



## ASX Release

21 February 2025

### 360 Capital REIT (ASX:TOT) Amendment to Constitutions

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360 Capital FM Limited as responsible entity for 360 Capital REIT (ASX:TOT) (the stapled entity comprising 360 Capital Active REIT ARSN 602 303 613 and 360 Capital Passive REIT ARSN 602 304 432) (together **TOT** or **Fund**) is pleased to announce that following the members' approval of the Investment Management Agreement in the meeting held on 6 February 2025, and as set out in the explanatory memorandum contained in the Notice of Meeting, the Constitutions of the Funds have been amended to remove the annual performance fees which the Responsible Entity as responsible entity of the Fund may be entitled to from time to time.

Supplemental Deeds to the Constitutions of 360 Capital Active REIT and 360 Capital Passive REIT that incorporate this change are annexed to this release.

Authorised for release by, Glenn Butterworth, Company Secretary.

More information on TOT can be found on the ASX's website at [www.asx.com.au](http://www.asx.com.au) using the Group's ASX code "TOT", on 360 Capital's website [www.360capital.com.au](http://www.360capital.com.au), by calling the 360 Capital investor enquiry line on 1300 082 130 or by emailing [investor.relations@360capital.com.au](mailto:investor.relations@360capital.com.au).

Alternatively, please contact either:

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360 Capital FM Limited  
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**James Storey**

Chief Executive Officer  
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**Glenn Butterworth**

Chief Financial Officer  
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#### About 360 Capital REIT (ASX: TOT)

The Fund has a demonstrated track record of consistent quarterly distributions, through a selective and disciplined investment philosophy, combined with access to real estate investment opportunities available to TOT through the 360 Capital Group, the manager of the Fund.

# Supplemental Deed

**360 Capital Active REIT**  
ARSN 602 303 613

**360 Capital FM Limited**  
ACN 090 664 396  
Responsible Entity

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## Supplemental Deed dated 7 February 2025

**Party**                      **360 Capital FM Limited ACN 090 664 396** of Suite 3701, Level 37, 1 Macquarie Place, Sydney NSW 2000 (**Responsible Entity**)

### Recitals

- A.        The trust known as 360 Capital Active REIT ARSN 602 303 613 (formerly 360 Capital Total Return Active Fund) (**Trust**) was established by a deed poll dated 13 October 2014 (**Constitution**).
- B.        The Trust is registered by the Australian Securities and Investments Commission as a managed investment scheme and the Responsible Entity is appointed as the responsible entity of the Trust.
- C.        Prior to the date of this deed, the Constitution has been amended by:
- (i)        a supplemental deed dated 30 March 2015;
  - (ii)       a deed of retirement and appointment of responsible entity dated 23 December 2016;
  - (iii)       a supplemental deed dated 23 June 2017; and
  - (iv)       a supplemental deed dated 18 February 2020.
- D.        Clause 26(a) of the Constitution provides that, while the Fund is a registered scheme (as is the case as at the date of this deed), the Responsible Entity may amend the terms of the Constitution by way of a deed executed by the Responsible Entity.
- E.        With effect from the date on which this deed is lodged with the Australian Securities and Investments Commission, and in accordance with clause 26(a) of the Constitution, the performance fees which the Responsible Entity as responsible entity of the Trust may be entitled to from time to time are to be removed from the Constitution. There will be no performance fees charged to the Trust by, or payable by the Trust to, the Responsible Entity or the Investment Manager.
- F.        The trust known as 360 Capital Passive REIT ARSN 602 304 432 (formerly 360 Capital Total Return Passive Fund) (**Passive Trust**) was established by a separate deed poll dated 13 October 2014 (**Passive Constitution**). Units in the Trust and the Passive Trust are stapled, as further described in the stapling provisions set out in Schedule 1 of the Constitution and the Passive Constitution respectively.
- G.        Pursuant to section 601GC(b) of the Corporations Act 2001 (Cth), and with effect from the date on which this deed is lodged with the Australian Securities and Investments Commission, the Responsible Entity amends the Constitution to reflect the change of removing the performance fees charged to the Trust, on the terms set out in this Deed.
- H.        The Responsible Entity shall amend the terms of the Passive Constitution to reflect the same amendments contemplated by this deed (as it applies to the Constitution), by way of a separate supplemental deed dated on or about the date of this deed.

## **Operative provisions**

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### **1. Operative provisions**

#### **1.1 Constitution**

Unless otherwise defined, capitalised expressions used in this deed have the meanings given to them in or for the purposes of the Constitution.

#### **1.2 Specific modifications**

Subject to clause 2 of this deed, the Constitution is modified by:

- (a) Deleting sub-clause 23.1(b); and
- (b) deleting clause 23.3.

#### **1.3 Provisions not affected**

Subject to the amendments to the Constitution made by operation of this deed, the provisions of the Constitution are not otherwise affected and continue in full force.

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### **2. Effective time**

The modifications to the Constitution pursuant to clause 1.2 of this deed take effect upon lodgement of this deed with the Australian Securities and Investments Commission in accordance with section 601GC(2) of the Corporations Act 2001 (Cth).

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### **3. No resettlement**

Nothing in this deed constitutes a resettlement or redeclaration of the Trust and:

- (a) if the deletion of any provision would have that effect, then that amendment will be severed from this deed and the relevant clause will be retained; and
  - (b) if the introduction of any clause would have that effect, then that provision will be severed from this deed and will not be included in the Constitution.
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### **4. Governing law**

This deed is governed by and will be construed according to the laws of the state of New South Wales.

**Executed** as a deed poll.

**Executed by 360 Capital FM Limited** in accordance with Section 127 of the Corporations Act 2001 (Cth):



\_\_\_\_\_  
Signature of director

**Tony Pitt**

\_\_\_\_\_  
Name of director



\_\_\_\_\_  
Signature of ~~director~~/company secretary

**Glenn Butterworth**

\_\_\_\_\_  
Name of director/company secretary

# Supplemental Deed

**360 Capital Passive REIT**  
ARSN 602 304 432

**360 Capital FM Limited**  
ACN 090 664 396  
Responsible Entity

**Contents**

- 1. Operative provisions.....2**
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## Supplemental Deed dated 7 February 2025

**Party**                      **360 Capital FM Limited ACN 090 664 396** of Suite 3701, Level 37, 1 Macquarie Place, Sydney NSW 2000 (**Responsible Entity**)

### Recitals

- A. The trust known as 360 Capital Passive REIT ARSN 602 304 432 (formerly 360 Capital Total Return Passive Fund) (**Trust**) was established by a deed poll dated 13 October 2014 (**Constitution**).
- B. The Trust is registered by the Australian Securities and Investments Commission as a managed investment scheme and the Responsible Entity is appointed as the responsible entity of the Trust.
- C. Prior to the date of this deed, the Constitution has been amended by:
- (i) a supplemental deed dated 30 March 2015;
  - (ii) a deed of retirement and appointment of responsible entity dated 23 December 2016;
  - (iii) a supplemental deed dated 23 June 2017; and
  - (iv) a supplemental deed dated 18 February 2020.
- D. Clause 26(a) of the Constitution provides that, while the Fund is a registered scheme (as is the case as at the date of this deed), the Responsible Entity may amend the terms of the Constitution by way of a deed executed by the Responsible Entity.
- E. With effect from the date on which this deed is lodged with the Australian Securities and Investments Commission, and in accordance with clause 26(a) of the Constitution, the performance fees which the Responsible Entity as responsible entity of the Trust may be entitled to from time to time are to be removed from the Constitution. There will be no performance fees charged to the Trust by, or payable by the Trust to, the Responsible Entity or the Investment Manager.
- F. The trust known as 360 Capital Active REIT ARSN 602 303 613 (formerly 360 Capital Total Return Active Fund) (**Active Trust**) was established by a separate deed poll dated 13 October 2014 (**Active Constitution**). Units in the Trust and the Active Trust are stapled, as further described in the stapling provisions set out in Schedule 1 of the Constitution and the Active Constitution respectively.
- G. Pursuant to section 601GC(b) of the Corporations Act 2001 (Cth), and with effect from the date on which this deed is lodged with the Australian Securities and Investments Commission, the Responsible Entity amends the Constitution to reflect the change of removing the performance fees charged to the Trust, on the terms set out in this Deed.
- H. The Responsible Entity shall amend the terms of the Active Constitution to reflect the same amendments contemplated by this deed (as it applies to the Constitution), by way of a separate supplemental deed dated on or about the date of this deed.

## **Operative provisions**

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### **1. Operative provisions**

#### **1.1 Constitution**

Unless otherwise defined, capitalised expressions used in this deed have the meanings given to them in or for the purposes of the Constitution.

#### **1.2 Specific modifications**

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- (a) Deleting sub-clause 23.1(b); and
- (b) deleting clause 23.3.

#### **1.3 Provisions not affected**

Subject to the amendments to the Constitution made by operation of this deed, the provisions of the Constitution are not otherwise affected and continue in full force.

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## **2. Effective time**

The modifications to the Constitution pursuant to clause 1.2 of this deed take effect upon lodgement of this deed with the Australian Securities and Investments Commission in accordance with section 601GC(2) of the Corporations Act 2001 (Cth).

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## **3. No resettlement**

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- (a) if the deletion of any provision would have that effect, then that amendment will be severed from this deed and the relevant clause will be retained; and
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\_\_\_\_\_  
Signature of director

**Tony Pitt**

\_\_\_\_\_  
Name of director



\_\_\_\_\_  
Signature of ~~director~~/company secretary

**Glenn Butterworth**

\_\_\_\_\_  
Name of ~~director~~/company secretary