to the new Manager; and
 - (ii) thereupon vest, or cause to be vested in a new Manager appointed by the Manager all Assets held by it as Manager of the Fund and deliver all books, documents, records and other property whatsoever relating to the Fund to such Manager.
- (b) If at any time during the period of the Trust the Manager is required by the Federal Government or the Government of any State or Territory or by any Relevant Law to lodge

approved deposits, securities or bonds for the additional protection of Unit Holders the Manager will provide the same from its own resources and it will have no claim on the Trust or the other of them for such purposes provided always that unless the Manager complies with all such requirements as aforesaid or if any statutory obligation is placed upon the Manager which it is not willing to accept, then the Manager will be at liberty to resign from office as Manager of the Trust or to terminate the Trust or to appoint or engage another Manager who is willing to comply with such requirements as aforesaid in the place of the Manager who will be deemed immediately upon such appointment or engagement to have retired as such and who will:

- (i) deliver all registers, books of account and all other books, deeds, documents and writings in any way relating to the Fund to the new Manager; and
- (ii) thereupon vest, or cause to be vested in a new Manager appointed by the Manager all Assets held by it as Manager of the Fund and deliver all books, documents, records and other property whatsoever relating to the Fund to such new Manager.

36.4 Jurisdiction

This Deed will be construed and governed in accordance with the laws of Queensland.

36.5 Conflict or inconsistency

Subject to clause 39, in the event of a conflict or inconsistency between this Deed, the information memorandum dated 1 August 2003 and the Asset Management Agreement, the provisions of the Asset Management Agreement will prevail.

37. HOW THE MANAGER DEALS WITH UNIT HOLDERS COMPLAINTS

37.1 Complaints handling

The Manager must establish and maintain a procedure for dealing with complaints by Unit Holders in relation to the Trust which is consistent with the requirements (if any) of the Corporations Act.

37.2 Unit Holders' Complaints

- (a) A Unit Holder may by writing or by phone complain to the Manager in relation to the Trust.
- (b) The Manager must.
 - (i) record the complaint and the date it was received in a register maintained for that purpose; and
 - (ii) send the Unit Holder an acknowledgment of receipt of the complaint.

37.3 Handling of Complaints

- (a) The Manager must use reasonable endeavours to deal with a complaint by a Unit Holder under clause 37.2 in accordance with this clause 37, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) The Manager must use reasonable endeavours to deal with and resolve the complaint within a reasonable time from the date of receipt of the complaint.
- (c) The Manager must inform the Unit Holder by notice in writing of:
 - (i) its decision in relation to the complaint;
 - (ii) the remedies available to the Unit Holder in relation to the complaint; and
 - (iii) any avenues of appeal that may be available to the Unit Holder if the Unit Holder is dissatisfied with the decision.

37.4 Assistance and Information

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

37.5 Membership of External Dispute Resolution Scheme

If required by the Corporations Act or ASIC policy, the Manager must ensure that it obtains and maintains membership of an external dispute resolution scheme appropriate to the business of the Manager in acting as responsible entity of the Trust and which is approved by ASIC.

38. RESTRICTED INTERESTS

- (a) For the purpose of this clause 38:
 - (i) 'Escrow Period' means the escrow period in the relevant restriction agreement; and
 - (ii) 'Restricted Interest' means a Unit that is a restricted security for the purposes of the Listing Rules.
- (b) A Member cannot dispose of Restricted Interests during the Escrow Period except as permitted by the Listing Rules or the Exchange.
- (c) The Manager will refuse to acknowledge a disposal (including registering a transfer) of Restricted Interests during the Escrow Period except as permitted by the Listing Rules or Exchange.
- (d) During such period as there is a breach of the Listing Rules relating to Restricted Interests, or a breach of a restriction agreement relating to Restricted Interests, the holder of the Restricted Interests is not entitled to any Distribution, or voting rights, in respect of the Restricted Interests.

39. LISTING RULES TO PREVAIL

- (a) Whilst any Units of a class are Officially Quoted the Manager and each Unit Holder must comply with the provisions of the Listing Rules relevant to them.
- (b) If the Fund is Listed, the following provisions apply:
 - (i) if the Listing Rules prohibit an act being done, the act shall not be done;
 - (ii) nothing contained in this Deed prevents an act being done that the Listing Rules require to be done;
 - (iii) 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);
 - (iv) if the Listing Rules require this Deed to contain a provision and it does not contain such a provision, this Deed is deemed to contain that provision;
 - (v) if the Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is deemed not to contain that provision.
- (c) If any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency.

EXECUTED as a deed in Queensland.

SIGNED SEALED AND DELIVERED)
for and on behalf of)
LEYSHON CORPORATION LIMITED ACN 090)
257 480 by authority)
of the directors in the presence of:)



▲ Director

Geoffrey Michael McMahon

▲ Full name of director

▲ Director/Secretary

▲ Full name of director/secretary

Christina Natalie Little



McCULLOUGH ROBERTSON

l a w y e r s

Success. In business

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**BLUE TOWER
ASSET MANAGEMENT AGREEMENT**

BLUE TOWER BRISBANE PTY LTD ACN 105 735 126

And

AUSTRALIAN AND ASIA/PACIFIC INSTITUTE OF PROPERTY AUDITORS PTY LTD
ACN 083 601 110

And

LEYSHON OPERATIONS PTY LTD ACN 074 603 580

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ASSET MANAGEMENT AGREEMENT

Made on 28 NOVEMBER

2003

BETWEEN BLUE TOWER BRISBANE PTY LTD ACN 105 735 126 of Level 4, 10 Felix Street,
Brisbane, Queensland

(**'Trustee'**)

AND LEYSHON OPERATIONS PTY LTD ACN 074 603 580 of Level 4, 10 Felix Street,
Brisbane, Queensland

(**'Leyshon'**)

AND AUSTRALIAN AND ASIA/PACIFIC INSTITUTE OF PROPERTY AUDITORS
PTY LTD ACN 083 601 110 of Level 20, 307 Queen Street, Brisbane, Queensland

(**'AAPIPA'**)

BACKGROUND

- A. The parties have been negotiating to acquire the Property, with the aim of refurbishing, leasing and ultimately selling the Property, when determined appropriate (**'Investment'**).
- B. Leyshon and AAPIPA have agreed to source equity and debt funding for the Investment.
- C. Leyshon and AAPIPA have agreed to act as the Asset Manager to manage the Property on behalf of the Trustee and Equity Investors.
- D. The parties have agreed to record the terms of their agreement.

OPERATIVE PROVISIONS

1. DEFINITIONS

In this Agreement, except to the extent the context otherwise requires:

'Agreement' means this Agreement;

'Asset Manager' means Leyshon and AAPIPA jointly and severally, unless otherwise specified;

'Building' means the building on the Property;

'Business Day' means a day other than a Saturday, Sunday, a public holiday or other holiday appointed pursuant to the *Holidays Act 1983 (Qld)* in Brisbane;

'Completion Date' means the date of settlement of the acquisition of the Property;

'Cumulative Return' to a relevant time means, in respect of Equity Investors generally or an individual Equity Investor, an amount equal to the total of the Return for each year or part year from the Completion Date until that relevant time;

'Cut-Off Date' means 31 December 2003 or such later date agreed between the Trustee and the Asset Manager;

'Debt Facility' means the amount of approximately \$96.5 million to be provided by third party financiers to the Trustee on behalf of the Equity Investors on terms negotiated by the Asset Manager, to partially fund the Investment;

'Equity Investors' means together those parties who submit funds for investment in the Investment and become the unitholders in the Blue Tower Trust;

'Financier' means the providers of the Debt Facility;

'Gross Effective Rental' means the gross face annual rental rate less all rental incentives including rent free periods, fitout allowance or fitout contribution;

'Information Memorandum' means the document to be issued by the Trustee and the Asset Manager seeking approximately \$30 million from Equity Investors to carry out the Investment;

'Investment' means the acquisition of the Property as agreed between the parties and includes the refurbishment, leasing and the ultimate sale of the Property, when determined appropriate, pursuant to the terms of this Agreement;

'Investment Expenses' means in respect of any accounting period or financial year the total of all costs, expenses, charges, fees and outgoings whatsoever properly incurred in that period or year on behalf of the parties in relation to the Investment and/or the management or administration thereof including but without limiting the generality of the foregoing:

- (a) all auditing and legal costs and expenses;
- (b) all other reasonable costs and expenses incurred in and about the administration of the Investment;
- (c) the cost of any valuation or feasibility or marketing project carried out; and
- (d) all proper costs, charges, fees, expenses and disbursements incurred by or on behalf of the parties in and about the acquisition, refurbishment, leasing and/or ultimate sale of the Property including but without limiting the generality of the foregoing:
 - (i) all statutory (whether Federal State or Local Government) and other charges and imposts imposed or levied on or in respect of the Property or any part thereof including all rates, taxes, levies, encroachment fees, fire brigade charges and all other charges and imposts of any kind whether now payable or at any future time becoming payable;
 - (ii) all insurance premiums properly payable in respect of the Property or any part thereof and/or the ownership or occupation thereof and directors' and officers' liability cover;
 - (iii) all costs and charges for waste removal and cleaning;
 - (iv) all repairs and maintenance of and to the Property;
 - (v) all fees and charges for signs;
 - (vi) all charges for the installation and use of water, sewer, telephone, drainage, electricity, gas, oil and/or other like utility services properly payable in respect of the Property;
 - (vii) all proper caretaking and/or security charges incurred in connection with the Property;
 - (viii) all costs and expenses of and incidental to the execution of the refurbishment works and/or any other works to the Property required or deemed necessary by the parties;
 - (ix) all costs, fees, charges and other moneys paid to any statutory or other authority in connection with the obtaining of any consent, approval, permit or authority required for the Investment in the manner herein contemplated;

- (x) all professional and/or other fees, costs and other charges payable to any professional adviser, consultant, contractor, sub-contractor, supplier or tradesman in connection with the execution of the Investment or any other works on or to the Property including the costs and expenses of any surveyor, engineer, quantity surveyor, architect, designer or other specialist consultant, builder, developer and/or construction manager;
- (xi) all costs and disbursements of any solicitor, land broker or other professional consultant engaged by or on behalf of the parties in relation to the acquisition, leasing, refurbishment, ultimate sale and/or management of the Property;
- (xii) all goods and services tax, stamp duty, registration fees and other government fees and charges payable on or in respect of the acquisition, ownership, refurbishment management and leasing of the Property;
- (xiii) all accrued interest or other charges of a like nature (including the costs incurred in providing money or the Property as security, if required and proper legal costs in connection with any security given);
- (xiv) the fees payable to the Asset Manager under clause 5.7 except 5.7(d);
- (xv) all costs associated with the promotion and leasing of the Property including payment of any rental incentives generally in accordance with the Investment Feasibility;
- (xvi) all acquisition costs including costs associated with the acquisition, due diligence and the debt and equity raising for the Investment;

less any costs, fees, charges, expenses, outgoings, input tax credits and disbursements recovered or reimbursed to the parties by any other person but not including any tax on return or capital gains;

'Investment Feasibility' means the projected statements of financial position, financial performance and cashflow of the Investment, a copy of which is set out in Schedule A, as varied in writing from time to time;

'Investment Return' means the projected total of all income received, including rental income, for the duration of the Investment and the net amount received on the ultimate sale of the Investment less all Investment Expenses and the 6% pa return to Equity Investors;

'Market Value' means the market value of the Property as determined by an independent, registered valuer with at least 5 years experience in Brisbane central business district commercial property valuation as approved by the parties and where the parties cannot agree on a valuer, an independent valuer appointed by the Queensland Division of the Australian Property Institute. Such market value is to be the price which the Property might reasonably be expected to be sold at the date of valuation assuming:

- (e) a willing, but not anxious, buyer and seller; and
- (f) a reasonable period within which to negotiate the sale, having regard to the nature and situation of the Property and the state of the market for properties of the same kind; and
- (g) that the Property was reasonably exposed to that market; and
- (h) that no account is taken of the value or other advantage or benefit, additional to market value, to the buyer incidental to ownership of the Property being valued; and
- (i) that the owners have sufficient resources to allow a reasonable period for the exposure of the properties for sale; and
- (j) that the owners have sufficient resources to negotiate an agreement for the sale of the Property.

'person' and **'persons'** include individuals, firms, partnerships, bodies corporate, associations and governments and governmental, semi-governmental and local authorities and agencies;

'Property' means the land and improvements thereon described as lot 4 on RP173778 county of Stanley, parish of North Brisbane, title reference 16824076 and a two third interest in lot 1 on RP143070, title reference 15448202;

'Refurbishment Plan' means the work required to refurbish the Property and implement the scope of works and plans prepared by the Asset Manager in consultation with project consultants, being approximately an initial \$5 million upgrade of air conditioning, electrical, fire services, lifts and other building services and general maintenance program and a further \$5 million for refurbishment immediately prior to the sale of the Property;

'Return' for a period means, in respect of Equity Investors generally or an individual Equity Investor, an amount calculated at a rate of 6% per annum on the initial amount invested, disregarding any partial capital repayments of that initial amount invested, calculated and credited quarterly in arrears;

'Trust' means the Blue Tower Trust to be established by the Trustee through which part of the Property will be purchased; and

'Trustee' means Blue Tower Brisbane Pty Ltd ACN 105 735 126 the trustee of the Trust and any other trustee from time to time appointed and in default of appointment means the Equity Investors.

2. AGREEMENT

2.1 Agreement

In consideration of each party entering into this Agreement and of the mutual confidence of the parties in one another, each of them covenants with the other in accordance with this Agreement.

2.2 Conditions precedent

Acquisition of the Property and commencement of the Investment is conditional on satisfaction of the following conditions on or before the Cut-Off Date:

- (a) the Trustee receiving applications for approximately \$30 million in equity from Equity Investors, all of which is to be available prior to the Completion Date;
- (b) the Asset Manager securing the Debt Facility on terms acceptable to the Asset Manager;
- (c) the Financier obtaining or otherwise being provided with a formal valuation of the Property on terms, and to a value, acceptable to the Asset Manager and the Financier;
- (d) the Asset Manager and its advisers conducting, and being satisfied (to the Trustee's and the Asset Manager's complete satisfaction) with the results of due diligence enquiries in relation to the Property;
- (e) Leyshon and AAPIPA or associated entities nominated by them submitting an application for \$3 million as an Equity Investor;
- (f) the Trustee arranging insurance for the Property in the names of the Trust, the Asset Manager and the Financier to take effect from the date on which risk passes under the contract for the acquisition of the Property for no less than the coverage required by the Financier.

The Trustee and the Asset Manager will use their respective best endeavours to satisfy the conditions precedent referred to in Clause 2.2 on or before the Cut-Off Date.

2.3 Satisfaction of conditions precedent

Upon the Asset Manager being satisfied that the conditions precedent set out in clause 2.2 have been satisfied, it will proceed to cause the Trustee to settle the acquisition of the Property, on a date nominated in the contract for the acquisition of the Property, in conjunction with the Trustee.

3. ASSET MANAGEMENT – GENERAL OBLIGATIONS

Each party must:

- (a) be just and faithful and provide full information to the other in relation to the Investment;
- (b) do or cause to be done all things necessary or desirable to carry out this Agreement;
- (c) exercise all powers as are available to it, do all such acts matters and things and sign, execute and deliver all such documents and instruments as may be necessary or reasonably required to give full force and effect to the provisions of this Agreement; and
- (d) not unreasonably delay any action, approval, direction, determination or decision required under this Agreement.

4. OBLIGATIONS OF TRUSTEE

4.1 Establish Trust and raise funds

The Trustee agrees to establish the Trust and raise approximately \$30 million from Equity Investors, to partially fund the Investment.

5. OBLIGATIONS OF ASSET MANAGER

5.1 Asset Manager to manage Investment

The planning, direction, execution and carrying out of the Investment including the coordination of all Investment consultants shall be managed by the Asset Manager generally in accordance with the Investment Feasibility.

5.2 Interaction with Equity Investors

The Asset Manager will be solely responsible for the relationship with the Equity Investors and must use its best endeavours to make any necessary contact with the Equity Investors.

5.3 Negotiate Debt Facility

The Asset Manager agrees to negotiate with third party financiers to obtain the Debt Facility to partially fund the Investment.

5.4 Limit of authority

- (a) The Asset Manager may execute leases for the Property on behalf of the Equity Investors provided either of the following criteria are met:
 - (i) face rentals and incentives are generally in accordance with the Investment Feasibility for the relevant floor of the building; or
 - (ii) the Gross Effective Rental is not less than \$276 per m² (\$290 per m² x 95%) over the term of the lease.
- (b) The Asset Manager may incur costs in the performance of its duties only to the extent those costs are:
 - (i) allowed for in the Investment Feasibility and only to the maximum amount provided for in the Investment Feasibility including any contingencies; or
 - (ii) additionally up to \$5,000 per month in incidentals provided however that these costs are directly attributable to the Investment and invoices are presented prior to these expenses being reimbursed.

5.5 Specific obligations

The Asset Manager must use its reasonable endeavours to:

- (a) arrange for the acquisition of the Property;
- (b) in particular on the part of Leyshon:
 - (i) cause the refurbishment works to be completed in accordance with the Refurbishment Plan and Investment Feasibility;
 - (ii) engage, on behalf of the Equity Investors, a registered builder to carry out the construction of the refurbishment works in accordance with the Refurbishment Plan and Investment Feasibility;
 - (iii) prepare and obtain all necessary applications for development approvals and building approvals for the Investment;
 - (iv) manage and direct the consultants and builder in the design and refurbishment of the building on the Property;
 - (v) engage external consultants and manage/co-ordinate, design and document all aspects of the Investment;
 - (vi) report progress with respect to the Investment to the Equity Investors on a quarterly basis;
 - (vii) arrange and procure plant, materials, supplies or services required for the refurbishment of the Building which are not the responsibility of a builder under a construction contract;
 - (viii) manage the Debt Facility and funds invested by the Equity Investors;
 - (ix) provide a corporate guarantee in the sum of \$10 million to the Financier;
 - (x) collect and bank all monies received in relation to the leases and the Investment and to pay all expenses and outgoings and thereafter distribute these monies pursuant to this Agreement; and
 - (xi) prepare and maintain all accounting and taxation records and reports in relation to the Investment;
- (c) in particular, on the part of AAPIPA:
 - (i) promote, advertise and use its best endeavours to lease the Property;
 - (ii) represent the parties in negotiations with current and prospective tenants of the Property and any matter directly relating thereto;
 - (iii) report progress on the promotion and leasing of the Property to the Equity Investors on a quarterly basis;
 - (iv) arrange for the appointment of and thereafter co-ordinate an external property manager (at the expense of the Investment) to manage and collect all rentals from tenants; and
 - (v) when determined appropriate arrange for the ultimate sale of the Property, co-ordinate selling efforts and any consultants engaged for such purpose, represent the parties in negotiations with prospective purchasers of the Property and any matter directly related thereto.

5.6 Reporting

- (a) By the 21st day of the month following the end of each calendar quarter the Asset Manager must provide a written report to the Trustee and the Equity Investors in a format acceptable to the Trustee comparing actual results to date against the Investment Feasibility.
- (b) Each quarterly report must address in detail progress for each of:
 - (i) the Refurbishment Plan;

- (ii) the leasing program; and
- (iii) management accounts.

5.7 Asset Manager's fees

In consideration for carrying out its obligations under this Agreement:-

- (a) the Asset Manager will receive a Investment acquisition fee of 2% of the Property's purchase price paid on the Completion Date to be divided equally between Leyshon and AAPIPA;
- (b) the Asset Manager will receive an asset management fee of 0.5% pa of the Property's annually assessed capital value payable in monthly instalments commencing on the Completion Date and to be divided equally between Leyshon and AAPIPA;
- (c) if any monthly instalments payable under clause 5.7(b) remain unpaid upon the sale of the Property, or termination of this Agreement, they shall be paid upon the date of settlement of the sale of the Property by the Equity Investors or the date of termination of this Agreement, whichever is the earlier;
- (d) the Asset Manager will also receive a fee of 30% of the Investment Return, to be distributed evenly between Leyshon and AAPIPA;
- (e) Leyshon Group will receive a guarantee fee of 1% pa of \$10 million payable monthly in arrears for the provision of a \$10 million corporate guarantee to the Financier;
- (f) AAPIPA will be provided with a management office in the Building for the purpose of performing duties for the Investment, at no cost to the Asset Manager.

5.8 Limitation on liability and indemnity

- (a) Subject to clause 5.8(b), the Asset Manager will not be liable for acts or defaults of any of the consultants or contractors engaged in respect of the Investment.
- (b) The Asset Manager will be liable for loss or damage caused by any fraudulent or dishonest act on its part.

5.9 Reimbursement of expenses

The Trustee must on the Completion Date reimburse the Asset Manager for any Investment Expenses that have been incurred and paid by the Asset Manager prior to the Completion Date.

6. OWNERSHIP OF LAND

- (a) The rights, powers and privileges of the Asset Manager will rest in contract only and will not create or be deemed to create any estate or interest in the Property.
- (b) The Asset Manager will not seek to grant any encumbrance over the Property without the written consent of the Trustee. For the avoidance of doubt, for the purpose of this Agreement, a lease or licence in respect of part of the Property is not an encumbrance over the Property.

7. POWERS OF THE PARTIES

7.1 Asset Manager

The Asset Manager shall have full power to make decisions on:

- (a) the preparation and planning of all capital raising for the Investment;
- (b) which financiers or banks will be used to provide the Debt Facility for the Investment;

- (c) the planning, timing and co-ordination of the raising of approximately \$30 million from the Equity Investors;
- (d) the Equity Investors from whom to seek investment in the Investment;
- (e) the appointment of experts to assist the Asset Manager;
- (f) the style/type of information to be provided to potential Equity Investors;
- (g) the structuring of the capital raising to raise funds to acquire the Property;
- (h) refurbishment of the Property;
- (i) leasing of the Property;
- (j) when determined appropriate the ultimate sale of the Property at Market Value; and
- (k) payment of Returns pursuant to clause 9.

7.2 Ultimate sale

- (a) Subject to clause 7.2(b) the Property may not be sold at a price below Market Value.
- (b) Sale of the Property below Market Value must be approved by the holders of 50% or more of the Units in the Trust.

8. INVESTMENT RETURN

8.1 Allocation of Investment Return

The parties agree that the Investment Return of the Investment will be apportioned between the Equity Investors and the Asset Manager, in accordance with this clause 8.

8.2 Repayment of payments prior to ultimate sale

The amounts paid to Equity Investors quarterly in arrears under clause 9, are subject to repayment if those quarterly payments are in excess of the sum of actual Investment Return entitlements calculated under this clause 8 and the initial capital amounts invested.

8.3 Investment Return at time of ultimate sale

The overall Investment Return is to be allocated as follows:

- (a) 30% to the Asset Manager as the fee under clause 5.7(d);
- (b) 70% to the Equity Investors where the actual payment to Equity Investors will be decreased for total payments made to Equity Investors under clause 9 in excess of the Cumulative Return.

8.4 Distribution of proceeds of the Investment

The parties agree that the proceeds of the ultimate sale of the Property will be distributed in the following order:

- (a) firstly, in payment of any amounts due and payable to discharge any mortgages or encumbrances which affect the whole of the title of the Property or any property of the Trust and which secure borrowings (if any);
- (b) secondly, in payment of Investment Expenses including outstanding Asset Manager's fees and the costs of sale;
- (c) thirdly, in repayment of outstanding Equity Investors' initial investment;
- (d) finally, in payment to the Asset Manager and the Equity Investors of the Investment Return calculated in accordance with clause 8.1 and allocated in accordance with 8.3.

9. RETURN AND OTHER CASH DISTRIBUTIONS

9.1 Timing of payments of Return

Subject to sufficient cash being deemed to be available as determined under this clause and the financier's approval being obtained, the Return will be paid quarterly in arrears by the 21st day of the month following the end of each calendar quarter until the ultimate sale of the Property.

9.2 Additional cash distributions

Subject to sufficient cash being deemed to be available as determined under this clause, distributions in excess of the Return will be paid for 48.5% of the excess of an Equity Investor's share of profits over the Return to the extent that the excess is taxable income, and other amounts may be paid at the discretion of the Asset Manager.

9.3 Determination of cash availability

Subject to the Trustee being required by the Financier to withhold money, for the purposes of this clause, the Asset Manager is solely responsible and has sole discretion for deeming whether sufficient cash is available for the payment of the Return for any period.

9.4 Later payment of unpaid Return

In the event that the Return for any quarter is not paid, the unpaid amount of the Return will be paid in subsequent quarters as additional payments over the Return for those subsequent quarters, so as to ensure to the maximum extent possible that the cumulative total of returns paid (from any source), less cumulative returns paid under clause 9.1, equals the Cumulative Return to the end of each quarter.

9.5 Character of quarterly returns paid

The character of the quarterly returns paid under this clause will be determined at the end of each income year so that the cash distributions paid during that year will be taken to be:

- (a) firstly, payment of profits that have been taxable income in any income year and which have not been paid in a prior income year;
- (b) secondly, payment of profits that have been in excess of taxable income and which were unpaid at the commencement of the income year; and
- (c) thirdly, partial capital repayments of the initial amount invested by the Equity Investors.

10. POWERS OF ATTORNEY

10.1 AAPIPA and Leyshon power of attorney

The parties agree that to enable the Asset Manager to fulfil its obligations under this Agreement, the Trustee will appoint the directors of AAPIPA and Leyshon, for so long as they remain a director of AAPIPA or Leyshon and AAPIPA and Leyshon are the Asset Managers, as their attorneys to approve and sign documents with respect to all aspects of the management of the Investment.

11. UNDERTAKINGS OF THE PARTIES

11.1 Undertaking

- (a) Each party will duly perform and observe all of the terms and conditions to be performed and observed on its part under this Agreement and will arrange for its directors, servants and agents to ensure that it does so perform and observe this Agreement.

- (b) Each party will exercise all of its rights and powers and generally use its best endeavours to ensure that it carries on business so as to give full effect to the intentions of this Agreement.
- (c) Each party will ensure that during the term of this Agreement that no material arrangement, contract or agreement will be entered into by it which would have a material effect and result in a material deterioration in the Investment Feasibility and in the performance or completion of the Investment to be undertaken pursuant to this Agreement, without the prior approval of the other parties.
- (d) No party is obliged to do anything with this Agreement if to do so would constitute an event of default or potential event of default under the terms of the Debt Facility.

11.2 Limitations

Other than as contemplated in this Agreement a party cannot without the prior approval of the other parties:

- (a) draw, accept or sign a cheque, bill of exchange or promissory note or contract a debt on account of the Investment or of the other parties except in the approved course of the Investment;
- (b) assign, mortgage, transfer or charge its share in the assets or liabilities of the Investment or introduce any other person as a participant;
- (c) compromise or compound or (except upon payment in full) release or discharge any debt due or owing to the parties in relation to the Investment;
- (d) employ any money or property of the Investment or engage its credit except upon the account or for the benefit of the Investment;
- (e) knowingly do or suffer to be done anything whereby the money or property of the Investment may be taken in execution.

A party which breaches any of the provisions of clause 11.2 will indemnify the other parties from all losses and expenses suffered by the others as a result of the breach.

12. GST

12.1 Definitions

'GST' has the same meaning as in the GST Act;

'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* as amended;

'Registered' has the same meaning as in the GST Act;

'Supply' has the same meaning as in the GST Act;

'Taxable Supply' has the same meaning as in the GST Act;

'Tax Invoice' has the same meaning as in the GST Act;

'Value' has the same meaning as in the GST Act.

12.2 GST

The parties agree that all fees payable under this Agreement are exclusive of GST. If any Supply made under or in connection with this Agreement to the Asset Manager is a Taxable Supply then the GST in respect of that Supply shall be payable by the Trust to the Asset Manager, where the GST is calculated in accordance with the GST Act and on the basis that the consideration otherwise payable under this Agreement is the Value of the Taxable Supply.

12.3 Provision of tax invoice

The Asset Manager must provide a Tax Invoice prior to the payment of any fees payable pursuant to this Agreement.

13. NO ASSIGNMENT

A party will not assign its interest or its obligations pursuant to this Agreement to any person without the prior approval of the other parties.

14. CONFIDENTIALITY

14.1 Confidential information

The parties acknowledge that the Investment will be known and marketed as a 'Leyshon Group project' and no party is to disclose any information about this Agreement, the Investment or the identity of any Equity Investor to any third party unless:

- (a) it is obliged to do so by law; or
- (b) the other party agrees; or
- (c) the disclosure is to any contractor, consultant, adviser or other third party involved in the Investment; or
- (d) the information is lawfully available publicly anyway.

14.2 Confidentiality

Subject to clause 16 the parties agree that all information about the Investment including information provided under clause 5.5 is confidential and each party must:

- (a) keep confidential the information;
- (b) use the information solely in relation to or in the best interests of the Investment; and
- (c) disclose the information only to the Equity Investors and those of its employees, advisors, financiers, related bodies corporate and shareholders who have a need to know (and only to the extent each has a need to know) and who are aware and agree that the information must be kept confidential.

This clause will not apply to information which is, or becomes, in the public domain otherwise than in breach of this Agreement

15. EXECUTION OF DOCUMENTS

Each party agrees to execute any contracts or other documentation necessary to give effect to this Asset Management Agreement.

16. PUBLICITY

Except for announcements to be made by the Asset Manager with respect to the acquisition, promotion, leasing, refurbishment and ultimate sale of the Investment, no public announcement or communication relating to the Investment or the terms of this Agreement may be made or authorised by or on behalf of any party without the prior written approval of the Asset Manager.

17. TERMINATION

17.1 Termination

This Agreement will terminate by mutual agreement of all parties or where there is an event of default as provided in clause 18.

17.2 Without prejudice

Termination of this Agreement under clause 17.1 will be without prejudice to any accrued rights of the parties, in particular the Asset Manager's rights to a share in the Investment Return will survive the termination of this Agreement. If this Agreement is terminated as a result of the default of the Asset Manager, then the Trustee may continue with the performance of the obligations of the Asset Manager and the reasonable costs and expenses incurred by the Trustee in performing obligations of the Asset Manager, together with any damages arising out of the default of the Asset Manager, will be deducted from the Asset Manager's share of the Investment Return.

18. DEFAULT

18.1 Events of default

An event of default occurs in relation to a party if:

- (a) the party breaches, any provision of this Agreement which would have a material effect and result in a material deterioration in the Investment Feasibility:
 - (i) does not remedy that breach within 30 Business Days after receiving a notice of that breach from another party requesting the breach to be remedied; or
 - (ii) the breach is incapable of being remedied; or
- (b) the party has:
 - (i) a receiver appointed over its assets or undertaking or any part of them;
 - (ii) an execution of any judgment debt obtained against it, levied upon any of its assets in any amount in excess of \$500,000 and that execution or process is not discharged or withdrawn within 60 Business Days of the date of issue;
 - (iii) ceased to pay its debts or suspended payment generally or would cease or threaten to cease to carry on its business or become insolvent or become or be unable to pay its debts within the meaning of the *Corporations Act 2001*, as and when they become due;
 - (iv) an official manager, trustee, voluntary administrator, liquidator or provisional liquidator appointed for all or any part of its assets or undertaking;
 - (v) entered into or resolved to enter into an arrangement, composition or compromise with or assignment for the benefit of its creditors generally or any class of creditors or proceedings are commenced to sanction such an arrangement, composition or compromise other than for the purposes of a bona fide scheme of solvent reconstruction or amalgamation; or
- (c) the party being a trust is terminated or its beneficiaries otherwise become presently entitled to the trust assets, without the prior consent of the other parties which consent will not be unreasonably withheld.

19. INVESTMENT EXPENSES

19.1 Reimbursement of Investment Expenses

- (a) All parties must keep accurate records of all expenditure that is referable to the Investment.
- (b) The Asset Manager and the Trustee are entitled at regular intervals during the course of the Investment and, in any case before any distribution to Equity Investors or the Asset Manager, to be reimbursed for any Investment Expenses reasonably incurred in performance of their responsibilities and obligations under this Agreement.

19.2 Establishment of account for Investment Expenses

- (a) The Trustee must establish an account in the name of Blue Tower Brisbane Pty Ltd as trustee for the Blue Tower Trust over which the Financier will hold a registered charge, through which as far as practicable will pass all Investment income and Investment Expenses.
- (b) All cheques drawn from the account must be signed jointly by two representatives appointed by the Asset Manager.

20. RESOLUTION OF DISPUTES

20.1 No proceedings

A party must not start court proceedings (except proceedings seeking interlocutory relief) in respect of a dispute arising out of this Agreement ('Dispute') unless it has complied with this clause.

20.2 Notification of dispute

A party claiming that a Dispute has arisen must notify each other party to the Dispute giving details of the Dispute in writing.

20.3 Best efforts to resolve dispute

During the five Business Days period after a notice is given under clause 20.2 (or longer period unanimously agreed in writing by the parties to the Dispute) ('Initial Period') each party to the Dispute ('Disputant') must use its best efforts to resolve the Dispute.

20.4 Referral to chief operating officers

If the Disputants are unable to resolve the Dispute within the Initial Period, each Disputant agrees that the Dispute must be referred at the request of any Disputant, to the respective chief operating officers of the Disputants who shall have five Business Days after the Initial Period (or longer period unanimously agreed in writing by the parties to the Dispute) ('Second Period') during which to use their best efforts to resolve the Dispute.

20.5 Termination of dispute resolution process

After the Second Period, a Disputant which has complied with clause 20.1 to 20.4 may terminate the dispute resolution process by giving notice to each other Disputant.

20.6 Dispute resolution

In the event that a Dispute cannot be resolved under clause 20.1 to 20.5, it will be referred to the President for the time being of the Queensland Law Society who will appoint a party to act as mediator, the decision of the mediator will not be final and binding unless otherwise agreed by

the parties and if the Dispute remains unresolved the parties are at liberty to seek to resolve the issue in the courts or otherwise.

21. MUTUAL COVENANTS

21.1 Promises

Each of the parties covenants and agrees as follows:

- (a) to be just and faithful to the other in all matters relating to the Investment;
- (b) subject to clause 21.1(a) to inform the other of all material matters and things affecting the Investment or likely to affect the Investment of which they become aware;
- (c) to punctually pay and discharge their respective present and future debts and engagements in respect of the Investment;
- (d) to comply with all laws, regulations and other statutory obligations in respect of the Investment.

22. NOTICES

22.1 Notices

- (a) Notices must be given in English and be in writing.
- (b) Notices must be given to the address as set out in this Agreement or any other address a party provides.
- (c) Notices can be given by hand delivery, posting or by facsimile.
- (d) Notices given after 5 o'clock local time on a Business Day are deemed to be given on the next Business Day.
- (e) Notices given by post are deemed to be given on the second day after the notice is posted.
- (f) Notices given by facsimile transmission are deemed to be given when an acknowledgment of transmission report is received on the sending machine indicating that the facsimile transmission has been sent and received.
- (g) Notices or documents given by a party's solicitor are taken to have been given with the authority of the party.

23. WARRANTIES

23.1 Warranties by parties

Each party warrants that:

- (a) it has the power to execute and deliver this Agreement;
- (b) it has the power to perform all obligations under this Agreement; and
- (c) in performing its obligations under this Agreement, each party will use its best endeavours to ensure that its directors, officers, employees, agents and contractors and subcontractors will conduct themselves so as not to adversely affect the image or reputation of the other party.

24. GENERAL

24.1 Governing law

This agreement is to be governed and construed in accordance with the laws of Queensland, and the parties submit to the non-exclusive jurisdiction of the courts of Queensland.

24.2 Severance

If any provision of this agreement is or becomes illegal, invalid, unenforceable or void in any respect then that provision is to be ignored, read down or severed so as to uphold the legality, validity and enforceability of the remaining provisions of this Agreement.

24.3 Further assurance

Each party must execute and do all acts and things necessary or desirable to implement and give full effect to the provisions and purpose of this Agreement.

24.4 Costs and duty

Any costs and stamp duty associated with this Agreement will be a Investment Expense.

24.5 Entire agreement

This Agreement is the whole of the agreement between the parties. It supersedes and takes the place of any prior written or oral agreement or discussion between the parties. Any variations to the Agreement must be in writing to be effective.

24.6 Conflict or inconsistency

In the event of a conflict or inconsistency between this Agreement, the Information Memorandum and the deed establishing the Trust, the provisions of this Agreement will prevail.

24.7 Counterparts

This Agreement is validly executed if executed in 1 or more counterparts.

25. INTERPRETATION

In this Agreement, except to the extent the context otherwise requires:

- (a) the singular includes the plural and vice versa and a gender includes other genders;
- (b) a reference to a party is to be construed as a reference to a party to this Agreement;
- (c) a reference to a party to this Agreement or any other document or agreement includes its successors and permitted assigns;
- (d) a reference to an item in the Background, clause, schedule, annexure or appendix is a reference to an item in the Background, clause or schedule, annexure or appendix to this Agreement and references to this Agreement include its schedules and any annexures;
- (e) a reference to 'month' means calendar month;
- (f) where a word or phrase is given a particular meaning, other parts of speech or grammatical forms of that word or phrase have corresponding meanings;
- (g) a reference to a document or agreement including this Agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (h) in the interpretation of this Agreement, headings are to be disregarded.

SCHEDULE A
Investment Feasibility

Profit on Ultimate Sale of Property

Date of Disposal	30-Jun-10
Net Income to be Capitalised	12,934,194
Capitalisation Rate	7.25%
Capitalised Value	178,402,672
Less: Disposal Agency Fees	892,013
Less: Capital Expenditure Required	5,000,000
Less: Leasing Commissions	450,445
Net Capitalised Value	172,060,214
Book Value of Property	126,500,000
Profit on Disposal	45,560,214
Gross Proceeds from Sale of Property	172,060,214
Less: Closing Rent Received in Advance	0
Net Proceeds from Sale of Property	172,060,214

Extracts from Projected Statements of Financial Performance, Assuming Ultimate Sale at 30 June 2010^a

Other Income	
Profit on ultimate sale of property	45,560,214
Total Other Income	<u>45,560,214</u>

Income to which Equity Investors are Presently Entitled	1,032,569	1,766,291	1,484,874	2,180,824	3,398,353	4,132,350	2,425,656	61,981,120
Property Interest Cover	1.26	1.32	1.28	1.38	1.55	1.65	1.40	1.41

Holding Equity Investors' Funds			
29,682,569	29,648,860	29,333,734	29,714,558
			31,312,911
			33,645,261
			34,270,917
			0

Not presented in accordance with Australian Accounting Standards.

<p>Initial Investment</p> <p>Capital Return (6% Coupon)</p> <p>Final Distribution</p> <p>Total Equity Cash Flows</p> <p>Equity Investors' Internal Rate of Return (Based on Projected Cash Flows Received)</p> <p>Equity Investors' Internal Rate of Return (Based on Grossed Up Projected Cash Flows)</p>

Calculation of Final Distributions	
Closing Retained Income	
Less: Total Capital Returned	
Revised Base for COR and LG Distribution	
	Distribution to COR
	Distribution to LG
	Net Distribution to COR and LG
	Net Retained Income Available to Equity Investors
	Final Distribution to Equity Investors

Closing Retained Income	61,981,130	
Less: Total Capital Returned	(12,150,000)	
Revised Base for COR and LG Distribution	<u>49,831,130</u>	
		15.0%
Distribution to COR	7,474,670	
Distribution to LG	<u>7,474,670</u>	15.0%
Net Distribution to COR and LG	<u>14,949,339</u>	
Income Available to Equity Investors		64,881,791
Total Distribution to Equity Investors		<u>64,881,791</u>

Extracts from Projected Statements of Financial Position Assuming Ultimate Sale at 30 June 2010*

	Financial Years Ending:							
	30-Jun-04	30-Jun-05	30-Jun-06	30-Jun-07	30-Jun-08	30-Jun-09	30-Jun-10	
	Projected	Projected	Projected	Projected	Projected	Projected	Adjusted	
	\$	\$	\$	\$	\$	\$	For Sale	
Current Assets								
Cash assets	4,502,805	2,673,881	1,542,952	1,714,558	1,912,911	4,145,261	0	
Total Current Assets	4,502,805	2,673,881	1,542,952	1,714,558	1,912,911	4,145,261	0	
Non Current Assets								
Property investments	113,000,000	113,000,000	113,000,000	113,000,000	113,000,000	113,000,000	0	
Plus: Capital improvements	600,000	2,000,000	2,800,000	3,000,000	4,400,000	4,500,000	0	
Net property investments	113,600,000	115,000,000	115,800,000	116,000,000	117,400,000	117,500,000	0	
Capitalised acquisition costs	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	8,500,000	0	
Total Non Current Assets	122,100,000	123,500,000	124,300,000	124,500,000	125,900,000	126,000,000	0	
Total Assets	126,602,805	126,173,881	125,842,952	126,214,558	127,812,911	130,145,261	0	
Current Liabilities								
Rent received in advance	784,509	784,509	784,509	784,509	784,509	784,509	0	
Less: Amortisation of rent received in advance	364,273	759,488	775,291	784,509	784,509	784,509	0	
Closing rent received in advance	420,236	25,021	9,218	0	0	0	0	
Total Current Liabilities	420,236	25,021	9,218	0	0	0	0	
Non-Current Liabilities								
Bank loan	96,500,000	96,500,000	96,500,000	96,500,000	96,500,000	96,500,000	0	
Total Non Current Liabilities	96,500,000	96,500,000	96,500,000	96,500,000	96,500,000	96,500,000	0	
Total Liabilities	96,920,236	96,525,021	96,509,218	96,500,000	96,500,000	96,500,000	0	
Net Assets	29,682,569	29,648,860	29,333,734	29,714,558	31,312,911	33,645,261	0	
Equity Investors' Funds								
Units on issue	28,650,000	26,850,000	25,050,000	23,250,000	21,450,000	19,650,000	0	
Retained income	1,032,569	2,798,860	4,283,734	6,464,558	9,862,911	13,995,261	0	
Total Equity Investors' Funds	29,682,569	29,648,860	29,333,734	29,714,558	31,312,911	33,645,261	0	

*Not presented in accordance with Australian Accounting Standards.


Extracts from Projected Statements of Cash Flows Assuming Ultimate Sale at 30 June 2010*

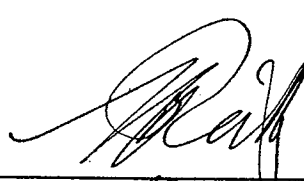
	Financial Years Ending					
	30-Jun-04	30-Jun-05	30-Jun-06	30-Jun-07	30-Jun-08	30-Jun-09
	Projected	Projected	Projected	Projected	Projected	Projected
Cash Flows from Operating Activities						
Rent received	6,825,365	10,095,606	10,080,737	11,011,559	12,156,691	12,746,767
Car parking rent received	925,443	1,233,924	1,233,924	1,233,924	1,289,451	1,347,476
Other income received	518,351	711,868	733,224	755,221	777,877	801,214
Interest received	143,324	140,946	97,234	71,510	70,872	125,606
Payments for outgoings	(1,815,737)	(2,562,280)	(2,639,148)	(2,718,322)	(2,799,872)	(2,883,868)
Payments for leasing commissions	(1,575)	(346,488)	(134,400)	(279,785)	(194,166)	(102,344)
Payments for management fees	(423,750)	(565,000)	(565,000)	(565,000)	(565,000)	(565,000)
Bank interest paid	(5,428,125)	(7,237,500)	(7,237,500)	(7,237,500)	(7,237,500)	(7,237,500)
Guarantee Fee	(75,000)	(100,000)	(100,000)	(100,000)	(100,000)	(100,000)
Net Cash Flows from / (used in) Operating Activities	668,296	1,371,076	1,469,071	2,171,606	3,398,353	4,132,350
Cash Flows from Investing Activities						
Payments for acquisition fees	(8,500,000)	0	0	0	0	0
Payments for refurbishment costs	(600,000)	(1,400,000)	(800,000)	(200,000)	(1,400,000)	(100,000)
Payment/receipt for property purchase/sale	(113,000,000)	0	0	0	0	0
Rent received in advance	784,509	0	0	0	0	0
Net Cash Flows from/(used in) Investing Activities	(121,315,491)	(1,400,000)	(800,000)	(200,000)	(1,400,000)	(100,000)
Cash Flows from Financing Activities						
Net increase / (decrease) in equity investors' funds	28,650,000	(1,800,000)	(1,800,000)	(1,800,000)	(1,800,000)	(1,800,000)
Net increase / (decrease) in bank loan	96,500,000	0	0	0	0	0
Distributions paid - COR and LG	0	0	0	0	0	0
Net Cash Flows from / (used in) Financing Activities	125,150,000	(1,800,000)	(1,800,000)	(1,800,000)	(1,800,000)	(1,800,000)
Net Increase/(Decrease) in Cash Held	4,502,805	(1,828,924)	(1,130,929)	171,606	198,353	2,232,350
Add: Opening Cash Brought Forward	0	4,502,805	2,673,881	1,542,952	1,714,558	1,912,911
Closing Cash Carried Forward	4,502,805	2,673,881	1,542,952	1,714,558	1,912,911	4,145,261

*Not presented in accordance with Australian Accounting Standards.

EXECUTED as an agreement in Queensland.

EXECUTED for and on behalf of)
B LUE TOWER BRISBANE PTY LTD)
ACN 105 735 126 by authority of the directors in)
the presence of:)

^ 
Director
Geoffrey Michael McMahon

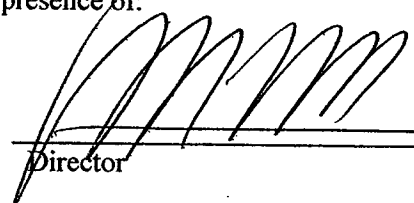
^ 
Director/Secretary

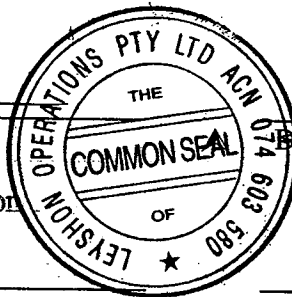
MICHAEL O'REILLY


^ Full name of director

^ Full name of director/secretary

EXECUTED for and on behalf of)
LEYSHON OPERATIONS PTY LTD)
ACN 074 603 580 by authority of the directors in)
the presence of:)

^ 
Director
Geoffrey Michael McMahon




^ 
Director/Secretary

Christina Natalie Little

^ Full name of director

^ Full name of director/secretary

EXECUTED for and on behalf of)
AUSTRALIAN AND ASIA/PACIFIC)
INSTITUTE OF PROPERTY AUDITORS)
PTY LTD ACN 083 601 110 by authority of the)
directors in the presence of:)

^ 
Director

^ 
Director/Secretary

WILLIAM G COLLINS

MICHAEL O'REILLY

^ Full name of director

^ Full name of director/secretary



McCULLOUGH ROBERTSON

l a w y e r s

Success. In business

DEED OF VARIATION

BLUE TOWER BRISBANE PTY LTD ACN 105 735 126

and

LEYSHON OPERATIONS PTY LTD ACN 074 603 580

And

AUSTRALIAN AND ASIA/PACIFIC INSTITUTE OF PROPERTY AUDITORS PTY LTD
ACN 083 601 110

Level 12 Central Plaza Two
66 Eagle Street Brisbane
GPO Box 1855 Brisbane Qld 4001
Telephone: (07) 3233 8888 Fax: (07) 3229 9949
Email: info@mccullough.com.au
www.mccullough.com.au

DEED OF VARIATION

Made on 28 NOVEMBER 2003

BY BLUE TOWER BRISBANE PTY LTD ACN 105 735 126 of Level 4, 10 Felix Street,
Brisbane, Queensland, 4000

(‘Vendor’)

AND LEYSHON OPERATIONS PTY LTD ACN 074 603 580 of Level 4, 10 Felix Street,
Brisbane, Queensland, 4000

(‘Leyshon’)

AND AUSTRALIAN AND ASIA/PACIFIC INSTITUTE OF PROPERTY AUDITORS
PTY LTD ACN 083 601 110 of Level 20, 307 Queen Street, Brisbane, Queensland

(‘AAPIPA’)

BACKGROUND

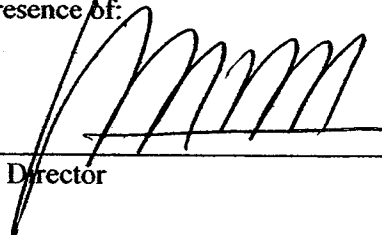
- A. An Asset Management Agreement (‘Asset Management Agreement’) was entered into between the Vendor, Leyshon and AAPIPA.
- B. The parties now desire to vary the Asset Management Agreement.

OPERATIVE PROVISIONS

- 1. The Asset Management Agreement is varied as follows:
 - (a) Clause 5.7(a) is deleted and replaced with the following:
 - (a) the Asset Manager will receive an Investment acquisition fee of 2% of the Property’s purchase price paid on the latter of the Completion Date and the raising of \$30 million in equity, in the event that the \$30 million in equity has not been raised by the Completion Date an additional Investment acquisition fee calculated as 6% per annum of the 2% of the Property’s purchase price will also form part of the Investment acquisition fee, the total to be divided equally between Leyshon and AAPIPA.
- 2. The parties consent to the varying the Asset Management Agreement in accordance with this Deed.

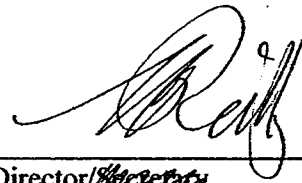
EXECUTED as a deed in Queensland.

SIGNED SEALED AND DELIVERED)
for and on behalf of)
BLUE TOWER BRISBANE PTY LTD)
ACN 105 735 126 by authority of the directors in)
the presence of:)


A Director

Geoffrey Michael McMahon

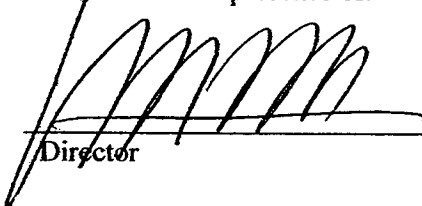
A Full name of director


A Director/~~Secretary~~

MICHAEL O'REILLY

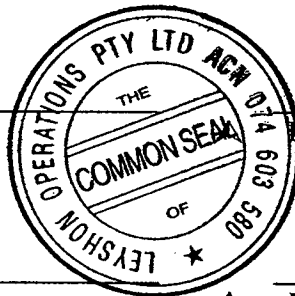
A Full name of director/secretary

SIGNED SEALED AND DELIVERED)
for and on behalf of)
LEYSHON OPERATIONS PTY LTD)
ACN 074 603 580 by authority)
of the directors in the presence of:)


A Director

Geoffrey Michael McMahon

A Full name of director

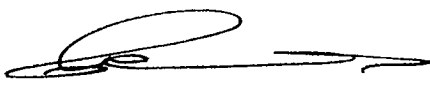



A Director/Secretary

Christina Natalie Little

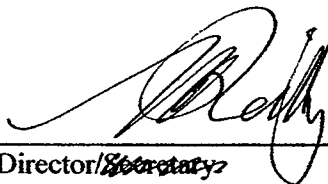
A Full name of ~~director~~/secretary

SIGNED SEALED AND DELIVERED)
for and on behalf of)
AUSTRALIAN AND ASIA/PACIFIC INSTITUTE)
OF PROPERTY AUDITORS PTY LTD)
ACN 083 601 110 by authority)
of the directors in the presence of:)


A Director

WILLIAM G COLLINS

A Full name of director


A Director/~~Secretary~~

MICHAEL O'REILLY

A Full name of director/secretary