

# DEXUS Property Group - ASX release

31 October 2011

## DEXUS Property Group (ASX: DXS) Supplemental Deed Polls

DEXUS Funds Management Limited as responsible entity for DEXUS Property Group (DXS), provides a copy of the Supplemental Deed Polls for DEXUS Diversified Trust, DEXUS Office Trust, DEXUS Industrial Trust and DEXUS Operations Trust which were lodged with ASIC today.

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### About DEXUS

DEXUS is one of Australia's leading property groups specialising in world-class office, industrial and retail properties with total assets under management of \$13.7bn. In Australia, DEXUS is the market leader in office and industrial and, on behalf of third party clients, a leading manager and developer of shopping centres. DEXUS is committed to being a market leader in Corporate Responsibility and Sustainability. [www.dexus.com](http://www.dexus.com)

DEXUS Funds Management Ltd ABN 24 060 920 783, AFSL 238163, as Responsible Entity for DEXUS Property Group (ASX: DXS)

# Supplemental Deed Poll

Dated *31 October* 2011

DEXUS Funds Management Limited (ABN 24 060 920 783)  
("Responsible Entity")

Amending the Constitution of the DEXUS Diversified Trust (ARSN 089  
324 541)

**Mallesons Stephen Jaques**

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# Supplemental Deed Poll

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# Supplemental Deed Poll

## Details

<b>Parties</b>	<b>Responsible Entity</b>	
<b>Responsible Entity</b>	Name	<b>DEXUS Funds Management Limited</b>
	ABN	24 060 920 783
	Address	Level 9, 343 George Street Sydney NSW 2000
	Attention	Company Secretary
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the DEXUS Diversified Trust (ARSN 089 324 541) (" <b>Trust</b> ").
	<b>B</b>	The Trust has been registered pursuant to section 601EB of the <i>Corporations Act 2001</i> (Cth) (the " <b>Corporations Act</b> ") as a managed investment scheme.
	<b>C</b>	The Trust was constituted under a Constitution dated 15 August 1984 as amended from time to time.
	<b>D</b>	Clause 15 of the Constitution provides that, subject to any approval required by law, the Responsible Entity may by deed replace or amend the Constitution.
	<b>E</b>	Section 601GC(1) of the Corporations Act provides that the constitution of a registered scheme may be modified by, inter alia, a special resolution of the members of the Trust.
	<b>F</b>	The Responsible Entity wishes to give effect to various amendments to the Constitution made by Unitholders by special resolution at the meeting of Unitholders held on 31 October 2011, as set out in this deed.
	<b>H</b>	Pursuant to section 601GC(2) of the Corporations Act, the amendments set out in this deed poll do not take effect until a copy has been lodged with the Australian Securities and Investments Commission (" <b>ASIC</b> ").
	<b>Governing law</b>	New South Wales
<b>Date of agreement</b>	See Signing page	

# Supplemental Deed Poll

## General terms

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this deed poll, including the Recitals, the following definitions apply unless the context otherwise requires.

**Constitution** means the constitution dated 15 August 1984 constituting the Trust, as amended from time to time.

**Effective Time** means the date and time on which a copy of this deed poll is lodged with ASIC under section 601GC(2) of the Corporations Act.

**Trust** means DEXUS Diversified Trust (ARSN 089 324 541).

**Schedule** means the schedule to this deed poll.

#### 1.2 Interpretation

- (a) Terms used but not defined in this deed poll have the same meanings given to them in the Constitution.
- (b) Clause 1.2 of the Constitution applies to this deed poll as if set out in this deed poll.

#### 1.3 Benefit of this deed poll

This deed poll is made by the Responsible Entity with the intent that the benefit of this deed poll shall enure to the benefit of Holders jointly and severally.

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### 2 Amendment of Constitution

The Responsible Entity amends the Constitution so that, on and from the Effective Time, the amendments set out in the Schedule are made to the Constitution.

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### 3 Conflict

If there is a conflict between the Constitution and this deed poll, the terms of this deed poll prevail.

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### 4 Governing law

This deed is governed by the laws in force in the place specified in the Details. Each person affected by it must submit to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

**EXECUTED** as a deed

# Supplemental Deed Poll

## Schedule 1 - Amendments

- (a) In clause 1.1(a), in the definition of “ASX”, replace the words “the Australian Stock Exchange Limited” with the words “ASX Limited (or its successor) or the market operated by it, as the context requires”;
- (b) in clause 1.1(a), insert the following new definitions in the correct alphabetical order:
  - “**ASIC Relief** means an exemption or declaration granted by ASIC which gives relief from certain requirements of the Corporations Act.”
  - “**Complaint** means an expression of dissatisfaction made to the Responsible Entity, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.”
- (c) in clause 1.1(a), in the definition of “Corporations Act or Corporations Law”, add before the semicolon the following new text: “, and a reference to the Corporations Act or Corporations Law or a provision of it includes a reference to the Corporations Act or Corporations Law or that provision as modified by any applicable ASIC Relief”;
- (d) in clause 1.4, delete the whole of paragraph (b) and renumber paragraph (c) as (b);
- (e) insert a new clause 1.8 as follows:

### “1.8 Corporations Act and ASIC Relief

- (a) If the Corporations Act requires that this constitution contain certain provisions, or if any ASIC Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity requires provisions to a certain effect to be contained in this constitution in order for the ASIC Relief to apply (“**Required Provisions**”); or
- (b) if any part of this constitution (a “**Required Part**”) is included to comply with the requirements of the Corporations Act, Listing Rules, ASIC or ASX (“**Regulatory Requirement**”) and that Regulatory Requirement ceases or changes,

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

The Unitholders authorise the Responsible Entity to make the amendments referred to in this clause 1.8 in a deed and, if required, to lodge it with ASIC.”;

- (f) in clause 3.2(c), insert after “on the same basis as each other Unit” the following new text: “or such other basis as the Responsible Entity determines in its absolute discretion”;
- (g) replace clause 5.1(a) with the following:
  - “(a) The Responsible Entity may issue Units only in accordance with this clause 5, Schedule 3 and subject to this deed, but nothing in this clause 5 or this deed limits or is taken to limit the Responsibility Entity’s power to issue Units in compliance with any applicable ASIC Relief and the Listing Rules (whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 5 or otherwise).”;
- (h) in clause 5.1(b), replace “clause” with “provision”;
- (i) in clause 5.7(b), replace “instrument issued by ASIC” with “ASIC Relief”;
- (j) delete clause 5.7(c) in its entirety, re-number clause 5.7(d) as 5.7(c) and add “and” at the end of clause 5.7(b);
- (k) in clause 5.9(a), replace “clause 5.9(g)” with “clause 5.9(f)”;
- (l) delete clause 5.9(f) in its entirety, add the word “and” to the end of clause 5.9(e) and re-number clause 5.9(g) as a new clause 5.9(f);
- (m) in clause 5.9(g) (before renumbering), replace “instrument issued by ASIC” with “ASIC Relief”;
- (n) delete clause 5.10(h) in its entirety, add the word “and” to the end of clause 5.10(g), re-number clause 5.9(i) as a new clause 5.9(h) and, in clause 5.10(a), replace “clause 5.10(i)” with “clause 5.10(h)”;
- (o) in clause 5.12(d), replace the expression “\$5,000” with the expression “\$15,000 (or such greater amount as may be permitted from time to time under the Listing Rules and the Corporations Act)”;
- (p) insert a new clause 5.18 as follows:
 

**“5.18 Apportionment of Issue Price**

Subject to the terms of any applicable ASIC Relief, if a Unit is to be issued as part of a Stapled Security and this deed contains a provision for the calculation or determination of the Issue Price of the Stapled Security (rather than the Unit), the Responsible Entity must determine (in its absolute discretion) how the Issue Price of the Stapled Security is to be apportioned between the Unit and any Attached Securities.”;
- (q) in clause 9.2(a), insert after “For each Distribution Period” the following new text “and subject to clause 9.2(d),”;
- (r) in clause 9.2(b), insert after “If no determination is made or to the extent to which no determination is made under clause 9.2(a)(1), then” the following new text “, subject to clause 9.2(d),”;
- (s) at the end of clause 9.2, insert a new paragraph 9.2(d) as follows:

“(d) The Responsible Entity may at any time during a Distribution Period distribute pro rata to Unitholders income or capital out of the Fund. If the Responsible Entity distributes an amount of income of the Fund pursuant to this clause 9.2(d), the Distributable Income determined in accordance with clause 9.2(a), or calculated in accordance with clause 9.2(b), for the relevant Distribution Period must not include an amount referable to the income distributed in accordance with this clause 9.2(d) in that Distribution Period.”

(t) insert a new clause 9.9 as follows:

**“9.9 Capital reallocation proposals**

(a) Notwithstanding any other provision in this clause 9, if, at any time, Unitholders approve (as an ordinary resolution), a capital distribution (“**Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Unit by way of capital distribution is to be paid to or for the benefit of a Stapled Entity (whether by way of additional capital payment in respect of units or other Securities already issued or otherwise) (“**Capital Reallocation Amount**”), then:

- (1) each holder of a Unit is taken to have directed the Trust to pay the Capital Reallocation Amount to that Stapled Entity;
- (2) the Responsible Entity shall pay the Capital Reallocation Amount (and shall be taken to be empowered to do so for all purposes) to or for the benefit of the Stapled Entity in accordance with the Capital Reallocation Resolution; and
- (3) each holder of a Unit shall be deemed to appoint the Responsible Entity as its attorney and its agent to do all things as the Responsible Entity considers necessary to give effect to the resolution.

(b) If, at any time, Unitholders approve (as an ordinary resolution), a capital distribution in respect of Securities in a Stapled Entity (or other capital payment, such as a capital reduction) (“**Recipient Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Security is to be paid to or for the benefit of the Trust (whether by way of additional capital payment in respect of Units or other Securities already issued or otherwise) (“**Recipient Capital Reallocation Amount**”), then each Unitholder is:

- (1) taken to have directed the Responsible Entity to accept the Recipient Capital Reallocation Amount; and
- (2) deemed to have appointed the Responsible Entity as their attorney and agent to do all things necessary to give effect to the receipt of the Recipient Capital Reallocation Amount,

and the Responsible Entity will be deemed to receive the Recipient Capital Reallocation Amount in accordance with the Recipient Capital Reallocation Resolution (whether as an additional capital payment in respect of Units or otherwise).”

(u) insert a new clause 12.9 as follows:

## **“12.9 On-Market buy backs**

While the Trust is Listed, the Responsible Entity may, subject to and in accordance with the relevant provisions of the Corporations Act and the Listing Rules, purchase Units (or where Units are Stapled, Stapled Securities) on ASX and cause the Units (which, where Units are Stapled, in part comprise Stapled Securities) to be cancelled. No redemption price is payable upon cancellation of Units. Where Units comprise part of Stapled Securities, the Responsible Entity may only buy back and cancel the Units if the Attached Securities are also the subject of contemporaneous buy back and cancellation. Where Units are purchased as part of a Stapled Security under a buy back arrangement, the Responsible Entity must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.”;

- (v) in clause 16.2:
  - (i) in sub paragraph (A) of clause 16.2(a)(4), insert after “must be reduced by” the following new text “an amount equal to” and insert after “at the date of distribution” the following new text “(less any amount by which a distribution has already been reduced on account of an unpaid Instalment in accordance with this clause 16.2(a)(4)(A) as a result of the payment of a previous instalment of the net proceeds of realisation)”;
  - (ii) in sub paragraph (B) of clause 16.2(a)(4), insert after “would be to reduce the distribution” the following new text “(or where proceeds of realisation are to be paid in instalments, the aggregate of distributions)”;
  - (iii) insert after paragraph (c) a new paragraph (d) as follows (and renumber the paragraphs that follow as (e) and (f)):
    - “(d) The Responsible Entity may, in its discretion, realise the Fund and distribute the net proceeds of realisation in instalments.”;
  - (iv) in paragraph (e) (before renumbering), replace “clause 16.2(d)” with “clause 16.2(e)”;
- (w) in clause 18.2:
  - (i) delete all the words after “in relation to the Trust”; and
  - (ii) replace “complaints” with “Complaints”;
- (x) in clause 18.3, replace “complaint” with “Complaint” where occurring;
- (y) in clause 18.4:
  - (i) replace “complaint” with “Complaint” where occurring in paragraph (a);
  - (ii) renumber the existing paragraphs (b) and (c) as (e) and (f), and insert the following new paragraphs (b), (c) and (d):
    - “(b) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle complaints;

- (c) Where the Complaint relates to an error which is capable of being corrected without affecting the rights of third parties, the Responsible Entity must act in good faith to deal with the Complaint by endeavouring to correct the error;
  - (d) The Responsible Entity may, in its discretion give any of the following remedies to the complainant:
    - (1) information and explanation regarding the circumstances giving rise to the Complaint;
    - (2) an apology; or
    - (3) compensation for loss incurred by the Holder as a direct result of any breach;”;
  - (iii) in paragraph (e), replace “complaint” with “Complaint” where occurring, replace “2 months” with “45 days”, and delete “acknowledgement of the” and “being sent under clause 18.3(b)(2)”;
  - (iv) in paragraph (f), replace “complaint” with “Complaint” where occurring, and add after “The Responsible Entity must” the following new text “, by the end of the 45 day period,”;
- (z) insert new clauses 19.2A and 19.2B as follows:

**"19.2A Distribution for purposes of Stapling**

For the purposes of creating or adding a new Attached Security to Stapled Securities, the Responsible Entity may apply the proceeds of a pro-rata distribution under clause 19.2(a) in subscribing as agent and attorney of each Unitholder for Securities which are to be Stapled to Units.

**19.2B Appointment of Responsible Entity as agent and attorney**

The Responsible Entity is irrevocably appointed as agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Stapling of Attached Securities to Units, including in relation to:

- (a) executing an application for or transfer of Securities which are to be Attached Securities to a Unitholder as subscriber or transferee;
- (b) the Stapling of each Unit held by that Unitholder on the Stapling Date to the Corresponding Number of Attached Securities; and
- (c) arranging for each Unitholder to be registered as the holder of those Attached Securities.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders, including amending this deed to give effect to the Stapling of Attached Securities to Units.”;

- (aa) insert new clauses 19.10 and 19.11 as follows:

### **“19.10 Duties while Stapled**

Despite any provision of this deed or the constitutions of the Stapled Entities, or any rule of law (but subject to the Corporations Act) while the Units and the Attached Securities are Stapled, in exercising any power or discretion, the Responsible Entity may have regard to the interests of the holders of Stapled Securities as a whole and not only to the interests of the holders of the Units and relevant Attached Securities considered separately.

### **19.11 Stapling provisions paramount**

Subject to clauses 1.4 and 1.5, this clause 19 has effect notwithstanding any other clause of this deed and any clause of this deed which is inconsistent with it does not operate to the extent of any inconsistency.”

- (bb) renumber clause 20 as clause 23, and insert the following new clauses 20, 21 and 22:

### **“20 Sale of small holdings comprising non marketable parcels**

#### **20.1 Sale of small holdings**

Subject to the provisions of this clause 20, the Responsible Entity may in its discretion from time to time sell any Units (and any Attached Securities) held by a Holder without request by the Holder where, while the trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a marketable parcel as provided in the Listing Rules and the procedures set out in this clause 20 are observed. In this case, the Responsible Entity may only sell Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

#### **20.2 Procedure**

- (a) The Responsible Entity must notify a Holder in writing who on the date of the notice holds less than a marketable parcel as provided in the Listing Rules of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 20. The notice must explain the effect of this clause 20.
- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
- (1) before the expiry of 6 weeks from the date of notice given under clause 20.2(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 20.2(b)(1):
    - (A) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or

- (B) the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to at least the value of a marketable parcel as provided in the Listing Rules.
- (c) The power to sell lapses following the announcement of a takeover offer as provided in the Listing Rules, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Responsible Entity, from the assets of the Trust, or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale as the Responsible Entity so determines.
- (e) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 20.

## 21 Sale of newly created small holdings

- (a) In addition to the powers of the Responsible Entity in clause 20, the Responsible Entity may sell the Units and any Attached Securities of a Holder if Units (together with any Attached Securities Stapled to those Units) comprise less than a marketable parcel of Units (and any Attached Securities), without complying with the procedures in clause 20 and may determine that a Holder's right to vote or receive distributions in respect of those Units (and any Attached Securities) is removed or changed if the following conditions are observed:
  - (1) a sale effected or a removal or change in voting or distribution rights, under this clause 21 only applies to Units (and any Attached Securities) in a holding created after the date on which this clause came into effect by a transfer of a parcel of Units (and any Attached Securities) that was less than a marketable parcel as provided in the Listing Rules at the time the transfer document was initiated or, in the case of a paper based transfer, was lodged with the Responsible Entity ("**New Small Holding**");
  - (2) the proceeds of a sale under this clause 21 less the cost of the sale, must be sent to the Holder after the sale subject to clause 22(e);
  - (3) any distributions that have been withheld under this clause 21 must be sent to the Holder after the sale, subject to the former Holder delivering to the Holder proof of the title acceptable to the Responsible Entity; and
  - (4) the Responsible Entity has given the Holder (as at the date of the notice) of the New Small Holding notice of its intention to sell the Units (together with any

Attached Securities Stapled to those Units) under this clause 21 and which notice explains the effect of this clause 21.

- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
  - (1) before the expiry of 6 weeks from the date of notice given under clause 21(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 21(b)(1) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units).

## **22 Procedure, title and proceeds of sale for sale of small holdings**

- (a) The Responsible Entity may sell Units (and any Attached Securities) under clause 20 or 21 as soon as practicable on market or in any other way the Responsible Entity so determines and at a price which the Responsible Entity considers to be reasonably obtainable for the Units (and any Attached Securities) at the time they are sold.
- (b) When the Responsible Entity sells a Unit (together with any Attached Security), the Responsible Entity may:
  - (1) receive the purchase money or consideration given for the Unit (and any Attached Security);
  - (2) effect a transfer of the Unit (and any Attached Security) or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Units (and any Attached Securities);
  - (3) register as the holder of the Unit (and any Attached Security) the person to whom the Unit (and any Attached Security) is sold; and
  - (4) for the purpose of selling the relevant Units (and any Attached Security) that are in a CS facility (as defined in the Corporations Act) holding initiate (after giving the notice specified in clause 20.2(a) or clause 21) a holding adjustment to move those Units (and any Attached Securities) to an issuer sponsored holding or certificated holding.
- (c) A person to whom the Responsible Entity sells Units (and any Attached Securities) need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration for the sale is applied. That person's title to the Units and any Attached Securities is not affected by any irregularity by the Responsible Entity or the broker or any agent in relation to the sale. A sale of the Units and its Attached

Securities by the Responsible Entity is valid even if a transmission event occurs to the Holder before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of Units and any Attached Securities by the Responsible Entity is a claim for damages against the Responsible Entity.
- (e) Subject to clause 22(f), the proceeds of a sale of Units (and any Attached Securities) by the Responsible Entity must be applied in paying:
  - (1) first and only in respect of a sale of a New Small Holding under clause 21, the expenses of the sale;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Responsible Entity,and any balance must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (f) The proceeds of sale under clause 20 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (g) Until the proceeds of a sale of the Unit (and any Attached Securities) sold by the Responsible Entity are claimed or otherwise disposed of according to law, the Responsible Entity may invest or use the proceeds in any other way for the benefit of the Trust.
- (h) The Responsible Entity is not required to pay interest on money payable to a former holder under clause 20, 21 or 22.
- (i) A written statement by a director or secretary of the Responsible Entity that a Unit (and any Attached Security) in the Trust has been duly sold under clause 20 or 21, on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the Unit (and any Attached Security), and of the Right of the Responsible Entity to sell, reissue or otherwise dispose of the Unit (and any Attached Securities).”

(cc) in Schedule 1, insert a new item 9 as follows:

**“9 Stapled Security Meetings**

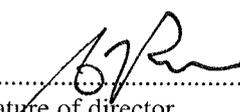
While Units are Stapled, Meetings may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act, the Responsible Entity is entitled to make such rules for the conduct of such Stapled Security holder meetings as it determines.”

# Supplemental Deed Poll

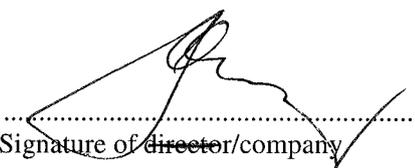
Signing page

DATED: 31 October 2011

EXECUTED by DEXUS FUNDS )  
MANAGEMENT LIMITED in )  
accordance with section 127(1) of the )  
Corporations Act 2001 (Cwlth) by )  
authority of its directors: )

  
..... )  
Signature of director )

CHRIS BEARE )  
..... )  
Name of director (block letters) )

  
..... )  
Signature of director/company )  
secretary )

JOHN CAMPBELL EASY )  
..... )  
Name of director/company secretary )  
(block letters) )

# Supplemental Deed Poll

Dated *31 October* 2011

DEXUS Funds Management Limited (ABN 24 060 920 783)  
("Responsible Entity")

Amending the Constitution of the DEXUS Office Trust (ARSN 090 768 531)

**Mallesons Stephen Jaques**

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## Details

<b>Parties</b>	<b>Responsible Entity</b>	
<b>Responsible Entity</b>	Name	<b>DEXUS Funds Management Limited</b>
	ABN	24 060 920 783
	Address	Level 9, 343 George Street Sydney NSW 2000
	Attention	Company Secretary
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the DEXUS Office Trust (ARSN 090 768 531) (“ <b>Trust</b> ”).
	<b>B</b>	The Trust has been registered pursuant to section 601EB of the <i>Corporations Act 2001</i> (Cth) (the “ <b>Corporations Act</b> ”) as a managed investment scheme.
	<b>C</b>	The Trust was constituted under a Constitution dated 17 June 1998 as amended from time to time.
	<b>D</b>	Clause 15 of the Constitution provides that, subject to any approval required by law, the Responsible Entity may by deed replace or amend the Constitution.
	<b>E</b>	Section 601GC(1) of the Corporations Act provides that the constitution of a registered scheme may be modified by, inter alia, a special resolution of the members of the Trust.
	<b>F</b>	The Responsible Entity wishes to give effect to various amendments to the Constitution made by Unitholders by special resolution at the meeting of Unitholders held on 31 October 2011, as set out in this deed.
	<b>H</b>	Pursuant to section 601GC(2) of the Corporations Act, the amendments set out in this deed poll do not take effect until a copy has been lodged with the Australian Securities and Investments Commission (“ <b>ASIC</b> ”).
	<b>Governing law</b>	New South Wales
<b>Date of agreement</b>	See Signing page	

# Supplemental Deed Poll

## General terms

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this deed poll, including the Recitals, the following definitions apply unless the context otherwise requires.

**Constitution** means the constitution dated 17 June 1998 constituting the Trust, as amended from time to time.

**Effective Time** means the date and time on which a copy of this deed poll is lodged with ASIC under section 601GC(2) of the Corporations Act.

**Trust** means DEXUS Office Trust (ARSN 090 768 531).

**Schedule** means the schedule to this deed poll.

#### 1.2 Interpretation

- (a) Terms used but not defined in this deed poll have the same meanings given to them in the Constitution.
- (b) Clause 1.2 of the Constitution applies to this deed poll as if set out in this deed poll.

#### 1.3 Benefit of this deed poll

This deed poll is made by the Responsible Entity with the intent that the benefit of this deed poll shall enure to the benefit of Holders jointly and severally.

---

### 2 Amendment of Constitution

The Responsible Entity amends the Constitution so that, on and from the Effective Time, the amendments set out in the Schedule are made to the Constitution.

---

### 3 Conflict

If there is a conflict between the Constitution and this deed poll, the terms of this deed poll prevail.

---

### 4 Governing law

This deed is governed by the laws in force in the place specified in the Details. Each person affected by it must submit to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

**EXECUTED** as a deed

# Supplemental Deed Poll

## Schedule 1 - Amendments

(a) In clause 1.1(a), in the definition of “ASX”, replace the words “the Australian Stock Exchange Limited” with the words “ASX Limited (or its successor) or the market operated by it, as the context requires”;

(b) in clause 1.1(a), insert the following new definitions in the correct alphabetical order:

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

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

(c) in clause 1.1(a), in the definition of “Corporations Act”, add before the semicolon the following new text: “, and a reference to the Corporations Act or a provision of it includes a reference to the Corporations Act or that provision as modified by any applicable ASIC Relief”;

(d) in clause 1.4, delete the whole of paragraph (b) and renumber paragraph (c) as (b);

(e) insert a new clause 1.8 as follows:

### “1.8 Corporations Act and ASIC Relief

(a) If the Corporations Act requires that this constitution contain certain provisions, or if any ASIC Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity requires provisions to a certain effect to be contained in this constitution in order for the ASIC Relief to apply (“**Required Provisions**”); or

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

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

The Unitholders authorise the Responsible Entity to make the amendments referred to in this clause 1.8 in a deed and, if required, to lodge it with ASIC.”;

(f) in clause 3.2(c), insert after “on the same basis as each other Unit” the following new text: “or such other basis as the Responsible Entity determines in its absolute discretion”;

- (g) replace clause 5.1(a) with the following:
  - “(a) The Responsible Entity may issue Units only in accordance with this clause 5, Schedule 3 and subject to this deed, but nothing in this clause 5 or this deed limits or is taken to limit the Responsibility Entity’s power to issue Units in compliance with any applicable ASIC Relief and the Listing Rules (whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 5 or otherwise).”;
- (h) in clause 5.1(b), replace “clause” with “provision”;
- (i) in clause 5.7(b), replace “instrument issued by ASIC” with “ASIC Relief”;
- (j) delete clause 5.7(c) in its entirety, re-number clause 5.7(d) as 5.7(c) and add “and” at the end of clause 5.7(b);
- (k) in clause 5.9(a), replace “clause 5.9(g)” with “clause 5.9(f)”;
- (l) delete clause 5.9(f) in its entirety, add the word “and” to the end of clause 5.9(e) and re-number clause 5.9(g) as a new clause 5.9(f);
- (m) in clause 5.9(g) (before renumbering), replace “instrument issued by ASIC” with “ASIC Relief”;
- (n) delete clause 5.10(h) in its entirety, add the word “and” to the end of clause 5.10(g), re-number clause 5.9(i) as a new clause 5.9(h) and, in clause 5.10(a), replace “clause 5.10(i)” with “clause 5.10(h)”;
- (o) in clause 5.12(d), replace the expression “\$5,000” with the expression “\$15,000 (or such greater amount as may be permitted from time to time under the Listing Rules and the Corporations Act)”;
- (p) insert a new clause 5.18 as follows:

**“5.18 Apportionment of Issue Price**

Subject to the terms of any applicable ASIC Relief, if a Unit is to be issued as part of a Stapled Security and this deed contains a provision for the calculation or determination of the Issue Price of the Stapled Security (rather than the Unit), the Responsible Entity must determine (in its absolute discretion) how the Issue Price of the Stapled Security is to be apportioned between the Unit and any Attached Securities.”;

- (q) in clause 9.2(a), insert after “For each Distribution Period” the following new text “and subject to clause 9.2(d),”;
- (r) in clause 9.2(b), insert after “If no determination is made or to the extent to which no determination is made under clause 9.2(a)(1), then” the following new text “, subject to clause 9.2(d),”;
- (s) at the end of clause 9.2, insert a new paragraph 9.2(d) as follows:
  - “(d) The Responsible Entity may at any time during a Distribution Period distribute pro rata to Unitholders income or capital out of the Fund. If the Responsible Entity distributes an amount of income of the Fund pursuant to this clause 9.2(d), the Distributable Income determined in accordance with clause 9.2(a), or calculated in accordance with clause

9.2(b), for the relevant Distribution Period must not include an amount referable to the income distributed in accordance with this clause 9.2(d) in that Distribution Period.”

(t) insert a new clause 9.9 as follows:

**“9.9 Capital reallocation proposals**

(a) Notwithstanding any other provision in this clause 9, if, at any time, Unitholders approve (as an ordinary resolution), a capital distribution (“**Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Unit by way of capital distribution is to be paid to or for the benefit of a Stapled Entity (whether by way of additional capital payment in respect of units or other Securities already issued or otherwise) (“**Capital Reallocation Amount**”), then:

- (1) each holder of a Unit is taken to have directed the Trust to pay the Capital Reallocation Amount to that Stapled Entity;
- (2) the Responsible Entity shall pay the Capital Reallocation Amount (and shall be taken to be empowered to do so for all purposes) to or for the benefit of the Stapled Entity in accordance with the Capital Reallocation Resolution; and
- (3) each holder of a Unit shall be deemed to appoint the Responsible Entity as its attorney and its agent to do all things as the Responsible Entity considers necessary to give effect to the resolution.

(b) If, at any time, Unitholders approve (as an ordinary resolution), a capital distribution in respect of Securities in a Stapled Entity (or other capital payment, such as a capital reduction) (“**Recipient Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Security is to be paid to or for the benefit of the Trust (whether by way of additional capital payment in respect of Units or other Securities already issued or otherwise) (“**Recipient Capital Reallocation Amount**”), then each Unitholder is:

- (1) taken to have directed the Responsible Entity to accept the Recipient Capital Reallocation Amount; and
- (2) deemed to have appointed the Responsible Entity as their attorney and agent to do all things necessary to give effect to the receipt of the Recipient Capital Reallocation Amount,

and the Responsible Entity will be deemed to receive the Recipient Capital Reallocation Amount in accordance with the Recipient Capital Reallocation Resolution (whether as an additional capital payment in respect of Units or otherwise).”

(u) insert a new clause 12.9 as follows:

**“12.9 On-Market buy backs**

While the Trust is Listed, the Responsible Entity may, subject to and in accordance with the relevant provisions of the Corporations Act and the Listing

Rules, purchase Units (or where Units are Stapled, Stapled Securities) on ASX and cause the Units (which, where Units are Stapled, in part comprise Stapled Securities) to be cancelled. No redemption price is payable upon cancellation of Units. Where Units comprise part of Stapled Securities, the Responsible Entity may only buy back and cancel the Units if the Attached Securities are also the subject of contemporaneous buy back and cancellation. Where Units are purchased as part of a Stapled Security under a buy back arrangement, the Responsible Entity must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.”;

- (v) in clause 16.2:
  - (i) in sub paragraph (A) of clause 16.2(a)(4), insert after “must be reduced by” the following new text “an amount equal to” and insert after “at the date of distribution” the following new text “(less any amount by which a distribution has already been reduced on account of an unpaid Instalment in accordance with this clause 16.2(a)(4)(A) as a result of the payment of a previous instalment of the net proceeds of realisation)”;
  - (ii) in sub paragraph (B) of clause 16.2(a)(4), insert after “would be to reduce the distribution” the following new text “(or where proceeds of realisation are to be paid in instalments, the aggregate of distributions)”;
  - (iii) insert after paragraph (c) a new paragraph (d) as follows (and renumber the paragraphs that follow as (e) and (f)):
    - “(d) The Responsible Entity may, in its discretion, realise the Fund and distribute the net proceeds of realisation in instalments.”;
  - (iv) in paragraph (e) (before renumbering), replace “clause 16.2(d)” with “clause 16.2(e)”;
- (w) in clause 18.2:
  - (i) delete all the words after “in relation to the Trust”; and
  - (ii) replace “complaints” with “Complaints”;
- (x) in clause 18.3, replace “complaint” with “Complaint” where occurring;
- (y) in clause 18.4:
  - (i) replace “complaint” with “Complaint” where occurring in paragraph (a);
  - (ii) renumber the existing paragraphs (b) and (c) as (e) and (f), and insert the following new paragraphs (b), (c) and (d):
    - “(b) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle complaints;
    - (c) Where the Complaint relates to an error which is capable of being corrected without affecting the rights of third parties, the Responsible Entity must act in good

faith to deal with the Complaint by endeavouring to correct the error;

- (d) The Responsible Entity may, in its discretion give any of the following remedies to the complainant:
  - (1) information and explanation regarding the circumstances giving rise to the Complaint;
  - (2) an apology; or
  - (3) compensation for loss incurred by the Holder as a direct result of any breach;”;
- (iii) in paragraph (e), replace “complaint” with “Complaint” where occurring, replace “2 months” with “45 days”, and delete “acknowledgement of the” and “being sent under clause 18.3(b)(2)”;
- (iv) in paragraph (f), replace “complaint” with “Complaint” where occurring, and add after “The Responsible Entity must” the following new text “, by the end of the 45 day period,”;

- (z) insert new clauses 19.2A and 19.2B as follows:

#### **"19.2A Distribution for purposes of Stapling**

For the purposes of creating or adding a new Attached Security to Stapled Securities, the Responsible Entity may apply the proceeds of a pro-rata distribution under clause 19.2(a) in subscribing as agent and attorney of each Unitholder for Securities which are to be Stapled to Units.

#### **19.2B Appointment of Responsible Entity as agent and attorney**

The Responsible Entity is irrevocably appointed as agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Stapling of Attached Securities to Units, including in relation to:

- (a) executing an application for or transfer of Securities which are to be Attached Securities to a Unitholder as subscriber or transferee;
- (b) the Stapling of each Unit held by that Unitholder on the Stapling Date to the Corresponding Number of Attached Securities; and
- (c) arranging for each Unitholder to be registered as the holder of those Attached Securities.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders, including amending this deed to give effect to the Stapling of Attached Securities to Units.”;

- (aa) insert new clauses 19.10 and 19.11 as follows:

#### **“19.10 Duties while Stapled**

Despite any provision of this deed or the constitutions of the Stapled Entities, or any rule of law (but subject to the Corporations Act) while the Units and the Attached Securities are Stapled, in exercising any power or discretion, the Responsible Entity may have regard to the interests of the holders of Stapled Securities as a whole and not only to the interests of the holders of the Units and relevant Attached Securities considered separately.

### **19.11 Stapling provisions paramount**

Subject to clauses 1.4 and 1.5, this clause 19 has effect notwithstanding any other clause of this deed and any clause of this deed which is inconsistent with it does not operate to the extent of any inconsistency.”

- (bb) renumber clause 20 as clause 23, and insert the following new clauses 20, 21 and 22:

### **“20 Sale of small holdings comprising non marketable parcels**

#### **20.1 Sale of small holdings**

Subject to the provisions of this clause 20, the Responsible Entity may in its discretion from time to time sell any Units (and any Attached Securities) held by a Holder without request by the Holder where, while the trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a marketable parcel as provided in the Listing Rules and the procedures set out in this clause 20 are observed. In this case, the Responsible Entity may only sell Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

#### **20.2 Procedure**

- (a) The Responsible Entity must notify a Holder in writing who on the date of the notice holds less than a marketable parcel as provided in the Listing Rules of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 20. The notice must explain the effect of this clause 20.
- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
- (1) before the expiry of 6 weeks from the date of notice given under clause 20.2(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 20.2(b)(1):
    - (A) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or

- (B) the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to at least the value of a marketable parcel as provided in the Listing Rules.
- (c) The power to sell lapses following the announcement of a takeover offer as provided in the Listing Rules, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Responsible Entity, from the assets of the Trust, or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale as the Responsible Entity so determines.
- (e) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 20.

## 21 Sale of newly created small holdings

- (a) In addition to the powers of the Responsible Entity in clause 20, the Responsible Entity may sell the Units and any Attached Securities of a Holder if Units (together with any Attached Securities Stapled to those Units) comprise less than a marketable parcel of Units (and any Attached Securities), without complying with the procedures in clause 20 and may determine that a Holder's right to vote or receive distributions in respect of those Units (and any Attached Securities) is removed or changed if the following conditions are observed:
  - (1) a sale effected or a removal or change in voting or distribution rights, under this clause 21 only applies to Units (and any Attached Securities) in a holding created after the date on which this clause came into effect by a transfer of a parcel of Units (and any Attached Securities) that was less than a marketable parcel as provided in the Listing Rules at the time the transfer document was initiated or, in the case of a paper based transfer, was lodged with the Responsible Entity ("**New Small Holding**");
  - (2) the proceeds of a sale under this clause 21 less the cost of the sale, must be sent to the Holder after the sale subject to clause 22(e);
  - (3) any distributions that have been withheld under this clause 21 must be sent to the Holder after the sale, subject to the former Holder delivering to the Holder proof of the title acceptable to the Responsible Entity; and
  - (4) the Responsible Entity has given the Holder (as at the date of the notice) of the New Small Holding notice of its intention to sell the Units (together with any

Attached Securities Stapled to those Units) under this clause 21 and which notice explains the effect of this clause 21.

- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
  - (1) before the expiry of 6 weeks from the date of notice given under clause 21(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 21(b)(1) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units).

## **22 Procedure, title and proceeds of sale for sale of small holdings**

- (a) The Responsible Entity may sell Units (and any Attached Securities) under clause 20 or 21 as soon as practicable on market or in any other way the Responsible Entity so determines and at a price which the Responsible Entity considers to be reasonably obtainable for the Units (and any Attached Securities) at the time they are sold.
- (b) When the Responsible Entity sells a Unit (together with any Attached Security), the Responsible Entity may:
  - (1) receive the purchase money or consideration given for the Unit (and any Attached Security);
  - (2) effect a transfer of the Unit (and any Attached Security) or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Units (and any Attached Securities);
  - (3) register as the holder of the Unit (and any Attached Security) the person to whom the Unit (and any Attached Security) is sold; and
  - (4) for the purpose of selling the relevant Units (and any Attached Security) that are in a CS facility (as defined in the Corporations Act) holding initiate (after giving the notice specified in clause 20.2(a) or clause 21) a holding adjustment to move those Units (and any Attached Securities) to an issuer sponsored holding or certificated holding.
- (c) A person to whom the Responsible Entity sells Units (and any Attached Securities) need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration for the sale is applied. That person's title to the Units and any Attached Securities is not affected by any irregularity by the Responsible Entity or the broker or any agent in relation to the sale. A sale of the Units and its Attached

Securities by the Responsible Entity is valid even if a transmission event occurs to the Holder before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of Units and any Attached Securities by the Responsible Entity is a claim for damages against the Responsible Entity.
- (e) Subject to clause 22(f), the proceeds of a sale of Units (and any Attached Securities) by the Responsible Entity must be applied in paying:
  - (1) first and only in respect of a sale of a New Small Holding under clause 21, the expenses of the sale;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Responsible Entity,and any balance must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (f) The proceeds of sale under clause 20 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (g) Until the proceeds of a sale of the Unit (and any Attached Securities) sold by the Responsible Entity are claimed or otherwise disposed of according to law, the Responsible Entity may invest or use the proceeds in any other way for the benefit of the Trust.
- (h) The Responsible Entity is not required to pay interest on money payable to a former holder under clause 20, 21 or 22.
- (i) A written statement by a director or secretary of the Responsible Entity that a Unit (and any Attached Security) in the Trust has been duly sold under clause 20 or 21, on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the Unit (and any Attached Security), and of the Right of the Responsible Entity to sell, reissue or otherwise dispose of the Unit (and any Attached Securities).”

(cc) in Schedule 1, insert a new item 9 as follows:

**“9 Stapled Security Meetings**

While Units are Stapled, Meetings may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act, the Responsible Entity is entitled to make such rules for the conduct of such Stapled Security holder meetings as it determines.”

# Supplemental Deed Poll

Signing page

DATED: 31 October 2011

EXECUTED by DEXUS FUNDS )  
MANAGEMENT LIMITED in )  
accordance with section 127(1) of the )  
Corporations Act 2001 (Cwlth) by )  
authority of its directors: )

  
..... )  
Signature of director )

CHRIS BEARE )  
..... )  
Name of director (block letters) )

  
..... )  
Signature of director/company )  
secretary )

JOHN CAMPBELL EASY )  
..... )  
Name of director/company secretary )  
(block letters) )

# Supplemental Deed Poll

Dated *31 October* 2011

DEXUS Funds Management Limited (ABN 24 060 920 783)  
("Responsible Entity")

Amending the Constitution of the DEXUS Industrial Trust (ARSN 090 879 137)

**Mallesons Stephen Jaques**

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# Supplemental Deed Poll

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# Supplemental Deed Poll

## Details

<b>Parties</b>	<b>Responsible Entity</b>	
<b>Responsible Entity</b>	Name	<b>DEXUS Funds Management Limited</b>
	ABN	24 060 920 783
	Address	Level 9, 343 George Street Sydney NSW 2000
	Attention	Company Secretary
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the DEXUS Industrial Trust (ARSN 090 879 137) (" <b>Trust</b> ").
	<b>B</b>	The Trust has been registered pursuant to section 601EB of the <i>Corporations Act 2001</i> (Cth) (the " <b>Corporations Act</b> ") as a managed investment scheme.
	<b>C</b>	The Trust was constituted under a Constitution dated 1 August 1997 as amended from time to time.
	<b>D</b>	Clause 15 of the Constitution provides that, subject to any approval required by law, the Responsible Entity may by deed replace or amend the Constitution.
	<b>E</b>	Section 601GC(1) of the Corporations Act provides that the constitution of a registered scheme may be modified by, inter alia, a special resolution of the members of the Trust.
	<b>F</b>	The Responsible Entity wishes to give effect to various amendments to the Constitution made by Unitholders by special resolution at the meeting of Unitholders held on 31 October 2011, as set out in this deed.
	<b>H</b>	Pursuant to section 601GC(2) of the Corporations Act, the amendments set out in this deed poll do not take effect until a copy has been lodged with the Australian Securities and Investments Commission (" <b>ASIC</b> ").
	<b>Governing law</b>	New South Wales
<b>Date of agreement</b>	See Signing page	

# Supplemental Deed Poll

## General terms

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this deed poll, including the Recitals, the following definitions apply unless the context otherwise requires.

**Constitution** means the constitution dated 1 August 1997 constituting the Trust, as amended from time to time.

**Effective Time** means the date and time on which a copy of this deed poll is lodged with ASIC under section 601GC(2) of the Corporations Act.

**Trust** means DEXUS Industrial Trust (ARSN 090 879 137).

**Schedule** means the schedule to this deed poll.

#### 1.2 Interpretation

- (a) Terms used but not defined in this deed poll have the same meanings given to them in the Constitution.
- (b) Clause 1.2 of the Constitution applies to this deed poll as if set out in this deed poll.

#### 1.3 Benefit of this deed poll

This deed poll is made by the Responsible Entity with the intent that the benefit of this deed poll shall enure to the benefit of Holders jointly and severally.

---

### 2 Amendment of Constitution

The Responsible Entity amends the Constitution so that, on and from the Effective Time, the amendments set out in the Schedule are made to the Constitution.

---

### 3 Conflict

If there is a conflict between the Constitution and this deed poll, the terms of this deed poll prevail.

---

### 4 Governing law

This deed is governed by the laws in force in the place specified in the Details. Each person affected by it must submit to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

**EXECUTED** as a deed

# Supplemental Deed Poll

## Schedule 1 - Amendments

(a) In clause 1.1(a), in the definition of “ASX”, replace the words “the Australian Stock Exchange Limited” with the words “ASX Limited (or its successor) or the market operated by it, as the context requires”;

(b) in clause 1.1(a), insert the following new definitions in the correct alphabetical order:

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

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

(c) in clause 1.1(a), in the definition of “Corporations Act”, add before the semicolon the following new text: “, and a reference to the Corporations Act or a provision of it includes a reference to the Corporations Act or that provision as modified by any applicable ASIC Relief”;

(d) in clause 1.4, delete the whole of paragraph (b) and renumber paragraph (c) as (b);

(e) insert a new clause 1.8 as follows:

### “1.8 Corporations Act and ASIC Relief

(a) If the Corporations Act requires that this constitution contain certain provisions, or if any ASIC Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity requires provisions to a certain effect to be contained in this constitution in order for the ASIC Relief to apply (“**Required Provisions**”); or

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

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

The Unitholders authorise the Responsible Entity to make the amendments referred to in this clause 1.8 in a deed and, if required, to lodge it with ASIC.”;

(f) in clause 3.2(c), insert after “on the same basis as each other Unit” the following new text: “or such other basis as the Responsible Entity determines in its absolute discretion”;

- (g) in clause 5.1(a):
  - (i) insert after “but nothing in this clause 5 or this deed limits” the following new text “or is taken to limit”;
  - (ii) replace “instrument issued by ASIC” with “ASIC Relief”; and
  - (iii) insert after “and the Listing Rules” the following new text “(whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 5 or otherwise)”;
- (h) in clause 5.1(b), replace “clause” with “provision”;
- (i) in clause 5.7(b), replace “instrument issued by ASIC” with “ASIC Relief”;
- (j) delete clause 5.7(c) in its entirety, re-number clause 5.7(d) as 5.7(c) and add “and” at the end of clause 5.7(b);
- (k) in clause 5.9(a), replace “clause 5.9(g)” with “clause 5.9(f)”;
- (l) delete clause 5.9(f) in its entirety, add the word “and” to the end of clause 5.9(e) and re-number clause 5.9(g) as a new clause 5.9(f);
- (m) in clause 5.9(g) (before renumbering), replace “instrument issued by ASIC” with “ASIC Relief”;
- (n) delete clause 5.10(h) in its entirety, add the word “and” to the end of clause 5.10(g), re-number clause 5.9(i) as a new clause 5.9(h) and, in clause 5.10(a), replace “clause 5.10(i)” with “clause 5.10(h)”;
- (o) in clause 5.12(d), replace the expression “\$5,000” with the expression “\$15,000 (or such greater amount as may be permitted from time to time under the Listing Rules and the Corporations Act)”;
- (p) insert a new clause 5.18 as follows:

**“5.18 Apportionment of Issue Price**

Subject to the terms of any applicable ASIC Relief, if a Unit is to be issued as part of a Stapled Security and this deed contains a provision for the calculation or determination of the Issue Price of the Stapled Security (rather than the Unit), the Responsible Entity must determine (in its absolute discretion) how the Issue Price of the Stapled Security is to be apportioned between the Unit and any Attached Securities.”;

- (q) in clause 9.2(a), insert after “For each Distribution Period” the following new text “and subject to clause 9.2(d),”;
- (r) in clause 9.2(b), insert after “If no determination is made or to the extent to which no determination is made under clause 9.2(a)(1), then” the following new text “, subject to clause 9.2(d),”;
- (s) at the end of clause 9.2, insert a new paragraph 9.2(d) as follows:
  - “(d) The Responsible Entity may at any time during a Distribution Period distribute pro rata to Unitholders income or capital out of the Fund. If the Responsible Entity distributes an amount of income of the Fund

pursuant to this clause 9.2(d), the Distributable Income determined in accordance with clause 9.2(a), or calculated in accordance with clause 9.2(b), for the relevant Distribution Period must not include an amount referable to the income distributed in accordance with this clause 9.2(d) in that Distribution Period.”

(t) insert a new clause 9.9 as follows:

**“9.9 Capital reallocation proposals**

(a) Notwithstanding any other provision in this clause 9, if, at any time, Unitholders approve (as an ordinary resolution), a capital distribution (“**Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Unit by way of capital distribution is to be paid to or for the benefit of a Stapled Entity (whether by way of additional capital payment in respect of units or other Securities already issued or otherwise) (“**Capital Reallocation Amount**”), then:

- (1) each holder of a Unit is taken to have directed the Trust to pay the Capital Reallocation Amount to that Stapled Entity;
- (2) the Responsible Entity shall pay the Capital Reallocation Amount (and shall be taken to be empowered to do so for all purposes) to or for the benefit of the Stapled Entity in accordance with the Capital Reallocation Resolution; and
- (3) each holder of a Unit shall be deemed to appoint the Responsible Entity as its attorney and its agent to do all things as the Responsible Entity considers necessary to give effect to the resolution.

(b) If, at any time, Unitholders approve (as an ordinary resolution), a capital distribution in respect of Securities in a Stapled Entity (or other capital payment, such as a capital reduction) (“**Recipient Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Security is to be paid to or for the benefit of the Trust (whether by way of additional capital payment in respect of Units or other Securities already issued or otherwise) (“**Recipient Capital Reallocation Amount**”), then each Unitholder is:

- (1) taken to have directed the Responsible Entity to accept the Recipient Capital Reallocation Amount; and
- (2) deemed to have appointed the Responsible Entity as their attorney and agent to do all things necessary to give effect to the receipt of the Recipient Capital Reallocation Amount,

and the Responsible Entity will be deemed to receive the Recipient Capital Reallocation Amount in accordance with the Recipient Capital Reallocation Resolution (whether as an additional capital payment in respect of Units or otherwise).”

(u) insert a new clause 12.9 as follows:

**“12.9 On-Market buy backs**

While the Trust is Listed, the Responsible Entity may, subject to and in accordance with the relevant provisions of the Corporations Act and the Listing Rules, purchase Units (or where Units are Stapled, Stapled Securities) on ASX and cause the Units (which, where Units are Stapled, in part comprise Stapled Securities) to be cancelled. No redemption price is payable upon cancellation of Units. Where Units comprise part of Stapled Securities, the Responsible Entity may only buy back and cancel the Units if the Attached Securities are also the subject of contemporaneous buy back and cancellation. Where Units are purchased as part of a Stapled Security under a buy back arrangement, the Responsible Entity must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.”;

- (v) in clause 16.2:
  - (i) in sub paragraph (A) of clause 16.2(a)(4), insert after “must be reduced by” the following new text “an amount equal to” and insert after “at the date of distribution” the following new text “(less any amount by which a distribution has already been reduced on account of an unpaid Instalment in accordance with this clause 16.2(a)(4)(A) as a result of the payment of a previous instalment of the net proceeds of realisation)”;
  - (ii) in sub paragraph (B) of clause 16.2(a)(4), insert after “would be to reduce the distribution” the following new text “(or where proceeds of realisation are to be paid in instalments, the aggregate of distributions)”;
  - (iii) insert after paragraph (c) a new paragraph (d) as follows (and renumber the paragraphs that follow as (e) and (f):
    - “(d) The Responsible Entity may, in its discretion, realise the Fund and distribute the net proceeds of realisation in instalments.”;
  - (iv) in paragraph (e) (before renumbering), replace “clause 16.2(d)” with “clause 16.2(e)”;
- (w) in clause 18.2:
  - (i) delete all the words after “in relation to the Trust”; and
  - (ii) replace “complaints” with “Complaints”;
- (x) in clause 18.3, replace “complaint” with “Complaint” where occurring;
- (y) in clause 18.4:
  - (i) replace “complaint” with “Complaint” where occurring in paragraph (a);
  - (ii) renumber the existing paragraphs (b) and (c) as (e) and (f), and insert the following new paragraphs (b), (c) and (d):
    - “(b) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle complaints;
    - (c) Where the Complaint relates to an error which is capable of being corrected without affecting the rights

of third parties, the Responsible Entity must act in good faith to deal with the Complaint by endeavouring to correct the error;

- (d) The Responsible Entity may, in its discretion give any of the following remedies to the complainant:
    - (1) information and explanation regarding the circumstances giving rise to the Complaint;
    - (2) an apology; or
    - (3) compensation for loss incurred by the Holder as a direct result of any breach;”;
  - (iii) in paragraph (e), replace “complaint” with “Complaint” where occurring, replace “2 months” with “45 days”, and delete “acknowledgement of the” and “being sent under clause 18.3(b)(2)”;
  - (iv) in paragraph (f), replace “complaint” with “Complaint” where occurring, and add after “The Responsible Entity must” the following new text “, by the end of the 45 day period,”;
- (z) insert new clauses 19.2A and 19.2B as follows:

#### **"19.2A Distribution for purposes of Stapling**

For the purposes of creating or adding a new Attached Security to Stapled Securities, the Responsible Entity may apply the proceeds of a pro-rata distribution under clause 19.2(a) in subscribing as agent and attorney of each Unitholder for Securities which are to be Stapled to Units.

#### **19.2B Appointment of Responsible Entity as agent and attorney**

The Responsible Entity is irrevocably appointed as agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Stapling of Attached Securities to Units, including in relation to:

- (a) executing an application for or transfer of Securities which are to be Attached Securities to a Unitholder as subscriber or transferee;
- (b) the Stapling of each Unit held by that Unitholder on the Stapling Date to the Corresponding Number of Attached Securities; and
- (c) arranging for each Unitholder to be registered as the holder of those Attached Securities.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders, including amending this deed to give effect to the Stapling of Attached Securities to Units.”;

- (aa) insert new clauses 19.10 and 19.11 as follows:

#### **“19.10 Duties while Stapled**

Despite any provision of this deed or the constitutions of the Stapled Entities, or any rule of law (but subject to the Corporations Act) while the Units and the Attached Securities are Stapled, in exercising any power or discretion, the Responsible Entity may have regard to the interests of the holders of Stapled Securities as a whole and not only to the interests of the holders of the Units and relevant Attached Securities considered separately.

### **19.11 Stapling provisions paramount**

Subject to clauses 1.4 and 1.5, this clause 19 has effect notwithstanding any other clause of this deed and any clause of this deed which is inconsistent with it does not operate to the extent of any inconsistency.”

- (bb) renumber clause 20 as clause 23, and insert the following new clauses 20, 21 and 22:

### **“20 Sale of small holdings comprising non marketable parcels**

#### **20.1 Sale of small holdings**

Subject to the provisions of this clause 20, the Responsible Entity may in its discretion from time to time sell any Units (and any Attached Securities) held by a Holder without request by the Holder where, while the trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a marketable parcel as provided in the Listing Rules and the procedures set out in this clause 20 are observed. In this case, the Responsible Entity may only sell Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

#### **20.2 Procedure**

- (a) The Responsible Entity must notify a Holder in writing who on the date of the notice holds less than a marketable parcel as provided in the Listing Rules of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 20. The notice must explain the effect of this clause 20.
- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
- (1) before the expiry of 6 weeks from the date of notice given under clause 20.2(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 20.2(b)(1):
    - (A) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or

- (B) the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to at least the value of a marketable parcel as provided in the Listing Rules.
- (c) The power to sell lapses following the announcement of a takeover offer as provided in the Listing Rules, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Responsible Entity, from the assets of the Trust, or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale as the Responsible Entity so determines.
- (e) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 20.

## **21 Sale of newly created small holdings**

- (a) In addition to the powers of the Responsible Entity in clause 20, the Responsible Entity may sell the Units and any Attached Securities of a Holder if Units (together with any Attached Securities Stapled to those Units) comprise less than a marketable parcel of Units (and any Attached Securities), without complying with the procedures in clause 20 and may determine that a Holder's right to vote or receive distributions in respect of those Units (and any Attached Securities) is removed or changed if the following conditions are observed:
  - (1) a sale effected or a removal or change in voting or distribution rights, under this clause 21 only applies to Units (and any Attached Securities) in a holding created after the date on which this clause came into effect by a transfer of a parcel of Units (and any Attached Securities) that was less than a marketable parcel as provided in the Listing Rules at the time the transfer document was initiated or, in the case of a paper based transfer, was lodged with the Responsible Entity ("**New Small Holding**");
  - (2) the proceeds of a sale under this clause 21 less the cost of the sale, must be sent to the Holder after the sale subject to clause 22(e);
  - (3) any distributions that have been withheld under this clause 21 must be sent to the Holder after the sale, subject to the former Holder delivering to the Holder proof of the title acceptable to the Responsible Entity; and
  - (4) the Responsible Entity has given the Holder (as at the date of the notice) of the New Small Holding notice of its intention to sell the Units (together with any

Attached Securities Stapled to those Units) under this clause 21 and which notice explains the effect of this clause 21.

- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
  - (1) before the expiry of 6 weeks from the date of notice given under clause 21(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 21(b)(1) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units).

## **22 Procedure, title and proceeds of sale for sale of small holdings**

- (a) The Responsible Entity may sell Units (and any Attached Securities) under clause 20 or 21 as soon as practicable on market or in any other way the Responsible Entity so determines and at a price which the Responsible Entity considers to be reasonably obtainable for the Units (and any Attached Securities) at the time they are sold.
- (b) When the Responsible Entity sells a Unit (together with any Attached Security), the Responsible Entity may:
  - (1) receive the purchase money or consideration given for the Unit (and any Attached Security);
  - (2) effect a transfer of the Unit (and any Attached Security) or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Units (and any Attached Securities);
  - (3) register as the holder of the Unit (and any Attached Security) the person to whom the Unit (and any Attached Security) is sold; and
  - (4) for the purpose of selling the relevant Units (and any Attached Security) that are in a CS facility (as defined in the Corporations Act) holding initiate (after giving the notice specified in clause 20.2(a) or clause 21) a holding adjustment to move those Units (and any Attached Securities) to an issuer sponsored holding or certificated holding.
- (c) A person to whom the Responsible Entity sells Units (and any Attached Securities) need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration for the sale is applied. That person's title to the Units and any Attached Securities is not affected by any irregularity by the Responsible Entity or the broker or any agent in relation to the sale. A sale of the Units and its Attached

Securities by the Responsible Entity is valid even if a transmission event occurs to the Holder before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of Units and any Attached Securities by the Responsible Entity is a claim for damages against the Responsible Entity.
- (e) Subject to clause 22(f), the proceeds of a sale of Units (and any Attached Securities) by the Responsible Entity must be applied in paying:
  - (1) first and only in respect of a sale of a New Small Holding under clause 21, the expenses of the sale;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Responsible Entity,and any balance must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (f) The proceeds of sale under clause 20 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (g) Until the proceeds of a sale of the Unit (and any Attached Securities) sold by the Responsible Entity are claimed or otherwise disposed of according to law, the Responsible Entity may invest or use the proceeds in any other way for the benefit of the Trust.
- (h) The Responsible Entity is not required to pay interest on money payable to a former holder under clause 20, 21 or 22.
- (i) A written statement by a director or secretary of the Responsible Entity that a Unit (and any Attached Security) in the Trust has been duly sold under clause 20 or 21, on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the Unit (and any Attached Security), and of the Right of the Responsible Entity to sell, reissue or otherwise dispose of the Unit (and any Attached Securities).”

(cc) in Schedule 1, insert a new item 9 as follows:

**“9 Stapled Security Meetings**

While Units are Stapled, Meetings may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act, the Responsible Entity is entitled to make such rules for the conduct of such Stapled Security holder meetings as it determines.”



# Supplemental Deed Poll

Dated *31 October* 2011

DEXUS Funds Management Limited (ABN 24 060 920 783)  
("Responsible Entity")

Amending the Constitution of the DEXUS Operations Trust (ARSN 110  
521 223)

**Mallesons Stephen Jaques**

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# Supplemental Deed Poll

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# Supplemental Deed Poll

## Details

<b>Parties</b>	<b>Responsible Entity</b>	
<b>Responsible Entity</b>	Name	<b>DEXUS Funds Management Limited</b>
	ABN	24 060 920 783
	Address	Level 9, 343 George Street Sydney NSW 2000
	Attention	Company Secretary
<b>Recitals</b>	<b>A</b>	The Responsible Entity is the responsible entity of the trust known as the DEXUS Operations Trust (ARSN 110 521 223) (“ <b>Trust</b> ”).
	<b>B</b>	The Trust has been registered pursuant to section 601EB of the <i>Corporations Act 2001</i> (Cth) (the “ <b>Corporations Act</b> ”) as a managed investment scheme.
	<b>C</b>	The Trust was constituted under a Constitution dated 11 August 2004 as amended from time to time.
	<b>D</b>	Clause 15 of the Constitution provides that, subject to any approval required by law, the Responsible Entity may by deed replace or amend the Constitution.
	<b>E</b>	Section 601GC(1) of the Corporations Act provides that the constitution of a registered scheme may be modified by, inter alia, a special resolution of the members of the Trust.
	<b>F</b>	The Responsible Entity wishes to give effect to various amendments to the Constitution made by Unitholders by special resolution at the meeting of Unitholders held on 31 October 2011, as set out in this deed.
	<b>H</b>	Pursuant to section 601GC(2) of the Corporations Act, the amendments set out in this deed poll do not take effect until a copy has been lodged with the Australian Securities and Investments Commission (“ <b>ASIC</b> ”).
	<b>Governing law</b>	New South Wales
<b>Date of agreement</b>	See Signing page	

# Supplemental Deed Poll

## General terms

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### 1 Definitions and interpretation

#### 1.1 Definitions

In this deed poll, including the Recitals, the following definitions apply unless the context otherwise requires.

**Constitution** means the constitution dated 11 August 2004 constituting the Trust, as amended from time to time.

**Effective Time** means the date and time on which a copy of this deed poll is lodged with ASIC under section 601GC(2) of the Corporations Act.

**Trust** means DEXUS Operations Trust (ARSN 110 521 223).

**Schedule** means the schedule to this deed poll.

#### 1.2 Interpretation

- (a) Terms used but not defined in this deed poll have the same meanings given to them in the Constitution.
- (b) Clause 1.2 of the Constitution applies to this deed poll as if set out in this deed poll.

#### 1.3 Benefit of this deed poll

This deed poll is made by the Responsible Entity with the intent that the benefit of this deed poll shall enure to the benefit of Holders jointly and severally.

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### 2 Amendment of Constitution

The Responsible Entity amends the Constitution so that, on and from the Effective Time, the amendments set out in the Schedule are made to the Constitution.

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### 3 Conflict

If there is a conflict between the Constitution and this deed poll, the terms of this deed poll prevail.

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### 4 Governing law

This deed is governed by the laws in force in the place specified in the Details. Each person affected by it must submit to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

**EXECUTED** as a deed

# Supplemental Deed Poll

## Schedule 1 - Amendments

(a) In clause 1.1(a), in the definition of “ASX”, replace the words “the Australian Stock Exchange Limited” with the words “ASX Limited (or its successor) or the market operated by it, as the context requires”;

(b) in clause 1.1(a), insert the following new definitions in the correct alphabetical order:

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

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

(c) in clause 1.1(a), in the definition of “Corporations Act”, add before the semicolon the following new text: “, and a reference to the Corporations Act or a provision of it includes a reference to the Corporations Act or that provision as modified by any applicable ASIC Relief”;

(d) in clause 1.4, delete the whole of paragraph (b) and renumber paragraph (c) as (b);

(e) insert a new clause 1.8 as follows:

### “1.8 Corporations Act and ASIC Relief

(a) If the Corporations Act requires that this constitution contain certain provisions, or if any ASIC Relief on which the Responsible Entity has determined it wishes to rely or which is expressly applicable to the Trust and the Responsible Entity requires provisions to a certain effect to be contained in this constitution in order for the ASIC Relief to apply (“**Required Provisions**”); or

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

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

The Unitholders authorise the Responsible Entity to make the amendments referred to in this clause 1.8 in a deed and, if required, to lodge it with ASIC.”;

(f) in clause 3.2(c), insert after “on the same basis as each other Unit” the following new text: “or such other basis as the Responsible Entity determines in its absolute discretion”;

- (g) replace clause 5.1(a) with the following:
  - “(a) The Responsible Entity may issue Units only in accordance with this clause 5, Schedule 3 and subject to this deed, but nothing in this clause 5 or this deed limits or is taken to limit the Responsible Entity’s power to issue Units in compliance with any applicable ASIC Relief and the Listing Rules (whether or not that ASIC Relief or the Listing Rules requires certain provisions to be set out in this clause 5 or otherwise).”;
- (h) in clause 5.1(b), replace “clause” with “provision”;
- (i) in clause 5.7(b), replace “instrument issued by ASIC” with “ASIC Relief”;
- (j) delete clause 5.7(c) in its entirety, re-number clause 5.7(d) as 5.7(c) and add “and” at the end of clause 5.7(b);
- (k) in clause 5.9(a), replace “clause 5.9(g)” with “clause 5.9(f)”;
- (l) delete clause 5.9(f) in its entirety, add the word “and” to the end of clause 5.9(e) and re-number clause 5.9(g) as a new clause 5.9(f);
- (m) in clause 5.9(g) (before renumbering), replace “instrument issued by ASIC” with “ASIC Relief”;
- (n) delete clause 5.10(h) in its entirety, add the word “and” to the end of clause 5.10(g), re-number clause 5.9(i) as a new clause 5.9(h) and, in clause 5.10(a), replace “clause 5.10(i)” with “clause 5.10(h)”;
- (o) in clause 5.12(d), replace the expression “\$5,000” with the expression “\$15,000 (or such greater amount as may be permitted from time to time under the Listing Rules and the Corporations Act)”;
- (p) insert a new clause 5.18 as follows:

**“5.18 Apportionment of Issue Price**

Subject to the terms of any applicable ASIC Relief, if a Unit is to be issued as part of a Stapled Security and this deed contains a provision for the calculation or determination of the Issue Price of the Stapled Security (rather than the Unit), the Responsible Entity must determine (in its absolute discretion) how the Issue Price of the Stapled Security is to be apportioned between the Unit and any Attached Securities.”;

- (q) in clause 9.2(a), insert after “For each Distribution Period” the following new text “and subject to clause 9.2(d),”;
- (r) in clause 9.2(b), insert after “If no determination is made or to the extent to which no determination is made under clause 9.2(a)(1), then” the following new text “, subject to clause 9.2(d),”;
- (s) at the end of clause 9.2, insert a new paragraph 9.2(d) as follows:
  - “(d) The Responsible Entity may at any time during a Distribution Period distribute pro rata to Unitholders income or capital out of the Fund. If the Responsible Entity distributes an amount of income of the Fund pursuant to this clause 9.2(d), the Distributable Income determined in accordance with clause 9.2(a), or calculated in accordance with clause

9.2(b), for the relevant Distribution Period must not include an amount referable to the income distributed in accordance with this clause 9.2(d) in that Distribution Period.”

- (t) insert a new clause 9.9 as follows:

**“9.9 Capital reallocation proposals**

- (a) Notwithstanding any other provision in this clause 9, if, at any time, Unitholders approve (as an ordinary resolution), a capital distribution (“**Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Unit by way of capital distribution is to be paid to or for the benefit of a Stapled Entity (whether by way of additional capital payment in respect of units or other Securities already issued or otherwise) (“**Capital Reallocation Amount**”), then:

- (1) each holder of a Unit is taken to have directed the Trust to pay the Capital Reallocation Amount to that Stapled Entity;
- (2) the Responsible Entity shall pay the Capital Reallocation Amount (and shall be taken to be empowered to do so for all purposes) to or for the benefit of the Stapled Entity in accordance with the Capital Reallocation Resolution; and
- (3) each holder of a Unit shall be deemed to appoint the Responsible Entity as its attorney and its agent to do all things as the Responsible Entity considers necessary to give effect to the resolution.

- (b) If, at any time, Unitholders approve (as an ordinary resolution), a capital distribution in respect of Securities in a Stapled Entity (or other capital payment, such as a capital reduction) (“**Recipient Capital Reallocation Resolution**”) on terms that the whole or any part of the amount to be paid in respect of each Security is to be paid to or for the benefit of the Trust (whether by way of additional capital payment in respect of Units or other Securities already issued or otherwise) (“**Recipient Capital Reallocation Amount**”), then each Unitholder is:

- (1) taken to have directed the Responsible Entity to accept the Recipient Capital Reallocation Amount; and
- (2) deemed to have appointed the Responsible Entity as their attorney and agent to do all things necessary to give effect to the receipt of the Recipient Capital Reallocation Amount,

and the Responsible Entity will be deemed to receive the Recipient Capital Reallocation Amount in accordance with the Recipient Capital Reallocation Resolution (whether as an additional capital payment in respect of Units or otherwise).”

- (u) insert a new clause 12.9 as follows:

**“12.9 On-Market buy backs**

While the Trust is Listed, the Responsible Entity may, subject to and in accordance with the relevant provisions of the Corporations Act and the Listing

Rules, purchase Units (or where Units are Stapled, Stapled Securities) on ASX and cause the Units (which, where Units are Stapled, in part comprise Stapled Securities) to be cancelled. No redemption price is payable upon cancellation of Units. Where Units comprise part of Stapled Securities, the Responsible Entity may only buy back and cancel the Units if the Attached Securities are also the subject of contemporaneous buy back and cancellation. Where Units are purchased as part of a Stapled Security under a buy back arrangement, the Responsible Entity must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.”;

- (v) in clause 16.2:
  - (i) in sub paragraph (A) of clause 16.2(a)(4), insert after “must be reduced by” the following new text “an amount equal to” and insert after “at the date of distribution” the following new text “(less any amount by which a distribution has already been reduced on account of an unpaid Instalment in accordance with this clause 16.2(a)(4)(A) as a result of the payment of a previous instalment of the net proceeds of realisation)”;
  - (ii) in sub paragraph (B) of clause 16.2(a)(4), insert after “would be to reduce the distribution” the following new text “(or where proceeds of realisation are to be paid in instalments, the aggregate of distributions)”;
  - (iii) insert after paragraph (c) a new paragraph (d) as follows (and renumber the paragraphs that follow as (e) and (f)):
    - “(d) The Responsible Entity may, in its discretion, realise the Fund and distribute the net proceeds of realisation in instalments.”;
  - (iv) in paragraph (e) (before renumbering), replace “clause 16.2(d)” with “clause 16.2(e)”;
- (w) in clause 18.2:
  - (i) delete all the words after “in relation to the Trust”; and
  - (ii) replace “complaints” with “Complaints”;
- (x) in clause 18.3, replace “complaint” with “Complaint” where occurring;
- (y) in clause 18.4:
  - (i) replace “complaint” with “Complaint” where occurring in paragraph (a);
  - (ii) renumber the existing paragraphs (b) and (c) as (e) and (f), and insert the following new paragraphs (b), (c) and (d):
    - “(b) The Responsible Entity must ensure that the Complaint receives proper consideration resulting in a determination by a person or body designated by the Responsible Entity as appropriate to handle complaints;
    - (c) Where the Complaint relates to an error which is capable of being corrected without affecting the rights of third parties, the Responsible Entity must act in good

faith to deal with the Complaint by endeavouring to correct the error;

- (d) The Responsible Entity may, in its discretion give any of the following remedies to the complainant:
    - (1) information and explanation regarding the circumstances giving rise to the Complaint;
    - (2) an apology; or
    - (3) compensation for loss incurred by the Holder as a direct result of any breach;”;
  - (iii) in paragraph (e), replace “complaint” with “Complaint” where occurring, replace “2 months” with “45 days”, and delete “acknowledgement of the” and “being sent under clause 18.3(b)(2)”;
  - (iv) in paragraph (f), replace “complaint” with “Complaint” where occurring, and add after “The Responsible Entity must” the following new text “, by the end of the 45 day period,”;
- (z) insert new clauses 19.2A and 19.2B as follows:

#### **"19.2A Distribution for purposes of Stapling**

For the purposes of creating or adding a new Attached Security to Stapled Securities, the Responsible Entity may apply the proceeds of a pro-rata distribution under clause 19.2(a) in subscribing as agent and attorney of each Unitholder for Securities which are to be Stapled to Units.

#### **19.2B Appointment of Responsible Entity as agent and attorney**

The Responsible Entity is irrevocably appointed as agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Stapling of Attached Securities to Units, including in relation to:

- (a) executing an application for or transfer of Securities which are to be Attached Securities to a Unitholder as subscriber or transferee;
- (b) the Stapling of each Unit held by that Unitholder on the Stapling Date to the Corresponding Number of Attached Securities; and
- (c) arranging for each Unitholder to be registered as the holder of those Attached Securities.

The Responsible Entity is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders, including amending this deed to give effect to the Stapling of Attached Securities to Units.”;

- (aa) insert new clauses 19.10 and 19.11 as follows:

#### **“19.10 Duties while Stapled**

Despite any provision of this deed or the constitutions of the Stapled Entities, or any rule of law (but subject to the Corporations Act) while the Units and the Attached Securities are Stapled, in exercising any power or discretion, the Responsible Entity may have regard to the interests of the holders of Stapled Securities as a whole and not only to the interests of the holders of the Units and relevant Attached Securities considered separately.

### **19.11 Stapling provisions paramount**

Subject to clauses 1.4 and 1.5, this clause 19 has effect notwithstanding any other clause of this deed and any clause of this deed which is inconsistent with it does not operate to the extent of any inconsistency.”

- (bb) renumber clause 20 as clause 23, and insert the following new clauses 20, 21 and 22:

### **“20 Sale of small holdings comprising non marketable parcels**

#### **20.1 Sale of small holdings**

Subject to the provisions of this clause 20, the Responsible Entity may in its discretion from time to time sell any Units (and any Attached Securities) held by a Holder without request by the Holder where, while the trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a marketable parcel as provided in the Listing Rules and the procedures set out in this clause 20 are observed. In this case, the Responsible Entity may only sell Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

#### **20.2 Procedure**

- (a) The Responsible Entity must notify a Holder in writing who on the date of the notice holds less than a marketable parcel as provided in the Listing Rules of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 20. The notice must explain the effect of this clause 20.
- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
- (1) before the expiry of 6 weeks from the date of notice given under clause 20.2(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 20.2(b)(1):
    - (A) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or

- (B) the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to at least the value of a marketable parcel as provided in the Listing Rules.
- (c) The power to sell lapses following the announcement of a takeover offer as provided in the Listing Rules, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Responsible Entity, from the assets of the Trust, or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale as the Responsible Entity so determines.
- (e) The Responsible Entity is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 20.

## 21 Sale of newly created small holdings

- (a) In addition to the powers of the Responsible Entity in clause 20, the Responsible Entity may sell the Units and any Attached Securities of a Holder if Units (together with any Attached Securities Stapled to those Units) comprise less than a marketable parcel of Units (and any Attached Securities), without complying with the procedures in clause 20 and may determine that a Holder's right to vote or receive distributions in respect of those Units (and any Attached Securities) is removed or changed if the following conditions are observed:
  - (1) a sale effected or a removal or change in voting or distribution rights, under this clause 21 only applies to Units (and any Attached Securities) in a holding created after the date on which this clause came into effect by a transfer of a parcel of Units (and any Attached Securities) that was less than a marketable parcel as provided in the Listing Rules at the time the transfer document was initiated or, in the case of a paper based transfer, was lodged with the Responsible Entity ("**New Small Holding**");
  - (2) the proceeds of a sale under this clause 21 less the cost of the sale, must be sent to the Holder after the sale subject to clause 22(e);
  - (3) any distributions that have been withheld under this clause 21 must be sent to the Holder after the sale, subject to the former Holder delivering to the Holder proof of the title acceptable to the Responsible Entity; and
  - (4) the Responsible Entity has given the Holder (as at the date of the notice) of the New Small Holding notice of its intention to sell the Units (together with any

Attached Securities Stapled to those Units) under this clause 21 and which notice explains the effect of this clause 21.

- (b) The Responsible Entity may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
  - (1) before the expiry of 6 weeks from the date of notice given under clause 21(a) (or such lesser period as is permitted by the Corporations Act and the Listing Rules and specified in that notice by the Responsible Entity in its absolute discretion); or
  - (2) if, within the period allowed by clause 21(b)(1) the Holder advised the Responsible Entity that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units).

## **22 Procedure, title and proceeds of sale for sale of small holdings**

- (a) The Responsible Entity may sell Units (and any Attached Securities) under clause 20 or 21 as soon as practicable on market or in any other way the Responsible Entity so determines and at a price which the Responsible Entity considers to be reasonably obtainable for the Units (and any Attached Securities) at the time they are sold.
- (b) When the Responsible Entity sells a Unit (together with any Attached Security), the Responsible Entity may:
  - (1) receive the purchase money or consideration given for the Unit (and any Attached Security);
  - (2) effect a transfer of the Unit (and any Attached Security) or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Units (and any Attached Securities);
  - (3) register as the holder of the Unit (and any Attached Security) the person to whom the Unit (and any Attached Security) is sold; and
  - (4) for the purpose of selling the relevant Units (and any Attached Security) that are in a CS facility (as defined in the Corporations Act) holding initiate (after giving the notice specified in clause 20.2(a) or clause 21) a holding adjustment to move those Units (and any Attached Securities) to an issuer sponsored holding or certificated holding.
- (c) A person to whom the Responsible Entity sells Units (and any Attached Securities) need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration for the sale is applied. That person's title to the Units and any Attached Securities is not affected by any irregularity by the Responsible Entity or the broker or any agent in relation to the sale. A sale of the Units and its Attached

Securities by the Responsible Entity is valid even if a transmission event occurs to the Holder before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of Units and any Attached Securities by the Responsible Entity is a claim for damages against the Responsible Entity.
- (e) Subject to clause 22(f), the proceeds of a sale of Units (and any Attached Securities) by the Responsible Entity must be applied in paying:
  - (1) first and only in respect of a sale of a New Small Holding under clause 21, the expenses of the sale;
  - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Responsible Entity,and any balance must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (f) The proceeds of sale under clause 20 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Responsible Entity proof of title to the Units (and any Attached Securities) acceptable to the Responsible Entity.
- (g) Until the proceeds of a sale of the Unit (and any Attached Securities) sold by the Responsible Entity are claimed or otherwise disposed of according to law, the Responsible Entity may invest or use the proceeds in any other way for the benefit of the Trust.
- (h) The Responsible Entity is not required to pay interest on money payable to a former holder under clause 20, 21 or 22.
- (i) A written statement by a director or secretary of the Responsible Entity that a Unit (and any Attached Security) in the Trust has been duly sold under clause 20 or 21, on a date stated in the statement is conclusive evidence of the facts stated as against all persons claiming to be entitled to the Unit (and any Attached Security), and of the Right of the Responsible Entity to sell, reissue or otherwise dispose of the Unit (and any Attached Securities)."

(cc) in Schedule 1, insert a new item 9 as follows:

**“9 Stapled Security Meetings**

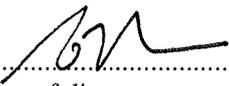
While Units are Stapled, Meetings may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act, the Responsible Entity is entitled to make such rules for the conduct of such Stapled Security holder meetings as it determines.”

# Supplemental Deed Poll

Signing page

DATED: 31 October 2011

EXECUTED by DEXUS FUNDS )  
MANAGEMENT LIMITED in )  
accordance with section 127(1) of the )  
Corporations Act 2001 (Cwlth) by )  
authority of its directors: )

  
..... )  
Signature of director )

CHRIS BEARE )  
..... )  
Name of director (block letters) )

  
..... )  
Signature of director/company )  
secretary JOHN CAMPBELL EASY )

.....JOHN CAMPBELL EASY..... )  
Name of director/company secretary )  
(block letters) )