

**Sydney Airport Holdings Limited**

ABN 85 075 295 760  
AFSL 236875

Central Terrace Building  
10 Arrivals Court  
Sydney International Airport  
New South Wales 2020

T 1800 181 895 or  
+61 2 9667 9871  
F +61 2 9667 9296  
[www.sydneyairport.com.au/investors](http://www.sydneyairport.com.au/investors)



## ASX Release

25 November 2013

---

### **Sydney Airport Receipt of Second Judicial Advice for Scheme and Amendment of Sydney Airport Trust 2 Constitution**

Sydney Airport (SYD) advises that the Supreme Court of NSW today granted judicial advice in respect of the scheme, an arrangement under which Sydney Airport Limited will acquire all of the units in Sydney Airport Trust 2 (SAT2), in connection with the implementation of the proposal to simplify SYD Group's corporate structure (the Proposal). Implementation of the Proposal (including the trust scheme) is anticipated to occur on 3 December 2013 in accordance with the timetable set out in the SYD Explanatory Memorandum in relation to the Proposal.

Following receipt of the second judicial advice and SYD securityholder approval of a number of amendments to the Constitution of SAT2 in order to facilitate the implementation of the scheme, the Constitution of SAT2 has been amended and the scheme is therefore effective as of today, 25 November 2013.

A copy of the amended Constitution of SAT2 is attached.

Jamie Motum  
Company Secretary

---

**For further information, please contact:**

**Chantal Travers**  
Manager – Investor Relations

Tel: +612 9667 9271  
Mob: +61 428 822 375  
Email: [chantal.travers@syd.com.au](mailto:chantal.travers@syd.com.au)

**Laura Stevens**  
Manager - Media and Communications

Tel: +612 9667 6477  
Mob: +61 437 033 479  
Email: [laura.stevens@syd.com.au](mailto:laura.stevens@syd.com.au)

---

# Constitution Sydney Airport Trust 2

---

Manager: Sydney Airport Holdings  
Limited  
(ACN 075 295 760)

Constitution deed dated 13 February 2002

Consolidated as at 25 November 2013

**Notes to user:**

**The footnotes do not form part of the text and are for guidance only.**

**The footnotes contain only selected references to relevant Listing  
Rule requirements, not an exhaustive list of those which may apply.**

---

**Contents - Constitution of the Sydney Airport Trust 2**


---

<b>1</b>	<b>Name of Trust and Investment Policy</b>	<b>4</b>
<b>2</b>	<b>Assets held on trust</b>	<b>4</b>
<b>3</b>	<b>Units, Options and other instruments</b>	<b>5</b>
<b>4</b>	<b>Partly Paid Units</b>	<b>8</b>
<b>5</b>	<b>Classes of Units</b>	<b>11</b>
<b>6</b>	<b>Application Price for Units</b>	<b>11</b>
<b>7</b>	<b>Application procedure</b>	<b>14</b>
<b>8</b>	<b>Redemption Price of Units</b>	<b>15</b>
<b>9</b>	<b>Redemption procedures</b>	<b>16</b>
<b>10</b>	<b>Valuation of Assets</b>	<b>18</b>
<b>11</b>	<b>Income and distributions to Members</b>	<b>19</b>
<b>12</b>	<b>Payments</b>	<b>24</b>
<b>13</b>	<b>Powers of the Manager</b>	<b>24</b>
<b>14</b>	<b>Retirement of Manager</b>	<b>26</b>
<b>15</b>	<b>Notices to Members, Option holders and Other Instrument holders</b>	<b>26</b>
<b>16</b>	<b>Notices to the Manager</b>	<b>27</b>
<b>17</b>	<b>Meetings of Members</b>	<b>27</b>
<b>18</b>	<b>Rights and liabilities of Manager</b>	<b>29</b>
<b>19</b>	<b>Limitation of liability and indemnity in favour of Manager</b>	<b>30</b>
<b>20</b>	<b>Liability of Members and Option holders</b>	<b>31</b>
<b>21</b>	<b>Remuneration and expenses of the Manager</b>	<b>32</b>
<b>22</b>	<b>Duration of the Trust</b>	<b>35</b>
<b>23</b>	<b>Procedure on termination</b>	<b>35</b>
<b>24</b>	<b>Amendments to this constitution</b>	<b>36</b>
<b>25</b>	<b>Compliance committee</b>	<b>37</b>
<b>26</b>	<b>Complaints</b>	<b>37</b>
<b>27</b>	<b>Listing rules</b>	<b>38</b>
<b>27A</b>	<b>Small Holdings</b>	<b>38</b>

---

<b>27B</b>	<b>Stapling</b>	<b>39</b>
<b>27C</b>	<b>Sale Facility</b>	<b>40</b>
<b>27D</b>	<b>Nomination and Election of Directors of Manager</b>	<b>41</b>
<b>28</b>	<b>References to Corporations Act</b>	<b>41</b>
<b>29</b>	<b>Substantially Australian investment fund</b>	<b>41</b>
<b>30</b>	<b>Interpretation</b>	<b>47</b>
<b>31</b>	<b>Scheme</b>	<b>59</b>

---

# Constitution of the Sydney Airport Trust 2

Date: Wednesday 13 February 2002

## Operative provisions:

This deed poll is declared by Sydney Airport Holdings Limited (ACN 075 295 760) to be the constitution of the Sydney Airport Trust 2.

## 1 Name of Trust and Investment Policy

---

- 1.1 The Trust is called the Sydney Airport Trust 2 or by such other name as the Manager determines from time to time<sup>1</sup>.
- 1.2 If a Manager retires or is removed its successor as Manager must, unless otherwise approved by the former Manager, change the name of the Trust to a name that does not imply an association with the former Manager or its business.
- 1.3 The principal investment policy of the Manager in relation to the Trust is investment in both existing and proposed Airport Assets and the making of such other investments with the Assets of the Trust Fund which in the Manager's opinion are not from time to time required for that purpose. The Manager may vary the principal investment policy, provided reasonable notice is given to Members in order that Members may, if they see fit, dispose of the Units prior to the variation taking effect.
- 1.4 For the purpose of giving effect to the investment policy specified in clause 1.3 but without limiting any other provision of this constitution, the Manager may:
  - (a) invest the Assets in cash and cash equivalents, interests, securities or Other Instruments issued by the Stapled Trust;
  - (b) lend Assets or provide any other financial accommodation to the Stapled Trust; and
  - (c) enter into hedging contracts in connection with any actual or prospective investment of the Trust or any borrowing by the Trust.

## 2 Assets held on trust

---

- 2.1 The Manager must hold the Assets on trust for Members<sup>2</sup>.

---

<sup>1</sup> See Corporations Regulation 5C.1.02

<sup>2</sup> See section 601FC(2) of the Corporations Act

- 2.2 The Assets vest in the Manager, but must be clearly identified as property of the Trust and held separately from the assets of the Manager and any other managed investment scheme if and to the extent that the Corporations Act so requires<sup>3</sup>.

### 3 Units, Options and other instruments

---

#### Nature of Units

- 3.1 The beneficial interest in the Trust is divided into Units.
- 3.2 Each Fully Paid Unit confers an equal undivided interest and, unless this constitution states otherwise, a Partly Paid Unit confers an interest of the same nature which is proportionate after deducting the amount which remains to be paid up on the Unit.
- 3.3 A Unit confers an interest in the Assets as a whole, subject to the Liabilities. It does not confer an interest in a particular Asset.
- 3.3A The provisions of the constitution relating to Stapling take effect on and from the date of issue of 50 Partly Paid Units under clause 22.1 and an identical number of initial Stapled Units, subject to all other provisions of this constitution which may suspend, abrogate or terminate Stapling.

#### Options

- 3.3B The Manager may create and issue Options on such terms and conditions as the Manager determines. Options may be issued with Units or separately.
- 3.3C Subject to this constitution, the Corporations Act (and the conditions of any applicable ASIC relief from it) and, if relevant, the Listing Rules, the Manager may determine that Options will be issued:
- (a) for consideration or no consideration;
  - (b) on the basis that the exercise price for a Unit to be issued on exercise of the Option is the price determined by the Manager, provided that the exercise price is less than the price that would otherwise apply under this constitution by a percentage not exceeding 50%; and
  - (c) conferring on the holder of the Option such other entitlements under this constitution as the Manager determines,
- and otherwise on terms and conditions and with such entitlements as determined by the Manager. The terms of issue of the Option may allow the Manager to buy back the Options.
- 3.3D Subject to the Listing Rules and the Corporations Act (and the conditions of any applicable ASIC relief from it), if the Manager is making an offer of Options to Members which is otherwise in proportion to their existing holdings of Units, the Manager is not required to offer Options under this clause to persons whose address on

---

<sup>3</sup> See section 601FC(1)(i)

---

the Register is in a place other than Australia and New Zealand.

- 3.3E (a) On exercise of an Option, the holder of the Option is entitled to subscribe for and be allotted such number of Units as the terms and conditions of issue of the Option contemplate.
- (b) While Unit Stapling applies, an Option may only be exercised if, at the same time as Units are acquired pursuant to the Option, the same person acquires an identical number of Stapled Units, which are then Stapled to the Units.

### **Rights attaching to Units and Options**

- 3.3G A Member holds a Unit subject to the rights, restrictions and obligations attaching to that Unit. The holder of an Option holds the Option subject to the terms and conditions attaching to that Option.

### **No fractions of Units**

- 3.4 Fractions of a Unit may not be issued by the Manager.
- 3.5 Where any calculation performed under this constitution or the terms of a withdrawal offer results in the issue or redemption of a fraction of one Unit, the number of Units to be issued or redeemed is to be rounded down or up respectively to the nearest whole Unit.

### **Rounding**

- 3.6 Any excess application or other money or property which results from rounding under any provision of this constitution becomes an Asset of the Trust.

### **Consolidation and division of Units and Options**

- 3.7 Units and Options may be consolidated or divided as determined by the Manager<sup>4</sup>.
- 3.7A While Stapling applies, Units may only be consolidated or divided if the related Stapled Units are also consolidated or divided at the same time and to the same extent.

### **Transfer of Units and Options**

- 3.8 If the Units and / or Options are Officially Quoted, the Units and / or Options may be transferred in any manner permitted by the CHES System. The Manager may require before registration of any such transfer that there be provided to the Manager any documents which the rules of the uncertificated system require or permit the Manager to require be provided to it to authorise registration. This clause 3.8 prevails over any other provision of this constitution that may be inconsistent with it but it does not permit the Manager to refuse to register a proper ASTC transfer.
- 3.9 Subject to this constitution and the terms of issue, a Unit and an Option may be transferred in any form approved by the Manager, accompanied by any evidence reasonably required by the Manager to show the right of the transferor to make the transfer and (if the Manager requires) be presented for Registration duly stamped.

---

<sup>4</sup> If applicable, refer Listing Rules, Chapter 7 - reorganisations of capital.

- 
- 3.10 A transfer is not effective until Registered.
- 3.11 If Units and Options are not Officially Quoted, subject to the terms of issue and the law the Manager may refuse to record any transfer in the Register.
- 3.12 The Manager must refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of any restricted securities on issue which is or might be in breach of the Listing Rules or any escrow agreement entered into by the Manager under the Listing Rules in relation to the restricted securities. During a breach of the Listing Rules relating to restricted securities, or a breach of a restriction agreement, the holder of the restricted securities is not entitled to any distribution or voting rights in respect of the restricted securities.
- 3.12A While Stapling applies and subject to the Corporations Act and the Listing Rules if the Listing Rules apply:
- (a) the Manager must not register any transfer of Units unless it is a single instrument of transfer of Stapled Securities and any provision of clauses 3.8 to 3.12 of this constitution inclusive referring to a transfer of Units will be deemed to be a reference to such a transfer; and
  - (b) a reference in clauses 3.8 to 3.12 inclusive to a Unit will be deemed to be a reference to a Stapled Security.

#### **Joint tenancy**

- 3.13 Persons Registered jointly as the holder of a Unit or Option hold as joint tenants and not as tenants in common unless the Manager otherwise agrees.

#### **Death, legal disability of Member, Option holder or Other Instrument holder**

- 3.14 If a Member, Option holder or Other Instrument holder dies or becomes subject to a legal disability such as bankruptcy or insanity, only the survivor (where the deceased was a joint holder) or the legal personal representative (in any other case) will be recognised as having any claim to Units or Options Registered in the Member's, Option holder's or Other Instrument holder's name.

#### **Number of Units**

- 3.15 While Unit Stapling applies, the number of issued Units at any time must equal the number of issued Stapled Units.

#### **Other instruments**

- 3.16 Subject to the Corporations Act and the Listing Rules
- (a) the Manager may issue any other interests, rights or other instruments of a debt, equity, quasi-debt, quasi-equity or hybrid nature (*Other Instrument*) which the Manager determines; and
  - (b) such Other Instruments may be issued for such consideration and with such preferred, deferred or other special rights or such restrictions, whether with regard to dividends, voting, return of capital, payment of calls, redemption, conversion or otherwise, as the Manager decides.



---

**Rights attaching to Other Instruments**

- 3.17 The holders of Other Instruments issued by the Manager hold those Other Instruments subject to the rights, restrictions and obligations attaching to those securities or instruments.

---

**4 Partly Paid Units**

---

- 4.1 The Application Price of Units may be payable by instalments as set out in this clause 4.
- 4.1A While Stapling applies, Units may not be issued on the basis that they are Partly Paid Units unless there is a contemporaneous and corresponding issue of Stapled Units which are to be partly paid. While Stapling applies any issue of Partly Paid Units shall be upon the basis that a call will not be regarded as having been validly paid unless any amount payable at the same time in relation to the partly paid Stapled Units is also paid.
- 4.2 The Manager may determine at any time that Units to be offered for sale or subscription are to be offered on terms that the Application Price is payable by instalments of such amounts and at such times as the Manager determines or, if the Manager so determines, by a single instalment payable at such time as the Manager determines.
- 4.3 Subject to any applicable statutory duty requiring the Manager to treat Members of the same class equally and those of different classes fairly, where Units are offered for sale or subscription on terms and conditions determined and set out in accordance with clause 4.2, those terms and conditions may be varied or compliance with those terms and conditions waived only with the consent of the Manager. The variation or waiver must not take effect during the currency of the offering document pursuant to which the Units were offered for sale or subscription.
- 4.4 The Manager must give Members:
- (a) if the Trust is not Listed, such notice as is specified in the terms of issue of the Unit; or
  - (b) if the Trust is Listed, at least 30 Business Days' notice (but not more than 40 Business Days' notice),
- of the time and date each instalment is due to be paid (the First Notice). If the Trust is Listed:
- (a) the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules); and
  - (b) at least 4 Business Days before the date each instalment is due to be paid, the Manager must send a second notice to all new Members and those Members whose holding has changed since the First Notice which must include any changes that have occurred in the information given in the First Notice because of a change in the holding.

---

If a Member does not pay an instalment by the due time and date then interest is payable on the sum due from the date payment was due to the time of payment at such rate as the Manager determines not exceeding BBSW plus 3% per annum. The Manager may waive payment of that interest in whole or part.

- 4.4A (a) Subject to the Listing Rules, the Manager may revoke, reduce or postpone the payment of an instalment.
- (b) Subject to the Listing Rules, an instalment shall be deemed to be due on the date determined by the Manager.
- (c) Subject to the Listing Rules, the non-receipt of a notice that an instalment is due by, or the accidental omission to give a notice that an instalment is due to, a Member shall not invalidate the instalment being due.
- (d) Subject to the Corporations Act and the Listing Rules, the Manager may extinguish in full or in part any liability of Members in respect of any moneys unpaid on Members' Units and such extinguishment shall extend to any moneys unpaid on Stapled Units.
- (e) Subject to the Listing Rules, any instalment which, by the terms of issue of the Unit, becomes payable on issue of the Unit or at any date fixed by or in accordance with such terms of issue shall be deemed to be an instalment which the Manager has given Members notice of in accordance with clause 4.4. In the case of non-payment, all the provisions of this constitution as to payment of interest, forfeiture or otherwise shall apply as if such notice had been given.
- 4.5 If a Member fails to pay in full any instalment due on any Partly Paid Unit or Units on or by the day specified for payment, the Manager may, during such time as the instalment or any part of the instalment remains unpaid, serve a notice on that Member requiring payment of so much of the instalment as is unpaid, any reasonable interest owing and all reasonable expenses incurred by the Manager as a result of the non-payment. The notice must specify a further time and day (not earlier than 10 days from the date of the notice) on or by which the payment as required by the notice is to be made. The notice must also state that in the event of non payment on or by that specified time and day, the Partly Paid Units in respect of which the instalment or part instalment remains unpaid will be liable to be forfeited and any equal number of Stapled Units will also be liable to be forfeited. If Units are Officially Quoted, the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules).
- 4.6 If the requirements of any notice issued under clause 4.5 are not complied with:
- (a) any Partly Paid Unit in respect of which the notice has been given (together with a Stapled Unit) may at any time after the date specified in the notice for payment of the amount required by the notice (and before payment of the instalment and any interest and expenses owing), be forfeited on the Manager so determining; and

- 
- (b) subject to the Listing Rules, the Corporations Act and this constitution, all voting rights, entitlements to the distribution of income and dividends and other rights in connection with any Partly Paid Unit and/or Stapled Unit in respect of which the notice has been given are suspended until reinstated by the Manager.

4.7 Subject to the Listing Rules if Units are Officially Quoted, a forfeited Unit (together with a Stapled Unit) may be sold or otherwise disposed of as a Fully Paid Unit (together with a Stapled Unit), either:

- (a) at a price calculated in accordance with clause 8.1 (and, with respect to the Stapled Unit, at a price calculated in accordance the constitution for the Stapled Trust); or
- (b) by private treaty or public auction, if the ASIC has given any necessary relief from the provisions of the Corporations Act and if the Manager complies with the conditions of that relief.

At any time before a sale or disposition the forfeiture may be cancelled upon such terms as the Manager thinks fit.

4.8 The holder of Partly Paid Units which have been forfeited ceases to be a Member in respect of the forfeited Units and/or ceases to be a member of the Stapled Trust in respect of the Stapled Units (and has no claims or demands against the Manager or the Trust in respect of the forfeited Units and/or Stapled Units) but remains liable to pay to the Manager all moneys which at the date of forfeiture were payable by the former Member to the Manager in respect of the forfeited Units (including expenses and together with interest at such rate as the Manager determines not exceeding BBSW plus 3% per annum) but the former Member's liability ceases if and when the Manager receives payment in full of all such money and, if applicable, interest in respect of the forfeited Units.

4.9 A statement signed by a duly authorised officer of the Manager that a Partly Paid Unit and/or Stapled Unit have been duly forfeited on a date stated therein is conclusive evidence of the facts included in the statement as against all persons claiming to be entitled to the forfeited Units and/or Stapled Units.

4.10 Where a Partly Paid Unit and/or Stapled Unit are forfeited pursuant to this clause 4 the Manager may receive the consideration, if any, given for a forfeited Unit and/or Stapled Unit on the sale or disposal, and the Manager may execute a transfer of such Unit and/or Stapled Unit in favour of the person to whom the Unit and/or Stapled Unit is sold or disposed of and that person must then be registered as the holder of that Unit and/or Stapled Unit and is not obliged to ensure that any part of the money which the person has paid for the Unit and/or Stapled Unit is paid to the former holder of the Unit nor shall the person's title to that Unit and/or Stapled Unit be affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of that Unit and/or Stapled Unit.

4.11 Where forfeited Units are sold or disposed of for cash, the Manager must deduct from the amount of the consideration the amount of the instalment owing at the date of forfeiture together with interest (if any)

---

payable thereon and a sum representing an amount which has been or will be incurred for commissions, stamp duties, transfer fees and other usual charges, if any, on the sale or disposal of the Unit and any expenses associated with the forfeiture or any proceedings brought against the Member to recover the instalment or part thereof owing. The Manager may retain the amounts so deducted, but the balance remaining must be paid to the Member whose Units were forfeited.

- 4.12 Joint holders of Partly Paid Units are jointly and severally liable to pay all amounts due and payable on the Partly Paid Units held by them.
- 4.13 Subject to the Corporations Act and the provisions of this constitution, the rights and obligations attaching to a Partly Paid Unit will be in proportion to the extent to which that Unit is paid up.

## 5 Classes of Units

---

- 5.1 The Manager may establish Classes of Units. Subject to the Corporations Act, Units which comprised part of a Stapled Security in respect of which the Stapled Units have been cancelled or redeemed shall be a separate Class of Units unless the Manager determines otherwise.

## 6 Application Price for Units<sup>5</sup>

---

- 6.1 The first 50 Units to be issued on the initial settlement of the Trust<sup>6</sup> in accordance with clause 22.1 and all Units issued under the first prospectus for the Trust will be issued at the Application Price of \$0.01 per Unit which will be payable at the times the Manager specifies.
- 6.2 Subject to clause 6.1, all other Units must only be issued at an Application Price:
- (a) in the case of a proportionate offer (including a rights issue) while the Trust is Listed, determined in accordance with clause 6.4;
  - (b) in the case of a placement while the Trust is Listed, determined in accordance with clause 6.4A;
  - (c) in the case of reinvestment of income while the Trust is Listed, determined in accordance with clause 11.14B;
  - (d) in the case of Units issued upon the exercise of an Option, determined in accordance with clause 3.3C;
  - (e) NOT USED;
  - (f) in all other cases while the Trust is Listed, equal to

---

<sup>5</sup> Required to be included by Section 601GA(1)(a)

<sup>6</sup> See "Duration of the Trust"

- 
- (i) while Unit Stapling applies, the Average Market Price of Stapled Securities minus the issue price of the Stapled Units;

or

- (ii) the amount determined by the Manager in accordance with clause 6.5<sup>7</sup>; and
- (g) in all other cases while the Trust is not Listed, equal to:
 
$$\frac{\text{Net Asset Value} + \text{Transaction Costs} + \text{Aggregate Unpaid Amount}}{\text{number of Units on issue}}$$

6.3 Each of the variables in clause 6.2(g) must be determined as at the next Valuation Time after:

- (a) the Manager receives the application for Units; or
- (b) the Manager receives the application money, or the property against which Units are to be issued or vested in the Manager,

whichever happens later.

### **Rights issues**

6.4 While the Trust is Listed, the Manager may offer Units for subscription at a price determined by the Manager to those persons who were Members on a date determined by the Manager not being more than 30 days immediately prior to the date of the offer if:

- (a) the Manager complies with the Listing Rules applicable to the issue and the conditions of any applicable ASIC relief<sup>8</sup>;
- (b) while Stapling applies, the Application Price of the Stapled Securities is not less than 50% of the Average Market Price of the Stapled Securities on the day preceding the date of the offer;
- (c) while Unit Stapling applies, any offer of Units to a Member must be accompanied by a contemporaneous and corresponding offer of Stapled Units by the Stapled Trust, which offer is capable of acceptance only if the Member takes up an identical number of Units and Stapled Units;
- (d) if an underwriter has underwritten any offer for subscription under this clause 6.4, the underwriter may take up any Units not subscribed for by the Member if the underwriter subscribes for an identical number of Stapled Units (while Unit Stapling applies).

but, subject to the Listing Rules and the conditions of any applicable ASIC relief, the Manager is not required to offer Units under this

---

<sup>7</sup> This is subject to obtaining appropriate ASIC relief

<sup>8</sup> See ASIC Class Order 98/52

---

clause to persons whose address on the Register is in a place other than Australia or New Zealand<sup>9</sup>.

## Placements

- 6.4A While the Trust is Listed, the Manager may at any time issue Units to any person, whether by way of a placement or otherwise at a price and on terms determined by it, provided that:
- (a) the Manager complies with the Listing Rules applicable to the issue and the conditions of any applicable ASIC relief; and
  - (b) while Unit Stapling applies, any offer of Units which are to be issued pursuant to this clause 6.4A must be accompanied by a contemporaneous and corresponding offer of Stapled Units by the Stapled Trust, which offer is capable of acceptance only if the recipient takes up an identical number of Units and Stapled Units; and
  - (c) in respect of a placement, if Member approval or ratification of the issue is sought:
    - (i) the Members who hold Units in the same Class approve the issue by a Placement Resolution;
    - (ii) unless the Manager reasonably considers that the proposed placement will not adversely affect the interests of Members holding Units in another Class (nor the interests of a person holding interests of any other kind in the Trust) – Members holding Units in that other Class (or the person holding interests of that other kind in the Trust) approve the proposed placement by a Placement Resolution;
    - (iii) any notice convening a meeting to vote on a proposed Placement Resolution contains particulars of the use to be made of the money raised by the issue.

For the purposes of this clause 6.4A(c), Placement Resolution means a special resolution in relation to the approval or ratification of a placement of Units by the Manager where:

- (a) votes are only cast in respect of Units (the Eligible Interests):
  - (i) that are held by a Member who will not (or did not) acquire any of the Units that are to be (or were) issued; or
  - (ii) that are held by a Member for the benefit of another person who will not (or did not) obtain any beneficial ownership of any of the Units that are to be (or were) issued; and

---

<sup>9</sup> Assumes the Manager is able to comply with the conditions in Listing Rule 7.7.1; see also ASIC Class Order 98/52, paragraph (vi).

- 
- (b) the value of the Eligible Interests held by the Members who vote represents at least 25% of the total value of Eligible Interests.

### **Determination of Application Price where Stapled Securities are issued**

6.5 Where:

- (a) Stapling applies;
- (b) as a consequence, a Unit is to be issued as part of a Stapled Security; and
- (c) this constitution contains a provision for the calculation or determination of the Application Price for the Stapled Security but not for the Unit;

the Manager must determine what part of the Application Price of a Stapled Security is to represent the Application Price of a Unit for the purposes of this constitution.<sup>10</sup>

## **7 Application procedure**

---

### **Application form**

- 7.1 An applicant for Units, Options or Other Instruments must complete a form approved by the Manager if the Manager so requires. The form may be transmitted electronically if approved by the Manager.
- 7.1A While Unit Stapling applies, an applicant for Units must at the same time make an application for an identical number of Stapled Units.

### **Payment**

- 7.2 Payment in a form acceptable to the Manager, or a transfer of property of a kind acceptable to the Manager and able to be vested in the Manager or a custodian appointed by it (accompanied by a recent valuation of the property, if the Manager requires), must:
  - (a) accompany the application;
  - (b) be received by or made available to the Manager or the custodian within such period before or after the Manager receives the application form as the Manager determines from time to time or as the terms of issue of the relevant Option, Partly Paid Unit or Other Instrument contemplate; or
  - (c) comprise a reinvestment of a distribution in accordance with this constitution<sup>11</sup>.

If the Manager accepts a transfer of property other than cash, any costs associated with the valuation or transfer of the property must be paid by the Member either directly or by deducting them from the market value of the property before the number of Units to be issued is calculated, as the Manager decides.

---

<sup>10</sup> NB: This requires ASIC relief

<sup>11</sup> See "Income and distributions to Members"

**Manager may reject**

- 7.3 The Manager may reject an application in whole or in part without giving any reason for the rejection<sup>12</sup>.

**Minimum amounts**

- 7.4 The Manager may set a minimum application amount and a minimum holding for the Trust and alter or waive those amounts at any time<sup>13</sup>.

**Manager must reject**

- 7.4A While Unit Stapling applies, the Manager must reject an application for Units (including an application consequent on the exercise of an Option) if the applicant does not apply at the same time for an identical number of Stapled Units if an identical number of Stapled Units will not be issued to the applicant at the same time as the issue of Units to the applicant.

**Issue date**

- 7.5 Except in the case of a reinvestment of distribution in accordance with this constitution, Units are taken to be issued when:
- (a) the Manager accepts the application; or
  - (b) the Manager receives the application money, or the property against which Units are to be issued is vested in the Manager,
- whichever happens later.

Units which are issued on a reinvestment of distribution in accordance with this constitution are taken to be issued on the first Business Day after the end of the Distribution Period to which the distribution relates.

**Uncleared funds**

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

**Register**

- 7.7 Subject to the Corporations Act, a single register may be kept in which details of the holders of Units and the holders of Stapled Units are recorded.

**Holding statements**

- 7.8 Subject to the Corporations Act, while the Trust is admitted to an uncertificated trading system, a joint holding statement may be issued to evidence the holding of Stapled Securities.

**8 Redemption Price of Units<sup>14</sup>****Redemption Price**

- 8.1 A Unit must only be redeemed at a Redemption Price calculated as:

<sup>12</sup> Refer Listing Rule 10.11 if the Trust is Listed - restriction on issue of Units to related parties.

<sup>13</sup> If the Trust is Listed, see "Small holdings".

<sup>14</sup> Required to be included by Section 601GA(4) if the Manager wishes to offer Members a right to withdraw from the scheme.



---

Net Asset Value - Transaction Costs + Aggregate Unpaid Amount  
number of Units in issue

less:

- (a) in the case of a Partly Paid Unit, the amount of the Application Price which has not been paid; and
- (b) the Accrued Income Entitlement attributable to the Unit.

8.2 Each of the variables in clause 8.1 must be determined:

- (a) while the Trust is Liquid, as at the next Valuation Time after the Manager receives the redemption request, or determines that the Units are to be redeemed, whichever is the earlier; or
- (b) while the Trust is not Liquid, at the time the withdrawal offer closes.

8.3 The Redemption Price may be rounded as the Manager determines. The amount of the rounding must not be more than 1 cent.

8.4 Immediately prior to the redemption of the Unit the Manager is to distribute to the Member and the Member becomes presently entitled to the Accrued Income Entitlement in respect of the Unit. The Accrued Income Entitlement is to be paid at the time of payment of the Redemption Price.

8.5 If the right of a Member to receive at the time of redemption of Units the Accrued Income Entitlement in relation to the Units would in the opinion of the Manager either:

- (a) expose the Trust to the risk of being taxed as if it were a company; or
- (b) not be fully recognised as being an income distribution for the purposes of any Tax,

the Manager may determine that the right shall not apply and in that event paragraph (b) in clause 8.1 and clause 8.4 will not operate.

## 9 Redemption procedures<sup>15</sup>

---

### Request for redemption

- 9.1 A Member may make a request for the redemption of some or all of their Units in any manner approved by the Manager and, while the Trust is Liquid, the Manager may (but is not required to) give effect to that request at the time and in the manner set out in this clause 9.
- 9.1A Unless the Manager determines otherwise or, subject to the Listing Rules if the Listing Rules apply, the terms of issue of the Unit provide otherwise, a Member's right to make a redemption request under clause 9.1 is suspended while the Units are Officially Quoted.

---

<sup>15</sup> These procedures must be fair to all Members: Section 601GA(4)

---

**While the Trust is Liquid - Manager may redeem**

- 9.2 While the Trust is Liquid, the Manager may decide to satisfy a redemption request either in relation to all or some of the Units which are the subject of the request.
- 9.3 While the Trust is Liquid, if the Manager decides to satisfy a redemption request<sup>16</sup> in respect of a Unit it must pay from the Assets the Redemption Price calculated in accordance with this constitution. The payment must be made within 30 days of the Manager's decision.
- 9.4 The Manager is not obliged to pay any part of the Redemption Price out of its own funds.
- 9.5 While the Trust is Liquid, if compliance with a redemption request would result in the Member holding Units with an aggregate Redemption Price which is less than the then current minimum holding amount, the Manager may treat the redemption request as relating to the balance of the Member's holding.
- 9.6 While the Trust is Liquid, if the Manager increases the minimum holding amount, the Manager may after giving 30 days'<sup>17</sup> notice to a Member who holds Units with an aggregate Redemption Price less than the then current minimum holding amount redeem that Member's holding without the need for a redemption request.

**When Trust is not Liquid<sup>18</sup>**

- 9.7 While the Trust is not Liquid<sup>19</sup>, a Member may withdraw from the Trust in accordance with the terms of any current withdrawal offer made by the Manager, which if the Trust is a registered scheme is in accordance with the provisions of the Corporations Act<sup>20</sup> and, if Units are Officially Quoted is in accordance with the Listing Rules. If there is no withdrawal offer currently open for acceptance by Members, a Member has no right to withdraw from the Trust.
- 9.8 The Manager is not at any time obliged to make a withdrawal offer. If the Manager does make a withdrawal offer, it may do so by:
- (a) publishing it by any means (for example, in a newspaper or on the internet); or
  - (b) giving a copy to all Members.
- 9.9 If the Manager receives a redemption request before it makes a withdrawal offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.

**Clauses applicable whether or not the Trust is Liquid**

- 9.10 Clauses 9.11 and 9.12 apply whether or not the Trust is Liquid.

---

<sup>16</sup> There is no legal requirement to offer a right of withdrawal. When setting up a new trust the Manager can choose whether or not to offer such a right. For a registered scheme, if a right is offered, it must be specified in the constitution.

<sup>17</sup> Any other period for processing redemptions which is appropriate to the nature of the property may be chosen.

<sup>18</sup> Required to be included by Section 601GA(4)(c) if Members are to have right to withdraw

<sup>19</sup> For definition of a liquid scheme see Section 601KA(1)

<sup>20</sup> Refer sections 601KB to 601KE

**Sums owed to Manager**

- 9.11 The Manager may deduct from the proceeds of redemption or money paid pursuant to a withdrawal offer (if applicable) any money due to it by the Member.

**Transfer of Assets**

- 9.12 The Manager may transfer Assets to a Member rather than pay cash in satisfaction of all or part of a redemption request or pursuant to a withdrawal offer (if applicable). These Assets with any cash paid must be of equal value to the total amount due to the Member pursuant to the redemption request or withdrawal offer (based on a valuation done within one month before the date of the proposed transfer). If the Manager requires, the costs involved in transfer of these Assets must be paid by the Member or deducted from the amount due to the Member.

**Manager's power of compulsory redemption**

- 9.13 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 and cause the Units to be cancelled. Where the Units comprise part of Stapled Securities the Manager may only buy back and cancel the Units if the Stapled Unit is also the subject of contemporaneous buy-back and cancellation. Where Units are purchased as part of a Stapled Security pursuant to a buy-back arrangement, the Manager must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.

**Redemption while Stapling applies**

- 9.14 While Stapling applies the Manager may not redeem a Unit unless the manager or responsible entity of the Stapled Trust also redeems the corresponding Stapled Unit or the Stapled Unit is unstapled from the Unit to be redeemed.

**Rights of return**

- 9.15 Nothing in this clause 9 affects the obligation of the Manager to comply with any requirement to return application moneys to Members in accordance with Part 7.9 of the Corporations Act or with any similar requirement which applies to the Manager or to the Trust.

**10 Valuation of Assets****Manager may value**

- 10.1 The Manager may cause an Asset to be valued at any time, and must do so as and when required by the Corporations Act.<sup>21</sup>
- 10.2 The Manager may determine Net Asset Value at any time, including more than once on each day.
- 10.3 The Manager may determine valuation methods and policies for each category of Asset and change them from time to time. Unless the Manager determines otherwise, the value of an Asset will be its market value<sup>22</sup>.

<sup>21</sup> See section 601FC(j) for Scheme Operator's obligations concerning valuation

<sup>22</sup> ASIC Policy Statement 134, paragraph 29: constitution should set out how scheme property will be valued.

- 10.4 Where the Manager values an Asset at other than its market value, or where there is no market value, the valuation methods and policies applied by the Manager must be capable of resulting in a calculation of the Application Price or Redemption Price that is independently verifiable.

## 11 Income and distributions to Members

### Income

- 11.1 The 8 clauses next following this clause will apply unless the Manager makes a determination under clause 11.11.
- 11.2 The Manager must determine the income of the Trust for each Financial Year.
- 11.3 Unless the Manager determines otherwise prior to the end of the Financial Year, the income of the Trust will be the net income of the Trust calculated in accordance with the Tax Act reduced by any amount which would be included in the assessable income of the Trust in accordance with section 6AC or section 160AQT of the Tax Act.
- 11.4 Notwithstanding that the income of the Trust may, in accordance with this clause 11, be calculated in the same manner as the net income, the accounts of the Trust may be prepared in accordance with applicable accounting standards and generally accepted accounting principles. The preparation of the accounts in this manner is not to be regarded as a determination of the method for calculating the net income of the Trust pursuant to clauses 11.2 and 11.3.
- 11.5 The Manager may decide the classification of any item as being on income or capital account and the extent to which reserves or provisions need to be made.

### Present entitlement

- 11.6 A person who at any time during the Financial Year is or has been a Member, is presently entitled as at midnight on the last day of the Financial Year to the income of the Trust for the Financial Year in the proportion that the Income Distributions made (or allocated under the clause next following) to the Member in respect of the Financial Year bear to the sum of the Income Distributions made (or allocated under the clause next following) to all persons who are or have been Members at any time during the Financial Year.

### Income Distributions

- 11.7 An Income Distribution in respect of a Member means an amount calculated by the Manager as follows and any amount so calculated shall be taken to be allocated to the Member:
- (a) in respect of a Distribution Period ending on a Distribution Calculation Date other than 31 December in any year, an amount calculated as follows:

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

where

- 
- A is the aggregate of the number of Fully Paid Units held by the Member at the end of the Distribution Period plus the number obtained by multiplying the number of Partly Paid Units held by the Member as at the end of the Distribution Period by the Relevant Percentage as at the end of the Distribution Period;
- B is the aggregate of the number of Fully Paid Units in issue plus the Paid-up Proportion as at the end of the Distribution Period;
- C is an estimate of the income for the Distribution Period calculated as if the Distribution Period were a year of income but after deducting all distributions of Accrued Income Entitlements arising during the Distribution Period; and
- (b) in respect of a Distribution Period ending on 31 December in any year, an amount calculated as follows:

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

where

- A is the aggregate of the number of Fully Paid Units held by the Member at the end of the Distribution Period plus the number obtained by multiplying the number of Partly Paid Units held by the Member as at the end of the Distribution Period by the Relevant Percentage as at the end of the Distribution Period;
- B is the number of Fully Paid Units in issue plus the Paid-up Proportion as at the end of the Distribution Period; and
- C is the amount (if any) by which the income for the Financial Year exceeds the aggregate of the estimates of income calculated for the purposes of variable C in paragraph (a) above in respect of the previous Distribution Periods of the Financial Year but after deducting all distributions of Accrued Income Entitlements arising during the Financial Year; and
- (c) in respect of a redemption, any Accrued Income Entitlement arising during the Financial Year.

### Satisfaction of present entitlement

11.8 The present entitlement of a Member to the income of the Trust for a Financial Year will be satisfied by:

- (a) the payment of the Income Distributions to the Member in respect of the Financial Year; or
- (b) if an Income Distribution is not paid to the Member by reason of a transfer of Units by the Member, the payment by the Manager of an amount equal to that Income Distribution in

---

respect of those Units to the person to whom the Units have been transferred.

Income Distributions must be paid within two months after the Distribution Calculation Date or in accordance with clause 8.4. The Manager must have distributed all of the income of the Trust for the Financial Year within two months after the end of the Financial Year.

#### **Minimum distribution**

- 11.9 The Manager may transfer capital to enable distribution to Members of the minimum amount necessary to avoid the Manager as trustee of the Trust becoming assessable to pay tax under the Tax Act.

#### **Other distributions**

- 11.10 The Manager may at any time distribute any amount of capital or income to Members pro rata according to the number of Units held as at a time decided by the Manager (including a distribution pursuant to clause 11.16). The distribution may be in cash or by way of additional Units or by way of a distribution of Assets.

#### **Trust taxed as company**

- 11.11 If the Trust is to be taxed as if it were a company, the Manager may determine that this clause 11.11 applies to a Distribution Period instead of clauses 11.2 to 11.9. If it does so:
- (a) As soon as practicable after the end of the Distribution Period the Manager must determine the income in respect of the Distribution Period. Unless the Manager determines otherwise prior to the end of the Distribution Period, income will be calculated in accordance with normal accounting principles.
  - (b) The Manager must provide for, and pay from the Assets of the Trust when appropriate, all taxation attributable to the income of the Trust.
  - (c) The Manager may, in its discretion from time to time determine to pay such amount or amounts (if any) of income as a distribution in respect of the Distribution Period (each a ***Distributable Amount***) to the Members on the register on any date determined by the Manager (***Books Closing Date***).
  - (d) In respect of a Distributable Amount being paid to Members pursuant to this clause 11.11:
    - (i) the Manager must comply with the provisions of the Tax Act and take all necessary or desirable steps in relation thereto, including the franking of the distributions; and
    - (ii) the Manager must take any steps or actions as may reasonably be required in order to comply with the requirements of the Tax Act in relation to trusts which are taxed as if they were companies.
  - (e) A Member is entitled to a portion of the Distributable Amount, calculated as follows:

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

where

- A is the aggregate of the number of Fully Paid Units held by the Member at the Books Closing Date for the Distributable Amount plus the number obtained by multiplying the number of Partly Paid Units held by the Member as at the Books Closing Date by the Relevant Percentage as at the end of the Books Closing Date;
- B is the aggregate of the number of Fully Paid Units in issue plus the Paid-up Proportion as at the Books Closing Date;
- C is the Distributable Amount; and
- (f) The Distributable Amount must be paid to Members within two months after the Books Closing Date.

## Reinvestment

- 11.12 The Manager may decide whether to permit or require the Members to reinvest some or all of any distribution to acquire Units.
- 11.13 If the Manager decides to permit or require reinvestment, it must notify Members of the procedure for reinvestment and any change in the procedure.
- 11.14 If reinvestment applies, the Manager is deemed to have received and accepted an application to reinvest on the first day after the end of the Distribution Period to which the distribution relates.
- 11.14A While Stapling applies no reinvestment may occur unless contemporaneously with the reinvestment in additional Units the Member subscribes for or purchases an identical number of Stapled Units which when issued or acquired (respectively) are then Stapled to the additional Units.

The Manager may make provision for and make payment of the subscription or purchase price for such Stapled Units out of the distribution or income (as applicable) which is otherwise available for reinvestment.

- 11.14B If reinvestment applies, while the Units in the Trust are Listed the aggregate of the Application Price for each additional Unit and the application price for the Attached Securities upon reinvestment of a distribution is the average of the daily volume weighted average price of all sales of Stapled Securities recorded on ASX during the "Pricing Period" (but not including any transaction classified under the ASX Market Rules as a "Special Crossing", crossings prior to the commencement of normal trading, crossings during the closing phase and after hours adjust phase, or any overseas trade or trades pursuant to the exercise of options over Stapled Securities, any overnight crossings or any other sales which the Manager considers may not be reflective of natural supply and demand) less the discount (if any) of

not more than 10% of this amount determined by the directors of the Manager, rounded down to the four decimal places.

For the purposes of this clause:

- (a) "Pricing Period" means in respect of a particular distribution the period of 10 Trading Days (or such other period of not less than 5 Trading Days as the Manager may determine), ending on the 8<sup>th</sup> Trading Day prior to the date scheduled for payment of that distribution (or such other date as the Manager may determine).
- (b) "Trading Day" means a day that is a trading day for the purposes of the ASX Market Rules and which is a full day on which Stapled Securities are quoted on ASX and not suspended from quotation or made subject to a trading halt.

11.14C Whenever under this constitution or by law money is held on behalf of a Member for future reinvestment the money so held may be aggregated and on each occasion on which the aggregated amount reaches the Application Price of a Unit the amount will be applied in the purchase of a new Unit for issue to the Member.

11.14D While Stapling applies, a new Unit may not be so purchased until the reinvested money is sufficient for and is applied to a subscription for or purchase of a Stapled Unit which is then stapled to the Unit.

#### **Position on transfer of Units**

11.15 Income to which a Member is presently entitled when a transfer or transmission of Units is Registered remains credited to the transferor.

#### **Distribution on transfer of Assets**

11.16 The Manager may effect a distribution to Members by transferring Assets to all Members rather than paying in cash or issuing additional Units. If the Manager wishes to do so, it must effect the distribution to all Members in the same way. The Assets transferred to each Member must be of the same type, have the same rights and be fully paid. The Assets transferred may comprise solely a beneficial interest in tangible or intangible property. In each case, where Assets other than cash are to be transferred to Members (or a nominee on behalf of a Member), each Member authorises the Manager:

- (a) to act as their agent to agree to obtain the Assets; and
- (b) where the Assets comprise shares or an interest in shares in a company, to agree to become a member of that company.

The Assets transferred, together with any cash paid, must be of equal value to the total amount due to the Member pursuant to the distribution (based on a valuation done within one month before the date of the proposed transfer). If the Manager requires, the costs involved in transfer of those Assets must be paid by the Member or deducted from the distribution due to the Member.

#### **Deductions from income**

11.17 The Manager may deduct from any income or other distribution payable to a Member any sums of money presently payable by the



---

Member to the Manager on account of an instalment due in respect of Units or otherwise.

## 12 Payments

---

- 12.1 Money payable by the Manager to a Member or Other Instrument holder may be paid in any manner the Manager decides.
- 12.2 Cheques issued by the Manager that are not presented within 6 months may be cancelled. Where a cheque which is cancelled was drawn in favour of a Member, the money is to be reinvested in Units at the Application Price prevailing at the next Valuation Time after the cheque is cancelled. Clause 11.14D applies in respect of such reinvestment.
- 12.3 Where the Manager attempts to make a payment to a Member or Other Instrument holder by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held for the Trust as a non-interest bearing deposit until it is claimed or required to be dealt with in accordance with applicable laws relating to unclaimed moneys.
- 12.4 Only whole cents are to be paid, and any remaining fraction of a cent becomes an Asset.
- 12.5 A payment to any one of joint Members or Other Instrument holders will discharge the Manager in respect of the payment.
- 12.6 The Manager may deduct from any amount to be paid to a person who is or has been a Member or Other Instrument holder, or received from a person who is or has been a Member or Other Instrument holder:
- (a) any amount of Tax (or an estimate of it); or
  - (b) any other amount owed by the Member or Other Instrument holder to the Manager or any other person,

which the Manager is required or authorised to deduct in respect of that payment or receipt by law or by this constitution or which the Manager considers should be deducted.

## 13 Powers of the Manager

---

### General powers

- 13.1 Subject to this constitution, the Manager has all the powers in respect of the Trust that it is possible under the law to confer on a trustee as though it were the absolute owner of the Assets and acting in its personal capacity.

### Contracting powers<sup>23</sup>

- 13.2 Without limiting the effect of clause 13.1, the Manager in its capacity as trustee of the Trust has power to:

---

<sup>23</sup> Required to be included by Section 601GA(3)

- 
- (a) incur all types of obligations and liabilities including guarantees<sup>24</sup>; and
  - (b) enter into an arrangement with a person to underwrite the subscription or purchase of Units, Options or Other Instruments on such terms as the Manager determines (subject to the terms being consistent with the requirements of the *Airports Act 1996* (Cth) and the Ownership Regulations). Unless the agreement between the Manager and the underwriter expressly states the contrary, the underwriter will not be an agent or delegate of the Manager.

### **Borrowing powers**

- 13.2A The Manager may borrow or raise money (whether or not on security).

### **Investment powers**

- 13.3 Without limiting the effect of clause 13.1, the Manager may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with property and rights in its absolute discretion.<sup>25</sup>

### **Power of delegation<sup>26</sup>**

- 13.4 The Manager may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Manager's power, including the power to appoint in turn its own agent or delegate.
- 13.5 The Manager may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Manager thinks fit.
- 13.6 The agent or delegate may be an associate of the Manager.<sup>27</sup>

### **Exercise of discretion**

- 13.7 The Manager may in its absolute discretion decide how and when to exercise its powers.

### **Voting rights**

- 13.8 The Manager may in its absolute discretion exercise voting rights attached to Assets.

### **Registration and Listing of the Trust**

- 13.9 Without limiting the effect of clause 13.1, the Manager may in its capacity as trustee of the Trust apply for registration of the Trust as a registered scheme and for this purpose the Manager is authorised on its own behalf and on behalf of each Member to do all things necessary to effect registration.
- 13.10 The Manager may apply for the Trust to be Listed and Units and/or a Class of Units to be Officially Quoted, including as Stapled Securities

---

<sup>24</sup> If the Trust is Listed, refer to Listing Rule 13.2. The total liabilities of a listed trust must not exceed 60% of its total tangible assets.

<sup>25</sup> Subject to Section 601FC(4)

<sup>26</sup> See also Section 601FB.

<sup>27</sup> Subject to Part 5C.7

---

and for this purpose the Manager is authorised on its own behalf and on behalf of each Member to do all things necessary to effect a Listing.

- 13.11 Despite clause 13.1, if the Units are Officially Quoted and the Listing Rules require, the Manager must ensure that the liabilities of the Trust do not exceed 60% of the value of the Assets.

#### **Power to unstack Units**

- 13.12 If Units comprise part of Stapled Securities, subject to the Corporations Act and, while the Units are Officially Quoted, the Listing Rules, the Manager may at any time apply to have the Stapled Securities unstacked and, if the Stapled Securities are Officially Quoted, removed from quotation.

## **14 Retirement of Manager**

---

#### **Voluntary retirement**

- 14.1 The Manager may retire as the responsible entity of the Trust as permitted by law<sup>28</sup>. If permitted by law or by any relief from the Corporations Act granted by the ASIC, the Manager may appoint its successor by deed.

#### **Compulsory retirement**

- 14.2 The Manager must retire as the responsible entity of the Trust when required by law<sup>29</sup>.

#### **Release**

- 14.3 When it retires or is removed, the Manager is released from all obligations in relation to the Trust arising after the time it retires or is removed.<sup>30</sup>

#### **Retirement benefit**

- 14.4 The Manager is entitled to agree with the incoming manager to be remunerated by, or to receive a benefit from, the incoming manager in relation to:
- (a) entering into an agreement to submit a proposal for its retirement to a meeting of Members, and nominating to the Members the incoming manager as its replacement, or
  - (b) its retirement as Manager,
- and is not required to account to Members, Option holders or Other Instrument holders for such remuneration or benefit.

## **15 Notices to Members, Option holders and Other Instrument holders**

---

- 15.1 Subject to the Corporations Act, a notice or other communication required under this constitution to be given to a Member, Option holder or Other Instrument holder must be given in writing (which includes a fax) or in such other manner as the Manager determines, and

---

<sup>28</sup> See Section 601FL. The change does not take effect until the ASIC alters its records: Section 601FJ

<sup>29</sup> See Section 601FM and 601FA.

<sup>30</sup> See section 601FR for the Scheme Operator's obligation to transfer records, etc. Section 601FS restricts this release.

---

be delivered or sent to the Member, Option holder or Other Instrument holder at the Member's, Option holder's or Other Instrument holder's physical or electronic address last advised to the Manager for delivery of notices.

- 15.2 A cheque payable to a Member, Option holder or Other Instrument holder may be posted to the Member's, Option holder's or Other Instrument holder's physical address or handed to the Member, Option holder or Other Instrument holder or a person authorised in writing by them<sup>31</sup>.
- 15.3 In the case of joint Members, Option holders or Other Instrument holders, the physical or electronic address of the Member, Option holder or Other Instrument holder means the physical or electronic address of the Member, Option holder or Other Instrument holder first named in the Register.
- 15.4 A notice, cheque or other communication sent by post is taken to be received on the Business Day after it is posted and a fax is taken to be received 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine. Proof of actual receipt is not required. Subject to the Corporations Act<sup>32</sup>, the Manager may determine<sup>33</sup> the time at which other forms of communication will be taken to be received.

## 16 Notices to the Manager

---

- 16.1 A notice required under this constitution to be given to the Manager must be given in writing (which includes a fax), or in such other manner as the Manager determines.
- 16.2 The notice is effective only at the time of receipt.
- 16.3 The notice must bear the actual, facsimile or electronic signature of the Member, Option holder or Other Instrument holder or a duly authorised officer or representative of the Member, Option holder or Other Instrument holder<sup>34</sup> unless the Manager dispenses with this requirement.

## 17 Meetings of Members

---

### Convening of meetings

- 17.1 The Manager may at any time convene a meeting of Members, Option holders or Other Instrument holders, and must do so if the Corporations Act requires.<sup>35</sup>

### Manager may determine

- 17.2 Subject to the specific provisions of this constitution relating to meetings of Members and to the Corporations Act<sup>36</sup>, the Manager may

---

<sup>31</sup> See "Manager may rely" under "Rights and liabilities of Manager"

<sup>32</sup> See Section 601FC(1)(d)

<sup>33</sup> See Section 252G(4)

<sup>34</sup> See "Manager may rely" under "Rights and liabilities of Manager"

<sup>35</sup> Refer Part 2G.4

<sup>36</sup> Refer Part 2G.4

---

determine the time and place at which a meeting of Members will be convened and the manner in which the meeting will be conducted.

### **Quorum**

- 17.3 The quorum for a meeting of Members is at least 2 Members present in person or by proxy together holding at least 10% of all Units, unless the Trust has only one Member who may vote on a Resolution, in which case that one Member constitutes a quorum.

### **No quorum**

- 17.4 If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:
- (a) if convened on the requisition of Members - dissolved; or
  - (b) otherwise - adjourned to such place and time as the Manager decides.

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

### **Chairman**

- 17.5 Subject to the Corporations Act<sup>37</sup> the Manager may appoint a person to chair a meeting of Members.
- 17.6 The decision of the chairman on any matter relating to the conduct of the meeting is final.

### **Adjournment**

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

### **Proxies and voting**

- 17.8 The provisions of the Corporations Act governing proxies and voting for meetings of members of registered schemes apply to the Trust.

- 17.9 Despite, clause 17.8:

- a) the Manager may determine that the appointment of a proxy is valid even if it contains only some of the information required by the Corporations Act; and
- b) the Manager may establish procedures for accepting appointments of proxy by electronic means, including procedures for authentication of an appointment other than by signature.

### **Resolutions binding**

- 17.10 A Resolution binds all Members, whether or not they were present at the meeting.
- 17.11 No objection may be made to any vote cast unless the objection is made at the meeting.

---

<sup>37</sup> Refer Part 2G.4 and Section 601FC(1)

**Other attendees**

- 17.12 While Stapling applies, the Manager, the auditor of the Trust and the representatives of the manager or responsible entity of the Stapled Trust may attend and speak at any meeting, or invite any other person to attend and speak.

**Joint meetings**

- 17.13 While Stapling applies, meetings of Members may be held in conjunction with meetings of the holders of Stapled Units and, subject to the Corporations Act, the Manager may make such rules for the conduct of such meetings as the Manager determines.

**Non-receipt**

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

**Meetings of Option holders or Other Instrument holders**

- 17.15 If any meeting of Option holders or Other Instrument holders is required to be held the foregoing provisions of this clause 17 will apply with any necessary amendments.

**18 Rights and liabilities of Manager**

---

**Holding Units**

- 18.1 The Manager and its associates may hold Units and / or Options in the Trust and/or Other Instruments issued by the Manager in any capacity<sup>38</sup>.

**Other capacities**

- 18.2 Subject to the Corporations Act<sup>39</sup>, nothing in this constitution restricts the Manager (or its associates) from:
- (a) dealing with itself (as trustee of the Trust or in another capacity), the Stapled Trust, an associate or with any Member or Option holder or Other Instrument holder;
  - (b) being interested in any contract or transaction with itself (as trustee of the Trust or in another capacity), the Stapled Trust, an associate or with any Member or Option holder or Other Instrument holder or retaining for its own benefit any profits or benefits derived from any such contract or transaction; or
  - (c) acting in the same or a similar capacity in relation to any other managed investment scheme.

<sup>38</sup> See Section 601FG, Section 253E and Part 5C.7

<sup>39</sup> Refer Part 5C.7

**Manager may rely**

- 18.3 The Manager may take and may act upon:
- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Manager, in relation to the interpretation of this constitution or any other document (whether statutory or otherwise) or generally in connection with the Trust;
  - (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and other persons consulted by the Manager who are in each case believed by the Manager in good faith to be expert in relation to the matters upon which they are consulted;
  - (c) a document which the Manager believes in good faith to be the original or a copy of an appointment by a Member, Option holder or Other Instrument holder of a person to act as their agent for any purpose connected with the Trust or Other Instrument (as the case may be); and
  - (d) any other document provided to the Manager in connection with the Trust upon which it is reasonable for the Manager to rely;

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

**Manager's duties in relation to Stapling<sup>40</sup>**

- 18.4 Notwithstanding any other provision of this constitution, or any rule of law or equity to the contrary, in exercising any power or discretion conferred on it, the Manager may, subject to the Corporations Act, while Stapling applies, have regard to the interests of the Members of the Trust and the members of the Stapled Trust as a whole and not only to the interests of the Members of the Trust alone.
- 18.5 The reference to exercising any power or discretion includes carrying out the Manager's functions and duties and identifying Members' rights and interests.

**19 Limitation of liability and indemnity in favour of Manager****Limitation on Manager's liability**

- 19.1 The Manager is not liable in contract, tort or otherwise to Members, Option holders or Other Instrument holders for any loss suffered in any way relating to the Trust except to the extent that the Corporations Act imposes such liability.
- 19.2 Subject to the Corporations Act, the liability of the Manager to any person other than a Member, Option holder or Other Instrument holder in respect of the Trust (including in respect of any contracts entered into as trustee of the Trust or in relation to any Assets) is limited to the Manager's ability to be indemnified from the Assets.

<sup>40</sup> ASIC relief will be required for this.

---

**Indemnity in favour of Manager**

- 19.3 The Manager is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties in relation to the Trust<sup>41</sup>.
- 19.4 To the extent permitted by the Corporations Act<sup>42</sup>, the indemnity under clause 19.3 includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Manager.
- 19.5 This indemnity is in addition to any indemnity allowed by law. It continues to apply after the Manager retires or is removed from the office it holds in relation to the Trust.

---

**20 Liability of Members and Option holders**


---

**Liability limited**

- 20.1 Subject to clauses 20.2 and 20.3, the liability of a Member is limited to the amount if any which remains unpaid in relation to the Member's subscription for their Units.
- 20.2 In the absence of separate agreement with a Member, Option holder or Other Instrument holder, the recourse of the Manager and any creditor is limited to the Assets.
- 20.3 The Manager is entitled to be indemnified by a Member, Option holder or Other Instrument holder or former Member, Option holder or Other Instrument holder to the extent that the Manager incurs any liability for Tax or User Pays Fees as a result of the Member's, Option holder's or Other Instrument holder's action or inaction, or as a result of an act or omission requested by the Member, Option holder or Other Instrument holder or former Member, Option holder or Other Instrument holder.
- 20.4 Joint Members, Option holders or Other Instrument holders and former joint Members, Option holders or Other Instrument holders are jointly and severally immediately liable in respect of all payments including payments of Tax to which clause 20.3 applies, and User Pays Fees.
- 20.5 A Member, Option holder or Other Instrument holder need not indemnify the Manager if there is a deficiency in the Assets or meet the claim of any creditor of the Manager in respect of the Trust.

**Restrictions on Members**

- 20.6 Except as otherwise set out in this constitution, a Member, Option holder or Other Instrument holder:
- (a) must not interfere with any rights or powers of the Manager under this constitution;
  - (b) must not exercise a right in respect of an Asset or lodge a caveat or other notice affecting an Asset or otherwise claim any interest in an Asset; or

---

<sup>41</sup> See Section 601GA(2)

<sup>42</sup> See Sections 601FB(2) and 601GA(2)



- (c) may not require an Asset to be transferred to the Member, Option holder or Other Instrument holder.

## 21 Remuneration and expenses of the Manager

### Base fee

- 21.1 Subject to the Corporations Act, the Manager is entitled to the Base Fee in respect of each Quarter:
- 21.1A The Base Fee for a Quarter is to be calculated by the Manager as at the Quarter End Date for the relevant Quarter within 15 Business Days after that Quarter End Date.
- 21.1B The Base Fee for a Quarter is due as at the Quarter End Date and is payable within 15 Business Days after that Quarter End Date.

### Performance fee

- 21.2 No performance fees are payable with respect to the Trust.

### Waiver of fees

- 21.3 The Manager may accept lower fees than it is entitled to receive under this constitution, or may defer payment for any period. Where payment is deferred, the fee accrues daily until paid.

### Expenses

- 21.4 All expenses incurred by the Manager (whether internal or inhouse expenses incurred in performing work, or expenses incurred by the Manager in appointing, including amounts payable by the Manager to, an associate or related party of the Manager or an external third party to perform work) in relation to the proper performance of its duties in respect of the Trust<sup>43</sup> are payable or reimbursable out of the Assets to the extent that such reimbursement is not prohibited by the Corporations Act. This includes expenses connected with:
- (a) this constitution and the formation of the Trust and registration of the Trust as a registered scheme;
  - (b) the preparation, review, distribution and promotion of any prospectus or offering memorandum in respect of Units, Options, Other Instruments and/or Stapled Securities and other promotion of the Trust and/or the Stapled Trust;
  - (c) the acquisition, disposal, insurance, custody and any other dealing with Assets;
  - (d) any proposed acquisition, disposal or other dealing with an investment;
  - (e) the administration or management of the Trust or its Assets and Liabilities including expenses in connection with the Register or the valuation of any Asset or the Trust as a whole;
  - (f) borrowing arrangements on behalf of the Trust or guarantees in connection with the Trust, including hedging costs;

<sup>43</sup> Refer Section 601GA(2)(b)

- 
- (g) underwriting of any subscription or purchase of Units, Options and/or Stapled Securities or Other Instruments including underwriting fees, handling fees, costs and expenses (including marketing and roadshow costs, travel and accommodation expenses and legal fees), amounts payable under indemnity or reimbursement provisions in the underwriting agreement and any amounts becoming payable in respect of any breach (other than for negligence, fraud or breach of duty) by the Manager of its obligations, representations or warranties under any such underwriting agreement;
  - (h) convening and holding meetings of Members, Option holders or Other Instrument holders, the implementation of any Resolutions and communications with Members, Option holders or Other Instrument holders and attending any meeting of the Stapled Trust;
  - (i) Tax, including any amount charged by a supplier of goods or services, or both, to the Manager by way of or as a reimbursement for GST;
  - (j) financial institution fees;
  - (k) the engagement of agents (including real estate agents and managing agents), valuers, contractors and advisers (including legal advisers) whether or not the agents, valuers, contractors or advisers are associates of the Manager;
  - (l) preparation and audit of the taxation returns, accounting records and accounts of the Trust;
  - (m) termination of the Trust and the retirement or removal of the Manager and the appointment of a replacement;
  - (n) any court proceedings, arbitration or other dispute concerning the Trust including proceedings against the Manager, except to the extent that the Manager is found by a court to be in breach of trust or to have been grossly negligent, in which case any expenses paid or reimbursed under this clause 21.4(n) must be repaid;
  - (o) all damages, expenses, payments, legal and other costs and disbursements incurred by the Manager in relation to or in connection with any claim, dispute or litigation (*Claim*) arising as a result of or in connection with any untrue representation or warranty contained in any document relating to any investment by the Trust including any project document in connection with the investment and any offering document or borrowing document in connection with the Trust except where the Claim arises out of the fraud or wilful default of the Manager;
  - (p) the compliance committee established by the Manager in connection with the Trust (if any), including any fees paid to,

- 
- or insurance premiums<sup>44</sup> in respect of, compliance committee members;
- (q) any costs and expenses associated with the board of directors of the Manager, including:
    - (i) any fees paid or payable to the non-executive directors of the Manager as determined by Members in accordance with the Listing Rules; and
    - (ii) any expenses reimbursed to, or insurance premiums paid in respect of, the directors;
  - (r) the preparation, implementation, amendment and audit of the compliance plan;
  - (s) the appointment of any compliance officer to undertake compliance work for the Trust;
  - (t) the preparation of reports including compliance reports;
  - (u) the promotion of the Trust generally;
  - (v) recording, responding to and dealing with any complaints from Members in connection with the Trust;
  - (w) complying with any law, and any request or requirement of the ASIC; and
  - (x) the admission of the Trust to any stock exchange, the Official Quotation of Units or Stapled Securities and compliance with the rules of such an exchange.

## **GST**

- 21.5 The User Pays Fees and the fees payable out of the Assets to the Manager under this constitution do not include any amount referable to GST. If the Manager is or becomes liable to pay GST in respect of any supply under or in connection with this constitution (including, without limitation, the supply of any goods, services, rights, benefits or things), then, in addition to any fee or other amount or consideration payable to the Manager in respect of the supply, the Manager is entitled to be paid an additional amount on account of GST, such amount to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST, and the Manager shall be entitled to be reimbursed or indemnified for such amount of GST out of the Assets.

## **Sums owed to Manager**

- 21.6 Subject to clause 9.14, the Manager may redeem some or all of the Units held by a Member to satisfy any amount of money due to it by the Member.

## **Allocation of fees**

---

<sup>44</sup> See Section 601JG

- 21.7 The Manager acknowledges that so long as Stapling applies the fees payable under this clause are representative of the aggregate of the Manager's entitlement to fees in respect of the Trust and the Stapled Trust and any entitlement of the Manager or any related body corporate of the Manager to any fee of the nature referred to in this clause from the Stapled Trust. The Manager and any such related body corporate of the Manager have absolute discretion as to the allocation of such fees amongst the Trust and the Stapled Trust.

## 22 Duration of the Trust

### Initial settlement

- 22.1 The Trust commences when the Manager's nominee subscribes \$0.25 for Units in the Trust. The Manager's nominee must be issued with 50 Units paid to 0.5 cents each in return for that payment with a balance payable of 0.5 cents on each Unit when called by the Manager.

### Termination

- 22.2 The Trust terminates on the earliest of:
- (a) the date specified by the Manager as the date of termination of the Trust in a notice given to Members; and
  - (b) the date on which the Trust terminates in accordance with another provision of this constitution or by law<sup>45</sup>.

### Restriction on issue and redemption of Units

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

## 23 Procedure on termination

### Realisation of Assets

- 23.1 Following termination, the Manager must realise the Assets. This must be completed in 180 days if practical and in any event as soon as possible after that.

### Audit of winding up

- 23.2 If and to the extent that ASIC policy so requires, the Manager must arrange for independent review or audit of the final accounts of the Trust by a registered company auditor.

### Distribution following termination

- 23.3 The net proceeds of realisation, after making allowance for all Liabilities of the Trust (actual and anticipated), meeting the expenses (including anticipated expenses) of the termination, must be distributed to Members in accordance with the following formula:

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

<sup>45</sup> See Part 5C.9 on winding up

Where:

- A = the amount remaining in the Trust after deduction of the Liabilities and expenses referred to in this clause 23.3;
- B = the aggregate of the number of Units held by the Member as at termination, including both Fully Paid Units and Partly Paid Units; and
- C = the aggregate of the total number of Units in issue as at termination, including both Fully Paid Units and Partly Paid Units;
- X = the aggregate of the amounts remaining unpaid on all Partly Paid Units in issue (if any) ; and
- Y = the aggregate of the amounts remaining unpaid on all Partly Paid Units held by the Member (if any) as at termination.

If the calculation of the entitlement to distribution of capital in respect of a particular Member in accordance with the formula in this clause 23.3 results in a negative dollar amount, then that Member must pay to the Manager within 30 days of the date of a written request to do so that dollar amount, and the amount so required to be paid will become an Asset available for distribution on the winding up of the Trust.

The Manager may distribute proceeds of realisation in instalments.

- 23.4 Subject to the Corporations Act, the provisions of this constitution continue to apply from the date of termination until the date of final distribution under clause 23.3, but during that period the Manager may not accept any applications for Units from a person who is not an existing Member.

## 24 Amendments to this constitution

### Manager may amend

- 24.1 If the Corporations Act allows<sup>46</sup>, this constitution may be amended:
- (a) by Resolution<sup>47</sup>; or
  - (b) by deed executed by the Manager.

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

### Statutory requirements

- 24.2 If the Corporations Act or any relief from the provisions of the Corporations Act granted by the ASIC requires that this constitution contain certain provisions, then those provisions are deemed to be incorporated into this constitution at all times at which they are required to be included and prevail over any other provisions of this constitution to the extent of any inconsistency. Clause 24.1 does not

<sup>46</sup> See Section 601GC for power to amend the constitution. The amendment cannot take effect until a copy of the modification is lodged with the ASIC

<sup>47</sup> The required majority for such a Resolution under section 601GC(1)(a) is 75%.

---

apply to provisions deemed by this clause 24.2 to be incorporated in the constitution.

## 25 Compliance committee

---

- 25.1 If any Compliance Committee Member incurs a liability in that capacity in good faith, the Compliance Committee Member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act<sup>48</sup>.

## 26 Complaints

---

- 26.1 If a Member, Option holder or Other Instrument holder submits to the Manager a complaint alleging that the Member, Option holder or Other Instrument holder has been adversely affected by the Manager's conduct in its management or administration of the Trust, the Manager:
- (a) must, if the complaint is in writing, acknowledge in writing receipt of the complaint as soon as practicable and in any event within 14 days from receipt;
  - (b) must ensure that the complaint receives proper consideration resulting in a determination by a person or body designated by the Manager as appropriate to handle complaints;
  - (c) must act in good faith to deal with the complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties;
  - (d) may in its discretion give any of the following remedies to the complainant:
    - (i) information and explanation regarding the circumstances giving rise to the complaint;
    - (ii) an apology; or
    - (iii) compensation for loss incurred by the Member, Option holder or Other Instrument holder as a direct result of the breach (if any); and
  - (e) must communicate to the complainant in relation to the complaint as soon as practicable and in any event not more than 45 days after receipt by the Manager of the complaint:
    - (i) the determination in relation to the complaint;
    - (ii) the remedies (if any) available to the Member, Option holder or Other Instrument holder; and
    - (iii) information regarding any further avenue for complaint.

---

<sup>48</sup> See section 601JF

---

## 27 Listing rules

---

- 27.1 While the Trust is Listed and the Units are Officially Quoted, the following applies.
- (a) Notwithstanding anything contained in this constitution, if the Listing Rules prohibit an act being done, the act shall not be done.
  - (b) Nothing contained in this constitution prevents an act being done that the Listing Rules require to be done.
  - (c) If the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be).
  - (d) If the Listing Rules require this constitution to contain a provision and it does not contain such a provision, this constitution is deemed to contain that provision.
  - (e) If the Listing Rules require this constitution not to contain a provision and it contains such a provision, this constitution is deemed not to contain that provision.
  - (f) If any provision of this constitution is or becomes inconsistent with the Listing Rules, this constitution is deemed not to contain that provision to the extent of the inconsistency.
- 27.2 In accordance with ASIC Class Order 98/1808 or its equivalent and for so long as it applies to the Trust, a change in the text of this constitution because of the operation of clause 27.1 is not a modification of, or the repeal or replacement of the constitution for the purposes of subsection 601GC(1) and (2) of the Corporations Act. Clause 24.1 does not apply to changes in the text of the constitution because of the operation of clause 27.1.

---

## 27A Small Holdings

---

- 27A.1 Subject to the provisions of this clause 27A, while the Trust is Listed, the Manager may in its discretion from time to time sell or redeem any Units held by a Member which comprise less than a marketable parcel as provided in the Listing Rules without request by the Member.
- 27A.2 The Manager may only sell or redeem Units pursuant to this clause 27A on one occasion in any 12 month period. The Manager must notify the Member of its intention to sell or redeem Units under this clause 27A.
- 27A.3 The Manager will not sell or redeem the relevant Units:
- (a) before the expiry of 6 weeks from the date of the notice given under this clause 27A; or
  - (b) if, within the 6 weeks allowed under clause 27A.3(a) the Member advises the Manager that the Member wishes to retain the Units.

---

27A.4 The Manager's power to sell or redeem the Units lapses following the announcement of a full takeover but the procedure may be started again after the close of the offers made under the takeover.

27A.5 The Manager or the purchaser of the Units must pay the costs of the sale as the Manager decides. The proceeds of the sale or redemption will not be sent until the Manager has received the certificate (if any) relating to the Units, or is satisfied that it has been lost or destroyed.

27A.6 While Stapling applies, no redemption or sale under this clause 27A may occur unless, at the same time as Units are redeemed or sold, an identical number of Stapled Units are also redeemed or sold.

## 27B Stapling

---

### **Paramourcy of Stapling provisions**

27B.1 Subject to clauses 24.2 and 27.1, the provisions of this constitution relating to Stapling prevail over all other provisions of this constitution including any that are expressed to prevail over others, except where this would result in a breach of the Corporations Act, the Listing Rules (if the Listing Rules apply) or any other law.

### **Maintenance of Listing and Consistency with Constitution of the Stapled Trust**

27B.2 The Manager must use every reasonable endeavour to procure that if the Stapled Securities are and continue to be Listed as one joint security, that the Stapled Securities are dealt with under this constitution in a manner consistent with the provisions relating to Stapled Units in the constitution of the Stapled Trust.

### **Stapling - general intention**

27B.3 While Unit Stapling applies the Units are intended to be stapled to the Stapled Units in the ratio of one Unit to one Stapled Unit. The intention is that, so far as the law permits, a Unit and a Stapled Unit which are Stapled together shall collectively be treated as one security.

### **Commencement of Stapling provisions**

27B.4 The provisions of this constitution relating to Unit Stapling commence on the date the Manager in its absolute discretion determines.

### **Cessation of Stapling Provisions**

27B.5 Subject to clauses 27B.68, the provisions in this deed relating to Unit Stapling continue until the Manager in its absolute discretion determines that they cease to apply and the Members, at a meeting of Members have approved that determination.

27B.6 The Manager may determine that the provisions in this deed relating to Unit Stapling are to be temporarily suspended (the *Suspension*) and the duration of the Suspension (the *Suspension Period*) and the Members, at a meeting of Members, must approve that determination before the Suspension may take effect. During the Suspension Period, the Units are treated as Unstapled. At the conclusion of the Suspension Period, Stapling will resume as determined by the Manager.



## 27C Sale Facility

---

- 27C.1 Subject to the Corporations Act and the Listing Rules, the Manager shall be entitled to invoke the procedures in clauses 27C.2 and 27C.3 in respect of any Non-Australasian Member, if the Manager proposes to distribute Assets in the form of securities or interests in managed investment schemes under clause 11.16 or Staple a new financial product to the Units or Stapled Security.
- 27C.2 On the date of distribution of Assets or the Stapling Commencement Date (*Transfer Date*):
- (a) each Non-Australasian Member will have transferred to the Cashout Bank:
    - (i) in respect of a distribution of Assets in the form of securities or managed investment interests, the securities or managed investment interests that they would have been entitled to receive under the distribution; or
    - (ii) in respect of the new financial product to be Stapled to the Units or existing Stapled Securities, the unencumbered beneficial and legal title to all Units and existing Stapled Securities registered in their name on that date,  
  
(*Transfer Securities*);
  - (b) the Cashout Bank will become the legal and beneficial owner of the Transfer Securities under clause 27C.1 without need for any further act by the Non-Australasian Member. For the avoidance of doubt, the Cashout Bank will not be acting as trustee, custodian, nominee or agent in respect of the Transfer Securities (whether for the purpose of distributions to be paid on those Transfer Securities or any sale or transfer of those Transfer Securities or otherwise).
- 27C.3 On the Transfer Date the Manager must procure that the Cashout Bank:
- (a) on, or as soon as reasonably practicable after the Transfer Date, sells the Transfer Securities, including in the context of the stapling of new financial products, those financial products; and
  - (b) pays or arranges for the payment of the Transfer Securities Price to the Non-Australasian Members within 30 days of the Transfer Date in consideration for the Transfer Securities transferred under clause 27C.1. The Cashout Bank's obligation to make such payment will be satisfied upon payment of the Transfer Securities Price to the Trust's registry, for payment to the relevant Non-Australasian Member within 30 days of the Transfer Date.
- 27C.4 The Manager shall have no liability of any nature whatsoever beyond the Assets to Members arising, directly or indirectly, from the Manager doing or refraining from doing any act (including the execution of a

---

document) pursuant to or in connection with the transfer of Assets under clause 11.16 or the implementation of the Sale Facility provided for in clauses 27C.2 and 27C.3.

## **27D Nomination and Election of Directors of Manager**

---

- 27D.1 Nominations for any Director Vacancy will be accepted from Members.
- 27D.2 A person nominated to a Director Vacancy pursuant to clause 27D.1 will only be eligible to fill a Director Vacancy if:
- (a) a written notice of the person's candidature has been lodged at the registered office of the Manager at least 35 Business Days before a meeting of Members convened in accordance with clause 17.1 (or in case of a meeting that Members have requested the Manager to call, 30 Business Days); and
  - (b) the Manager has determined prior to the relevant meeting of Members that the nominee meets the criteria, including in relation to independence, published by the Manager in its corporate governance reporting from time to time.
- 27D.3 The Manager may nominate a candidate or candidates to fill any Director Vacancy.
- 27D.4 At each meeting of Members convened in accordance with clause 17.1, Members will elect directors to fill any Director Vacancy from among those persons nominated under clauses 27D.1 and 27D.3.
- 27D.5 The Manager must take all necessary action and exercise all rights to procure that those persons elected by the Members under clause 27D.4 to fill any Director Vacancy are appointed as directors of the Manager.

## **28 References to Corporations Act**

---

- 28.1 Any provision of this constitution which is expressed to apply subject to the Corporations Act shall only be read as subject to the Corporations Act while the Trust is a registered scheme.

## **29 Substantially Australian investment fund**

---

### **Ownership Regulations**

- 29.1 The Manager intends to obtain a declaration under the Ownership Regulations that the Trust is a substantially Australian investment fund. In order for the Trust to be eligible to be and remain declared a substantially Australian investment fund under the Ownership Regulations, the Trust must not be or at any time become an Ineligible Fund.
- 29.2 The purpose of this clause 29 is to assist in ensuring that an Unacceptable Foreign Ownership Situation does not arise in:
- (i) the Trust; or

---

(ii) any Airport Investment.

### Information on Foreign Ownership

- 29.3 (a) Except where the Manager otherwise specifies in the Rules a Member, applicant for Units or Options or Option holder must notify the Manager in a form and in a manner approved by the Manager whether:
- (i) the Member (or any person on whose behalf the Member holds Units) is or is not or becomes or ceases to be;
  - (ii) an applicant (or any person on whose behalf the applicant is applying) for Unit or Options is or is not; or
  - (iii) an Option holder (or any person on whose behalf the Option holder holds Options) is or is not,
- a Foreign Person.
- (b) Notification under clause 29.3 must be made at the same time as or within 5 Business Days after:
- (i) an application for Units is made under clause 7 (including an application consequent on the exercise of an Option);
  - (ii) an application for Options is made;
  - (iii) registration of a transfer or transmission application under which the Member, applicant for Units or Options or Option holder has first acquired Units or Options; or
  - (iv) the Member or Option holder (or a person on whose behalf they hold Units or Options, as applicable) has become, or ceased to be, a Foreign Person.
- (c) Notification may be made under this clause 29.3 by a broker or other person on behalf of the Member, applicant for Units or Options or Option holder.
- 29.4 The Manager may, at any time send to a Member, applicant for Units or Options or Option holder who:
- (a) has a foreign address: or
  - (b) who has notified the Manager (in accordance with clause 29.3) that it is, or holds on behalf of, a Foreign Person; or
  - (c) has not given a notification in accordance with clause 29.3; or
  - (d) holds more Units or Options than the minimum number specified by the Manager in the Rules for the purposes of this clause 29.4; or
  - (e) the Manager has reason to believe, or is concerned, may be, or hold on behalf of, a Foreign Person; or

(f) the Minister has requested be sent such a request,

a request in a form approved by the Manager which requires the Member, applicant for Units or Options or Option holder to inform the Manager of any (or all) of the following:

- (i) whether the Member, applicant for Units or Options, Option holder, or person on whose behalf they hold Units or Options or are making application, is or is not a Foreign Person;
- (ii) if the Member or Option holder is, or holds on behalf of, a Foreign Person, the number of Units or Options held by that Member or Option holder;
- (iii) such other information relating to foreign ownership as determined by the Manager,

(the information so requested being the **Required Information**).

29.5 Within the period specified by the Manager in the request given under clause 29.4, the Member, applicant for Units or Options or Option holder must give the Manager information in the form requested which:

- (a) contains the Required Information; and
- (b) is signed by that Member, applicant for Units or Options or Option holder or, in the case of a corporation, an officer of that Member, applicant for Units or Options or Option holder.

29.6 The Manager may send a request under clause 29.4 which requires the Member, applicant for Units or Options or Option holder to inform the Manager of the Required Information at the times or at the intervals specified in the request, in which case the Member, applicant for Units or Options or Option holder must give the Manager information in the form requested at the times or the expirations of each interval so specified but otherwise in compliance with clause 29.5.

### **Manager's power to dispose of Units and / or Options**

29.7 The Manager may, for the purpose of seeking to prevent or cure an Unacceptable Foreign Ownership Situation at any time, procure the disposal of Units and/or Options when the Foreign Ownership Trigger has been or is likely to be exceeded. In determining:

- (a) which Units or Options give rise to the Foreign Ownership Trigger being, or being likely to be, exceeded (the Offending Securities); and
- (b) which Member and/or Option holder the Manager requires to dispose of Units and/or Options,

the Manager must, unless in its opinion it would be inequitable or not in the best interests of the Trust to do so, have regard to the chronological order in which the Units or Options became registered, on the basis that:

- (c) the last registered Unit or Option is to be the first treated as an

---

Offending Security; unless

- (d) a Member or Option holder who was not previously a Foreign Person becomes a Foreign Person, in which case the Units and/or Options of that Member or Option Holder are to be the first treated as Offending Securities.
- 29.8 If the Manager believes at any time that the Foreign Ownership Trigger has been or is likely to be exceeded, the Manager may (but is not obliged to), by notice in writing or in any other form approved by the Manager (**Warning Notice**), inform a Member or Option holder who is, or holds on behalf of, a Foreign Person that the Member or Option holder may be required to dispose of Units and / or Options.
- 29.9 If the Manager believes at any time that the Foreign Ownership Trigger has been or is likely to be exceeded, the Manager may (but is not obliged to), by notice in writing or in any other form or manner approved by the Manager (**Disposal Notice**), require a Member or Option holder who is, or holds on behalf of, a foreign person to dispose of such number of Units and / or Options as would ensure that the Foreign Ownership Trigger is no longer or will not be exceeded by no later than the Divestment Date, consistent with the Rules. The Disposal Notice may specify circumstances, consistent with the Rules, in which the relevant Member or Option holder need not dispose of all or any of the Units and / or Options the subject of a Disposal Notice if certain events happen.
- 29.10 A Disposal Notice may require the Member or Option holder to whom it is addressed to dispose of all or any of that Member's or Option holder's Units and / or Options as specified in the Disposal Notice.
- 29.11 If a Disposal Notice is not complied with by the Member or Option holder to whom it is addressed, the Manager may, at any time, sell all or any of that Member's or Option holder's Units and / or Options specified in the Disposal Notice.
- 29.12 For the purposes of clause 29.11;
- (a) the Manager may sell the relevant Member's or Option holder's Units and / or Options at the best price reasonably obtainable at the relevant time. For this purpose, any sale of Units and / or Options by the Manager on the ASX will be regarded as discharging this obligation;
- (b) each Member or Option holder appoints the Manager as its attorney (with power to appoint sub-attorneys) in the name of the Member or Option holder and on behalf of the Member or Option holder to execute any documents and implement any procedures as may be necessary or desirable in the opinion of the attorney to procure the transfer of Units and / or Options on behalf of the Member or Option holder; and
- (c) the title of the transferee to any Units and / or Options so sold is not affected by any irregularity or invalidity in connection with the sale of the Units and / or Options to the transferee (but nothing in this clause 29.12 prevents the exercise by the Manager of its powers under this clause 29 if the transferee is a

---

Foreign Person).

### Proceeds of sale

- 29.13 The Manager may receive and give a good discharge for the proceeds of a sale under clause 29.11, may pay or recoup out of those proceeds all reasonable costs and expenses of or incidental to the sale (including, but not limited to, any brokerage, duties, taxes or registry or administration costs) and shall pay the net amount to the person who immediately before the Divestment Date was the Member or Option holder in respect of the Units and / or Options sold (**Former Member or Option holder**).

### Payment of net amount

- 29.14 The net amount payable under clause 29.13 may be paid by cheque posted to the Former Member or Option holder at the relevant address appearing in the register immediately before the Divestment Date.

### Exercise of powers by Manager

- 29.15 Each Member, applicant for Units or Options and Option holder acknowledges and recognises that the exercise of the powers given to the Manager under this clause 29 may cause individual Members, applicants for Units or Options and Option holders, or persons on whose behalf they hold Units or Options or make application, considerable disadvantage (including possible adverse financial and taxation consequences) but each Member, applicant for Units or Options and Option holder acknowledges that such a result is necessary to enable the requirements of the Ownership Regulations to be met.
- 29.16 To the fullest extent permitted by law the Manager shall be under no liability to the Trust or any Member, applicant for Units or Options or Option holder, or persons on whose behalf they hold Units or Options or make application, and the Trust shall be under no liability to any Member, applicant for Units or Options or Option holder, or persons on whose behalf they hold Units or Options or make application, for any loss or disadvantage incurred by a Member, applicant for Units or Options or Option holder, or persons on whose behalf they hold Units or Options or make application, as a result, whether directly or indirectly, of the Manager exercising the powers provided by this clause 29.
- 29.17 Any resolution, determination or decision to exercise any discretion or power by the Manager under this clause 29 shall be final and conclusive and may be made or exercised by the Manager at its discretion including, without limitation, a decision to issue a Warning Notice under clause 29.8, Disposal Notice under clause 29.9 and to sell Units under clause 29.11.

### Forms and rules

- 29.18 The Manager, may from time to time, publish:
- (a) the form (whether electronic, written or otherwise) in which, and method by which, information may be provided under clauses 29.3 and 29.4; and
  - (b) the form of request the Manager will use for the purposes of clause 29.4;

- 
- (c) the rules the Manager will apply to determine whether to issue a Warning Notice under clause 29.8, a Disposal Notice under clause 29.9 and to sell Units and / or Options under clause 29.11; and
  - (d) the procedures by which any divestment will be effected;
  - (e) any other matters required or permitted to be determined or prescribed by the Manager under this clause 29 and related definitions; and
  - (f) related matters.

Such rules, procedures and matters (including circumstances in which a Member, applicant for Units or Options or Option holder will be treated as a Foreign Person) may include provisions giving the Manager rights to deal with Units and / or Options and will be binding on Members, applicants for Units or Options and Option holders.

## Register

- 29.19 The Manager may establish and maintain a register (**Foreign Register**) containing such information as it considers appropriate in relation to Units and Options held by, or on behalf of, a Foreign Person and foreign ownership generally.

The Foreign Register does not form part of the Register.

- 29.21 The Manager may treat any Member, applicant for Units or Options or Option holder who does not comply with clause 29.3 or a request for information under clause 29.4 as a Foreign Person. For this purpose, the Manager may specify one or more groups of Members, applicants for Units or Options or Option holders who will be treated as Foreign Persons in the event of non-compliance with clause 29.3 or a request for information under 29.4.

- 29.22 The Manager may rely on information contained in the Foreign Register when forming its belief at any time as to whether or not:

- (a) an Unacceptable Foreign Ownership Situation has occurred or is likely to occur; and
- (b) the Foreign Ownership Trigger has been or is likely to be exceeded.

The information contained in the Foreign Register is to be taken as correct unless proven otherwise.

## Delegation

- 29.23 The Manager may delegate any of its powers under clause 29 to any person. The provisions of this clause 29 apply to each person to whom the Manager has delegated a power under this article as if a reference to the Manager included a reference to that person.

## Stapling

- 29.24 If the Manager exercises its powers under this clause to effect the disposal of Units and the Units comprise part of a Stapled Security, the relevant Member (or the responsible entity or trustee of the Stapled

Trust on the Member's behalf) must at the same time effect the disposal of the relevant Stapled Units.

### Other Instruments

29.25 If an Other Instrument issued by the Manager confers a beneficial interest in the income or capital of the Trust or a right to acquire such an interest, then the provisions of this clause 29 shall apply to that Other Instrument and Other Instrument holder:

- (a) as though the Other Instrument was a Unit; and
- (b) as though the Other Instrument holder was a Member; and
- (c) with such other changes as may be necessary.

### Foreign Ownership Trigger

29.26 The Manager may from time to time specify and notify to Members a percentage in relation to the Trust which must not exceed 39.99%, as the maximum beneficial interest in the capital or the income of the Trust which may be held by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons. A reduction in the Foreign Ownership Trigger in relation to the Trust, as specified by the Manager at any time, is permitted only to avoid an Unacceptable Foreign Ownership Situation arising in relation to an Airport Investment, in whole or in part by reason of the beneficial interests in the capital or the income of the Trust held by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons.

## 30 Interpretation

### Definitions

30.1 In this constitution these words and phrases have the following meaning unless the contrary intention appears:

**Accrued Income Entitlement** in relation to a Unit means the Manager's estimate of the appropriate share of the income of the Trust accrued from the commencement of the Distribution Period to the date for redemption of the Unit.

**ACH Rules** means the clearing rules of Australian Clearing House Pty Ltd (ACN 001 314 503) from time to time.

**Aggregate Unpaid Amount** the aggregate of the amounts of the Application Prices of all Partly Paid Units which have not been paid.

**Airport Assets:**

- (a) airports together with their related assets (if any); and
- (b) airport-related assets, the substantial part of whose revenue derives or is expected to derive from the existence of an airport;

and each of (a) and (b) above will be of an equity or equity-related nature (but investments may not be made in airlines or aircraft).



**Airport Investment:** any direct or indirect investment by the Trust in or in connection with an Airport Operator Company or a holding company of an Airport Operator Company.

**Airport Operator Company:** the meaning given to it in the *Airports Act 1996 (Cth)*.

**Airports Legislation:** the *Airports Act 1996 (Cth)* and the Ownership Regulations.

**Application Price** the application price for a Unit calculated in accordance with this constitution<sup>49</sup>.

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

**Assets** all the property, rights and income of the Trust, but not application money or property in respect of which Units have not yet been issued, proceeds of redemption which have not yet been paid or any amount in the distribution account.

**ASTC** means ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

**ASTC Settlement Rules** means the settlement rules of ASTC from time to time.

**ASX** means ASX Limited (ABN 98 008 624 691) trading as the Australian Securities Exchange.

**Australian Financial Services Licence** has the same meaning as in the Corporations Act.

**Average Market Price** means:

- (a) where Units or Stapled Securities (as relevant) are fully paid, the weighted average Market Price of Fully Paid Units or fully paid Stapled Securities (as relevant) during the last 10 Trading Days immediately preceding the relevant date; or
- (b) where Units or Stapled Securities (as relevant) are partly paid, the weighted average Market Price of Partly Paid Units or partly paid Stapled Securities (as relevant) during the last 10 Trading Days immediately preceding the relevant date plus the part of the application price of the Units or Stapled Securities (as relevant) which has not been paid up at the relevant date.

**Base Fee** in respect of a Quarter means an amount equal to the aggregate costs (determined in accordance with generally accepted accounting principles in Australia) incurred by the Manager in performing its role as responsible entity of the Trust during the relevant Quarter plus an amount equal to 15% of such costs, provided that amount does not exceed:

<sup>49</sup> See “Application Price for Units”

- 
- (i) where the Market Value of the Trust is less than or equal to A\$500 million, 0.375% per quarter of the Market Value of the Trust;
  - (ii) where the Market Value of the Trust is greater than A\$500 million but less than or equal to A\$1,000 million, A\$1.875 million per quarter plus 0.3125% per quarter of the Market Value of the Trust exceeding A\$500 million but not exceeding A\$1,000 million; or
  - (ii) where the Market Value of the Trust is greater than A\$1,000 million, A\$3.4375 million per quarter plus 0.25% per quarter of the Market Value of the Trust exceeding A\$1,000 million,

adjusted on a pro rata basis if the Quarter in respect of which the calculation is made is the Quarter ending on the date of Termination of this Trust or the Quarter commencing on the date of commencement of the Trust.

**BBSW** for a period:

- (a) the rate determined by the Manager to be the arithmetic mean (rounded up, if necessary, to the nearest 0.01%) of the bid rates displayed at or about 10.30am Sydney time on the first day of that period on the Reuters screen BBSW page for a term of one month after eliminating one of the highest and one of the lowest of those rates; or
- (b) if for any reason there are no rates displayed for a term then BBSW will be the rate determined by the Manager to be the average of the buying rates quoted to the Manager by 3 Australian banks selected by the Manager at or about that time on that day. The buying rates must be for bills of exchange which are accepted by an Australian bank and which have a term equivalent to one month.

Rates will be expressed as a yield percent per annum to maturity.

**Books Closing Date** the date (if any) determined by the Manager in accordance with paragraph (c) of clause 11.11.

**Business Day** a day other than a Saturday or Sunday on which banks are open for general banking business in Sydney and Melbourne but if the Securities are Officially Quoted, has the meaning given to that term in the Listing Rules.

**Cashout Bank** means an Australian Financial Services Licence holder with sufficient authority and expertise to sell the Transfer Securities.

**CHESS:** the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

**CHESS System** means the Clearing House Electronic Sub-register System, operated in accordance with the Corporations Act, the ASTC Settlement Rules and the ACH Rules.

---

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

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

**Corporations Act** the Corporations Act 2001 (Cth).

**Deed Poll:** the deed poll executed by SAL in favour of each Scheme Unitholder in relation to the Scheme.

**Director Vacancy** means a vacancy on the board of the Manager relating to the requirement for a director to be elected or re-elected at the annual general meeting of the Manager in accordance with the constitution of the Manager.

**Disposal Notice:** a notice given under clause 29.9.

**Distributable Amount** the amount, if any, determined by the Manager in accordance with sub-paragraph (c) of clause 11.11.

**Distribution Calculation Date** the last day of each Financial Year or such other days as the Manager designates.

**Distribution Entitlement** for a Member, the amount, if any, calculated under paragraph (c) of clause 11.11.

#### **Distribution Period**

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

**Divestment Date:** the period or date which must not be less than 30 days from the date of a Disposal Notice or such shorter period as ASX permits.

**Effective Time:** the date on which the amendments to this constitution to facilitate the Scheme take effect pursuant to section 601GC(2) of the Corporations Act.

**Entity** means a corporation or a trust.

#### **Financial Year**

- (a) for the first financial year, the period from the establishment of

the Trust to the next 31 December;

- (b) for the last financial year, the period from 1 January before the date the Trust terminates to the date of distribution on winding up of the Trust; and
- (c) in all other circumstances, the 12 month period ending on 31 December.

**Foreign Ownership Trigger** means at any time the percentage specified by the Manager under clause 29.26:

- (a) in relation to the Trust, as the maximum beneficial interest in the capital or the income of the Trust which may be held by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons; or
- (b) in relation to the Manager, the percentage specified by the Manager as the maximum beneficial interest in the capital or the income of the Trust which may be held by a person who is a Foreign Person or in aggregate by persons who are Foreign Persons before the Manager becomes a Foreign Person.

**Foreign Person** has the same meaning as in the *Airports Act 1996 (Cth)*.

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

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

**Implementation Date:** 5 December 2013 or such other date as the parties to the Scheme Implementation Agreement may agree in writing or as may be required by ASX.

**Income Distribution** in respect of a Member and a Distribution Period, the amount calculated in respect of the Member under clause 11.7.

**Ineligible Fund** a unit trust in which a beneficial interest in not less than 40% of the capital, and not less than 40% of the income, is held by persons who are Foreign Persons.

**Liabilities** all present liabilities of the Trust including any provision taken into account in accordance with accounting standards in determining the liabilities of the Trust, but not liabilities:

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

---

**Liquid** has the same meaning as in the Corporations Act<sup>50</sup>.

**Listed:**

- (a) in the case of the Trust, the trust being listed on the ASX; and
- (b) in the case of Securities, the Units or the Stapled Securities being Officially Quoted,

and **Listing** has a corresponding meaning.

**Listing Date** the date on which the Trust is first Listed.

**Listing Rules** the listing rules of the ASX and any other rules of the ASX which are applicable while the Trust is admitted to the official list of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

**Manager** means the company which is registered with the ASIC as the single responsible entity for the Trust under the Corporations Act.

**Market Price** of a Security (or, where applicable, of a Class) on any Business Day means:

- (a) the last sale price per Security (as the case requires) recorded on the ASX on that Business Day (whether or not a sale was recorded on that Business Day);

unless the Manager believes that the calculation in paragraph (a) does not provide a fair reflection of the market price of a Security on that Business Day, in which case Market Price of a Security on that Business Day means:

- (b) the mid-point of the bid and offer prices per Security recorded on the ASX at the close of trading on that Business Day (whether or not a sale is recorded on that Business Day);

unless the Manager believes that the calculation in paragraph (b) does not provide a fair reflection of the market price of a Security on that Business Day, in which case Market Price of a Security on that Business Day means:

- (c) the market price of a Security of the relevant class as determined by an independent expert and the Manager whose identity and instructions will be determined by the Manager.

**Market Value of the Trust** in respect of a Quarter means the amount (if any) calculated as follows:

- (a) the weighted average market capitalisation of Securities (calculated on the basis of the average closing number of Securities on issue over the last 15 Trading Days of the Quarter, multiplied by the volume weighted average price per Security over the last 15 Trading Days of the Quarter on the

---

<sup>50</sup> Refer Part 5C.6

ASX); plus

- (b) the amount of any borrowings of the Trust and, while any Units are Stapled to the Stapled Units, the Stapled Trust less the amount of any cash or cash equivalents held by the Trust and, while any Units are Stapled to the Stapled Units, the Stapled Trust; plus
- (c) the amount of any obligations to make future investments for the Trust and, while any Units are Stapled to the Stapled Units, the Stapled Trust which has been approved by the Manager or the manager/responsible entity of the Stapled Trust and in respect of which there is a known date for payment.

The amounts in (b) and (c) are each determined as at the relevant Quarter End Date.

**Member** the person Registered as the holder of a Unit (including persons jointly Registered).

**Minister** any Minister of State of the Commonwealth administering the Airports Legislation or any part of that legislation and includes any Minister of State of the Commonwealth or member of the Federal Executive Council for the time being acting on behalf of such a Minister.

**Net Asset Value** the value of the Assets calculated in accordance with clause 10 less the Liabilities.

**Non-Australasian Member** means any Member who is a citizen or resident of a jurisdiction outside Australia and New Zealand or whose address in the Register is a place outside of Australia and New Zealand, unless the Manager is satisfied that it would not be unlawful for the Trust to issue Units or distribute Assets to the Member either unconditionally or after compliance with conditions which the Manager in its sole discretion regards as acceptable and not unduly onerous.

**Officially Quoted** quotation on the official list of the ASX, including when quotation is suspended for a continuous period of not more than 60 days.

**Option** an option granted by the Manager in respect of unissued Units.

**Other Instruments** has the meaning given in clause 3.16.

**Ownership Provisions:** Part 3 of, and the schedule to, the *Airports Act 1996 (Cth)*.

**Ownership Regulations:** the *Airports (Ownership – Interests in Shares) Regulations 1996 (Cth)*.

**Paid-up Proportion** the number obtained by adding each Partly Paid Unit multiplied by its Relevant Percentage.

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

**Proxy Form:** the proxy form accompanying the notice of meeting convening the Scheme Meeting.

**Quarter** each 3 month period ending on the Quarter End Date or such shorter period of time if the period ends on the date of Termination of this Trust or the date of retirement of the Manager or commences on the date of commencement of the Trust.

**Quarterly** is to be interpreted accordingly.

**Quarter End Date** each 31 March, 30 June, 30 September and 31 December and if the effective date of termination of the Trust or retirement of the Manager is another date, that date.

**Record Date:** 7.00pm (Sydney time) on 4 December 2013 or such other date as may be agreed in writing between the parties to the Scheme Implementation Agreement or as may be required by ASX.

**Redemption Price** the redemption price of a Unit calculated in accordance with this constitution<sup>51</sup>.

**redemption request:** a written request to the Manager to redeem Units and, while Stapling applies, to redeem the Stapled Units relating to the Units to be redeemed.

**Register** the register of Members kept by the Manager under the Corporations Act.

**Registered** recorded in the Register.

**Registered Address:** in relation to a Member, the address of that Member shown on the Register.

**Registrar:** the person appointed to maintain the Register from time to time.

**Registration** recording in the Register.

**Relevant Percentage** in the case of a Partly Paid Unit the percentage calculated in accordance with the following formula at the relevant time:

$$\frac{A - B}{A} \times \frac{100}{1}$$

where

A means the sum determined by dividing Net Asset Value plus the Aggregate Unpaid Amount by the number of Units in issue;

B means the amount of the Application Price of the Unit which is unpaid.

**Resolution:**

<sup>51</sup> See "Redemption Price of Units"

- 
- (a) a resolution passed at a meeting of Members in the Trust:
    - (i) on a show of hands, by the required majority of Members present in person or by proxy and voting on the show of hands; or
    - (ii) on a poll, by the required majority of votes cast by Members present in person or by proxy and voting on the poll; or
  - (b) where the law allows, a resolution in writing signed by Members holding the required majority of the Units in the Trust.

Except where this constitution or any applicable law provides otherwise, the “required majority” is a simple majority<sup>52</sup>.

**Rules** at any time means the rules, procedures and matters (if any) then most recently adopted and published by the Manager under clause 29.18.

**SAL:** Sydney Airport Limited (ACN 165 056 360).

**SAL Security:** a fully paid ordinary share in SAL to be issued to, or at the direction of, Scheme Unitholders under the Scheme.

**SAL Securityholder Register:** the register of holders of SAL Securities from time to time, as administered by SAL (or by SAL's registrar on behalf of SAL).

**Sale Facility** means the procedures set out in clause 27C.

**Sale Price** means the average price (less any costs) at which Transfer Securities (including in the context of the Stapling of new financial products, those financial products) held by the Cashout Bank are sold in clause 27C.3.

**Scheme:** the arrangement by which all of the Scheme Units will be transferred to SAL for the Scheme Consideration, as set out in clause 31.

**Scheme Consideration:** one SAL Security for each Scheme Unit.

**Scheme Implementation Agreement:** the agreement so entitled between the Manager and SAL dated on or about 22 October 2013, as amended from time to time.

**Scheme Meeting:** the general meeting of the Trust held on or about 22 November 2013 at which the Scheme Resolutions were approved.

**Scheme Resolutions:** the following resolutions of Members:

- (a) an ordinary resolution approving for the purpose of item 7 of section 611 of the Corporations Act the acquisition by SAL of

---

<sup>52</sup> Circumstances where a special resolution is required include a vote on amendments to this constitution if necessary (see section 601GC(1)(a)). For voting on winding up by Members and choosing a new responsible entity see sections 601FL and 601NB.



---

all of the Scheme Units; and

- (b) a special resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendment to this constitution to facilitate the Scheme.

**Scheme Transfer:** in relation to each Scheme Unitholder, a proper instrument of transfer of their Scheme Units for the purpose of section 1071B of the Corporations Act (which may be a master transfer of all or part of all of the Scheme Units).

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

**Scheme Unitholder:** a person registered in the Register as a holder of one or more Scheme Units as at the Record Date.

**Second Judicial Advice:** confirmation from the Court under section 63 of the *Trustee Act 1925* (NSW) that subject to Members passing the Scheme Resolutions by the requisite majorities, the Manager of the Trust would be justified in implementing the Scheme Resolutions, giving effect to amendments to this constitution and in doing all things and taking all necessary steps to put the Scheme into effect.

**Second Judicial Advice Date:** the first day of the hearing of an application made to the Court by the Manager for the Second Judicial Advice or, if the hearing of such application is adjourned for any reason, the first day of the adjourned hearing.

**Security** means while the Units are Stapled a Stapled Security and while the Units are not Stapled a Unit.

**Stapled:** the state that results from Stapling.

**Stapled Security:** a Unit and a Stapled Unit which are Stapled together and registered in the name of the Member.

**Stapled Security Holder:** the Member under this constitution and the holder of a Stapled Unit.

**Stapled Trust:** Sydney Airport Trust 1.

**Stapled Unit:** means a unit in the Stapled Trust.

**Stapling:** the linking together of all the rights and obligations which attach to a Stapled Security.

**Stapling Commencement Date** means, the date determined by the Manager.

**Tax** all kinds of taxes, duties, imposts, deductions and charges imposed by a government including GST or any amount recovered from the Manager by way of reimbursement of GST or any amount included either expressly or impliedly in an amount paid or payable by the Manager on account of GST, together with interest and penalties.

**Tax Act** the Income Tax Assessment Act 1936 (*1936 Act*), the Income Tax Assessment Act 1997 (*1997 Act*) or both the 1936 Act and the

1997 Act, as appropriate.

**TFN:** Tax File Number.

**Trading Day** those Business Days on which buying and selling occurs through the Stock Exchange Automated Trading System.

**Transaction Costs:**

- (a) when calculating the Application Price of a Unit, the Manager's estimate of the total cost of acquiring the Assets; and
- (b) when calculating the Redemption Price of a Unit, the Manager's estimate of the total cost of selling the Assets;

provided that subject to the Corporations Act<sup>53</sup> the Manager may in connection with any particular application or request for redemption of Units deem these costs to be a lesser sum or zero.

**Transfer Securities** has the meaning given in clause 27C and, in the context of their sale by the Cashout Bank following a stapling of a new financial product, includes the new financial product.

**Transfer Securities Price** means an amount equal to the Sale Price multiplied by the number of Transfer Securities which are transferred to the Cashout Bank or, where the Transfer Securities are consolidated or divided, by the number of consolidated or divided Transfer Securities referable to the number of Transfer Securities which were transferred to the Cashout Bank under clause 27C.2.

**Trust** the trust constituted under or governed by this constitution.

**Unacceptable Foreign Ownership Situation:**

- (a) in relation to the Trust, that a beneficial interest in not less than 40% of the capital, and not less than 40% of the income, is held by persons who are Foreign Persons; and
- (b) in relation to an Airport Investment, any breach or potential breach of the Ownership Provisions or non-compliance or potential non-compliance with the Ownership Regulations.

**Unit** an undivided share in the beneficial interest in the Trust as provided in this constitution.

**Unit Stapling** the linking together of all the rights and obligations which attach to a Stapled Security.

**User Pays Fees** any cost incurred in relation to:

- (a) an entitlement to a payment or a payment to or from the Trust in respect of a Member; or
- (b) any act or omission requested by a Member,

<sup>53</sup> See section 601FC(1)(d)

which the Manager considers should be borne by that Member.

**Valuation Time** a time at which the Manager calculates Net Asset Value.

### Interpretation

- 30.2 Unless the contrary intention appears, in this constitution:
- (a) terms defined in the Corporations Act are used with their defined meaning;
  - (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
  - (c) the singular includes the plural and vice versa;
  - (d) the words “includes” or “including”, “for example” or “such as” when introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not;
  - (e) amend includes delete or replace;
  - (f) person includes a firm, a body corporate, an unincorporated association or an authority;
  - (g) the cover page, contents, headings (except in so far as they are used as a means of cross reference), footnotes, marginal notes and finding lists are for convenience only and do not affect interpretation of this constitution;
  - (h) a reference to a year (other than a Financial Year) or month means a calendar year or calendar month respectively; and
  - (i) a reference to dollars or \$ is a reference to the currency of Australia.

### Other documents

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

### Constitution legally binding<sup>54</sup>

- 30.4 This constitution binds the Manager and each present and future Member and Option holder and any person claiming through any of them in accordance with its terms (as amended from time to time) as if each of them had been a party to this constitution.

### Severance

- 30.5 If all or part of any provision contained in this constitution is void or invalid or would otherwise result in all or part of this constitution being void or invalid for any reason, then such part is to be severed from this constitution without affecting the validity or operation of any other provision of this constitution.

<sup>54</sup> Refer Section 601GB

**Governing law**

30.6 This constitution is governed by the law of New South Wales.

**Other obligations excluded**

30.7 Except as required by the Corporations Act all obligations of the Manager which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including without limitation any obligation of the Manager in its capacity as trustee of the Trust arising under any statute.

**31 Scheme****31.1 Implementation of Scheme**

- (a) Each Scheme Unitholder and the Manager must do all things and execute all deeds, instruments, transfers or other documents as the Manager considers are necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- (b) Without limiting the Manager's other powers under this clause 31, the Manager has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Scheme Implementation Agreement.
- (c) Subject to the Corporations Act, the Manager or any of its directors, officers, employees or associates may do any act, matter or thing described in or contemplated by this clause 31 even if it has an interest (financial or otherwise) in the outcome.
- (d) This clause 31:
  - (i) binds the Manager and all of the Members from time to time (including those who do not attend the Scheme Meeting, those who do not vote at the Scheme Meeting and those who vote against the Scheme Resolutions); and
  - (ii) to the extent of any inconsistency, overrides the other provisions of this constitution (excluding clauses 2, 22.3 and 24.4).

**31.2 Entitlement to Scheme Consideration**

Each Scheme Unitholder will be entitled to receive the Scheme Consideration for each Scheme Unit held by that Scheme Unitholder, which is to be issued in the manner referred to in clause 31.3.

**31.3 Provision of Scheme Consideration**

- (a) The obligation of the Manager to procure SAL to provide the Scheme Consideration to a Scheme Unitholder will be satisfied by procuring SAL, before midnight on the Implementation Date:

- 
- (i) to issue to that Scheme Unitholder such number of SAL Securities to which that Scheme Unitholder is entitled as Scheme Consideration pursuant to the Scheme; and
  - (ii) to procure the entry in the SAL Securityholder Register of the name and Registered Address (as at the Record Date) of that Scheme Unitholder and the number of SAL Securities which that Scheme Unitholder is entitled to receive under the Scheme.
- (b) The Scheme Unitholders acknowledge and agree that, within 5 Business Days after the Implementation Date, the Manager will procure that SAL will despatch, or procure the despatch, to each Scheme Unitholder whose relevant new SAL Securities are held on the issuer sponsored subregister of SAL, of an uncertificated holding statement in the name of that Scheme Unitholder for SAL Securities issued to that Scheme Unitholder pursuant to the Scheme, with such despatch to be made by pre-paid post to that Scheme Unitholder's Registered Address (as at the Record Date).
  - (c) In the case of Scheme Units held in joint names, holding statements for new SAL Securities must be issued in the names of joint holders and sent to the holder whose name appears first in the Securityholder Register on the Record Date.

#### **31.4 Transfer of Scheme Units to SAL**

On the Implementation Date, subject to SAL having provided the Scheme Consideration in the manner contemplated by clause 31.3 and SAL having provided the Manager with written confirmation of that having occurred, the following will occur:

- (a) all of the Scheme Units, together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date, will be transferred to SAL, without the need for any further act by any Scheme Unitholder (other than acts performed by the Manager (or any of its directors and officers appointed as sub-attorneys and/or agents of the Manager) as attorney and/or agent for Scheme Unitholders under the Scheme);
- (b) the Manager will procure the delivery to SAL for execution duly completed and, if necessary, stamped Scheme Transfers to transfer all of the Scheme Units to SAL, duly executed by the Manager (or any of its directors and officers appointed as sub-attorneys and/or agents of the Manager) as the attorney and/or agent of each Scheme Unitholder as transferor under clause 31.7;
- (c) SAL must immediately execute the Scheme Transfers as transferee and deliver them to the Manager for registration; and
- (d) the Manager, immediately after receipt of the Scheme Transfers under clause 31.4(c), must enter, or procure the entry

---

of, the name and address of SAL in the Register as the holder of all of the Scheme Units.

### **31.5 Dealings in Units**

- (a) For the purpose of establishing the persons who are Scheme Unitholders and the number of Units held by them, the Manager will only recognise dealings in Units if:
  - (i) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Register as the holder of the relevant Units by the Record Date; or
  - (ii) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Registrar by the Business Day before the Record Date in which case the Manager must register such transfers or transmission applications before the Record Date.
- (b) The Manager will, until the name and address of SAL has been entered in the Register as the holder of all of the Scheme Units, maintain, or procure the maintenance of, the Register in accordance with this clause 31.5. Immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 31.5(a), the Registrar will solely determine the persons who are Scheme Unitholders and the number of Scheme Units held by them.
- (c) No Scheme Unitholder (or any person purporting to claim through them) may dispose of, purport or agree to dispose of, or otherwise deal with Scheme Units or any interest in them in any way after the Record Date, and any attempt to do so will have no effect.
- (d) From the Record Date, all certificates and holding statements (as applicable) for Scheme Units as at the Record Date will cease to have any effect as evidence of title, and each entry on the Register as at the Record Date will cease to have any effect other than as evidence of the entitlements of Members to the Scheme Consideration.
- (e) Other than in respect of SAL (after registration of SAL in respect of all Scheme Units under clause 31.4(d)), from the Record Date, all certificates and holding statements (as applicable) for Scheme Units as at the Record Date will cease to have any effect as evidence of title, and each entry on the Register as at the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Unitholders to the Scheme Consideration.
- (f) On or before 11.00am on the Implementation Date, the Manager must give to SAL, or procure that SAL be given, details of the names, Registered Addresses and holdings of Scheme Units of every Scheme Unitholder as shown in the Register as at the Record Date in such form as SAL may reasonably require.

---

### **31.6 Covenants by Scheme Unitholders**

Each Scheme Unitholder:

- (a) acknowledges that this clause 31 binds all of the Members from time to time (including those who do not attend the Scheme Meeting, do not vote at the Scheme Meeting or vote against the Scheme Resolutions) without the need for any further act by that Scheme Unitholder;
- (b) irrevocably agrees to the transfer of their Scheme Units, together with all rights, entitlements and obligations attaching to those Scheme Units, to SAL in accordance with the terms of the Scheme;
- (c) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this clause 31;
- (d) irrevocably consents to the Manager and SAL doing all things and executing all deeds, instruments, transfers or other documents (including the Scheme Transfers) as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it; and
- (e) without limiting clauses 29.3 to 29.6, agrees to provide to the Manager such information as the Manager may reasonably require to comply with any law in respect of the Scheme and the transactions contemplated in this clause 31, including information required to meet obligations under the Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth).

### **31.7 Appointment of the Manager as attorney and as agent for implementation of Scheme**

Each Scheme Unitholder, without the need for any further act by that Scheme Unitholder, irrevocably appoints the Manager as that Scheme Unitholder's attorney and as that Scheme Unitholder's agent for the purpose of:

- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including:
  - (i) executing any form of application (including any necessary consent for the purposes of section 120(b) of the Corporations Act) required for SAL Securities to be issued to that Scheme Unitholder in accordance with the Scheme;
  - (ii) effecting a valid transfer or transfers of the Scheme Units to SAL under clause 31.4(b), including executing and delivering any Scheme Transfers; and
  - (iii) communicating the Scheme Unitholders' instructions and notifications under clause 31.9; and

- 
- (b) enforcing the Deed Poll against SAL,

and the Manager accepts such appointment. The Manager, as attorney and as agent of each Scheme Unitholder, may sub-delegate its functions, authorities or powers under this clause 31.7 to all or any of its directors and officers (jointly, severally, or jointly and severally). Each Scheme Unitholder indemnifies the Manager and each of its directors and officers against all losses, liabilities, charges, costs and expenses arising from the exercise of powers under this clause.

### **31.8 Status of Scheme Units**

- (a) To the maximum extent permitted by law, the Scheme Units transferred to SAL under this clause 31 will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Each Scheme Unitholder is deemed to have warranted to the Manager in its own right and on behalf of SAL, that all their Scheme Units (including any rights, entitlements and obligations attaching to those Scheme Units) which are transferred to SAL under this clause 31 will, at the time of the transfer of them to SAL, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind not referred to in this constitution, and that they have full power and capacity to sell and to transfer their Scheme Units to SAL pursuant to the Scheme.
- (c) SAL will be beneficially entitled to the Scheme Units transferred to it under this clause 31 pending registration by the Manager of the name and Registered Address of SAL in the Register as the holder of the relevant Scheme Units.

### **31.9 Binding instructions or notifications**

- (a) Any binding instruction or notification between a Scheme Unitholder and the Manager relating to Scheme Units as at the Record Date (including, without limitation, any instructions relating to payment of distributions or to communications from the Manager) will, from the Record Date, be deemed (except to the extent determined otherwise by SAL in its sole discretion) to be a similarly binding instruction or notification to, and accepted by, SAL in respect of any SAL Securities issued to the Scheme Unitholder pursuant to the Scheme, until that instruction or notification is revoked or amended in writing addressed to SAL through the Registrar, provided that any such instructions or notifications accepted by SAL will apply to and in respect of the issue of SAL Securities as part of the Scheme Consideration only to the extent that they are not inconsistent with the other provisions of the Scheme.
- (b) (i) Subject to sub-paragraph (ii), the Scheme Unitholders acknowledge and agree that on the Implementation Date, the Manager will, or will procure the Registrar to, transfer to SAL (or its registrar) each Scheme



---

Unitholder's TFN, to the extent that such TFN was properly notified to the Manager before the Implementation Date.

- (ii) The Manager must not transfer, or procure the transfer of, a Scheme Unitholder's TFN to SAL (or its registrar) if the Scheme Unitholder has directed the Registrar, by marking the field designated 'Transfer of Tax File Number' in the Proxy Form, that the Scheme Unitholder's TFN is not to be provided to SAL.

### **31.10 Notices**

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to the Manager, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at the Manager's registered office or by the Registrar, as the case may be.

**31.11 Stamp duty**

SAL will pay any stamp duty that is payable on the transfer to it of Scheme Units pursuant to the Scheme.

**31.12 Limitation of liability**

Without limiting clauses 18.3 or 19, subject to the Corporations Act, the Manager will not have any liability of any nature whatsoever to Members, beyond the extent to which the Manager is actually indemnified out of the Assets, arising, directly or indirectly, from the Manager doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the Scheme.

**31.13 Manager's expenses**

Without limiting clause 21.4, all expenses incurred by the Manager in relation to the Scheme and the Scheme Implementation Agreement are payable or reimbursable out of the Assets to the extent that such reimbursement is not prohibited by the Corporations Act.