

DEXUS Property Group (ASX: DXS)

ASX release

18 December 2015

DEXUS and IOF enter into Implementation Agreement

DEXUS Funds Management Limited (“DXFM”), the responsible entity of DEXUS Property Group (“DEXUS”), refers to its announcement released to the Australian Securities Exchange (“ASX”) on 7 December 2015 in relation to an indicative, conditional and non-binding proposal to Investa Listed Funds Management Limited (“ILFML”), the responsible entity of Investa Office Fund (“IOF”), to acquire all of the units in IOF.¹

DEXUS today announces that following the completion of due diligence under the process agreement, DXFM and ILFML have entered into a binding Implementation Agreement (“MIA”) under which DEXUS will seek to acquire all of the units in IOF, subject to certain conditions, as set out in the attached MIA (the “Proposal”).^{2,3} The MIA includes provisions customary for a transaction of this nature, including exclusivity arrangements and provisions for payment of a break fee of \$23.52 million by IOF to DEXUS in certain circumstances.

If the Proposal is successfully implemented, this would confirm DEXUS’s position as a leading Australian commercial real estate group and provide existing DEXUS Security holders and IOF Unitholders with an enhanced investment proposition.

Implementation of the Proposal will be via an IOF informal trust scheme and requires, among other things, the approval of IOF Unitholders at a meeting expected to be held in April 2016.

Board support

The Independent Board Committee of ILFML unanimously recommends the Proposal, in the absence of a superior proposal and subject to an Independent Expert concluding that the Proposal is in the best interests of IOF Unitholders. DEXUS’s Board unanimously supports the Proposal and believe it is in the best interests of DEXUS Security holders.

Summary of the DEXUS Offer

The Proposal provides for the following aggregate cash and DEXUS scrip consideration to IOF Unitholders (expressed per IOF Unit):

- 0.4240 DEXUS Securities; and
- A cash payment of \$0.8229.

Under the Proposal, a “Mix and Match” facility will be available whereby IOF Unitholders⁴ may elect to receive in exchange for their respective holding of IOF Units one of standard consideration (comprising 0.4240 DEXUS Securities and \$0.8229 cash per IOF Unit), maximum scrip consideration, or maximum cash consideration, with the default option for IOF Unitholders who do not make a valid election being the receipt of standard consideration. Allocation will be subject to scale-back (if necessary) on a pro rata basis to ensure aggregate scrip consideration of 260.4 million DEXUS Securities and aggregate cash consideration of \$505 million. IOF Unitholders who receive scrip consideration will gain exposure to movements in the price of DEXUS Securities. Further details will be included in the notice of meeting and explanatory memorandum (“NOM”). The NOM is expected to be despatched by ILFML to IOF Unitholders in March 2016.

1 DEXUS Security holders are referred to IOF’s ASX announcement on the indicative, conditional and non-binding proposal dated 7 December 2015.

2 DEXUS Security holders are referred to IOF’s ASX announcement on entry into the binding MIA dated 18 December 2015.

3 The Proposal arose as a consequence of an unsolicited approach to DEXUS from the advisers to the Independent Board Committee of ILFML.

4 Foreign IOF Unitholders will have all scrip that they otherwise would have been entitled to, sold under a sale facility and cash proceeds remitted to them (net any expenses and tax). Therefore foreign IOF Unitholders will only receive cash proceeds.

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Summary of the DEXUS Offer (cont'd)

The following table details the components of the consideration and the premium to the implied offer price:

	Offer price	%
Implied value of DEXUS scrip consideration ⁵	\$3.2918	
Cash consideration	\$0.8229	
Implied offer price per IOF Unit	\$4.1147	

Implied offer price represents a premium to:

- IOF undisturbed closing price on 4 December 2015 ⁶	\$3.83	7.4%
- IOF 1 month VWAP ⁵	\$3.86	6.7%
- IOF Pro-forma NTA ⁷	\$3.91	5.2%
- IOF closing price on 17 December 2015	\$4.07	1.1%

DEXUS Securities issued as a result of implementation of the Proposal will be fully paid stapled securities and will be fully entitled to any distributions payable by DEXUS with a record date occurring after the DEXUS Securities have been issued. The issue date is expected to be in late April 2016.

IOF Unitholders will be entitled to a distribution of 9.8 cents per unit on their IOF Units prior to implementation of the Proposal, for the six month period ending 31 December 2015, payable on 29 February 2016⁸.

As announced yesterday, DEXUS's distribution for the six month period ending 31 December 2015 of 23.05 cents per DEXUS Security, will be payable on 29 February 2016 to existing DEXUS Security holders on the DEXUS register at 7:00pm (Sydney time) on the record date of 31 December 2015.

Rationale for the transaction

The transaction is strongly aligned with DEXUS's strategy. Due diligence under the process agreement has been completed by DEXUS and its advisers, including legal, accounting, tax, financial and physical due diligence.

Darren Steinberg, DEXUS CEO said: "Our due diligence process has confirmed IOF's strategic fit with our existing portfolio and has also identified the potential to unlock value from properties within the IOF portfolio. The ability to acquire this portfolio in a cost and capital efficient manner enables us to create a combined entity through which we can leverage further economies of scale from a management, procurement and leasing perspective."

The Proposal offers the following benefits to new and existing DEXUS Security holders:

- **Portfolio benefits** - the portfolios are highly complementary, retaining a focus on Sydney and Melbourne CBDs. The combination also enhances asset and tenant diversification
- **Synergy benefits** - improved flexibility and capacity to unlock development and repositioning potential, increased scope to action portfolio leasing strategies for customers (tenants), improved margins (Management Expense Ratio to reduce from 41 basis points to sub-35 basis points)⁹. Procurement benefits are also expected to be achieved (savings averaged 14% on the DEXUS Office Partnership's key contracts in its first year)

5 Based on 10 day VWAP to 4 December 2015, being the last trading day prior to the day of announcement of DEXUS's indicative, conditional and non-binding proposal to acquire all of the units in IOF ("Proposal Announcement Date").

6 As at 4 December 2015, being the last trading day prior to the Proposal Announcement Date.

7 "NTA" means Net Tangible Assets and is based on unaudited IOF management estimate of \$3.91 per unit as per the 30 November 2015 ASX release by IOF titled 'Portfolio valuation update', which indicated around an 8% increase to 30 June 2015 NTA.

8 As announced by IOF to ASX on 14 December 2015.

9 Assumes the Proposal is implemented and DEXUS acquires 100% of the IOF Units.

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- **Efficient transaction reduces value leakage** - capital and cost effective transaction that is accretive on a per security basis to Underlying Funds from Operations (“FFO”)¹⁰ and Net Tangible Assets (“NTA”)¹¹ for both DEXUS Security holders and IOF Unitholders
- **Capital markets benefits** - increased global relevance for debt and equity investors seeking exposure to Australian office property

The investor presentation, also released by DEXUS today, details the impacts of the Proposal on DEXUS and provides key metrics for the combined entity, as well as key assumptions.

Combined group profile

If the Proposal is successfully implemented, the combined group would have a total of \$24.1 billion of assets under management, \$17.5 billion of which would comprise office properties¹². Security holders of the combined entity would benefit from enhanced asset, geographic and tenant diversification, while remaining primarily focused on Australian CBDs. The transaction would enable DEXUS to establish over 375¹³ new customer engagements from within IOF’s portfolio, representing over 85% of IOF’s tenant base, including a number of major Australian and international corporate clients.

The combined entity would also retain a strong balance sheet with high quality credit metrics. Pro forma look-through gearing¹⁴ is expected to increase 3.7%, as a result of the implementation of the Proposal, to approximately the mid-point of DEXUS’s target range of 30-40%.¹⁵

Implementation process

The Proposal is subject to approval by IOF Unitholders entitled to vote on the Proposal as well as other conditions including obtaining judicial advice in relation to the Proposal, no court or other government agency-ordered restraints, no material adverse change or prescribed occurrence in either IOF or DEXUS, regulatory approvals (including Australian Competition and Consumer Commission clearance) and other customary conditions.

The obligations of DEXUS and IOF regarding the implementation of the Proposal are governed by the MIA, which is attached to this ASX announcement. This includes customary ‘no shop, no talk’ provisions, notification and matching rights, a break fee and the conditions to implementation of the Proposal as described above.

The Proposal relates only to the acquisition by DEXUS of 100% of the units in IOF. The Proposal does not involve the removal of the responsible entity of IOF or any change in the management arrangements of IOF.

Darren Steinberg said: “We are hopeful of reaching an agreement with Morgan Stanley Real Estate Investing in relation to the future management of IOF. This may include acquiring the shares in ILFML, the current responsible entity of IOF.”

DEXUS notes, if the Proposal is implemented and an agreement with Morgan Stanley Real Estate Investing (“MSREI”)¹⁶ cannot be reached, that it may exercise the rights it will have as the owner of IOF to ensure an orderly integration of the combined group.

10 “FFO” means Funds from Operations and is in line with the Property Council of Australia definition. Underlying FFO excludes trading profits (net of tax). Refer to the Appendices in the DEXUS Investor Presentation released on 18 December 2015.

11 DEXUS’s pro forma NTA is based on 30 June 2015 balance sheet adjusted for announced valuations, transactions, development and capital spend and securities bought back. Post-implementation of the Proposal NTA is based on DEXUS pro forma NTA and IOF NTA announced on 7 December 2015 adjusted for the impact of the Proposal (purchase price, transaction costs and funding).

12 Based on DEXUS property portfolio as at 30 June 2015 adjusted for announced valuations, transactions, development and capital spend; the IOF property portfolio as at 30 November 2015; and the impact of the Proposal.

13 Based on IOF Portfolio Overview June 2015.

14 Pro-forma gearing is based on gearing (look-through) at 30 June 2015 adjusted for announced valuations, transactions, development and capital spend and securities bought back.

15 Pro forma gearing could reduce if as a consequence of certain pre-emptive rights being triggered by the implementation of the Proposal, or as a consequence of DEXUS exercising its ownership rights should the Proposal be implemented, the other co-owner(s) decide to exercise their pre-emptive rights. For example, if the Proposal is implemented it will trigger pre-emptive rights over 10-20 Bond Street, Sydney, which would then provide the co-owner with the opportunity to decide whether to exercise its pre-emptive rights or not.

16 IOF is managed by Investa Office Management Holdings Pty Ltd, which is ultimately owned by funds controlled by MSREI.

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Next steps and indicative timetable

As mentioned above, all IOF Unitholders will receive a NOM (which will include an Independent Expert's report) which will enable them to assess the merits of the Proposal. IOF Unitholders who are entitled to vote will then vote on the Proposal at the IOF Unitholder meeting (in person or by proxy) to approve the Proposal. The IOF Unitholder meeting is expected to be held in early April 2016.

Existing DEXUS Security holders do not need to take any action in relation to the Proposal.

A number of expected key dates relevant to the Proposal have been outlined below:

Key milestones	Date
Process agreement signed and announced	Monday, 7 December 2015
Announcement of entry into MIA	Friday, 18 December 2015
DEXUS HY16 results	Wednesday, 17 February 2016
IOF HY16 results	Thursday, 18 February 2016
DEXUS HY16 distribution payment	Monday, 29 February 2016
IOF HY16 distribution payment	Monday, 29 February 2016
First judicial advice hearing	Early March 2016
NOM despatched to IOF Unitholders	Mid March 2016
Cut off for receipt of proxies	Early April 2016
IOF Unitholder meeting to approve the Proposal	Early April 2016
Second judicial advice hearing	Mid April 2016
Effective date	Mid April 2016
Record date	Late April 2016
Implementation date	Late April 2016

DEXUS has retained Greenhill & Co., Goldman Sachs and Deutsche Bank as financial advisers and King & Wood Mallesons as legal adviser.

Investor presentation and conference call

To provide an overview of the Proposal in further detail, an investor presentation has also been released to the ASX today.

A conference call for investors and analysts will also be held at 10:00am (AEST) today.

Participant dial in numbers: + 612 8038 5221 or toll free 1800 123 296

Conference ID: 1170 1037

Attachments

- Annexure A - Implementation Agreement

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Note

Australian Dollars (AUD) have been used as the reference currency for this release.

This announcement contains certain “forward-looking statements” with respect to the financial condition, results of operations and business of DEXUS, IOF and the combined entity and certain plans, strategies and objectives of the management of DEXUS, IOF and the combined entity, within the meaning of securities laws of applicable jurisdictions. The words “expect”, “should”, “could”, “may”, “predict”, “outlook”, “foresee”, “guidance”, “plan”, “estimate”, “anticipate”, “aim”, “intend”, “believe” and other similar expressions are intended to identify forward-looking statements. Indications of, and guidance on, future earnings and financial position and performance are also forward-looking statements. Such forward-looking statements are not guarantees of future performance and involve known and unknown risks, significant uncertainties, assumptions, contingencies and other factors, many of which are beyond the control of DXFM, DEXUS, ILFML and IOF and their respective affiliates, directors, officers, employees, partners, agents and advisers, that may cause actual results or performance of DEXUS, IOF or the combined entity to differ materially from those predicted or implied by any forward-looking statements. Such forward-looking statements speak only as of the date of this announcement. There can be no assurance that actual outcomes will not differ materially from these forward-looking statements. You are cautioned not to place undue reliance on forward-looking statements and DXFM and / or ILFML assumes no obligation to update such information.

About DEXUS

DEXUS Property Group is one of Australia’s leading real estate groups, investing directly in high quality Australian office and industrial properties. With \$19.6 billion of assets under management, the Group also actively manages office, industrial and retail properties located in key Australian markets on behalf of third party capital partners. The Group manages an office portfolio of 1.7 million square metres located predominantly across Sydney, Melbourne, Brisbane and Perth and is the largest owner of office buildings in the Sydney CBD, Australia’s largest office market. DEXUS is a Top 50 entity by market capitalisation listed on the Australian Securities Exchange under the stock market trading code ‘DXS’ and is supported by more than 32,000 investors from 21 countries. With 30 years of expertise in property investment, development and asset management, the Group has a proven track record in capital and risk management, providing service excellence to customers and delivering superior risk-adjusted returns for its investors. www.dexus.com

Download the DEXUS IR app to your preferred mobile device to gain instant access to the latest stock price, ASX Announcements, presentations, reports, webcasts and more.



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

Implementation Agreement

Dated **18 December 2015**

DEXUS Funds Management Limited (ABN 24 060 920 783) (**DEXUS RE**) in its capacity as responsible entity of DEXUS Diversified Trust (ARSN 089 324 541) (**DDF**), DEXUS Industrial Trust (ARSN 090 879 137) (**DIT**), DEXUS Office Trust (ARSN 090 768 531) (**DOT**) and DEXUS Operations Trust (ARSN 110 521 223) (**DXO**) (together, the **Bidder**)

Investa Listed Funds Management Limited (ACN 149 175 655) ("**Target RE**") in its capacity as responsible entity of Armstrong Jones Office Fund (ARSN 090 242 229) and Prime Credit Property Trust (ARSN 089 849 196) (together, "**Target**").

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Implementation Agreement

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Implementation Agreement

Details

Parties	Bidder and Target RE	
Bidder	Name	DEXUS Funds Management Limited in its capacity as responsible entity of DEXUS Diversified Trust, DEXUS Industrial Trust, DEXUS Office Trust and DEXUS Operations Trust.
	ABN	24 060 920 783
	Address	Level 25, Australia Square, 264 George Street, Sydney NSW 2000
Target RE	Name	Investa Listed Funds Management Limited in its capacity as responsible entity of Armstrong Jones Office Fund and Prime Credit Property Trust
	ACN	149 175 655
	Address	Level 6, Deutsche Bank Place, 126 Phillip Street, Sydney NSW 2000
Recitals	A	The Bidder and the Target RE entered into the Process Deed on 7 December 2015. The exclusivity period (as defined in the Process Deed) during which the parties were able to conduct due diligence has expired or will soon expire.
	B	The Parties have agreed to proceed with the Proposal to acquire Target Securities by executing this agreement.
	C	Target RE intends to propose the Proposal and issue the Explanatory Memorandum to the Target Securityholders on the terms and conditions of this agreement.
	D	The Bidder and Target RE have agreed to undertake certain steps to enable the Proposal to be proposed, approved and implemented subject to and in accordance with this agreement.
	E	The IBC is authorised to undertake all actions required to be undertaken by the Target RE board to authorise Target RE entering into this agreement.
Governing law	New South Wales	
Date of agreement	See Signing page	

Implementation Agreement

General terms

1 Definitions and interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

ACCC means the Australian Competition and Consumer Commission.

AJO Fund means the Armstrong Jones Office Fund (ARSN 090 242 229)

ASIC means the Australian Securities & Investments Commission.

Associate has the meaning set out in section 12 of the Corporations Act, as if subsection 12(1) of the Corporations Act included a reference to this agreement.

ASX means ASX Limited or Australian Securities Exchange, as appropriate.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it; and
- (b) in relation to anything that could be prohibited or restricted by law if a Regulatory Authority acts in any way within a specified period, the expiry of that period without that action being taken.

Authorised Officer means, in respect of a party, a director or secretary of the party or any other person appointed by a party to act as an Authorised Officer under this agreement.

Available Cash Consideration means the amount of cash determined by subtracting from the Total Cash Pool the aggregate amount of cash consideration payable by the Bidder to Proposal Participants who elect, or are deemed to elect, the Standard Consideration.

Available Scrip Consideration means the amount of DEXUS Property Group Securities determined by subtracting from the Total Scrip Pool the aggregate number of DEXUS Property Group Securities to which Proposal Participants who elect, or are deemed to have elected, Standard Consideration are entitled under the Proposal.

Bidder Conditions Precedent means the conditions precedent set out in item 1(a)(B), 1(a)(C), 1(a)(D), 1(b), 8, 9, 11, 13, 17 and 19 of Schedule 3.

Bidder Indemnified Parties means the Bidder and each of their Controlled Entities and Representatives.

Bidder Information means the information provided by the Bidder to Target RE for inclusion in the Explanatory Memorandum, and includes information in relation to DEXUS Property Group as a consequence of the provision of the DEXUS Property Group Securities under the terms of the Proposal. Bidder Information does not include any information about Target (except to the extent it relates to any statement of intention relating to Target following the Effective Date).

Business Day means a day not being a Saturday, Sunday or public holiday in Sydney, New South Wales.

Cash Component means for every Target Security, a cash payment of \$0.8229.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

Claim means, in relation to a party, a demand, claim, action or proceeding made or bought by or against the party, however arising and whether present, unascertained, immediate, future or contingent.

Competing Transaction means:

- (a) any Internalisation Proposal, Responsible Entity Acquisition or Management Platform Proposal; or
- (b) any proposal, agreement, arrangement or transaction, which, if entered into or completed, would mean a Third Party (either alone or together with any Associate which for these purposes does not include Investa Listed Funds Management Limited) would:
 - (i) directly or indirectly acquire a Relevant Interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 50% or more of the Target Securities;
 - (ii) acquire Control of the Target;
 - (iii) directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire, a legal, beneficial or economic interest in, or control of, all or substantially all of the Target's business or assets or the business or assets of the Target;
 - (iv) otherwise directly or indirectly acquire or merge or be stapled with the Target;
 - (v) require the Target RE to abandon, or otherwise fail to proceed with, the Proposal; or
 - (vi) be appointed as or own, or be entitled to control or own, the responsible entity of the Target,

whether by way of takeover bid, scheme, trust scheme, shareholder approved acquisition, capital reduction, buy back, sale or purchase of shares, other

securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement.

For the avoidance of doubt, if any proposal, agreement, arrangement or transaction could fall within subsection (a) or (b) above, then it will be taken to fall within subsection (a) and not subsection (b).

Conditions Precedent means the conditions precedent set out in Schedule 3.

Constitutions means the constitutions of AJO Fund and PCP Trust from time to time and **Constitution** means any one of them (as the context requires).

Control has the meaning given in section 50AA of the Corporations Act.

Controlled Entity means, in relation to an Entity, another Entity which is a Subsidiary of it, or which is Controlled by it.

Controller has the meaning it has in the Corporations Act.

Corporations Act means the Corporations Act 2001 (Cwlth).

Corporations Regulations means the Corporations Regulations 2001 (Cwlth).

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction agreed to in writing by the Parties.

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

Deed Poll means a deed in the form, or substantially in the form, of Annexure A to this agreement.

Details means the section of this agreement headed "Details".

DEXUS Material Adverse Change means a negative impact (excluding mark to market movements relating to investment properties, financial derivatives, hedge accounted interest bearing liabilities and foreign exchange rates) on the net tangible assets of the DEXUS Property Group of at least \$324 million or on recurring Funds From Operations of at least \$30 million, occurs or becomes apparent between the date of this agreement and 8.00am on the Meeting Date, other than those events, changes, conditions, matters, circumstances or things:

- (a) required or permitted by this agreement, the Proposal or the transactions contemplated by either;
- (b) to the extent that event, occurrence or matter is fairly disclosed prior to entry into this agreement by the Bidder to Target RE or is otherwise known to the Bidder prior to the entry into this agreement;
- (c) agreed to in writing by the parties;
- (d) arising as a result of any generally applicable change in law or governmental policy;

- (e) arising from changes in economic or business conditions (including/excluding interest rates) that impact on the Bidder and its competitors in a similar manner; or
- (f) that the Bidder fairly disclosed in an announcement made by the Bidder to ASX, or a document lodged by it with ASIC, prior to the date of this agreement.

DEXUS Prescribed Event means, except to the extent contemplated by this agreement or the Proposal, any of the events listed in Schedule 2 provided that a DEXUS Prescribed Event listed in items (1) to (16) of Schedule 2 will not occur where:

- (a) the Bidder has first consulted with Target RE in relation to the event and Target RE has approved the proposed event or has not objected to the proposed event within 5 Business Days of having been so consulted; or
- (b) the Bidder has fairly disclosed the event to the Target RE before the signing of this agreement.

DEXUS Property Group means DEXUS RE, DDF, DIT, DOT and DXO collectively.

DEXUS Property Group Securities means ASX-listed stapled securities consisting of one unit in each of DDF, DIT, DOT and DXO that rank equally with all other DEXUS Property Group Securities.

DEXUS Reference Price means the 10 Day volume-weighted average price of DEXUS Property Group Securities as at the close of trading on 4 December 2015.

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

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

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

Effective means the when Proposal comes into effect, which will be on the Business Day after the Second Judicial Advice Date or such other date as the parties agree in writing.

Effective Date means the date on which the Proposal becomes Effective.

Electing Minimum Holder has the meaning in clause 4.13(b).

Election Date means the last date on which Target Securityholders can make a valid election in accordance with the Explanatory Memorandum and the Election Form, being the date which is 5 Business Days after the Effective Date or such other date as the parties agree in writing.

Election Form means the election form provided with the Explanatory Memorandum under which each Target Securityholder may elect to receive either Standard Consideration, Maximum Cash Consideration or Maximum Scrip Consideration in respect of all of their Target Securities.

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

End Date means 30 June 2016 or another date agreed in writing by the Bidder and the Target RE.

Entity includes a natural person, a body corporate, a partnership, a trust and the trustee of a trust.

Exclusivity Period means the period from and including the date of this agreement to the earlier of:

- (a) the termination of this agreement in accordance with its terms;
- (b) the End Date; and
- (c) the Effective Date.

Explanatory Memorandum means the information booklet to be despatched to Target Securityholders which must:

- (a) include a notice of meeting and proxy form for the Proposal Resolutions; and
- (b) comply with the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 74, Guidance Note 15, the Listing Rules and any other applicable law.

Financial Advisor means any financial advisor retained by a party in relation to the Proposal or a Competing Transaction from time to time.

FIRB means the Foreign Investment Review Board.

First Judicial Advice means the confirmation obtained by the Target RE from the Court confirming, amongst other things, that Target RE would be justified in convening the Meeting.

First Judicial Advice Date means the date on which the First Judicial Advice is received.

Funds From Operations means “funds from operations” calculated in a manner that is consistent with the methodology for the calculation of “funds from operations” in financial statements for the relevant entity for the 12 months ended 30 June 2015. For the avoidance of doubt, in relation to the Target, it will be calculated without deducting any costs incurred in connection with the Proposal.

Government Agency means any government or governmental, semi-governmental, administrative, political, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government of any country.

GST has the meaning in the GST Law.

GST Act means the A New Tax System (Goods and Services Tax) Act 1999 (Cwlth).

GST Law has the meaning given in the GST Act.

Guidance Note 15 means the document titled "Guidance Note 15: Listed Trusts and Managed Investment Proposal Mergers" issued by the Takeovers Panel.

IBC means the independent board committee established by the Target RE Board and which has considered the Proposal and consisting at the date of this agreement of Deborah Page, Peter Dodd and Peter Rowe.

Implementation Date means the date that the Proposal is implemented, on the fifth Business Days following the Record Date or such other date as the parties agree in writing.

Implied Announcement Value means \$4.1147 per Target Security.

Independent Expert means the independent expert in respect of the Proposal appointed by Target RE.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this agreement); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction; or

- (i) in the case of a trust, the trust's right of indemnity out of the assets of the trust is not sufficient to meet the liabilities of the trust when they fall due.

Ineligible Overseas Target Securityholder means a Proposal Participant whose address as shown in the Register on the Record Date is a place outside Australia and its external territories and New Zealand unless Bidder determines that it is lawful and not unduly onerous or impracticable to issue the Proposal Participant with DEXUS Property Group Securities when the Proposal is implemented.

Internalisation Proposal means a proposal to internalise management of the Target, which may include the Target RE (or a replacement responsible entity or a company the shares in which are or are intended to be stapled to Target Securities) directly or indirectly acquiring an interest in any of the shares in the Target RE (or a replacement responsible entity) or in any of the entities that provide investment property or asset management services to the Target RE in respect of the Target or any transaction or arrangement that has an economically similar result.

Listing Rules means the listing rules of ASX.

Losses means all Claims, demands, damages, losses, costs, expenses and liabilities.

Material Contract means a contract or commitment (or any series of related contracts or commitments) but does not include leases or licences affecting the Properties:

- (a) under which a member of the Target Group might reasonably be expected to make total payments in excess of \$2.5 million or receive total payments in excess of \$2.5 million; or
- (b) under which a member of the Target Group does not have an unconditional right to terminate within 12 months of entry into the contact or commitment without penalty which may otherwise reasonably be expected to be material to the operations; or
- (c) under which a material restraint is imposed on the conduct of the business of any member of the Target Group;
- (d) which is entered into other than in the ordinary course of business and which may otherwise reasonably be expected to be material to the operations of Target Group;
- (e) which involves Investa Office Management Holdings Pty Ltd, Investa Property Group Holdings Pty Ltd or a Related Body Corporate of either party; or
- (f) which grants an exclusive right to a Third Party and which is not capable of termination by the Target RE on 90 days' notice or less,

but excludes this agreement.

Management Platform Proposal means any proposal that involves a change in ownership of the 'Management Platform' as that term, and the related proposal, are described on page 90 of the Target's Financial Report for the financial year ended 30 June 2015.

Maximum Cash Consideration means the consideration determined in accordance with clause 4.5.

Maximum Cash Election means an election validly made by a Target Securityholder in an Election Form to receive Maximum Cash Consideration.

Maximum Scrip Consideration means the consideration determined in accordance with clause 4.6.

Maximum Scrip Election means an election validly made by a Target Securityholder in an Election Form to receive Maximum Scrip Consideration.

Meeting means the meeting of Target Securityholders to consider, and if thought fit, pass the Proposal Resolutions, and includes any adjournment of that meeting.

Meeting Date means the date on which the Meeting is held.

Minimum Holder means a Target Securityholder who is entitled to receive a parcel of DEXUS Property Group Securities under the terms of the Proposal with a value of less than \$500 (calculated as at the close of trading on the Effective Date).

Nominee means a person or persons nominated by the Bidder under clause 2.3, being any one or more of the following:

- (a) DEXUS RE in its capacity as responsible entity of any one or more of DOT, DDF, DXO or DIT; or
- (b) DEXUS RE and/or a Related Body Corporate of DEXUS RE (whether personally or in its capacity as trustee of a trust).

Parties means each of Target RE and Bidder.

PCP Trust means the Prime Credit Property Trust (ARSN 089 849 196).

Process Deed means the Process Deed between the Target RE and the Bidder dated 7 December 2015.

Property means any real property in which Target RE or its Controlled Entities have an interest including any interest that is owned, leased or licensed and any interest that is legal, equitable, direct or indirect.

Proposal means the arrangement, the detailed terms of which are substantially as set out in Annexure C of this agreement and which is to be explained more fully in the Explanatory Memorandum, under which the Bidder acquires all of the Target Securities from the Proposal Participants by way of a trust scheme to be implemented in accordance with Guidance Note 15, facilitated by amendments to the Constitution and a resolution pursuant to section 611 item 7 of the Corporations Act;

Proposal Consideration means:

- (a) the Standard Consideration in respect of the Target Securities held by a Proposal Participant on the Record Date;
- (b) the Maximum Cash Consideration; or
- (c) the Maximum Scrip Consideration,

in accordance with the terms of the Proposal.

Proposal Participants means each person who is a Target Securityholder at the Record Date.

Proposal Resolutions means resolutions which, in substance, are as follows:

- (a) an ordinary resolution to approve the Proposal for the purposes of item 7 of section 611 of the Corporations Act including the acquisition of a Relevant Interest in all the Target Securities by the Bidder; and
- (b) conditional on (a), a special resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the Constitutions to the definition of "Proposal" to provide that it includes the Proposal to be described in the Explanatory Memorandum; and
- (c) any other resolutions that the parties (acting reasonably) may agree.

Record Date means 5.00pm on the sixth Business Day following the Effective Date or such other date as the parties agree in writing.

Register means the unit register of the Target and Registry has a corresponding meaning.

Regulator's Draft means the draft of the Explanatory Memorandum in a form acceptable to both parties which is provided to ASIC for review for the purposes of Regulatory Guide 74.

Regulatory Approval means any approval of an Regulatory Authority to the Proposal or any aspect of it which is necessary or desirable to implement the Proposal.

Regulatory Authority includes:

- (a) ASX, ACCC, FIRB and ASIC;
- (b) an Australian government or governmental, semi-governmental or judicial entity or authority;
- (c) an Australian minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; and
- (d) any Australian regulatory organisation established under statute.

Regulatory Guide 74 means ASIC's "Regulatory Guide 74 (Acquisitions agreed to by shareholders)".

Regulatory Review Period means the period from the date on which the Regulator's Draft is submitted to ASIC to the date which is 14 days after that date unless ASIC objects to the Explanatory Memorandum in that period.

Related Body Corporate has the meaning set out in section 50 of the Corporations Act, except that the term "body corporate" in that term includes any Entity and the term "subsidiary" where used in that section has the meaning given to it in the Corporations Act, but so that:

- (a) an Entity will also be taken to be a subsidiary of another Entity if it is controlled by that Entity pursuant to section 50AA of the Corporations Act, but disregarding for this purpose section 50AA(4);
- (b) a trust may be a subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and
- (c) an entity may be a subsidiary of a trust if it would have been a subsidiary if both that entity and the trust were a corporation.

Relevant Interest has the same meaning as given by sections 608 and 609 of the Corporations Act.

Representative means any person acting for or on behalf of a party including any Controlled Entity or any director, officer, employee, agent or professional advisor of a party or a Controlled Entity. For the avoidance of doubt:

- (a) the references to Target RE as a party mean Investa Listed Funds Management Limited solely in its capacity as responsible entity of the Target; and
- (b) any property or investment management advisors or agents of the Target or Target RE are not a Representative of the Target RE.

Responsible Entity Acquisition means any proposal, agreement, arrangement or transaction, which, if entered into or completed, would mean a Third Party (either alone or together with any Associate which for these purposes does not include Investa Listed Funds Management Limited) would:

- (a) directly or indirectly acquire a Relevant Interest in, or have a right to acquire, a legal, beneficial or economic interest in, or control of, 50% or more of the Target RE;
- (b) acquire Control of the Target RE;
- (c) directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire, a legal, beneficial or economic interest in, or control of, all or substantially all of the Target RE's business or assets or the business or assets of the Target RE; or
- (d) otherwise directly or indirectly acquire or merge or be stapled with the Target RE.

Scrip Component means for each Target Security, 0.4240 DEXUS Property Group Securities.

Scrip Equivalent of Implied Offer Number means the Implied Announcement Value divided by the DEXUS Reference Price of a DEXUS Property Group Security.

Scrip and Cash Consideration means the Scrip Component and the Cash Component.

Second Judicial Advice means the confirmation obtained by the Target RE from the Court confirming, amongst other things, that the Target RE would be justified in proceeding to implement the Proposal.

Second Judicial Advice Date means the date on which the Second Judicial Advice is obtained.

Standard Consideration means the Scrip and Cash Consideration.

Standard Election means an election validly made by a Target Securityholder in an Election Form to receive Standard Consideration.

Subsidiary has the meaning given in the Corporations Act, but so that:

- (a) an Entity will also be taken to be a Subsidiary of another Entity if it is controlled by that Entity (as 'control' is defined in section 50AA of the Corporations Act) but disregarding section 50AA(4);
- (b) a trust may be a Subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and
- (c) an Entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation.

Superior Proposal means a bona fide Competing Transaction (and not resulting from a breach by Target RE of its obligations under clause 11 of this agreement, it being understood that any actions by the Representatives of Target RE in breach of clause 11 shall be deemed to be a breach by the Target for the purposes hereof) which the Target RE Independent Directors, acting in good faith, and after receiving written legal advice from its legal adviser (who must be a reputable legal adviser experienced in transactions in the nature of the transactions contemplated by this agreement) and written advice from its financial advisor, determine:

- (a) is reasonably capable of being valued and completed taking into account all aspects of the Competing Transaction including any timing considerations, any conditions precedent and the identity of the proponent; and
- (b) would, if completed substantially in accordance with its terms, be more favourable to Target Securityholders (as a whole) than the Proposal taking into account all terms and conditions of the Competing Transaction.

Target means the Investa Office Fund, which comprises the AJO Fund and the PCP Trust.

Target Conditions Precedent means the Conditions Precedent set out in items 1(a)(A) to (C), 1(a)(E), 2 – 7, 12, 15, 16, 18 and 19 of Schedule 3.

Target Distribution means a distribution per Target Security of no more than \$0.098 for the period ending 31 December 2015.

Target Group means Target and each of its Controlled Entities (which, for this purpose, is a reference to an Entity that is a Controlled Entity of Target RE by reason of the fact that Target RE is the responsible entity of Target).

Target Indemnified Parties means the Target RE, its Representatives and its Related Bodies Corporate and the Representatives of its Related Bodies Corporate.

Target Information means all information contained in the Explanatory Memorandum other than the Bidder Information, the Tax Opinion and the Independent Expert's report.

Target Material Adverse Change means a negative impact (excluding mark to market movements relating to investment properties, financial derivatives, hedge accounted interest bearing liabilities and foreign exchange rates) on the net tangible assets of the Target of at least \$111 million or on recurring Funds From Operations of at least \$9 million, occurs or becomes apparent between the date of this agreement and 8.00am on the Meeting Date, other than those events, changes, conditions, matters, circumstances or things:

- (a) required or permitted by this agreement, the Proposal or the transactions contemplated by either;
- (b) to the extent that event, occurrence or matter is fairly disclosed prior to entry into this agreement to the Bidder by the Target RE or is otherwise known to the Bidder prior to the entry into this agreement;
- (c) agreed to in writing by the parties;
- (d) arising as a result of any generally applicable change in law or governmental policy;
- (e) arising from changes in economic or business conditions (including/excluding interest rates) that impact on the Target and its competitors in a similar manner;
- (f) that the Target RE fairly disclosed in an announcement made by the Target RE to ASX, or a document lodged by it with ASIC, prior to the date of this agreement; or
- (g) related to a requirement for a consent by a co-owner in connection with the Proposal.

Target Prescribed Event means, except to the extent contemplated by this agreement or the Proposal, any of the events listed in Schedule 1 provided that a

Target Prescribed Event listed in items (1) to (25) of Schedule 1 will not occur where:

- (a) the Target RE has first consulted with the Bidder in relation to the event and the Bidder has approved the proposed event or has not objected to the proposed event within 5 Business Days of having being so consulted; or
- (b) the Target RE has fairly disclosed the event to the Bidder before the signing of this agreement.

Target RE means Investa Listed Funds Management Limited (ACN 149 175 655) in its capacity as responsible entity of the Target or any replacement of it from time to time.

Target RE Board means the board of directors of Target RE or a committee of the board.

Target RE Independent Director means each of Deborah Page, Peter Dodd and Peter Rowe and any replacement or additional independent director appointed to the board of the Target RE from time to time and **Target RE Independent Directors** means all of them.

Target Security means a stapled security in the Target consisting of one unit in the AJO Fund and one unit in the PCP Trust.

Target Securityholder means a person who is registered in the Register as the holder of Target Securities, and Target Securityholders means all of them.

Tax Act means the Income Tax Assessment Act 1997 (Cwlth) or the Income Tax Assessment Act 1936 (Cwlth) as relevant.

Tax Opinion means the tax letter from the Tax Opinion Provider included in the Explanatory Memorandum.

Tax Opinion Provider means the provider of the tax opinion in respect of the Proposal appointed by Target RE.

Tax means any tax, levy, impost, charge and duty (including stamp and transaction duties), land tax, sales tax, payroll tax, superannuation guarantee charge, fringe benefits tax, withholding tax, PAYG liabilities tax, deductions on account of taxes, franking related taxes, goods and services tax, debits tax, customs duties, excise duties, rates, municipal taxes, social security levies, environmental taxes or charges, any amount payable pursuant to Division 721 of the Tax Act or section 444-90 of the *Taxation Administration Act 1953*, any amount payable on account of or in connection with FATCA or any other taxes however so described imposed by any Government Agency together with any related interest, penalties, charges, fines, fees and expenses in connection with any of the foregoing.

Timetable means the timetable set out in Schedule 4.

Third Party means a person other than DEXUS Funds Management Limited (whether in its capacity as responsible entity of DDF, DIT, DOT DXO or otherwise) and its Associates. For the purposes of this definition, Investa Listed

Funds Management Limited will not be taken to be an Associate of DEXUS Funds Management Limited.

Total Cash Pool means \$505,299,653.1882.

Total Scrip Pool means 260,358,754.748731 DEXUS Property Group Securities.

Trading Cessation Date means the Effective Date or another date determined by ASX.

Trust Account means the trust account nominated by the Bidder, the details of which must be notified in writing to the Target RE at least 5 Business Days before the Implementation Date.

1.2 References to certain general terms

Unless the contrary intention appears, a reference in this agreement to:

- (a) **(variations or replacement)** a document (including this agreement) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this agreement;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(law)** law means common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any Regulatory Authority;
- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (h) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (i) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (j) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;

- (k) **(calculation of time)** a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (l) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (m) **(accounting terms)** an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (n) **(meaning not limited)** the words “include”, “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (o) **(time of day)** time is a reference to Sydney time; and
- (p) **(disclosed)** a matter will be disclosed if it is included in the Data Room.

1.3 Fairly disclosed

A matter will be fairly disclosed if sufficient information has been disclosed that a person experienced in transactions of the nature described in this agreement would be aware of the nature and import of the information.

1.4 Next Business Day

If an event must occur on a stipulated day which is not a Business Day then the stipulated day will be taken to be the next Business Day.

1.5 Reasonable endeavours

Any provision of this agreement that requires a party to use reasonable endeavours, or to take all steps reasonably necessary, to procure that something is performed or occurs, requires that party to do so as soon as is reasonably practicable, but does not include any obligation:

- (a) to pay any significant sum of money or to provide any significant financial compensation, valuable consideration or any other incentive to or for the benefit of any person, except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority or fees to any professional advisers; or
- (b) to commence any legal action or proceeding against any person, to procure that that thing is done or happens,

except where that provision expressly specifies otherwise.

1.6 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this agreement.

2 Agreement to propose and implement the Proposal and due diligence

2.1 Target RE to propose the Proposal

Target RE agrees to propose the Proposal on and subject to the terms and conditions of this agreement and will use all reasonable endeavours to do so as soon as reasonably practicable and otherwise in accordance with the Timetable.

2.2 Agreement to implement the Proposal

The parties agree to implement the Proposal on the terms and conditions of this agreement and will use all reasonable endeavours to do so as soon as reasonably practicable and otherwise in accordance with the Timetable.

2.3 Nominee

- (a) Prior to the date the Regulator's Draft is provided to ASIC for review, the Bidder may nominate a Nominee to acquire the Target Securities. If the Bidder nominates a Nominee then the Nominee will have all the obligations of the Bidder under this agreement and the terms of the Proposal to acquire the Target Securities and to provide, or procure the provision of, the Proposal Consideration.
- (b) If a Nominee is appointed, the Bidder must take all steps necessary to procure that the Nominee complies with its obligations to acquire the Target Securities and to provide, or procure the provision of, the Proposal Consideration.

3 Conditions precedent

3.1 Conditions precedent

Subject to this clause 3, the Proposal will not become Effective and the respective obligations of the parties in relation to the implementation of the Proposal are conditional on the satisfaction of each of the Conditions Precedent contained in Schedule 3 to the extent and in the manner set out in clauses 3.2 and 3.4.

3.2 Benefit of certain Conditions Precedent

A Condition Precedent may only be waived in writing by the party entitled to the benefit of that Condition Precedent as noted in the table set out in Schedule 3 and will be effective only to the extent specifically set out in that waiver. If both parties are entitled to the benefit of a Condition Precedent then both parties must sign the waiver.

A party entitled to waive the breach or non-fulfilment of a Condition Precedent under this clause 3.2 may do so in its absolute discretion.

3.3 Waiver of Conditions Precedent

If either the Target RE or the Bidder (or both if necessary) waives the breach or non-fulfilment of a Condition Precedent in accordance with this clause, then:

- (a) subject to subclause 3.3(b), that waiver precludes any party from suing any other for any breach of this agreement arising as a result of the breach or non-fulfilment of that Condition Precedent or arising from the same event which gave rise to the breach or non-fulfilment of that Condition Precedent; but
- (b) if the waiver of the Condition Precedent is itself conditional and the other party:
 - (i) accepts the condition, the terms of that condition apply notwithstanding any inconsistency with subclause 3.3(a); or
 - (ii) does not accept the condition, the Condition Precedent has not been waived.

3.4 Reasonable endeavours

- (a) Target RE agrees to use all reasonable endeavours to procure that:
 - (i) each of the Target Conditions Precedent:
 - (A) is satisfied as soon as practicable after the date of this agreement; and
 - (B) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
 - (ii) there is no occurrence that would prevent the Target Conditions Precedent being satisfied.
- (b) The Bidder agrees to use all reasonable endeavours to procure that:
 - (i) each of the Bidder Conditions Precedent:
 - (A) is satisfied as soon as practicable after the date of this agreement; and
 - (B) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
 - (ii) there is no occurrence that would prevent the Bidder Conditions Precedent being satisfied.

3.5 Regulatory matters

- (a) Without limiting clause 3.4 but subject to clause 3.6, each of Target RE and the Bidder must promptly apply for all relevant Regulatory Approvals and take all steps it is responsible for as part of the approval process, including responding to requests for information at the earliest practicable time.

- (b) A Regulatory Approval will be regarded as having been obtained notwithstanding that a condition or conditions may have been attached to that Regulatory Approval if that condition is reasonably satisfactory to the party or parties entitled to the benefit of the condition.

3.6 Provision of undertakings

Notwithstanding any other provision of this agreement, for the purposes of satisfying any Regulatory Approval, no party is required to agree to any adverse conditions or to provide or to agree to provide any adverse written undertakings to a Regulatory Authority which are not acceptable to that party.

3.7 Notices in relation to Conditions Precedent

Each of Target RE and the Bidder must:

- (a) **(notice of satisfaction)** promptly notify the other of satisfaction of a Condition Precedent and must keep the other informed of any material development of which it becomes aware that may lead to the breach or non-fulfilment of a Condition Precedent;
- (b) **(notice of failure)** promptly give written notice to the other of a breach or non-fulfilment of a Condition Precedent, or of any event which will or is likely to prevent a Condition Precedent being satisfied; and
- (c) **(notice of waiver)** on receipt of a notice given under paragraph (b), give written notice to the other of them as soon as possible (and in any event before 5.00pm on the day before the Meeting Date) as to whether or not it waives the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of that event, specifying the Condition Precedent in question,

3.8 Effect of waiver or non-fulfilment

A waiver of a breach or non-fulfilment in respect of one Condition Precedent does not constitute:

- (a) a waiver of the breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
- (b) a waiver of the breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.9 Consultation on failure of Condition Precedents

If:

- (a) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this agreement by the time or date specified in this agreement for the satisfaction of the Condition Precedent;
- (b) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this agreement for the satisfaction of the Condition Precedent (and the breach or non-

fulfilment which would otherwise occur has not already been waived in accordance with this agreement); or

- (c) if the Proposal has not become Effective by the End Date,

then the parties must consult in good faith with a view to determining whether:

- (d) the Proposal may proceed by way of alternative means or methods;
- (e) to extend the relevant time for satisfaction of the Condition Precedent; or
- (f) to extend the End Date.

3.10 Failure to agree

If the parties are unable to reach agreement under clause 3.9 within 5 Business Days (or any shorter period ending at 5.00pm on the day before the Meeting Date):

- (a) subject to subclause 3.10(b), any party may terminate this agreement (and that termination will be in accordance with clause 14.1(d)(ii)(A)); or
- (b) if a Condition Precedent may be waived and exists for the benefit of one party only, that party only may waive that Condition Precedent or terminate this agreement (and that termination will be in accordance with clause 14.1(d)(ii)(B)),

in each case before 8.00am on the Meeting Date. A party will not be entitled to terminate this agreement pursuant to this clause 3.10 if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of:

- (c) in the case of Target RE, a breach of this agreement by Target RE or a deliberate act or omission of Target RE; or
- (d) in the case of the Bidder, a breach of this agreement by the Bidder or a deliberate act or omission of the Bidder.

3.11 Third Party consents – reasonable endeavours obligations

Target RE undertakes to use reasonable endeavours provide assistance (or to procure that assistance is provided) that is reasonably requested by Bidder in connection with obtaining any Third Party consents that the Bidder (acting reasonably) considers are necessary or desirable for the implementation of the Proposal.

4 Outline of Proposal

4.1 The Proposal

Subject to clause 3.1, on the Implementation Date:

- (a) all of the Target Securities will be acquired by the Bidder; and

- (b) each Proposal Participant will be entitled to receive the Proposal Consideration.

4.2 Provision of Proposal Consideration

The Bidder undertakes to Target RE (in its own right) that, subject to the terms of this agreement, if the Proposal becomes Effective, and in consideration for the transfer to Bidder of each Target Security held by a Proposal Participant under the Proposal:

- (a) it will accept the transfer of Target Securities; and
- (b) it will provide to each Proposal Participant (or, in respect of any cash payable to a Proposal Participant, to Target RE on trust for each Proposal Participant) the Proposal Consideration, consistent with clause 4.13 (“Ineligible Overseas Target Securityholders and Minimum Holders”) and clause 4.15 (“Fractional Entitlements”) and the terms of the Proposal.

To facilitate the provision of the Proposal Consideration, in accordance with the Proposal and the Deed Poll:

- (c) **(Scrip and Cash Consideration (Scrip Component))** for the Scrip Component of the Scrip and Cash Consideration, the Maximum Scrip Election or any DEXUS Property Group Securities to be issued to a person making a Maximum Cash Election, the Bidder will issue the applicable number of DEXUS Property Group Securities to each applicable Proposal Participant in accordance with the terms of the Proposal before the transfer of the Target Securities on the Implementation Date.
- (d) **(Scrip and Cash Consideration (Cash Component))** for the Cash Component of the Scrip and Cash Consideration, the Maximum Cash Election or any cash payable to a person making a Maximum Scrip Election:
 - (i) the Bidder must by 12:00pm on the business day before the Implementation Date, deposit into the Trust Account an amount in Australian currency and in immediately available funds equal to the Total Cash Pool;
 - (ii) Target RE must receive and hold the amount received from the Bidder under clause 4.2(d)(i) in the Trust Account as trustee for the Proposal Participants, and on the Implementation Date must draw on that amount to pay to each applicable Proposal Participant an amount in Australian currency to which that Proposal Participant is entitled as the Cash Component of the Scrip and Cash Consideration, an amount pursuant to the Maximum Cash Election or any cash payable to a person making a Maximum Scrip Election in accordance with the Proposal, either by:
 - (A) electronic funds transfer to either an account nominated by the Proposal Participant in their Election Form or, if no account is so nominated, the account of the Proposal Participant with the bank or other financial institution nominated by them for receipt of distributions on their Target Securities; or

- (B) cheque sent by pre-paid post:
 - (aa) in the case of Proposal Participants who are registered as holding the Target Securities jointly – to the address recorded in the Register at the Record Date of the person whose name appears first in the Register in respect of the joint holding; or
 - (bb) otherwise – to the Proposal Participant's address recorded in the Register at the Record Date.

4.3 Elections - general

- (a) A Target Securityholder may make an election to receive one of the following:
 - (i) the Standard Consideration;
 - (ii) the Maximum Cash Consideration; or
 - (iii) the Maximum Scrip Consideration,for all their Target Securities by completing the Election Form, such election being subject to clauses 4.7, 4.13, 4.14 and clause 4.15.
- (b) For an election to be valid, the Target Securityholder must complete and sign the Election Form in accordance with the instructions in the Explanatory Memorandum and on the Election Form and the Election Form must be received by the Registry by the Election Date at the address specified in the Explanatory Memorandum and on the Election Form.
- (c) An election made by a Target Securityholder, whether valid or not, will be irrevocable unless the Bidder in its discretion agrees to the revocation of the election (such discretion to be exercised fairly and equitably having regard to the circumstances at the time).
- (d) Subject to clause 4.3(e), an election made or deemed to be made by a Target Securityholder under this clause 4 will be deemed to apply in respect of the Target Securityholder's entire registered holding of Target Securities at the Record Date, regardless of whether the Target Securityholder holding of Target Securities at the Record Date is greater or less than the Target Securityholder's holding of Target Securities at the time it made its election.
- (e) A Target Securityholder who is noted on the Register as holding one or more parcels of Target Securities as trustee or nominee for, or otherwise on account of, another person, may in the manner considered appropriate by the Bidder and the Target RE (acting reasonably including after consultation with the Registry), make separate elections under this clause in relation to each of those parcels of Target Securities (subject to it providing to the Bidder and the Target RE any substantiating information they reasonably require), and an election made in respect of any such parcel, or an omission to make an election in respect of any such parcel, will not be taken to extend to the other parcels.

- (f) Subject to clauses 4.3(g) and 4.3(h), an Election Form will not be valid unless it is completed and received in accordance with the procedures set out in clause 4.3(b).
- (g) The Bidder will determine, in its sole discretion, all questions as to the correct completion of an Election Form, and time of receipt of an Election Form. The Bidder is not required to communicate with any Target Securityholder prior to making this determination. The determination of the Bidder will be final and binding on the Target Securityholder.
- (h) Notwithstanding clause 4.3(b), the Bidder may, in its sole discretion, at any time and without further communication to Target Securityholder, deem any Election Form that has been received from a Target Securityholder to be a valid election in respect of the relevant Target Securities, even if a requirement for a valid election has not been complied with.

4.4 Standard Consideration if election not made

If a valid election is not made by a Target Securityholder or no election is made by a Target Securityholder, then that Target Securityholder will be deemed to have elected to receive Standard Consideration in respect of all of their Target Securities.

4.5 Maximum Cash Consideration

If a Proposal Participant makes a Maximum Cash Election, the Proposal Participant will be entitled to receive for each Target Security held by that Proposal Participant at the Record Date:

- (a) if the Available Cash Consideration is not required by clause 4.5(c) to be pro rated amongst Target Securityholders who make a Maximum Cash Election, the Implied Announcement Value in cash per Target Security; and
- (b) if the Available Cash Consideration is required by clause 4.5(c) to be pro rated amongst Proposal Participants who make a Maximum Cash Election:

- (i) an amount of cash per Target Security calculated as follows:

$$A \div B$$

Where:

A = the Available Cash Consideration;

B = the total number of Target Securities held at the Record Date by all Proposal Participants who make a Maximum Cash Election; and

- (ii) a number of DEXUS Property Group Securities per Target Security calculated as follows:

$$(\text{Implied Announcement Value} - X) \div Y$$

Where:

X = the amount of cash per Target Security determined in accordance with clause 4.5(b)(i); and

Y = the DEXUS Reference Price of a DEXUS Property Group Security.

- (c) For the purpose of this clause 4.5, the Available Cash Consideration is required to be pro-rated amongst the Proposal Participants who make a Maximum Cash Election if the amount determined by multiplying the Implied Announcement Value by the total number of Target Securities held by all Proposal Participants making a Maximum Cash Election exceeds the Available Cash Consideration.

4.6 Maximum Scrip Consideration

If a Proposal Participant makes a Maximum Scrip Election then, subject to clauses 4.13, 4.14 and 4.15, the Proposal Participant will be entitled to receive for each Target Security held by that Proposal Participant at the Record Date:

- (a) if the Available Scrip Consideration is not required to be pro rated by clause 4.6(c) amongst Proposal Participants who make a Maximum Scrip Election, a number of DEXUS Property Group Securities per Target Security equal to the Scrip Equivalent of the Implied Offer Number; and
- (b) if the Available Scrip Consideration is required by clause 4.6(c) to be pro rated amongst Proposal Participants who make a Maximum Scrip Election:

- (i) a number of DEXUS Property Group Securities per Target Security calculated as follows, provided that such number is not to exceed the Scrip Equivalent of the Implied Offer Number:

$$A \div B$$

Where:

A = the Available Scrip Consideration;

B = the total number of Target Securities held at the Record Date by all Proposal Participants who make a Maximum Scrip Election; and

- (ii) an amount of cash per Target Security calculated as follows:

$$\text{Implied Announcement Value} - (X \times Y)$$

Where:

X = the number of DEXUS Property Group Securities per Target Security determined in accordance with clause 4.6(b)(i)(A); and

Y = the DEXUS Reference Price of a DEXUS Property Group Security.

- (c) For the purpose of this clause, the Available Scrip Consideration is required to be pro-rated amongst Proposal Participants who make a

Maximum Scrip Election if the number of DEXUS Property Group Securities determined by multiplying the Scrip Equivalent of the Implied Offer Number by the total number of Target Securities held by all Proposal Participants who make a Maximum Scrip Election exceeds the Available Scrip Consideration.

4.7 Joint holders

In the case of Target Securities held in joint names:

- (a) any amount comprising the cash component of the Proposal Consideration payable in respect of those Target Securities is payable to the joint holders and any cheque required to be sent under the Proposal will be made payable to the joint holders and sent to either, at the sole discretion of the Target RE, the holder whose name appears first in the Register as at the Record Date or to the joint holders;
- (d) any DEXUS Property Group Securities to be provided under the Proposal must be provided to and registered in the names of the joint holders; and
- (e) any other document required to be sent under the Proposal, will be forwarded to either, at the sole discretion of the Target RE, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

4.8 Unclaimed monies

- (a) The Target RE may cancel a cheque issued under this clause 4 if the cheque:
 - (i) is returned to the Target RE; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Proposal Participant to the Target RE (or the Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), the Target RE must reissue a cheque that was previously cancelled under this clause 4.8.
- (c) The Unclaimed Money Act 1995 (NSW) will apply in relation to any Proposal Consideration which becomes 'unclaimed money' (as defined in section 3 of the Unclaimed Money Act 1995 (NSW)).

4.9 Orders of a court or Government Agency

If written notice is given to the Bidder, the Target RE (or either or their respective registry services providers) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Target Securities held by a particular Proposal Participant, which would otherwise be payable or required to be provided to that Proposal Participant by the Target RE or Bidder in accordance with this clause, then Target RE shall be entitled to provide that consideration is made in accordance with that order or direction; or

- (b) prevents Target RE or Bidder from providing consideration to any particular Proposal Participant in accordance with clause 4, or the payment or issuance of such consideration is otherwise prohibited by applicable law, the Target RE or Bidder shall be entitled to (as applicable):
 - (i) retain an amount, in Australian dollars, equal to the cash component of the Proposal Consideration to which that Proposal Participant would otherwise be entitled to under this clause 4; and
 - (ii) not issue DEXUS Property Group Securities that a Target Securityholder would otherwise be entitled to under this clause 4,

until such time as provision of the consideration in accordance with this clause 4 is permitted by that order or direction or otherwise by law.

4.10 Total Proposal Consideration

- (a) Subject to clause 4.10(b), to avoid doubt and notwithstanding any other provision of this agreement, no more than a total of the Total Cash Pool and a total of the Total Scrip Pool (collectively, the Total Proposal Consideration) will be provided by the Bidder as Proposal Consideration, and if for any reason a greater total amount or total number of DEXUS Property Group Securities would (but for this clause 4.10) be required to be provided by the DEXUS Property Group Securities, the requirement (or requirements) for provision of the same will be reduced (in such manner as the Bidder and the Target RE consider equitable) to ensure that no more than the Total Proposal Consideration is provided.
- (b) The limitation in clause 4.10(a) will not apply to the extent that a greater total amount of cash or total number of DEXUS Property Group Securities than the Total Proposal Consideration would be required to be provided by the Bidder under the Proposal due to any rounding applied in the application of the formulae contained in the definitions of DEXUS Reference Price, Implied Announcement Value or Scrip Equivalent of the Implied Offer Number or in accordance with clause 4.15 and the requirement (or requirements) for provision of Proposal Consideration will be increased (in such manner as the Bidder and the Target RE consider equitable) to take account of such issues.

4.11 Recognising dealings in Target Securities

For the purposes of the Proposal, Target RE must recognise only the following dealings in Target Securities:

- (a) for dealings of the type effected using CHES – dealings where the transferee is registered in the Register as the holder of the relevant Target Securities by the Record Date; and
- (b) for other types of dealings – dealings:
 - (i) that occurred before the close of business on the Trading Cessation Date; and

- (ii) in respect of which a registrable transmission application or transfer in registrable form is received at or before the Record Date at the place where the Register is kept.

Otherwise, Target RE must not register or recognise for any purpose any dealing in Target Securities.

4.12 Register

Target RE must:

- (a) register any transmission applications or transfers which comply with and are received in accordance with clause 4.12(b) before, or as soon as practicable after, the Record Date; and
- (b) otherwise maintain the Register in accordance with clause 4.11 (“Recognising dealings in Target Securities”).

The Register in this form is the sole basis for determining rights to Proposal Consideration.

4.13 Ineligible Overseas Target Securityholders and Minimum Holders

- (a) Each Ineligible Overseas Target Securityholder must participate in the sale facility in accordance with clause 4.14.
- (b) Each Minimum Holder may elect to have the DEXUS Property Group securities that they would receive under the Proposal sold through the sale facility in accordance with clause 4.14 (**Electing Minimum Holder**).

4.14 Sale facility

- (a) The Bidder will issue to a nominee appointed by the Bidder DEXUS Property Group Securities to which an Ineligible Overseas Target Securityholder or Electing Minimum Holder would otherwise be entitled under the Proposal.
- (b) The Bidder will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the nominee:
 - (i) sells on the financial market conducted by ASX all of the DEXUS Property Group Securities issued to the nominee pursuant to clause 4.14(a) in the manner, at the price and on the other terms that the nominee determines in good faith and at the risk of the Ineligible Overseas Target Securityholders and Electing Minimum Holders; and
 - (ii) remits to the Bidder the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- (c) Promptly after the last sale of DEXUS Property Group Securities in accordance with clause 4.14(b)(i), the Bidder will pay to each Ineligible

Overseas Target Securityholder and Electing Minimum Holder an amount equal to the proportion of the net proceeds of sale received by the Bidder pursuant to clause 4.14(b)(ii) to which that Ineligible Overseas Shareholder or Electing Minimum Holder is entitled in full satisfaction of the Ineligible Overseas Shareholder's or Electing Minimum Holder's right to the relevant DEXUS Property Group Securities.

- (d) Each Ineligible Overseas Target Securityholder and Electing Minimum Holder appoints the Target RE as its agent to receive on its behalf any financial services guide or other notices which may be given by the nominee appointed by the Bidder to the relevant Ineligible Overseas Target Securityholder or Electing Minimum Holder.

4.15 Fractional entitlements

- (a) If the number of Target Securities held by a Proposal Participant means that their aggregate entitlement to DEXUS Property Group Securities is not a whole number, that fractional entitlement will be rounded down to zero DEXUS Property Group Securities.
- (b) If the Bidder and Target RE are of the opinion (acting reasonably) that two or more Proposal Participants (each of whom holds a number of Target Securities which results in rounding in accordance with clause 4.15(a)) have, before the Record Date, been party to security splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Target RE may give notice to those Proposal Participants:
 - (i) setting out their names and registered addresses as shown in the Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Target Securities held by all of them,

and, after such notice has been given, the Proposal Participant specifically identified in the notice as the deemed holder of all the specified Target Securities will be taken to hold all of those Target Securities and each of the other Proposal Participants whose names and registered addresses are set out in the notice will be taken to hold no Target Securities. Target RE, in complying with the provisions of this agreement relating to it in respect of the Proposal Participant specifically identified in the notice as the deemed holder of all the specified Target Securities, will be taken to have satisfied and discharged its obligations to the other Proposal Participants named in the notice.

- (c) Where the calculation of the Proposal Consideration to be provided to a particular Proposal Participant would result in the Proposal Participant becoming entitled to a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

4.16 New DEXUS Property Group Securities

The Bidder covenants in favour of Target RE (in its own right and on behalf of each Proposal Participant) that:

- (a) it will procure that all new DEXUS Property Group Securities issued pursuant to clause 4.2 will, upon their issue, rank equally with all other DEXUS Property Group Securities then on issue;
- (b) it will do everything reasonably necessary to ensure that trading in the new DEXUS Property Group Securities commences no later than the first Business Day after the Implementation Date; and
- (c) on issue, each new DEXUS Property Group Security will be fully paid and free from any Encumbrance.

4.17 No amendment to the Proposal without consent

Target RE must not consent to any modification of, or amendment to, the Proposal without the prior written consent of the Bidder.

5 Co-operation and timing

5.1 General obligations

Target RE and the Bidder will use all reasonable endeavours and commit necessary resources (including management and corporate relations resources and the resources of external advisers) to produce the Explanatory Memorandum and implement the Proposal as soon as reasonably practicable and in accordance with the Timetable.

5.2 Access to people and Target information

Between the date of this agreement and the earlier of 5.00pm on the Business Day immediately before the Implementation Date and the date this agreement is terminated, the Target RE must:

- (a) as soon as is reasonably practicable use reasonable endeavours to provide the Bidder and its officers and advisers with any documents, records and other information (subject to any existing confidentiality obligations owed to third parties, or applicable privacy laws) reasonably requested by them; and
- (b) use reasonable endeavours to provide the Bidder and its officers and advisers with reasonable access to its officers, agents, advisers and the officers of any of its property or investment management agents which the Bidder reasonably requires for the purposes of:
 - (i) understanding Target's financial position (including its cashflow and working capital position), trading performance and management control systems;
 - (ii) implementing the Proposal;

- (iii) preparing for carrying on the business of Target following implementation of the Proposal;
- (iv) applying for all relevant Regulatory Approvals; or
- (v) any other purpose which is agreed in writing between the parties.

5.3 Voting proxies information

- (a) Target RE must ensure that the Registry delivers to the Bidder on the date three weeks before the date of the Meeting, on the date two weeks before the date of the Meeting, and each Business Day in the week prior to the date of the Meeting (inclusive) a computerised list of the total number of voting proxies in respect of the Proposal Resolutions delivered by Target Securityholders to Target RE, providing details of the aggregate number of proxies in favour of, against and abstaining from the relevant Proposal Resolutions and the aggregate number of Target Securities to which those proxies relate.
- (b) Target RE must ensure that the Registry delivers to the Bidder on the date three weeks before the date of the Meeting, on the date two weeks before the date of the Meeting, and each Business Day in the week prior to the date of the Meeting (inclusive), a computerised list of the total number of Target Securities the subject of a, Standard Election, Maximum Scrip Election or Maximum Cash Election, providing details of the aggregate number of Target Securities to which those elections relate.

5.4 Target Securityholder documents

Target RE must provide the Bidder with copies of any documents sent to any Target Securityholder in relation to the Proposal, including any documents regarding the ability of a Target Securityholder to vote at the Meeting.

6 Implementation obligations of the parties

6.1 Target RE's obligations

The Target RE must comply with the obligations of the Target RE set out in Schedule 5 and take all reasonable steps to implement the Proposal as soon as is reasonably practicable and in any event prior to the End Date.

6.2 Bidder's obligations

The Bidder must comply with the obligations of the Bidder set out in Schedule 6 and take all reasonable steps to assist the Target RE to implement the Proposal as soon as reasonably practicable and in any event before the End Date.

7 Explanatory Memorandum

7.1 Preparation

Without limiting clauses 6.1 or 6.2:

- (a) **(preparation)** the Target RE is generally responsible for the preparation of the Explanatory Memorandum but will provide drafts to and consult with the Bidder in accordance with clause 7.2;
- (b) **(Target compliance)** Target RE must take all necessary steps to ensure that the Target Information:
 - (i) complies with the requirements of:
 - (A) the Corporations Act;
 - (B) Regulatory Guide 74;
 - (C) Guidance Note 15;
 - (D) the Listing Rules; and
 - (E) any other applicable law; and
 - (ii) is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (including because of any material omission).
- (c) **(Bidder Information compliance)** The Bidder must take all necessary steps to ensure that the Bidder Information:
 - (i) complies with the requirements of:
 - (A) the Corporations Act;
 - (B) Regulatory Guide 74;
 - (C) Guidance Note 15;
 - (D) the Listing Rules; and
 - (E) any other applicable law; and
 - (ii) is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (including because of any material omission).

7.2 Content of Explanatory Memorandum

The Target RE must:

- (a) **(consult Bidder):**
 - (i) provide to the Bidder a draft of the Explanatory Memorandum for the purpose of enabling the Bidder to review and comment on that draft document;
 - (ii) take the comments made by the Bidder into account in good faith when producing a revised draft of the Explanatory Memorandum; and
 - (iii) provide to the Bidder a reasonably complete draft of the Explanatory Memorandum within a reasonable time before the Regulator's Draft is finalised and to enable the Bidder to review the Regulator's Draft before its submission;
- (b) **(amend Explanatory Memorandum)** implement any reasonably requested changes to those parts of the Explanatory Memorandum relating to the Bidder which are provided in accordance with clause 7.2(a) by the Bidder and before finalising the Regulator's Draft;
- (c) **(Regulatory Review Period)** during the Regulatory Review Period:
 - (i) promptly provide to the Bidder, and include in a revised draft of the Explanatory Memorandum, any new information not included in the Regulator's Draft which is required by the Corporations Act, Corporations Regulations, ASIC Regulatory Guide 74 or the Listing Rules to be included in the Explanatory Memorandum; and
 - (ii) keep the Bidder informed of any matters raised by ASIC in relation to the Explanatory Memorandum and use all reasonable endeavours, in co-operation with the Bidder, to resolve those matters; and
- (d) **(Bidder Information)** obtain approval from the Bidder for the form and context in which the Bidder Information appears in the Explanatory Memorandum which approval must not be unreasonably delayed or withheld.

7.3 Bidder Information

The Bidder:

- (a) must consult with the Target RE as to the content of the Bidder Information;
- (b) must not unreasonably delay or withhold its consent to the inclusion of Bidder Information in the form, content and context provided by the Bidder in the Explanatory Memorandum; and

- (c) acknowledges that it is responsible for ensuring that the Bidder Information is not misleading or deceptive in any material respect (whether by omission or otherwise) and that the Target RE will not verify or edit that information in the Explanatory Memorandum.

7.4 Responsibility statement

Without limiting this clause 7, the Explanatory Memorandum must include a responsibility statement, in a form to be agreed by the parties which will contain words to the effect that:

- (a) the Target RE has provided, and is responsible for the Target Information in the Explanatory Memorandum, and that the Bidder and the Bidder Indemnified Parties do not accept any responsibility for the accuracy or completeness of the Target Information;
- (b) the Bidder has provided, and is responsible for, the Bidder Information in the Explanatory Memorandum, and that Target RE and the Target Indemnified Parties do not accept any responsibility for the accuracy or completeness of the Bidder Information;
- (c) the Independent Expert has provided and is responsible for the Independent Expert's report and that:
 - (i) Target RE and the Target Indemnified Parties do not assume any responsibility for the accuracy or completeness of the Independent Expert's report; and
 - (ii) the Bidder and the Bidder Indemnified Parties do not assume any responsibility for the accuracy or completeness of the Independent Expert's report; and
- (d) Tax Opinion Provider has provided and is responsible for the Tax Opinion and that:
 - (i) Target RE and the Target Indemnified Parties do not assume any responsibility for the accuracy or completeness of the Tax Opinion; and
 - (ii) the Bidder and the Bidder Indemnified Parties do not assume any responsibility for the accuracy or completeness of the Tax Opinion.

7.5 Misleading or deceptive information

Until the Implementation Date, each party must promptly inform the other if it becomes aware that any information in the Explanatory Memorandum, in the form and context in which it appears in the Explanatory Memorandum, is or has become misleading or deceptive in any material respect (whether by omission or otherwise) having regard to applicable disclosure requirements and provide to the other party any further or new information that is required to ensure that the information in the Explanatory Memorandum is no longer misleading or deceptive in any material respects. The parties will cooperate with each other to ensure

that the Explanatory Memorandum or the information contained in it is updated accordingly.

7.6 Disagreement on content

If the Bidder and the Target RE disagree on the form or content of the Explanatory Memorandum other than the Bidder Information, they must consult in good faith to try to settle an agreed form of the Explanatory Memorandum. If complete agreement is not reached after reasonable consultation, then:

- (a) if the disagreement relates to the form or content of the Bidder Information contained in the Explanatory Memorandum, the Target RE will make the amendments that the Bidder reasonably requires; and
- (b) if the disagreement relates to the form or content of any other part of the Explanatory Memorandum, the Target RE Independent Directors will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Memorandum.

7.7 Verification

Each party must undertake appropriate verification processes for the information supplied by that party which is included in the Explanatory Memorandum.

8 IBC recommendation

8.1 Obligations of the IBC

Target RE acknowledges that the IBC has resolved that it is their intention:

- (a) to unanimously recommend that Target Securityholders vote in favour of the Proposal, including in the announcement and Explanatory Memorandum subject only to the qualifications in clause 8.2;
- (b) to not withdraw or modify the recommendations described in this clause; and
- (c) to not make any public statement to the effect, or take any other action that suggests, that the Proposal Resolutions are no longer recommended unanimously.

unless permitted to do so under clause 8.2

8.2 Changes to recommendation

A Target RE Independent Director will not modify or withdraw the recommendation or a new Target RE Independent Director will not make a different recommendation to the recommendation of the IBC described in clause 8.1 unless:

- (a) the Independent Expert opines in the Independent Expert's report, or changes its previously given opinion, to one that the Proposal is not in the best interests of Target Securityholders (which, for the avoidance of

doubt, does not include a situation in which the Independent Expert opined that the Proposal is in the best interests of Target Securityholders notwithstanding that it is not fair but is reasonable);

- (b) there is a Superior Proposal; or
- (c) the Target RE Independent Director has determined, after receiving written financial advice from Target RE's financial advisers and written legal advice from Target RE's legal adviser (who must be a reputable legal adviser experienced in transactions in the nature of this agreement), that the Target RE Independent Director, by virtue of his or her statutory and fiduciary duties is required to (as relevant) make a different recommendation or change, withdraw or modify his or her recommendation.

9 Conduct of Business

9.1 Ordinary course

From the date of this agreement up to and including the Implementation Date, the Target RE must, except with the prior written consent of the Bidder, procure that all members of the Target Group and all service providers (as relevant and to the extent it is within their power or control):

- (a) conduct the business of the Target Group in the ordinary and proper course and in substantially the same manner as previously conducted before the date of this agreement and must not make any significant change to the nature or scale of any activity comprised in the business;
- (b) conduct the business and operations of the Target Group in accordance with all applicable laws and regulations including operating and managing each Property in a manner consistent with practices in effect prior to the date of this agreement;
- (c) acting reasonably, preserve materially their relationship with suppliers, lessees, licensors, licensees, joint venturers and others having business dealings with it;
- (d) protect and maintain each physical asset of the Target Group (including any Property) consistently with the existing practices and must maintain the current insurance in respect of those assets which are insurable;
- (e) do not remove any personal property, except as required for necessary repair or replacement, from the Properties;
- (f) do not make any material alterations to the Properties unless such alterations are required under contracts or commitments in place prior to the date of this agreement that have been fairly disclosed to the Bidder ;
- (g) keep and maintain proper records of all their dealings and transactions relating to the Target Group, its business and operations;

- (h) acting commercially reasonably, pay all amounts to trade or other creditors consistently with their existing payment processes and taking into account all applicable payment terms;
- (i) acting commercially reasonably, manage and collect debts owing by trade and other debtors consistently with their existing debtor management processes and taking into account all applicable payment terms;
- (j) do not renew, modify, terminate or enter into any lease, licence or other arrangement affecting the Properties;
- (k) use their reasonable endeavours to ensure that the Target does not become a trading trust within the meaning of Division 6C of Part III of the Tax Act;
- (l) ensure that no member of the Target Group:
 - (i) settles or compromises or makes any concessions in relation to any Tax claims, liabilities or disputes; or
 - (ii) amends, seeks to amend, or otherwise changes any Tax assessment (unless such amendment or change is required by law, in which case the Target RE must provide written notice to the Bidder of any such proposed amendment or change within 10 Business Days of seeking such amendment or change);
- (m) do not make any modification to existing property or investment management arrangements (including any modification to fees payable pursuant to existing management arrangements) or terminate or waive any obligations under any existing property or investment management arrangements in relation to the Target or enter into any new property or investment management arrangements;
- (n) do not, without the prior written consent of the Bidder, make, at any time, any choice or election to become an attribution managed investment trust under the proposed attribution managed investment trust regime contained in Tax Laws Amendment (New Tax System for Managed Investment Trusts) Bill 2015 (Cth) (or any subsequent versions of the bill or any other legislative provisions enacted to give effect to the proposed regime).

9.2 Prohibited actions

Other than with the prior approval of the Bidder or as required by this agreement, the Target RE must not, during the period referred to in clause 9.1, take any action which would be reasonably expected to give rise to a Target Prescribed Event.

9.3 Permitted acts

- (a) Nothing in clause 9.1 and 9.2 restricts the Target RE or any member of the Target Group from doing any of the following permitted actions:

- (i) that is contemplated by this agreement;
 - (ii) to reasonably and prudently respond to an emergency or disaster or to address an occupational health and safety risk or issue that directly affects the Target Group's business or the Properties (including a situation giving rise to a risk of personal injury or damage to property);
 - (iii) that is necessary for Target RE or a Target Group member to meet a material contractual obligation or comply with an express statutory provision; or
 - (iv) approved by the Bidder in writing, such approval not to be unreasonably withheld or delayed.
- (b) The Bidder acknowledges that to the extent that it acquires information about lease negotiations or renegotiations by or on behalf of any Target Group members, that Bidder and DEXUS Property Group members will not use that information to the commercial detriment of the Target.

9.4 Target Distribution

Target RE may pay the Target Distribution at any time before the Implementation Date in accordance with the Target Constitutions.

9.5 Post-implementation obligation

Target RE agrees that after the Implementation Date, and for so long as it remains as responsible entity of the AJO Fund and the PCP Trust, it will not take any steps to deregister either the AJO Fund or the PCP Trust as a registered managed investment scheme under Chapter 5C of the Corporations Act.

10 Due diligence and reliance

10.1 Forward looking information

- (a) The Bidder acknowledges that the Target RE and its Representatives make no representation or warranty in respect of any information provided to the Bidder or its Representatives in respect of any future matter ("**Forward Looking Information**"). Without limiting this clause 10.1 and for the avoidance of doubt, neither the Target RE nor any of its Representatives make any representation or warranty as to the reasonableness, accuracy, completeness or relevance of any assumptions underlying any Forward Looking Information.
- (b) The Bidder acknowledges that:
 - (i) Forward Looking Information is inherently uncertain and may prove to be incorrect;
 - (ii) they have not relied on any Forward Looking Information in determining whether or not to enter into this agreement with the Target RE; and

- (iii) to the maximum extent permitted by law, the Target RE and its Representatives will not be liable for any Loss suffered by them or their Representatives using or acting on any Forward Looking Information irrespective of whether the Loss arises in relation to, in connection with or as a result of, any negligence, default or lack of care on the part of the Target RE or any of its Representatives.

10.2 Mutual acknowledgement

Each party agrees and acknowledges that:

- (a) the warranties set out in this agreement are the only warranties that it requires, and on which it has relied, in entering into this agreement; and
- (b) to the maximum extent permitted by law, all other warranties, representations, and undertakings (whether express or implied and whether oral or in writing) made or given by the other party or any of their Representatives are expressly excluded.

11 Exclusivity

11.1 No existing discussions

Target RE represents and warrants that:

- (a) the IBC has ceased negotiations and/or discussions including any negotiations and/or discussions with or regarding Investa Commercial Property Fund or any other person regarding a Competing Transaction; and
- (b) the IBC is not currently in negotiations or discussions in respect of any Competing Transaction with any other person.

From the date of this agreement, the Target RE will promptly enforce the terms of any confidentiality agreement entered into with a party other than the Bidder in relation to a Competing Transaction before the date of this agreement and will immediately request the return of all confidential information provided by Target RE.

11.2 No-shop

- (a) During the Exclusivity Period, the Target RE must not and must ensure that each of its Representatives does not directly or indirectly solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer, proposal or discussion by any person in relation to, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Transaction or communicate to any person an intention to do anything referred to in this clause 11.2.
- (b) Nothing in this clause 11.2 prevents the Target RE from continuing to make normal presentations to, and to respond to enquiries from, brokers,

portfolio investors and analysts in the ordinary course in relation to the Proposal or its business generally.

11.3 No-talk – general

Subject to clause 11.9, during the Exclusivity Period, Target RE must not, and must ensure that each of its Representatives do not, directly or indirectly:

- (a) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Transaction (as that is defined in part (b) of the definition of Competing Transaction) or participate in or continue any negotiations or discussions with respect to any actual, proposed or potential Competing Transaction;
- (b) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Transaction (as that is defined in part (b) of the definition of Competing Transaction);
- (c) disclose or otherwise provide any material non-public information about the business or affairs of the Target to a Third Party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to encourage or lead to receipt of, an actual, proposed or potential Competing Transaction (as that is defined in part (b) of the definition of Competing Transaction) (including, without limitation, providing such information for the purposes of the conduct of due diligence investigations in respect of the Target); or
- (d) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 11.3,

but nothing in this clause 11.3 prevents Target RE from making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Proposal.

11.4 No-talk – Internalisation Proposal, Responsible Entity Acquisition or Management Platform Proposal

During the Exclusivity Period, Target RE must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Transaction (as that is defined in part (a) of the definition of Competing Transaction) or participate in or continue any negotiations or discussions with respect to any actual, proposed or potential Competing Transaction;
- (b) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an

actual, proposed or potential Competing Transaction (as that is defined in part (a) of the definition of Competing Transaction);

- (c) disclose or otherwise provide any material non-public information about the business or affairs of the Target to a Third Party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to encourage or lead to receipt of, an actual, proposed or potential Competing Transaction (as that is defined in part (a) of the definition of Competing Transaction) (including, without limitation, providing such information for the purposes of the conduct of due diligence investigations in respect of the Target); or
- (d) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 11.4,

but nothing in this clause 11.4 prevents Target RE from making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Proposal.

Provided that Target RE has complied with clause 11.4, despite any other provision in this agreement, a change in ownership (either directly or indirectly) of the responsible entity of the Target or the 'Management Platform' (as that term is described on page 90 of the Target's Financial Report for the financial year ended 30 June 2015) and any consequences that arise as a result (whether direct or indirect) will not result in a breach of this agreement by the Target RE or constitute a Target Material Adverse Change.

11.5 Notification of Competing Transaction

- (a) Subject to clause 11.9, during the Exclusivity Period, Target RE must as soon as possible notify Bidder in writing if it, or any of its Representatives, becomes aware of any:
 - (i) negotiations or discussions, approach or attempt to initiate any negotiations or discussions, or intention to make such an approach or attempt to initiate any negotiations or discussions in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to an actual, proposed or potential Competing Transaction; or
 - (ii) proposal made to Target RE or any of its Representatives, in connection with, or in respect of any exploration or completion of, an actual, proposed or potential Competing Transaction, or
 - (iii) provision by Target RE or any of its Representatives of any non-public information concerning the business or operations of Target RE or Target to a Third Party (other than a Government Agency) in connection with an actual, proposed or potential Competing Transaction,

whether direct or indirect, solicited or unsolicited, and in writing or otherwise. For the avoidance of doubt, any of the acts described in paragraphs (A) to (C) may only be taken by Target RE if not otherwise proscribed by this agreement.

- (b) A notification given under clause 11.5(a) must include (1) the identity of the relevant person making or proposing the relevant actual, proposed or potential Competing Transaction; and (2) all material terms and conditions (including details as to value) of the actual, proposed or potential Competing Transaction.

11.6 Bidder opportunity to match

If Target RE or any of its Representatives receives:

- (a) an unsolicited approach with respect to a Competing Transaction which the Target RE Independent Directors believe is a Superior Proposal; or
- (b) an unsolicited approach with respect to a Competing Transaction for the purposes of paragraph (a) of the definition of Competing Transaction which the Target RE Independent Directors believe it should recommend that Target Securityholders approve or Target RE takes any steps to implement a Competing Transaction for the purposes of paragraph (a) of the definition of Competing Transaction,

during the Exclusivity Period, the Bidder may (in its sole discretion) either itself match, or procure a Controlled Entity of the Bidder to match, that Competing Transaction by giving written notice to Target RE of the offer by the date which falls 3 Business Days after the notification under clause 11.5(a) or if no notification is given under clause 11.5(a), the end of the Exclusivity Period.

11.7 Meeting to be held

If the Explanatory Memorandum in respect of the Proposal has been sent to Target Shareholders before the expiry of the 3 Business Day period set forth in clause 11.6 then, during that period, unless the Bidder requests in writing that the Meeting not proceed, Target RE must continue to take all steps reasonably necessary to hold the Meeting and to cause the Proposal to be voted on at the Meeting.

11.8 Postponement of Meeting

Where at any time before the Meeting:

- (a) a Competing Transaction has been publicly disclosed or announced; and
- (b) the 3 Business Day period under clause 11.6 has not elapsed;

then, at the Bidder's request, Target RE will:

- (c) postpone or adjourn the Meeting at the Meeting (but will not do so beforehand without the Bidder's consent) to a date acceptable to the Bidder, acting reasonably; and
- (d) if the Bidder and Target RE amend the terms of this agreement pursuant to clause 4.17, ensure that the details of the amended agreement are communicated to Target Securityholders prior to the resumption of the adjourned Meeting; and

Target RE and the Bidder acknowledge and agree that each successive Competing Transaction or modification thereof will constitute a new Competing Transaction for the purposes of the operation of this clause 11.8.

11.9 Exceptions

Clauses 11.3, 11.4 and 11.5 do not prohibit any action or inaction by Target RE or any of its Representatives in relation to an actual, proposed or potential Competing Transaction if compliance with that clause would, in the opinion of the the Target RE Independent Directors, formed in good faith, constitute, or would be likely to constitute, a breach of any of the fiduciary or statutory duties of the directors of the Target RE, provided that the actual, proposed or potential Competing Transaction was not directly or indirectly brought about by, or facilitated by, a breach of clause 11.2. This exception does not apply to clause 11.5(a) in relation to the information set out in clause 11.5(b)(2).

11.10 Equal access to information

Subject to confidentiality restrictions that may apply (and if such restrictions do apply, Target RE must use reasonable endeavours to have the relevant restrictions removed), if Target RE provides any information relating to Target RE or any of its business or operations to any person in connection with or for the purposes of a current or future Competing Transaction, the Target RE must promptly provide the Bidder with access to, or a copy of, that information.

11.11 Compliance with law

(a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 11 or any part of it:

- (i) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Target RE board;
- (ii) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
- (iii) was, or is, or would be, unlawful for any other reason,

then, to that extent (and only to that extent) Target RE will not be obliged to comply with that provision of clause 11.

(b) The parties must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 11.11.

11.12 Legal advice

The Target RE acknowledges that it has received legal advice on this agreement and the operation of this clause 11.

12 Reimbursement of costs

12.1 Background

This clause 12 has been agreed in circumstances where:

- (a) the Target RE believes that the Proposal will provide significant benefits to Target and the Target Securityholders, and the Target RE acknowledges that, if it enters into this agreement and the Proposal is subsequently not implemented the Bidder will incur significant costs;
- (b) the Bidder requested that provision be made for the payments outlined in clause 12.2, without which the Bidder would not have entered into this agreement; and
- (c) Target RE has received legal advice on this agreement and the operation of this clause 12.

12.2 Payment by the Target RE to Bidder

- (a) Subject to clause 12.2(b) the Target RE must pay to the Bidder \$23.52 million if any of the following events occur:
 - (i) any of the Target RE Independent Directors recommend a Competing Transaction, do not recommend or cease recommending the Proposal or take material steps that would be required to implement a Competing Transaction that is an Internalisation Proposal including entering into an implementation agreement or convening a meeting (unless, in the case of a failure, cessation or change in recommendation, the Independent Expert concludes in the Independent Expert's Report that the Proposal is not in the best interests of Target Securityholders except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Transaction having been announced or made public);
 - (ii) a Competing Transaction substantially completes within the period from the date of this agreement to the date that falls six months after the End Date provided that in the case of an Internalisation Proposal, it substantially completes within the period that is 3 months from the earlier of the date of the vote of Target Securityholders on the Proposal or the End Date; or
 - (iii) this agreement is terminated because Target RE is in material breach of its terms.
- (b) However, the fee in clause 12.2(a) will not be payable in circumstances where any of the following apply:
 - (i) the Competing Transaction is a potential Internalisation Proposal, Responsible Entity Acquisition or Management Platform Proposal ("**Management Proposal**") that is notified to Bidder pursuant to the Process Deed prior to the termination of the Process Deed (noting that, for the avoidance of doubt a

Competing Transaction that is notified prior to the termination of the Process Deed under clause 5 that is materially varied after it is notified or that is otherwise rejected by the Target RE but reconsidered by it is taken to be a new proposal); or

- (ii) the Competing Transaction is a Management Proposal that is not an Internalisation Proposal in circumstances in which the Target RE Independent Directors have neither recommended that Target Securityholders approve the Management Proposal nor taken any steps to implement the Management Proposal.
- (c) Despite any other provision of this agreement, the fee in clause 12.2(a) will not be payable (and to the extent that it has been paid, will be refunded):
- (i) if the Proposal is implemented, notwithstanding that any of the directors of Target RE recommend a Competing Transaction;
 - (ii) if at the earlier of the date this agreement terminates and the End Date, Target RE is entitled to terminate this agreement in circumstances in which Bidder is in material breach of it; or
 - (iii) merely by reason that the Proposal is not approved by Target Securityholders at the Meeting.

12.3 Timing of payment

The Target RE must pay the Bidder the amount referred to in clause 12.2 within 20 Business Days of receipt by the Target RE of a demand for payment from the Bidder. The demand may only be made after the occurrence of an event referred to in clauses 12.2.

12.4 Target RE's limitation of liability

Notwithstanding any other provision of this agreement but subject to clauses 4.2 and 12.5, a payment by the Target RE in accordance with clause 12.2 represents the sole and absolute liability of the Target RE and is the sole remedy under or in connection with this agreement (other than the payment of any interest that may be awarded for the late payment by the Target RE or any remedy that takes the form of an order to comply with this agreement or that prohibits an action that would or may breach this agreement) and no further damages, fees, expenses or reimbursements of any kind will be payable by the Target RE in connection with this agreement.

12.5 Compliance with law

- (a) Subject to clause (f), if a court, arbitral tribunal or the Takeovers Panel determines that any part of the agreement by a party under this clause 12:
 - (i) constitutes, or would if performed constitute, a breach of the fiduciary or statutory duties of that party's board to that party; or

- (ii) constitutes, or would, if performed constitute, unacceptable circumstances within the meaning of the Corporations Act; or
- (iii) is, or would, if performed be, unlawful for any other reason,

then, provided that that party has complied with its other obligations under this clause 12, that party will not be obliged to comply with that part of the agreement (but will be obliged to comply with all other parts of the agreement);

- (b) Subject to clause (f), if the Takeovers Panel or a court makes a determination contemplated by clause 12.5(a), in respect of all or any part of a payment made under this clause 12, the party who received the payment must immediately refund all or any applicable part of it;
- (c) Subject to clause (f), if in Takeovers Panel proceedings, the Takeovers Panel indicates to the Bidder or the Target RE that in the absence of a written undertaking pursuant to section 201A of the Australian Securities and Investments Commission Act 2001 it will make a declaration of unacceptable circumstances, the Bidder and the Target RE (as the case may be) may give that undertaking on their own behalf and must give reasonable consideration to giving that undertaking if requested by another party. Where undertakings are given, this clause 12 will operate in a manner consistent with the terms of those undertakings;
- (d) Subject to clause (f), no party must make, nor may it cause or permit to be made, any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in clause 12.5(a);
- (e) If any third party makes any application to a court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in clause 12.5(a), then each party must make submissions in the course of those proceedings supporting to the fullest extent reasonably practicable the position that no clause 12.5(a) determination should be made;
- (f) Nothing in this clause 12.5 precludes any party from bringing or requires any party to bring appeal or review proceedings in relation to any determination referred to in clause 12.5(a). If any party brings appeal or review proceedings:
 - (i) the other parties must make submissions in the course of those proceedings supporting to the fullest extent reasonably practicable the appeal or review application made by the first party; and
 - (ii) for the purposes of this clause 12.5 the determination the subject of the appeal or review proceeding will be deemed not to have been made and clauses 12.5(a), (b) and (c) will have effect only in relation to any determination made in the appeal or review proceedings.

13 Representations and warranties

13.1 Target RE's representations and warranties

- (a) The Target RE represents and warrants to the Bidder that, except as fairly disclosed to the Bidder prior to the signing of this agreement, each of the statements set out in Schedule 7 is true and correct in all material respects as at the date of this agreement.
- (b) The representation and warranty given under clause 13.1(a) is deemed to be repeated at 5.00pm on the Business Day immediately prior to the Meeting Date, unless that representation and warranty is expressed to be given at a particular time, in which case it is given at that time.

13.2 Target RE's indemnity

The Target RE indemnifies the Bidder Indemnified Parties against all Losses incurred as a result of any of the representations and warranties in clause 13.1 not being true and correct.

13.3 Bidder representations and warranties

- (a) The Bidder represents and warrants to the Target RE that, except as fairly disclosed to Target RE prior to the signing of this agreement, each of the statements set out in Schedule 8 as they relate to the Bidder is true and correct in all material respects as at the date of this agreement.
- (b) The representation and warranty give under clause 13.3(a) is deemed to be repeated at 5.00pm on the Business Day immediately prior to the Meeting Date, unless that representation and warranty is expressed to be given at a particular time, in which case it is given at that time.

13.4 Bidder's indemnity

The Bidder indemnifies the Target Indemnified Parties against all Losses incurred as a result of any of the representations and warranties they make in clause 13.3 not being true and correct.

13.5 Benefit

- (a) Target RE holds the benefit of the representations and warranties (and the indemnity given in respect of the Bidder representations and warranties pursuant to clause 13.4) on trust severally for each of the Target Indemnified Parties. The Bidder acknowledges that each of the Target Indemnified Parties may bring action directly against the Bidder in respect of any breach of the representations and warranties in clause 13.3.
- (b) The Bidder holds the benefit of the Target RE representations and warranties (and the indemnity given in respect of the Target RE representations and warranties pursuant to clause 13.2) on trust for the Bidder Indemnified Parties. Target RE acknowledges that each of the Bidder Indemnified Parties may bring action directly against Target RE in

respect of any breach of the representations and warranties in clause 13.1.

- (c) It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by clause 13.2 or 13.4.

13.6 Reliance by parties

Each party ("**Representor**") agrees and acknowledges that:

- (a) in entering into this agreement the other party has relied on the representations and warranties provided by the Representor under this clause 13;
- (b) any breach of the representations and warranties provided by the Representor under this clause 13 after the Proposal becomes Effective may only give rise to a claim in damages and cannot result in a termination of this agreement;
- (c) it has not entered into this agreement in reliance on any warranty or representation made by or on behalf of the other party or its Representatives except those warranties and representations set out in this agreement; and
- (d) this acknowledgment does not prejudice the rights any party may have in relation to the Target Information, the Bidder Information or any information filed by the other party with ASX or ASIC.

13.7 Notification

Each party must promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any representations and warranties given under this clause 13.

13.8 Status of representations and warranties

Each agreement, representation and warranty in this clause 13:

- (a) is severable and separately enforceable;
- (b) will survive the termination of this agreement; and
- (c) is given with the intent that liability under it will not be confined to breaches that are discovered prior to the date of termination of this agreement.

13.9 Survival of indemnities

Each indemnity in clauses 13.2 and 13.4 will:

- (a) be severable;
- (b) be a continuing obligation;

- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this agreement; and
- (d) survive the termination of this agreement.

13.10 Bidder's limitation of liability

Notwithstanding any other provision of this agreement, the sole and absolute liability of the Bidder to Target RE in respect of any breach of any term of this agreement is limited to \$23.52 million in aggregate.

14 Termination

14.1 Termination events

Without limiting any other provision of this agreement (including clause 3.10), this agreement may be terminated:

- (a) **(End Date)** by any party, if the Proposal has not become Effective on or before the End Date;
- (b) **(lack of support or breach)** at any time prior to 8.00am on the Meeting Date:
 - (i) by the Bidder if any Target RE Independent Director (as relevant) does not make a recommendation or ceases or changes their recommendation to the Target Securityholders that they vote in favour of the Proposal Resolutions, including by making any adverse modification to their recommendation, or otherwise makes a public statement indicating that they no longer support the Proposal;
 - (ii) by either the Bidder or the Target RE if the other is in material breach of any clause of this agreement (including a warranty), taken in the context of the Proposal as a whole, provided that either the Bidder or the Target RE, as the case may be, has, if practicable, given notice to the other setting out the relevant circumstances and stating an intention to terminate and, the relevant circumstances continue to exist 5 Business Days (or any shorter period ending at 5:00 pm on the Business Day before the Meeting Date) after the time that notice is given; or
 - (iii) by the Bidder if the Target RE takes material steps that would be required to implement a Competing Transaction including entering into an implementation agreement or convening a meeting;
- (c) **(not approved)** by either party if the Proposal Resolutions are not approved by the requisite majority at the Meeting;
- (d) **(before 8.00am on the Meeting Date)** if any of the following occur:

- (i) **(restraint)** by either party if a court or other Regulatory Authority has issued a final and non-appealable order, decree or ruling or taken other action which permanently restrains or prohibits the Proposal;
- (ii) **(consultation or appeal failure)** by the relevant party, in accordance with and pursuant to:
 - (A) clause 3.10(a); or
 - (B) clause 3.10(b);
- (iii) **(Independent Expert)** by either party if the Independent Expert opines in its final report that the Proposal is not in the best interests of Proposal Participants;
- (iv) **(Insolvency of Bidder and others)** by Target RE if the Bidder, or any of its respective material Controlled Entities becomes Insolvent;
- (v) **(Insolvency of Target RE)** by the Bidder if Target RE or any of its material Controlled Entities becomes Insolvent;
- (vi) **(agreement)** if agreed to in writing by the Bidder and Target RE;
- (e) **(acquisition of Relevant Interest)** by the Bidder if a person directly or indirectly acquires a Relevant Interest in, or has a right to acquire, a legal beneficial, or economic interest in, or control of, 19.9% or more of the Target Securities and that person has publicly stated that they will not vote their Target Securities in favour of the Proposal; or
- (f) **(matching rights)** by either party if the Bidder provides written notice that it does not wish to proceed with the Proposed Transaction in circumstances where it has determined not to exercise, or is unable to exercise, its matching rights pursuant to clause 11.6.

14.2 Termination

Where a party has a right to terminate this agreement, that right for all purposes will be validly exercised if the party delivers a notice in writing to the parties stating that it terminates this agreement.

14.3 Effect of Termination

In the event that a party terminates this agreement, or if this agreement otherwise terminates in accordance with its terms, then in either case all further obligations of the parties under this agreement, other than the obligations set out in clauses 12, 13.9(d), 16, 17 and 19 will immediately cease to be of further force and effect without further liability of any party to the others, provided that nothing in this clause releases any party from liability for any pre-termination breach of this agreement.

14.4 Damages

In addition to the right of termination under clause 14.1 where there is no appropriate remedy for the breach in the agreement (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this agreement.

15 Public announcements

15.1 Required disclosure

Where a party is required by law, the Listing Rules or a memorandum of understanding with a Regulatory Authority to make any announcement or make any disclosure relating to a matter the subject of the Proposal, it must use all reasonable endeavours, to the extent practicable and lawful, to consult with the other party prior to making the relevant disclosure.

15.2 Other announcements

Subject to clause 15.1, no party may make any public announcement or disclosure in connection with the Proposal (including disclosure to a Regulatory Authority) other than in a form approved by each party (acting reasonably). Each party will use all reasonable endeavours to provide that approval as soon as practicable.

16 Limitation of responsible entity liability

16.1 Limitation of responsible entity liability

A party that is a responsible entity enters into this agreement only in its capacity as responsible entity of the trusts listed in the Details section of this agreement and in no other capacity. References to those parties in this agreement are references to those parties responsible entity capacity only. Subject to clause 16.2, and to the extent permitted by law:

- (a) a liability to any person arising under or in connection with this agreement is limited to and can be enforced against a responsible entity only to the extent to which it can be satisfied out of the property of the relevant trust out of which the responsible entity is actually indemnified for the liability; and
- (b) a responsible entity is not liable in its personal capacity in contract, tort or otherwise for any loss suffered in any way relating to the relevant trust listed in the Details section of this agreement except to the extent that the Corporations Act or the constitutions of those trusts impose a liability of that nature.

16.2 Exceptions to responsible entity limitation of liability

Clause 16.1 does not apply to any obligation or liability of a responsible entity to the extent that it is not satisfied because, under the relevant trust constitutions or by operation of law, there is a reduction in the extent, or elimination, of the

responsible entity's indemnification out of the assets the relevant trust as a result of the responsible entity's fraud, negligence or breach of trust.

17 Process Deed

Each party to the Process Deed acknowledges and agrees that it continues to be bound by clauses 1, 5, 8, 12, 13, 14 and 15 (other than clause 15.10) of the Process Deed. The parties agree that other than those terms, the Process Deed is terminated on and from the time of entry into this agreement.

18 Notices and other communications

18.1 Form - all communications

Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this agreement must be:

- (a) in writing;
- (b) signed by the sender (if an individual) or an Authorised Officer of the sender; and
- (c) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

18.2 Form - communications sent by email

- (a) Communications sent by email need not be marked for attention in the way stated in clause 18.1. However, the email:
 - (i) must state the first and last name of the sender; and
 - (ii) must be in plain text format or, if attached to an email, must be an Adobe Portable Document Format (pdf) file.
- (b) Communications sent by email are taken to be signed by the named sender.
- (c) Any communication sent by email must also be delivered by hand, post or fax.

18.3 Delivery

Communications must be:

- (a) left at the address set out or referred to in Annexure C;
- (b) sent by prepaid ordinary post (airmail if sent to an address outside Australia) to the address set out or referred to in Annexure C;

- (c) sent by fax to the fax number set out or referred to in Annexure C;
- (d) sent by email to the address set out or referred to in Annexure C; or
- (e) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, fax number or email address, then communications must be to that address, fax number or email address.

18.4 When effective

Communications take effect from the time they are received or taken to be received under clause 18.5 (whichever happens first) unless a later time is specified.

18.5 When taken to be received

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another); or
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email;
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) the time of hand delivery or deemed delivery under (a) or (b) above as relevant, whichever happens first.

19 Goods and services tax (GST)

19.1 Interpretation

Terms which is defined in the GST Law has the same meaning when used in this clause 19.

19.2 Consideration does not include GST

Unless expressly stated otherwise any consideration specified in this agreement does not include any amount for GST.

19.3 Recovery of GST

If a supply under this agreement is subject to GST, the recipient must pay to the supplier an additional amount equal to the consideration for that supply multiplied by the applicable GST rate.

19.4 Time of payment

An additional amount required to be paid under clause 19.4 is payable at the same time as the consideration for the supply is payable or is to be provided. However, the additional amount need not be paid until the supplier gives the recipient a tax invoice.

19.5 Adjustment of additional amount

If an adjustment event arises in respect of the supply, the additional amount paid or payable under clause 19.4 must be adjusted to reflect the adjustment event and the recipient or the supplier (as the case may be) must make any payments necessary to reflect the adjustment.

19.6 Reimbursement

If a party is entitled to be reimbursed or indemnified under this agreement, the amount to be reimbursed or indemnified does not include any amount for GST for which the party (or representative member of a GST group of which that party is a member) is entitled to an input tax credit.

19.7 Survival

This clause will survive termination of this agreement.

20 Miscellaneous

20.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its approval or consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

20.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

20.3 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this agreement.

20.4 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

20.5 Conflict of interest

The parties' rights and remedies under this agreement may be exercised even if it involves a conflict of duty or a party has a personal interest in their exercise.

20.6 Remedies cumulative

The rights and remedies in this agreement are in addition to other rights and remedies given by law independently of this agreement.

20.7 Variation and waiver

A provision of this agreement or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

20.8 No merger

The warranties, undertakings and indemnities in this agreement do not merge on the Implementation Date.

20.9 Indemnities

The indemnities in this agreement are continuing obligations, independent from the other obligations of the parties under this agreement and continue after this agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.

20.10 Enforceability

For the purpose of the relevant indemnities in this agreement:

- (a) the Target RE is taken to be acting as agent and trustee on behalf of and for the benefit of all Target Indemnified Parties, and Target RE may enforce an indemnity in this agreement for the benefit of the Target Indemnified Parties; and
- (b) the Bidder is taken to be acting as agent and trustee on behalf of and for the benefit of all Bidder Indemnified Parties and the Bidder may enforce an indemnity in this agreement for the benefit of the Bidder Indemnified Parties.

20.11 Further steps

Each party agrees, at its own expense, to do anything the other party asks (such as obtaining consents, signing and producing documents and getting documents completed and signed):

- (a) to bind the party and any other person intended to be bound under this agreement; or
- (b) to show whether the party is complying with this agreement.

20.12 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this agreement or any part of it.

20.13 Costs

The parties agree to pay their own legal and other costs and expenses in connection with the preparation, execution and completion of this agreement and other related documentation except for stamp duty.

20.14 Stamp duty

The Bidder will be responsible for and pay all stamp duty (including fines and penalties) payable and assessed by legislation or by any revenue office on this agreement or the Proposal and in respect of a transaction evidenced by this agreement or the Proposal.

20.15 Withholdings and deductions

If the Bidder is required to make any withholding or deduction or other payment for or on account of Tax in connection with this agreement or the Proposal then the Bidder:

- (a) must pay or procure the payment of the full amount of the withholding or deduction or payment to the appropriate Governmental Agency under applicable law; and
- (b) will not be required to pay any additional amount and will be deemed for all purposes to have paid the full amount or provided the full consideration otherwise required under this agreement.

20.16 Assignment

A party may not assign or otherwise deal with its rights under this agreement or allow any interest in them to arise or be varied in each case, without the consent of the other party.

20.17 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement;
- (b) it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement; and
- (c) paragraphs 20.17(a) and 20.17(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

20.18 Governing law

This agreement is governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

20.19 Counterparts

This agreement may be executed in counterparts. All counterparts when taken together are to be taken to constitute one instrument.

EXECUTED as an agreement

Implementation Agreement

Schedule 1 - Target Prescribed Events

- 1 **(Conversion)** all or any of the Target Securities are converted into a larger or smaller number of securities, or a resolution is passed to do so.
- 2 **(Redemption)** the Target RE redeems any Target Securities, or resolves to do so.
- 3 **(Reduction of capital)** the capital of the Target is reduced in any way (including by way of a capital distribution) or the Target RE reclassifies, combines, splits, redeems, repurchases or cancels directly or indirectly any securities in the Target or resolves to do any of the preceding.
- 4 **(Buy back)** the Target RE buys back or agrees to buy back any Target Securities.
- 5 **(Distribution)** any distribution (whether of capital or otherwise) other than any Target Distribution is paid, announced or agreed to be paid.
- 6 **(capital expenditure)** other than as otherwise agreed, the Target RE and any of its Controlled Entities commit to or make any capital expenditure between the date of this agreement and the Implementation Date in excess of \$5 million (in aggregate).
- 7 **(Issuing units or options)** the Target RE issues or agrees to issue units in Target or options over Target Securities or other securities or instruments convertible into Target Securities in each case to a person who is not an existing holder of Target Securities.
- 8 **(Securities or other instruments)** Target Securities are issued, or there is an agreement for Target RE to issue Target Securities or other instruments convertible into Target Securities or debt securities.
- 9 **(Constitution)** the Target RE modifies or repeals or replaces a Constitution or a provision of it or calls a meeting to consider modifying, repealing or replacing a Constitution other than provided for this agreement.
- 10 **(Acquisitions, disposals or developments)** other than as fairly disclosed to the Bidder before the date of this agreement, Target RE or any other member of the Target Group:
 - (a) acquires or disposes of, or agrees to acquire or dispose of;
 - (b) enters, or agrees to enter into a development commitment in relation to;
 - (c) offers, proposes or announces a bid or proposal or tender for (in each case which is capable of unilateral acceptance by the party to whom the offer, proposal or bid was made to create binding obligations on Target),

in each case whether or not conditionally, any one or more business, asset, entity or undertaking the value of which exceeds \$5 million in aggregate.

- 11 **(Material Contracts)** other than as otherwise agreed, Target RE or any member of the Target Group:
- (a) enters into or agrees to enter into a Material Contract;
 - (b) changes or seeks to change the terms of any Material Contract;
 - (c) pays, discharges or satisfies any liability under a Material Contract other than in accordance with its terms and consistently with past practice;
 - (d) waives any material Claim or rights under, or waives the benefit of, any provisions of any Material Contract; or
 - (e) accepts or rejects an offer under, exercises any rights or takes any other action in respect of the Implementation Deed dated 19 December 2012 between Target RE, Investa Property Group Holdings Pty Limited and Post Holdco 2 Pty Ltd.
- 12 **(Encumbrances)** Target RE in its capacity as the responsible entity of Target creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or assets.
- 13 **(Insolvency)** Target RE or Target becomes Insolvent.
- 14 **(Winding up)** a court making an order for the winding up of Target RE or Target, or any of the following occurring in relation to either entity:
- (a) an application being made in any court for an order to wind up that entity in accordance with the Corporations Act; or
 - (b) the members of that entity resolving to wind up that entity; or
 - (c) that entity being required to wind up by law; or
 - (d) the commencement of the winding up of that entity;
- 15 **(Deregistration)** any member of the Target Group being deregistered as a company, registered managed investment scheme, or being otherwise dissolved.
- 16 **(Claim)** a Claim is brought against the Target RE in its capacity as the responsible entity of Target (other than a frivolous or vexatious Claim) which will or is likely to have an adverse effect on the Target in excess of \$5 million in relation to an individual item or \$20 million in aggregate; or if the Target becomes the subject of regulatory investigation or prosecution which in the written opinion of Senior Counsel (appointed by the Target RE's solicitors) will or is likely to have an adverse effect on the Target in excess of \$5 million in relation to an individual item or \$20 million in aggregate.
- 17 **(Trusts)** any of the following occurs:
- (a) Target RE ceases to be the responsible entity of Target;

- (b) the Target Securityholders resolve to remove or replace the Target RE as responsible entity of Target;
 - (c) a meeting being convened to consider a resolution for the removal, retirement or replacement of the Target RE as responsible entity of Target; or
 - (d) any application being made in any court for the appointment of a temporary responsible entity of Target in accordance with the Corporations Act.
- 18 **(Finance)** Target RE in its capacity as the responsible entity of Target making or agreeing to make, any loan or advance, or entering into any financing arrangement, agreement or instrument with a person other than a Target Group member, or amending the terms of any existing financing arrangement, agreement or instrument with a person other than a Target Group member.
- 19 **(Financing)** other than as fairly disclosed to Bidder before the date of this agreement, in respect of any financing arrangement, agreement or instrument Target RE in its capacity as the responsible entity of Target has with a person other than an Target Group member, Target RE:
- (a) breaches any covenant which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument; or
 - (b) relies on any waiver or amendment to avoid the potential breach of any covenant unless the waiver or amendment extends for a period of at least, the earlier of the term of the financing arrangement, agreement or instrument and the date which is two months after the Implementation Date; or
 - (c) allows an event of default, or potential event of default, to occur which is not remedied in accordance with the relevant cure rights under the arrangement, agreement or instrument; or
 - (d) allows an obligation to pay any amount to be accelerated other than to prevent an event referred to in (a) or (b) above from occurring; or
 - (e) permanently reduces the amount of debt ahead of a maturity date.
- 20 **(Derivative instruments)** Target RE, acting in its capacity as the responsible entity of Target, entering into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this agreement.
- 21 **(Accounting policy)** Target RE, in its capacity as the responsible entity of Target, makes any material change to its accounting policy, other than to the extent required by law or applicable accounting standards.
- 22 **(Debt forgiveness)** The Target RE, its Controlled Entities and service providers acting on their behalf waive, forgive, settle or compromise Claims that they have

against any other person between the date of this agreement and the Implementation Date with an aggregate value in excess of \$1 million.

- 23 **(No prejudice to the Proposal)** Target RE or a Target RE Independent Director otherwise taking any action that would be reasonably expected to be prejudicial to the successful outcome of the Proposal or have the effect of preventing any of the Conditions Precedent from being fulfilled or any of the implementation steps being completed in accordance with the Timetable, including making any modification to existing property or investment management arrangements (including any modification to fees payable pursuant to existing management arrangements) or terminating or waiving any obligations under any existing property or investment management arrangements in relation to the Target or entering into any new property or investment management arrangements.
- 24 **(Division 6C)** the Target RE approves or takes any action or makes any investment that could reasonably result in the Target or any member of the Target Group commencing to carry on a trading business within the meaning of Division 6C of the Income Tax Assessment Act 1936 (Cth) or controlling or having the ability to control, directly or indirectly the affairs or operations of another person in respect of the carrying on by that other person of a trading business (within the meaning of that Division).
- 25 **(delisting or suspension)** Target Securities are delisted or are subject to suspension from quotation for 5 or more trading days, other than due to, or as a result of, an action taken by the Bidder or a Related Body Corporate of Bidder.

Implementation Agreement

Schedule 2 - DEXUS Prescribed Events

- 1 **(Conversion)** all or any of the securities in the DEXUS Property Group are converted into a larger or smaller number of securities or the Bidder resolves to do so.
- 2 **(Redemption)** the Bidder redeems any DEXUS Property Group Securities, or resolves to do so.
- 3 **(Reduction of capital)** the capital of the DEXUS Property Group is reduced in any way (including by way of a capital distribution) or the Bidder reclassifies, combines, splits, redeems, repurchases or cancels directly or indirectly any DEXUS Property Group Securities or resolves to do any of the preceding.
- 4 **(Issuing units or options)** the Bidder issues or agrees to issue interests in DEXUS Property Group or options over DEXUS Property Group Securities or other securities or instruments convertible into units (other than as required under this agreement or pursuant to any employee incentive plan).
- 5 **(Securities or other instruments)** the Bidder or any of its Controlled Entities issues or agrees to issue securities or other instruments convertible into units in DEXUS Property Group or debt securities (other than as required under this agreement or pursuant to any employee incentive plan).
- 6 **(Special Distribution)** any special distribution (whether capital or otherwise) is paid, announced or agreed to be paid by Bidder.
- 7 **(delisting or suspension)** DEXUS Property Group Securities are delisted or are subject to suspension from quotation for 5 or more trading days, other than due to, or as a result of, an action taken by the Target RE, Investa Property Group Property Holdings Pty limited or a Related Body Corporate of either party.
- 8 **(Constitutions)** the Bidder modifies or repeals or replaces the constitution of DDF, DIT, DOT or DXO or a provision of any of them, or the constitution of DEXUS RE, or calls a meeting to consider modifying, repealing or replacing any of those constitutions or a provision of them (other than any amendment that the Bidder considers is necessary or desirable to implement the Proposal).
- 9 **(Encumbrances)** other than in the ordinary course of business and consistent with past practice of the Bidder or any of its Controlled Entities creates, or agrees to create, any Encumbrance over the whole or a substantial part of its business or assets.
- 10 **(Insolvency)** DDF, DIT, DOT, DXO, DEXUS RE or any of its Controlled Entities becomes Insolvent.
- 11 **(Winding up)** a court making an order for the winding up of DDF, DIT, DOT, DXO, DEXUS RE or any of its Controlled Entities, or any of the following occurring in relation to any one of them:

- (a) an application being made in any court for an order to wind up that entity;
or
 - (b) the members of that entity resolving to wind it up; or
 - (c) that entity being required to be wound up by law; or
 - (d) the commencement of the winding up of that entity;
- 12 **(Deregistration)** DDF, DIT, DOT, DXO, DEXUS RE or any of its Controlled Entities being deregistered as a company, registered managed investment scheme, or being otherwise dissolved.
- 13 **(Trusts)** any of the following occurs:
- (a) DEXUS RE ceases to be the responsible entity of DDF, DIT, DOT or DXO;
 - (b) the DDF members resolve to remove or replace DEXUS RE as responsible entity of DDF;
 - (c) the DIT members resolve to remove or replace DEXUS RE as responsible entity of DIT;
 - (d) the DOT members resolve to remove or replace DEXUS RE as responsible entity of DOT;
 - (e) the DXO members resolve to remove or replace DEXUS RE as responsible entity of DXO;
 - (f) a meeting being convened to consider a resolution for the removal, retirement or replacement of DEXUS RE as responsible entity of DDF, DIT, DOT or DXO; or
 - (g) any application being made in any court for the appointment of a temporary responsible entity of DDF, DIT, DOT or DXO in accordance with the Corporations Act.
- 14 **(Derivative instruments)** the Bidder or any of its Controlled Entities entering into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this agreement.
- 15 **(Accounting policy)** DDF, DIT, DOT, DXO, DEXUS RE or any of its Controlled Entities makes any material change to its accounting policy, other than to the extent required by law or applicable accounting standards.
- 16 **(No prejudice to the Proposal)** the Bidder or any of its Controlled Entities otherwise taking any action that would be reasonably expected to be prejudicial to the successful outcome of the Proposal or have the effect of preventing any of the Conditions Precedent from being fulfilled or any of the implementation steps being completed in accordance with the Timetable.

Implementation Agreement

Schedule 3 - Conditions Precedent (clause 3.1)

1	Regulatory Approvals	Benefit
	Before 8.00am on the Meeting Date:	
	(a) (ASIC and ASX) ASIC and ASX have issued or provided the consents or approvals or have done the other acts which the parties agree are reasonably necessary or desirable to implement the Proposal, including before the Meeting;	
	(A) ASIC has granted a modification of item 7 of section 611 of the Corporations Act, allowing each Proposal Participant (other than those excluded from voting) to vote in favour of the Proposal Resolutions for the purpose of item 7 of section 611 or indicated in writing that that modification will not be required;	Both Target RE and the Bidder
	(B) ASIC has granted an exemption in favour of Target RE and the Bidder (and their Controlled Entities) under Division 2 of Part 7.7 of the Corporations Act from the requirement to provide a financial services guide in connection with the Explanatory Memorandum;	Both Target RE and the Bidder
	(C) ASIC has granted a modification or exemption from Division 5A of Part 7.9 of the Corporations Act in relation to the proposed offer to purchase Target Securities under the Proposal;	Both Target RE and the Bidder
	(D) ASIC has granted an exemption from the requirement to provide a product disclosure statement to Target Securityholders in connection with any offer to them of DEXUS Property Group Securities under Part 7.9 of the Corporations Act.	Both Target RE and the Bidder

- (E) ASX has confirmed that it does not object to the proposed amendments to the Constitution, or the draft Explanatory Memorandum under Listing Rule 15.1;
- Target RE

Before 8.00am on the Meeting Date:

- (b) **(ACCC approval)** either: Bidder

the ACCC has advised the Bidder in writing that:

- (i) it does not intend to oppose the Proposal;
or
- (ii) it does not intend to oppose the Proposal, subject to undertakings and those undertakings being acceptable to the Bidder;

Before 8.00am on the Meeting Date:

- (c) **(Regulatory Authority)** all other approvals of an Australian Regulatory Authority which the Bidder and the Target RE reasonably agree are required to implement the Proposal are obtained; Both Target RE and the Bidder

2. Proposal approval

Target Securityholders approve the Proposal Resolutions by the requisite majorities on the Meeting Date. Cannot be waived

3. Judicial Advice

Receipt of the First Judicial Advice and the Second Judicial Advice. Both Target RE and the Bidder

4. Not used

5. Independent Expert

The Independent Expert concludes that the Proposal is in the best interests of Proposal Participants before the date on which the Explanatory Memorandum is registered with ASIC and the Independent Expert does not change its conclusion or withdraw its report prior to the Meeting. Both Target RE and the Bidder

- 6. No Target Prescribed Event**
- No Target Prescribed Event occurs between the date of this agreement and 8.00am on the Meeting Date. Bidder
- 7. No Target Material Adverse Change**
- No Target Material Adverse Change occurs or becomes apparent between the date of this agreement and 8.00am on the Meeting Date. Bidder
- 8. No DEXUS Prescribed Event**
- No DEXUS Prescribed Event occurs between the date of this agreement and 8.00am on the Meeting Date. Target RE
- 9. No DEXUS Material Adverse Change**
- No DEXUS Material Adverse Change occurs or becomes apparent between the date of this agreement and 8.00am on the Meeting Date. Target RE
- 10. No termination**
- Before 8.00am on the Meeting Date this agreement has not been terminated in accordance with clause 14. Both Target RE and the Bidder
- 11. Deed Poll**
- Between the date of this agreement and the date of sending the Explanatory Memorandum to Target Securityholders, the Bidder signs and delivers the Deed Poll. Target RE
- 12. Target RE representations and warranties**
- As at 8.00am on the Meeting Date, there is no unremedied breach of the representations and warranties given by the Target RE under clause 13.1 and set out in Schedule 7 of this agreement remain true and correct in all material respects. Bidder
- 13. Bidder representations and warranties**
- As at 8.00am on the Meeting Date there is no unremedied breach of the representations and warranties given by the Bidder under clause 13.3 and set out in Schedule 8 of this agreement remain true and correct in all material respects. Target RE
- 14. No restraints**
- As at 8.00am on the Meeting Date, no temporary restraining order, preliminary or permanent injunction or other legal restraint or prohibition restraining or prohibiting Both Target RE and the Bidder

the Proposal, which have been enacted, enforced or issued by a Regulatory Authority, is in effect.

15. Recommendation of the Target RE Independent Directors

Bidder

The Target RE Independent Directors unanimously recommend that Target Securityholders approve the Proposal Resolutions and do not change that recommendation or support a Superior Proposal at or before the Meeting.

16. Target RE material breach

Before 8.00am on the Meeting Date, Target RE has not breached any material provision of this agreement that remains unremedied.

Bidder

17. Bidder material breach

Before 8.00am on the Meeting Date, the Bidder has not breached any material provision of this agreement that remains unremedied.

Target RE

18. Lodgement of the resolution

Target RE lodges a copy of the special resolution amending the constitution with ASIC.

Bidder

19. Closing certificates

On or prior to 8.00am on the Meeting Date, the Bidder and the Target RE provide to each other certificates in the form agreed between the parties that, where appropriate, the conditions have been satisfied or waived.

Both the Target RE and the Bidder

Implementation Agreement

Schedule 4 - Timetable

Event	Indicative Date
Lodge draft Explanatory Memorandum with ASIC and ASX	19 February 2016
First Judicial Advice Date	7 March 2016
Printing and despatch of Explanatory Memorandum	14 March 2016
Meeting Date	8 April 2016
Second Judicial Advice Date	11 April 2016
Effective Date (the day after the Second Judicial Advice Date)	12 April 2016
Election Date (5:00pm on the date which is 5 Business Days after the Effective Date)	19 April 2016
Record Date (5.00pm on the date which is 6 Business Days after the Effective Date)	20 April 2016
Implementation Date (5 Business Days following the Record Date)	28 April 2016

Implementation Agreement

Schedule 5 - Target RE's Obligations (clause 6.1)

- 1 **(execute documents and perform acts)** executes all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Proposal on a basis consistent with this agreement and substantially in accordance with the Timetable.
- 2 **(Independent Expert)** promptly appoint the Independent Expert and provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report for the Explanatory Memorandum.
- 3 **(Explanatory Memorandum)** prepare and verify the Explanatory Memorandum in accordance with clause 7.
- 4 **(Tax Opinion)** engage Tax Opinion Provider to prepare and provide the Tax Opinion to be included in the Explanatory Memorandum.
- 5 **(Target Information)** ensure that the Target Information included in the Explanatory Memorandum complies with applicable law, the Listing Rules, Guidance Note 15 and applicable ASIC Regulatory Guides.
- 6 **(Bidder Information)** as soon as practicable after delivery, review drafts of the Bidder Information and provide comments on those drafts acting reasonably and in good faith.
- 7 **(Regulatory Approvals)** without limiting clause 3.4 ("Reasonable endeavours"), as soon as practicable after the date of this agreement apply:
 - (a) to ASIC for a modification to the Corporations Act to enable all Proposal Participants (other than those excluded from voting) to vote on the Proposal Resolutions pursuant to item 7 of section 611 of the Corporations Act;
 - (b) to ASIC for an exemption in favour of Target RE and the Bidder (and their Controlled Entities) under Division 2 of Part 7.7 of the Corporations Act from the requirement to provide a financial services guide in connection with the Explanatory Memorandum;
 - (c) to ASIC for a modification of, or exemption from, any requirement for the Bidder to comply with Division 5A of Part 7.9 of the Corporations Act in relation to the proposed offer to acquire Target Securities under the Proposal and, if that modification or exemption is not granted, cooperate with the Bidder in good faith acting reasonably to enable the Bidder to structure the offer in a manner consistent with the requirements of Division 5A of Part 7.9 of the Corporations Act;
 - (d) to ASX for confirmation that it does not object to the proposed amendments to the Constitution or the draft Explanatory Memorandum under ASX Listing Rule 15.1; and

- (e) for all other approvals of an Australian Regulatory Authority which the Bidder and the Target RE agree are necessary or desirable for Target RE to apply for to implement the Proposal are obtained.
- 8 **(liaise with ASIC)** as soon as practicable after the date of this agreement, provide a draft copy of the Explanatory Memorandum to ASIC for its review and approval and keep the Bidder reasonably informed of any material matters raised by ASIC (and the resolution of those matters) and use reasonable endeavours to resolve those matters in cooperation with the Bidder (which will include allowing the Bidder to participate in any telephone calls and meetings with ASIC).
- 9 **(approval of Explanatory Memorandum)** procure that a meeting of the Target RE Independent Directors is convened to consider approving the Explanatory Memorandum for despatch to the Target Securityholders.
- 10 **(printing of Explanatory Memorandum)** print and send the Explanatory Memorandum and a proxy form to Target Securityholders in accordance with the Constitution and the Listing Rules.
- 11 **(Further Target Information)** provide to the Bidder and Target Securityholders any further or new Target Information that arises after the Explanatory Memorandum has been sent to Target Securityholders until the date of the Meeting that may be necessary to ensure that the Target Information contained in the Explanatory Memorandum is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission).
- 12 **(Provide a copy of the report)** on receipt, provide the Bidder with a copy of any draft or final report received from the Independent Expert.
- 13 **(Registry details)** subject to the terms of the Proposal:
- (a) provide all necessary information about the Target Securityholders to the Bidder which it requires in order to assist it to solicit votes at the Proposal; and
- (b) provide all necessary directions to the Registry to promptly provide any information that the Bidder reasonably requests in relation to the Register, including any sub-register, and procure that the information to be provided to the Bidder is in the electronic form that the Bidder reasonably requests.
- 14 **(Send Explanatory Memorandum)** send the Explanatory Memorandum to the Target Securityholders as soon as practicable after the First Judicial Advice Date.
- 15 **(Proxy solicitation)** engage a proxy solicitation firm to encourage Target Securityholders participation in the approval of the Proposal Resolutions at the Meeting.
- 16 **(Meeting)** convene the Meeting and seek the approval of Target Securityholders for the Proposal Resolutions.
- 17 **(Listing)** take all reasonable steps to maintain Target's listing on ASX, notwithstanding any suspension of the quotation of Target Securities, up to and

including the Implementation Date, including making appropriate applications to ASX and ASIC.

- 18 **(implementation of the Proposal)** if the Proposal becomes Effective:
- (a) (Register) procure that the Registry closes the Register as at the Record Date and determine entitlement to the Proposal Consideration in accordance with the Proposal;
 - (b) (Registration) procure that the Registry registers all transfers of Target Securities to the Bidder on the Implementation Date; and
 - (c) promptly do all other things contemplated by or necessary to give effect to the Proposal.
- 19 **(Notification)** promptly notify the Bidder in writing as soon as it becomes aware of the occurrence of a Target Material Adverse Change or Target Prescribed Event, or that an Target Material Adverse Change or Target Prescribed Event is reasonably likely to occur.
- 20 **(All things necessary)** do all other things contemplated by or necessary to lawfully give effect to the Proposal.

Implementation Agreement

Schedule 6 – Bidder’s obligations (clause 6.2)

- 1 **(execute documents and perform acts)** execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Proposal on a basis consistent with this agreement and substantially in accordance with the Timetable.
- 2 **(Bidder Information)** provide to the Target RE for inclusion in the Explanatory Memorandum the Bidder Information that the Target RE reasonably requires to prepare and issue the Explanatory Memorandum (including any information required under the Corporations Act, Corporations Regulations, Guidance Note 15 or ASIC Regulatory Guide 74).
- 3 **(Further Bidder Information)** provide to the Target RE any further or new Bidder Information that arises after the Explanatory Memorandum has been sent to Target Securityholders until the date of the Meeting that may be necessary to ensure that the Bidder Information contained in the Explanatory Memorandum is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission).
- 4 **(Regulatory Approvals)** promptly apply:
 - (a) to ASIC for an exemption in favour of both Target RE and the Bidder (and their Controlled Entities) under Division 2 of Part 7.7 of the Corporations Act from the requirement to provide a financial services guide in connection with the Explanatory Memorandum;
 - (b) to ASIC for a modification of, or exemption from, any requirement for Target RE or the Bidder to comply with Division 5A of Part 7.9 of the Corporations Act in relation to the proposed offer to acquire Target Securities under the Proposal; and
 - (c) for all other approvals of an Australian Regulatory Authority which the Bidder and the Target RE agree are necessary or desirable for the Bidder to apply for to implement the Proposal are obtained.
- 5 **(Independent Expert information)** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert’s report to be included in the Explanatory Memorandum.
- 6 **(review drafts of Explanatory Memorandum)** as soon as practicable after delivery, review drafts of the Explanatory Memorandum prepared by Target RE and provide comments on those drafts in good faith.
- 7 **(consultation with Target RE)** as soon as practicable after the date of this agreement:
 - (a) provide to Target RE a draft of the Bidder Information identified by Target RE as necessary for the Explanatory Memorandum for the

purpose of enabling Target RE to review and comment on that draft information;

- (b) consider, acting reasonably and in good faith, the comments made by Target RE and its Representatives when producing any revised drafts of the Bidder Information; and
- (c) provide Target RE with a revised draft of the Bidder Information within a reasonable time before the draft of the Explanatory Memorandum is finalised so as to enable Target RE to review it before finalisation and despatch of the Explanatory Memorandum to Target Securityholders.

- 8 **(Deed Poll)** before the Explanatory Memorandum being sent to Target Securityholders, execute the Deed Poll, and if relevant, procure that the Nominee also executes the Deed Poll.
- 9 **(implementation of the Proposal)** if the Proposal becomes Effective, provide the Proposal Consideration and issue the DEXUS Property Group Securities pursuant to the Scrip Elections in accordance with this agreement.
- 10 **(Notification)** promptly notify Target RE in writing as soon as it becomes aware of the occurrence of a Bidder Material Adverse Change or Bidder Prescribed Event, or that a Bidder Material Adverse Change or Bidder Prescribed Event is reasonably likely to occur.
- 11 **(all things necessary)** do all other things contemplated by or necessary to lawfully give effect to the Proposal.

Implementation Agreement

Schedule 7 - Target RE's representations and warranties (clause 13.1)

- 1 **(Incorporation)** It is a valid existing corporation registered under the laws of its place of incorporation.
- 2 **(MIS status)** Target is validly established and registered as a 'registered scheme' under Chapter 5C of the Corporations Act.
- 3 **(Execution)** The execution and delivery of this agreement has been properly authorised by all necessary corporate action of the Target RE.
- 4 **(Corporate power)** It has full corporate power and lawful authority to:
 - (a) own its property and to carry on its business; and
 - (b) execute and deliver this agreement and to consummate and perform or cause to be performed its obligations under this agreement in accordance with its terms.
- 5 **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
 - (a) enable it to properly execute this agreement and to carry out the transactions that this agreement contemplates;
 - (b) ensure that this agreement is legal, valid, binding and admissible in evidence; and
 - (c) enable it to properly carry on its business,and it is complying with any conditions to which any Authorisation is subject.
- 6 **(Binding obligations)** (Subject to laws generally affecting creditors' rights and the principles of equity) this agreement constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms.
- 7 **(Continuous disclosure)** To the best of its knowledge and belief, the Target RE is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure.
- 8 **(Due diligence)** Subject to receipt of waivers or consents of third parties in respect of applicable confidentiality obligations, Target RE have used reasonable endeavours in good faith to provide to the Bidder, or its Representatives all material information reasonably requested by the Bidder or its Representatives, and Target RE has not intentionally or recklessly:
 - (a) omitted anything from the information provided that makes any part of that information materially false, misleading or deceptive, or likely to mislead or deceive; or

- (b) included anything that is materially false, misleading or deceptive, or likely to mislead or deceive, in the information.
- 9 **(Information preparation)** All the information provided to the Bidder by the Target RE in connection with this agreement, whether under due diligence or not, has been prepared and provided in good faith.
- 10 **(Target Information)** The Target Information provided in accordance with this agreement and included in the Explanatory Memorandum, as at the date of the Explanatory Memorandum, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to the applicable disclosure requirements.
- 11 **(Compliance)** To the best of its knowledge and belief, except as fairly disclosed to the Bidder before the date of this agreement, the Target RE has complied in all material respects with all Australian and foreign laws and regulations applicable to it and orders of Australian and foreign governmental agencies having jurisdiction over it and has all material licences, permits and franchises necessary for it to conduct its business as being conducted as at the date of this agreement.
- 12 **(Insolvency)** To the best of its knowledge and belief, no member of the Target Group is Insolvent.
- 13 **(No default)** This agreement does not conflict with or result in the breach of or a default under any provision of the Constitutions or any writ, order or injunction, judgment, law, rule or regulation to which Target RE is party or subject or by which it is bound.
- 14 **(Securities)** issued securities of the Target as at the date of this agreement are 614,047,458 Target Securities, and it has not issued or agreed to issue any other securities or instruments which are still outstanding and which may be converted into or exchanged for Target Securities. The Target Securities which are on issue at the date of this agreement are duly authorised, validly issued, fully paid and on the Implementation Date will be transferred free from all encumbrances.
- 15 **(No Encumbrances)** Except as fairly disclosed to the Bidder in connection with this agreement, there is no material Encumbrance over all or a material of Target assets or revenues.

Implementation Agreement

Schedule 8 – Bidder representations and warranties (clauses 13.3)

- 1 **(Incorporation)** The Bidder is a valid and existing corporation registered under the laws of its place of incorporation.
- 2 **(MIS status)** DDF, DIT, DOT, DXO are each validly established and DDF, DIT, DOT and DXO are each registered as a 'registered scheme' under Chapter 5C of the Corporations Act.
- 3 **(Execution)** The execution and delivery of this agreement has been properly authorised by all necessary corporate action of the Bidder.
- 4 **(Corporate power)** The Bidder has full corporate power and lawful authority to execute and deliver this agreement and to consummate and perform or cause to be performed their obligations under this agreement in accordance with its terms.
- 5 **(Binding obligations)** Subject to laws generally affecting creditors' rights and the principles of equity, this agreement constitutes legal, valid and binding obligations on the Bidder.
- 6 **(Compliance)** To the best of its knowledge and belief, the Bidder and its respective Controlled Entities have complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign governmental agencies having jurisdiction over them and have all material licenses, permits and franchises necessary for them to conduct their respective businesses as presently being conducted.
- 7 **(Reliance)** The Bidder Information provided to the Target RE for inclusion in the Explanatory Memorandum will be provided in good faith and on the understanding that the Target RE and its directors will rely on that information for the purposes of preparing the Explanatory Memorandum and proposing and implementing the Proposal in accordance with the Corporations Act.
- 8 **(Bidder Information)** The Bidder Information provided in accordance with this agreement and included in the Explanatory Memorandum, as at the date of the Explanatory Memorandum, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements.
- 9 **(Further information)** The Bidder will, as a continuing obligation, provide to the Target RE any further or new information that arises after the date of the Explanatory Memorandum until the date of the Meeting that may be necessary to ensure that there would be no breach of item 6 if it applied as at the date on which that information arose.
- 10 **(Due diligence)** Subject to receipt of waivers or consents of third parties in respect of applicable confidentiality obligations, Bidder has used reasonable endeavours in good faith to provide to the Target RE, or its Representatives all material information reasonably requested by Target RE or its Representatives, and Bidder has not intentionally or recklessly:

- (a) omitted anything from the information provided that makes any part of that information materially false, misleading or deceptive, or likely to mislead or deceive; or
 - (b) included anything that is materially false, misleading or deceptive, or likely to mislead or deceive, in the information.
- 16 **(Information preparation)** All the information provided to Target RE by the Bidder in connection with this agreement, whether under due diligence or not, has been prepared and provided in good faith.
- 17 **(Insolvency)** To be the best of its knowledge and belief, no member of the DEXUS Property Group is Insolvent.
- 18 **(Securities)** The DEXUS Property Group Securities to be issued in accordance with clause 4.2 will be duly authorised and validly issued or transferred, fully paid and free of all security interests and third party rights and will rank equally with all other DEXUS Property Group Securities then on issue.
- 19 **(Cash consideration)** As at the date of this agreement, Bidder has a reasonable basis to expect that it will by the Business Day prior to the Implementation Date have funds on sufficient to perform its obligations, if the Proposal becomes Effective, to pay the Cash Component to the Scheme Shareholders.
- 20 **(No default)** This agreement does not conflict with or result in the breach of or a default under any provision of the constitutions for DEXUS Property Group members or any writ, order or injunction, judgment, law, rule or regulation to which Bidder is party or subject or by which it is bound.

Implementation Agreement

Signing page

DATED: 18 December 2015

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

Darren Steinberg.....)

Signature of director)

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

Craig Mitchell)

Signature of director/company)
secretary)

.....)
Name of director/company secretary)
(block letters)

Implementation Agreement

Annexure A - Deed Poll

Deed Poll

DEXUS Funds Management Limited (ABN 24 060 920 783) (**DEXUS RE**)
in its capacity as responsible entity of DEXUS Diversified Trust (ARSN 089 324 541)
(**DDF**), DEXUS Industrial Trust (ARSN 090 879 137) (**DIT**), DEXUS Office Trust (ARSN
090 768 531) (**DOT**) and DEXUS Operations Trust (ARSN 110 521 223) (**DXO**) (together,
the **Bidder**)

[insert] (**Nominee**)

in favour of:

Each Proposal Participant

King & Wood Mallesons

Level 61

Governor Phillip Tower

1 Farrer Place

Sydney NSW 2000

Australia

T +61 2 9296 2000

F +61 2 9296 3999

DX 113 Sydney

www.kwm.com

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Deed Poll

Details

Parties	Bidder [and Nominee] in favour of each Proposal Participant	
Bidder	Name	DEXUS Funds Management Limited (ABN 24 060 920 783) (DEXUS RE) in its capacity as responsible entity of DEXUS Diversified Trust (ARSN 089 324 541) (DDF), DEXUS Industrial Trust (ARSN 090 879 137) (DIT), DEXUS Office Trust (ARSN 090 768 531) (DOT) and DEXUS Operations Trust (ARSN 110 521 223) (DXO) (together, the Bidder)
	Address	Level 25, Australia Square, 264 George Street Sydney NSW 2000
	Fax	+61 2 9017 1102
	Attention	Mr Brett Cameron
[Nominee]	Name	[insert]
	Address	[insert]
	Fax	[insert]
	Attention	[insert]
In favour of		
Each Proposal Participant	Name	Each Proposal Participant
Recitals	A	On [insert], the Bidder and the Target RE entered into the Implementation Agreement.
	B	Under the Implementation Agreement, the Bidder has agreed to execute this deed poll[and has agreed to procure that [Nominee] would execute this deed poll].
Governing law	New South Wales	
Date of agreement	See Signing page	

General terms

1 Defined terms and interpretation

1.1 Defined terms

In this deed poll, unless the context requires otherwise, all other words and phrases defined in the Implementation Agreement have the same meaning in this deed poll.

1.2 Interpretation

This deed poll is to be interpreted according to corresponding rules to those set out in clause 1.2 (“References to certain general terms”) of the Implementation Agreement except that references to ‘this agreement’ will be taken as being references to ‘this deed poll’.

2 Condition precedent and termination

2.1 Condition precedent

The obligations of the Bidder[and Nominee] under this deed poll are conditional on the Proposal becoming Effective.

2.2 Termination

The obligations of the Bidder[and Nominee] under this deed poll will automatically terminate, and the terms of this deed poll will be of no further force or effect, if the Proposal is not implemented by the End Date.

2.3 Consequences of termination

If the obligations of the Bidder[and Nominee] under this deed poll are terminated under clause 2.2 then, in addition and without prejudice to any other rights, powers or remedies available to Proposal Participants:

- (a) the Bidder[and Nominee] are released from its respective obligations to further perform or procure performance of this deed poll; and
- (b) Proposal Participants retain any rights they have against the Bidder[and Nominee] in respect of any breach of this deed poll which occurred before termination of this deed poll.

3 Compliance with the Proposal

3.1 Performance of obligations generally

The Bidder will comply with its obligations under the Implementation Agreement to do all acts and things as may be necessary or desirable on its part to give full effect to the Proposal.

3.2 Covenants in favour of Proposal Participants

Subject to clause 2, in consideration for the transfer of Target Securities to the [Nominee/Bidder] pursuant to the Proposal the Bidder[and Nominee] covenants in favour of each Proposal Participant to do or to procure that all things it is provided that the Bidder[and Nominee] will do pursuant to the Proposal as described in the Implementation Agreement including the provision of the Proposal Consideration in accordance with the terms of the Proposal.

3.3 Manner of payment

The Bidder's [and Nominee's] obligations to provide, or procure the provision of, the aggregate Proposal Consideration will be satisfied by:

- (a) the Bidder[or Nominee] by 12 noon on the day before the Implementation Date, procuring that an amount in Australian currency is deposited into the Trust Account and in immediately available funds equal to the aggregate of all the Cash Consideration and Cash Component amounts payable to each Proposal Participant; and
- (b) the Bidder issuing the applicable number of DEXUS Property Securities to each applicable Proposal Participant prior to the transfer of the Target Securities to the [Nominee/ Bidder] on the Implementation Date.

4 Warranties

[Each of the]/The Bidder[and Nominee] represents and warrants that:

- (a) **(incorporation)** it is a corporation validly existing under the laws of its place of incorporation;
- (b) **(MIS Status)** DDF, DIT, DOT, DXO are each validly established and DDF, DIT, DOT and DXO are each registered as a 'registered scheme' under Chapter 5C of the Corporations Act.
- (c) **(corporate power)** it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into of this deed poll and has taken or, if the condition precedent referred to in clause 2.1 is satisfied or waived, will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (e) **(binding obligations)** this deed poll is valid and binding upon it;
- (f) **(solvency)** it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets; and
- (g) **(no default)** this deed poll does not conflict with or result in the breach of or default under any provision of its constitution, any material term or provision of any material agreement or any writ, order or injunction, judgement, law, rule, regulation or instrument to which it is party or subject or of which it is bound.

5 Continuing obligations

This deed poll is irrevocable and remains in full force and effect until the Bidder[and Nominee] has completely performed its obligations under this deed poll or the earlier termination of this deed poll under clause 2.2.

6 General

6.1 [Nominee]

[The Bidder must take all steps necessary to procure that the Nominee complies with its obligations to acquire the Target Securities and to provide, or procure the provision of, the Proposal Consideration.]

6.2 Nature of deed poll

The Bidder[and Nominee] acknowledge that this deed poll may be relied on and enforced by any Proposal Participant in accordance with its terms even though those persons are not party to this deed poll.

6.3 Further assurances

The Bidder[and Nominee] will do all things and execute all deeds, instruments, transfers or other documents as may be necessary to give full effect to the provisions of this deed poll and the transactions contemplated by it.

6.4 Remedies cumulative

The rights, powers and remedies of the Bidder[and Nominee] and Proposal Participants in this deed poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity.

6.5 Waiver

- (a) A failure or delay in exercise, or partial exercise, of:
- (i) a right arising from a breach of this deed poll; or
 - (ii) a right, power, authority, discretion or remedy created or arising upon default under this deed poll,
- does not result in a waiver of that right, power, authority, discretion or remedy.
- (b) Waiver of any right arising from a breach of this deed poll or any right, power, authority, discretion or remedy arising upon default under this deed poll must be in writing and signed by the party granting the waiver.

6.6 Assignment

The rights and obligations of the Bidder[and Nominee] and each Proposal Participant under this deed poll are personal. They cannot be assigned, encumbered or otherwise dealt with and none of the Bidder[and Nominee] or any Proposal Participant may attempt, or purport, to do so without the prior written consent of the Target RE and the Bidder[and Nominee].

6.7 Stamp duty

All stamp duty that may be payable on or in connection with this deed poll and any instrument effected by, executed under or pursuant to this deed poll must be borne by the Bidder. The Bidder must indemnify each Proposal Participant on demand against any liability for that stamp duty.

6.8 Notices

- (a) Unless expressly stated otherwise in this agreement, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed poll must be:
 - (i) in writing;
 - (ii) signed by the sender (if an individual) or an Authorised Officer of the sender; and
 - (iii) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.
- (b) Communications must be:
 - (i) left at the address set out or referred to in the Details section;
 - (ii) sent by prepaid ordinary post (airmail if sent to an address outside Australia) to the address set out or referred to in the Details section;
 - (iii) sent by fax to the fax number set out or referred to in the Details section; or
 - (iv) given in any other way permitted by law.

However, if the intended recipient has notified a changed address or fax number, then communications must be to that address or fax number.

- (c) Communications take effect from the time they are received or taken to be received under clause 6.8(d) (whichever happens first) unless a later time is specified.
- (d) Communications are taken to be received:
 - (i) if sent by post, three days after posting (or seven days after posting if sent from one country to another); or
 - (ii) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent.

6.9 Variation

A provision in this deed poll may only be varied:

- (a) before the First Judicial Advice date, by the Bidder[or Nominee] if the variation is agreed to by the Target RE (acting reasonably) where such agreement may be given or withheld without reference to or approval by any Proposal Participant being required;
- (b) after the First Judicial Advice date, by the Bidder[or Nominee] if the variation is agreed to by the Target RE (acting reasonably) where such

agreement may be given or withheld without reference to or approval by any Proposal Participant being required and is approved by the Court,

in which event the Bidder[or Nominee] will enter into a further deed poll in favour of the applicable Proposal Participants giving effect to any such amendment.

6.10 Further assurances

The Bidder[and Nominee] will execute all deeds and other documents and do all acts and things (on their own behalf or on behalf of each Proposal Participant) as may be necessary to give full effect to this deed poll and the transactions contemplated by it.

6.11 Governing law and jurisdiction

This deed poll is governed by the by the law in force in the place specified in the Details. The Bidder[and Nominee] submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this deed poll.

6.12 Service of process

Without preventing any other mode of service, any document in a legal action, suit or other proceeding in the courts of New South Wales or courts of appeal from them (including, without limitation, any writ or summons or other originating process or any third or other party notice) may be served on the Bidder[or the Nominee] (as the case may be) by being delivered to the Bidder[and Nominee] (as the case may be) at the address shown in the Details.

EXECUTED AND DELIVERED as a deed poll

Deed Poll

Signing page

DATED: _____

EXECUTED by **DEXUS FUNDS
MANAGEMENT LIMITED** in its
capacity as responsible entity of
DEXUS Diversified Trust, DEXUS
Industrial Trust, DEXUS Office Trust
(ARSN 090 768 531) and DEXUS
Operations Trust in accordance with
section 127(1) of the *Corporations Act
2001* (Cth) by authority of its directors:

.....)
Signature of director)	Signature of director/company secretary*
)	*delete whichever is not applicable
.....)
Name of director (block letters))	Name of director/company secretary* (block letters)
)	*delete whichever is not applicable

EXECUTED by **[NOMINEE]** in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by)
authority of its directors:)

)
)
)
.....)

Signature of director)

)
)
)
.....)

Name of director (block letters))

)

.....

Signature of director/company
secretary*

*delete whichever is not applicable

.....

Name of director/company secretary*
(block letters)

*delete whichever is not applicable

Annexure B – Notice

Party	Address	Addressee	Fax	Email
ILFML	Herbert Smith Freehills Level 34, ANZ Tower 161 Castlereagh Street, Sydney NSW 2000	Tony Damian / Jim Graham	+61 2 9322 4000	Tony.Damian@hsf.com / James.Graham@hsf.com
DEXUS RE	Level 25, Australia Square, 264 George Street, Sydney NSW 2000	Brett Cameron	+61 2 9017 1102	Brett.Cameron@dexus.com
	Copy to King & Wood Mallesons Level 61 Governor Phillip Tower 1 Farrer Place Sydney NSW 2000	Susan Hilliard	+ 61 2 9296 3999	Susan.Hilliard@au.kwm.com

Annexure C – Proposal Terms

1 Preliminary matters

- (a) If this Proposal becomes Effective:
 - (i) the Bidder must provide or procure the provision of the Proposal Consideration to the Proposal Participants in accordance with the terms of this Schedule and the Deed Poll; and
 - (ii) all the Target Securities, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to the Bidder and Target RE will enter the name of the Bidder in the Register in respect of the Target Securities.
- (b) Target RE and the Bidder have agreed, by executing the Implementation Deed, to implement this Proposal.
- (c) This Schedule attributes actions to Bidder and the Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Schedule, including the provision or procuring the provision of the Proposal Consideration to the Proposal Participants.

2 Conditions

2.1 Conditions precedent

- (a) This Proposal is conditional on and will have no force or effect until, the satisfaction of each of the following conditions precedent:
 - (i) all the conditions in clause 3 of the Implementation Deed (other than the condition in the Implementation Deed relating to judicial advice in connection with this Proposal) having been satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Judicial Advice Date;
 - (ii) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Judicial Advice Date; and
 - (iii) the Second Judicial Advice having been obtained.
- (b) The Proposal will become effective on the Business Day after the Second Judicial Advice Date.

3 Transfer of Target Securities

On the Implementation Date:

- (a) subject to the provision of the Proposal Consideration in the manner contemplated by clause 5, the Target Securities, together with all rights and entitlements attaching to the Target Securities as at the Implementation Date, will be transferred to the Bidder, without the need for any further act by any Proposal Participant (other than acts performed by the Target RE as attorney and agent for Proposal Participants or by any sub-delegate of the Target RE), in the case of the Target Securities by:

- (i) the Target RE or its sub-delegate delivering to the Bidder a duly completed Target Securities transfer, executed on behalf of the Proposal Participants, for registration; and
 - (ii) the Bidder duly executing the Target Securities transfer and delivering it to the Target RE for registration; and
- (b) as soon as possible following receipt of the Target Securities transfer, in accordance with clause 3(a)(ii), the Target RE must enter, or procure the entry of, the name of the Bidder in the Register in respect of all the Target Securities.

4 Dealings

4.1 Determination of Proposal Participants

To establish the identity and addresses of the Proposal Participants, dealings in Target Securities and other alterations to the Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Register as the holder of the relevant Target Securities on or before the Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of those alterations, are received on or before the Record Date at the place where the Register is kept,

and the Target RE will not accept for registration, nor recognise for the purpose of establishing the identity and addresses of persons who are Proposal Participants, any transferor transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form (except a transfer to the Bidder pursuant to the Proposal or any subsequent transfer by the Bidder or its successors in title).

4.2 Register

- (a) The Target RE must register registrable transmission applications or transfers of Target Securities in accordance with clause 4.1(b) by, or as soon as practicable after the Record Date; provided that, for the avoidance of doubt but subject to the Listing Rules, nothing in this clause 4.2(a) requires the Target RE to register a transfer that would result in a Target Securityholder holding a parcel of Target Securities that is less than a 'marketable parcel' (as defined in the ASX Operating Rules). The persons shown in the Register, and the number of Target Securities shown as being held by them after registration of those transfers and transmission applications will be taken to be the Proposal Participants, and the number of Target Securities held by them, as at the Record Date.
- (b) If the Proposal becomes Effective, a holder of Target Securities (and any person claiming through that holder) must not dispose of or purport or agree to dispose of, any Target Securities or any interest in them after the Record Date (except a transfer to the Bidder pursuant to the

Proposal) or any subsequent transfer by the Bidder or its successors in title).

- (c) For the purpose of determining entitlements to the Proposal Consideration, the Target RE must maintain the Register in accordance with the provisions of this clause 4.2 until the Proposal Consideration has been paid to the Proposal Participants. The Register in this form will solely determine entitlements to the Proposal Consideration.
- (d) All statements of holding for Target Securities will cease to have effect after the Record Date as documents of title in respect of those Target Securities and, as from that date and time, each entry current at that date on the Register will cease to have effect except as evidence of entitlement to the Proposal Consideration in respect of the Target Securities relating to that entry.
- (e) As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, the Target RE will ensure that details of:
 - (i) the names, registered addresses and holdings of Target Securities for each Proposal Participant as shown in the Register as at the Record Date; and
 - (ii) the Election (if any) of each Proposal Participant ,are available to the Bidder in the form the Bidder reasonably requires.

5 Proposal Consideration

5.1 Consideration

The Proposal Consideration in respect of each Target Security is the:

- (a) Standard Consideration ;
- (b) the Maximum Cash Consideration; or
- (c) the Maximum Scrip Consideration.

5.2 Provision of Proposal Consideration

The Bidder undertakes that, subject to the terms of this Schedule, if the Proposal becomes Effective, and in consideration for the transfer to the Bidder of each Target Security held by a Proposal Participant under the Proposal:

- (a) it will accept the transfer of Target Securities; and
- (b) it will provide to each Proposal Participant (or, in respect of any cash payable to a Proposal Participant, to Target RE on trust for each Proposal Participant) the Proposal Consideration, consistent with clause 8 and 9 and the terms of the Proposal.

To facilitate the provision of the Proposal Consideration, in accordance with the Proposal and the Deed Poll:

- (c) **(Scrip and Cash Consideration (Scrip Component))** for the Scrip Component of the Scrip and Cash Consideration, the Maximum Scrip Election or any DEXUS Property Group Securities to be issued to a person making a Maximum Cash Election, the Bidder will issue the applicable number of DEXUS Property Group Securities to each applicable Proposal Participant in accordance with the terms of the Proposal before the transfer of the Target Securities on the Implementation Date.
- (d) **(Scrip and Cash Consideration (Cash Component))** for the Cash Component of the Scrip and Cash Consideration, the Maximum Cash Election or any cash payable to a person making a Maximum Scrip Election:
 - (i) the Bidder must by 12:00pm on the business day before the Implementation Date, deposit into the Trust Account an amount in Australian currency and in immediately available funds equal to the Total Cash Pool;
 - (ii) Target RE must receive and hold the amount received from the Bidder under clause 5.2(d)(i) in the Trust Account as trustee for the Proposal Participants, and on the Implementation Date must draw on that amount to pay to each applicable Proposal Participant an amount in Australian currency to which that Proposal Participant is entitled as the Cash Component of the Scrip and Cash Consideration, an amount pursuant to the Maximum Cash Election or any cash payable to a person making a Maximum Scrip Election in accordance with the Proposal, either by:
 - (A) electronic funds transfer to either an account nominated by the Proposal Participant in their Election Form or, if no account is so nominated, the account of the Proposal Participant with the bank or other financial institution nominated by them for receipt of distributions on their Target Securities; or
 - (B) cheque sent by pre-paid post:
 - (aa) in the case of Proposal Participants who are registered as holding the Target Securities jointly – to the address recorded in the Register at the Record Date of the person whose name appears first in the Register in respect of the joint holding; or
 - (bb) otherwise – to the Proposal Participant's address recorded in the Register at the Record Date.

5.3 Elections - general

- (a) A Target Securityholder may make an election to receive one of the following:

- (i) the Standard Consideration;
- (ii) the Maximum Cash Consideration; or
- (iii) the Maximum Scrip Consideration,

for all their Target Securities by completing the Election Form, such election being subject to clauses 5.7, 8.1, 8.2 and 9.

- (b) For an election to be valid, the Target Securityholder must complete and sign the Election Form in accordance with the instructions in the Explanatory Memorandum and on the Election Form and the Election Form must be received by the Registry by the Election Date at the address specified in the Explanatory Memorandum and on the Election Form.
- (c) An election made by a Target Securityholder, whether valid or not, will be irrevocable unless the Bidder in its discretion agrees to the revocation of the election (such discretion to be exercised fairly and equitably having regard to the circumstances at the time).
- (d) Subject to clause 5.3(e), an election made or deemed to be made by a Target Securityholder under this clause 5 will be deemed to apply in respect of the Target Securityholder's entire registered holding of Target Securities at the Record Date, regardless of whether the Target Securityholder's holding of Target Securities at the Record Date is greater or less than the Target Securityholder's holding of Target Securities at the time it made its election.
- (e) A Target Securityholder who is noted on the Register as holding one or more parcels of Target Securities as trustee or nominee for, or otherwise on account of, another person, may in the manner considered appropriate by the Bidder and the Target RE (acting reasonably including after consultation with the Registry), make separate elections under this clause in relation to each of those parcels of Target Securities (subject to it providing to the Bidder and the Target RE any substantiating information they reasonably require), and an election made in respect of any such parcel, or an omission to make an election in respect of any such parcel, will not be taken to extend to the other parcels.
- (f) Subject to clauses 5.3(g) and 5.3(h), an Election Form will not be valid unless it is completed and received in accordance with the procedures set out in clause 5.3(b).
- (g) The Bidder will determine, in its sole discretion, all questions as to the correct completion of an Election Form, and time of receipt of an Election Form. The Bidder is not required to communicate with any Target Securityholder prior to making this determination. The determination of the Bidder will be final and binding on the Target Securityholder.
- (h) Notwithstanding clause 5.3(b), the Bidder may, in its sole discretion, at any time and without further communication to Target Securityholder, deem any Election Form that has been received from a Target Securityholder to be a valid election in respect of the relevant Target

Securities, even if a requirement for a valid election has not been complied with.

5.4 Standard Consideration if election not made

If a valid election is not made by a Target Securityholder or no election is made by a Target Securityholder, then that Target Securityholder will be deemed to have elected to receive Standard Consideration in respect of all of their Target Securities.

5.5 Maximum Cash Consideration

If a Proposal Participant makes a Maximum Cash Election, the Proposal Participant will be entitled to receive for each Target Security held by that Proposal Participant at the Record Date:

- (a) if the Available Cash Consideration is not required by clause 5.5(c) to be pro rated amongst Target Securityholders who make a Maximum Cash Election, the Implied Announcement Value in cash per Target Security; and
- (b) if the Available Cash Consideration is required by clause 5.5(c) to be pro rated amongst Proposal Participants who make a Maximum Cash Election:

- (i) an amount of cash per Target Security calculated as follows:

$$A \div B$$

Where:

A = the Available Cash Consideration;

B = the total number of Target Securities held at the Record Date by all Proposal Participants who make a Maximum Cash Election; and

- (ii) a number of DEXUS Property Group Securities per Target Security calculated as follows:

$$(\text{Implied Announcement Value} - X) \div Y$$

Where:

X = the amount of cash per Target Security determined in accordance with clause 5.5(b)(i); and

Y = the DEXUS Reference Price of a DEXUS Property Group Security.

- (c) For the purpose of this clause 5.5, the Available Cash Consideration is required to be pro-rated amongst the Proposal Participants who make a Maximum Cash Election if the amount determined by multiplying the Implied Announcement Value by the total number of Target Securities

held by all Proposal Participants making a Maximum Cash Election exceeds the Available Cash Consideration.

5.6 Maximum Scrip Consideration

If a Proposal Participant makes a Maximum Scrip Election then, subject to clauses 8 and 9, the Proposal Participant will be entitled to receive for each Target Security held by that Proposal Participant at the Record Date:

- (a) if the Available Scrip Consideration is not required to be pro rated by clause 4.6(c) amongst Proposal Participants who make a Maximum Scrip Election, a number of DEXUS Property Group Securities per Target Security equal to the Scrip Equivalent of the Implied Offer Number; and
- (b) if the Available Scrip Consideration is required by clause 5.6(c) to be pro rated amongst Proposal Participants who make a Maximum Scrip Election:

- (i) a number of DEXUS Property Group Securities per Target Security calculated as follows, provided that such number is not to exceed the Scrip Equivalent of the Implied Offer Number:

$$A \div B$$

Where:

A = the Available Scrip Consideration;

B = the total number of Target Securities held at the Record Date by all Proposal Participants who make a Maximum Scrip Election; and

- (ii) an amount of cash per Target Security calculated as follows:

$$\text{Implied Announcement Value} - (X \times Y)$$

Where:

X = the number of DEXUS Property Group Securities per Target Security determined in accordance with clause 5.6(b)(i); and

Y = the DEXUS Reference Price of a DEXUS Property Group Security.

- (c) For the purpose of this clause 5.6, the Available Scrip Consideration is required to be pro-rated amongst Proposal Participants who make a Maximum Scrip Election if the number of DEXUS Property Group Securities determined by multiplying the Scrip Equivalent of the Implied Offer Number by the total number of Target Securities held by all Proposal Participants who make a Maximum Scrip Election exceeds the Available Scrip Consideration.

5.7 Joint holders

In the case of Target Securities held in joint names:

- (a) any amount comprising the cash component of the Proposal Consideration payable in respect of those Target Securities is payable to the joint holders and any cheque required to be sent under the Proposal will be made payable to the joint holders and sent to either, at the sole discretion of the Target RE, the holder whose name appears first in the Register as at the Record Date or to the joint holders;
- (b) any DEXUS Property Group Securities to be provided under the Proposal must be provided to and registered in the names of the joint holders; and
- (c) any other document required to be sent under the Proposal, will be forwarded to either, at the sole discretion of the Target RE, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.8 Unclaimed monies

- (a) The Target RE may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to the Target RE; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Proposal Participant to the Target RE (or the Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), the Target RE must reissue a cheque that was previously cancelled under this clause 5.8.
- (c) The Unclaimed Money Act 1995 (NSW) will apply in relation to any Proposal Consideration which becomes 'unclaimed money' (as defined in section 3 of the Unclaimed Money Act 1995 (NSW)).

5.9 Orders of a court or Government Agency

If written notice is given to the Bidder, the Target RE (or either or their respective registry services providers) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Target Securities held by a particular Proposal Participant, which would otherwise be payable or required to be provided to that Proposal Participant by the Target RE or Bidder in accordance with this clause, then Target RE shall be entitled to provide that consideration is made in accordance with that order or direction; or
- (b) prevents Target RE or Bidder from providing consideration to any particular Proposal Participant in accordance with clause 5, or the

payment or issuance of such consideration is otherwise prohibited by applicable law, the Target RE or Bidder shall be entitled to (as applicable):

- (i) retain an amount, in Australian dollars, equal to the cash component of the Proposal Consideration to which that Proposal Participant would otherwise be entitled to under this clause 5; and
- (ii) not issue DEXUS Property Group Securities that a Target Securityholder would otherwise be entitled to under this clause 5,

until such time as provision of the consideration in accordance with this clause 5 is permitted by that order or direction or otherwise by law.

5.10 Total Proposal Consideration

- (a) Subject to clause 5.10 to avoid doubt and notwithstanding any other provision of this agreement, no more than a total of the Total Cash Pool and a total of the Total Scrip Pool (collectively, the Total Proposal Consideration) will be provided by the Bidder as Proposal Consideration, and if for any reason a greater total amount or total number of DEXUS Property Group Securities would (but for this clause 4.10) be required to be provided by the DEXUS Property Group Securities, the requirement (or requirements) for provision of the same will be reduced (in such manner as the Bidder and the Target RE consider equitable) to ensure that no more than the Total Proposal Consideration is provided.
- (b) The limitation in clause 5.10(a) will not apply to the extent that a greater total amount of cash or total number of DEXUS Property Group Securities than the Total Proposal Consideration would be required to be provided by the Bidder under the Proposal due to any rounding applied in the application of the formulae contained in the definitions of DEXUS Reference Price, Implied Announcement Value or Scrip Equivalent of the Implied Offer Number or in accordance with clause 9 and the requirement (or requirements) for provision of Proposal Consideration will be increased (in such manner as the Bidder and the Target RE consider equitable) to take account of such issues.

6 Warranties and title

6.1 Holder's agreements and warranties

- (a) Each Proposal Participant:
 - (i) agrees to the transfer of their Target Securities together with all rights and entitlements attaching to those Target Securities in accordance with this Schedule and agrees to any variation, cancellation or modification of their rights constituted by or resulting from this Schedule; and
 - (ii) acknowledges that this Schedule binds the Target RE and all Target Securityholders (including those who did not attend the

Meeting, did not vote at that meeting, or voted against the Proposal Resolutions and, to the extent of any inconsistency).

- (b) Each Proposal Participant is taken to have warranted to the Target RE and the Bidder, and appointed and authorised the Target RE as its attorney and agent to warrant to the Bidder, that all their Target Securities (including any rights and entitlements attaching to them) which are transferred under this Schedule will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind (other than that the securities comprising the Target Securities must be transferred together), and that they have full power and capacity to sell and to transfer their Target Securities to the Bidder under the Proposal together with any rights attaching to them. The Target RE will provide such warranty to the Bidder as agent and attorney of each Holder.

6.2 Title to and rights in Target Securities

- (a) To the extent permitted by law, the Target Securities transferred under this Schedule will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Immediately upon provision of the Proposal Consideration to each Proposal Participant in the manner contemplated in clause 5.2, the Bidder will be beneficially entitled to the Target Securities transferred to it under this Schedule pending registration by the Target RE of the Bidder in the Register as the holder of the Target Securities.

7 Appointment of sole proxy

Immediately upon provisions of the Proposal Consideration to each Proposal Participant in the manner contemplated in clause 5.2, and until the Target RE registers the Bidder as the holder of all Target Securities in the Register, each Proposal Participant:

- (a) is deemed to have appointed the Bidder as attorney and agent (and directed the Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by the Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend securityholder meetings, exercise the votes attaching to the Target Securities registered in their name and sign any securityholder resolution;
- (b) no Proposal Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 7); and
- (c) must take all other actions in the capacity of a registered holder of Target Securities as the Bidder reasonably directs.

8 Sale Facility

8.1 Ineligible Overseas Target Securityholders

Each Ineligible Overseas Target Securityholder must participate in the sale facility.

8.2 Minimum Holders

Each Minimum Holder may elect to have the DEXUS Property Group securities that they would receive under the Proposal sold through the sale facility(**Electing Minimum Holder**).

8.3 Sale Facility

- (a) The Bidder will issue to a nominee (the "Sale Agent") appointed by the Bidder, the Target Securities to which an Ineligible Overseas Target Securityholder or Electing Minimum Holder would otherwise be entitled.
- (b) The Bidder will procure that, as soon as reasonably practicable and in any event not more than 15 Business Days after the Implementation Date, the Sale Agent:
 - (i) sells on the financial market conducted by ASX all of the Sale Securities issued to the Sale Agent pursuant to clause 8.3(a) in the manner, at the price and on the other terms that the Sale Agent determines in good faith and at the risk of the Ineligible Overseas Target Securityholders and Electing Minimum Holders; and
 - (ii) remits to the Target RE the proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges) ("Gross Proceeds").
- (c) Promptly after receiving the Gross Proceeds, the Target RE must pay, or procure payment, to each applicable Proposal Participant specified in clause 8.1 and 8.2 an amount calculated as follows:

$$A \div B \times C$$

Where:

A = the Gross Proceeds

B = the total number of Sale Securities and

C = the number of DEXUS Property Group Securities to which the relevant Proposal Participant would have been entitled.

- (d) None of the Target RE, the Bidder or the Sale Agent gives any assurance as to the price that will be achieved for the sale of DEXUS Property Group Securities described in clause 8. The sale of DEXUS Property Group Securities under this clause 8 will be the risk of the relevant Proposal Participant.

- (e) Payments made to Target Securityholders specified in clause 8.3(c) are to be made in the same way that payments are to be made under clause 5.2(d)(ii).
- (f) If the Target RE receives professional advice that any withholding or other tax is required by law to be withheld from payment to a Holder under this clause 8, the Target RE is entitled to withhold the relevant amount before making the payment to the Proposal Participant (and payment of the reduced amount shall be taken to be full payment of the amount for the purposes of this clause 8). The Target RE must pay any amount withheld to the relevant taxation authorities within the time permitted by law, and, if requested in writing by the relevant Proposal Participant, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Proposal Participant.
- (g) Payment of an amount to a Proposal Participant in accordance with this clause 8, will be in full satisfaction of the obligations of the Target RE and the Bidder to the relevant Holder under this clause 8 in respect of their entitlements to Scrip Component Proposal Consideration.

9 Fractional entitlements, splitting and anti-manipulation

- (a) If the number of Target Securities held by a Proposal Participant means that their aggregate entitlement to DEXUS Property Group Securities is not a whole number, that fractional entitlement will be rounded down to zero DEXUS Property Group Securities.
- (b) If the Bidder and Target RE are of the opinion (acting reasonably) that two or more Proposal Participants (each of whom holds a number of Target Securities which results in rounding in accordance with clause 9(a) have, before the Record Date, been party to security splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Target RE may give notice to those Proposal Participants:
 - (i) setting out their names and registered addresses as shown in the Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Target Securities held by all of them,

and, after such notice has been given, the Proposal Participant specifically identified in the notice as the deemed holder of all the specified Target Securities will be taken to hold all of those Target Securities and each of the other Proposal Participants whose names and registered addresses are set out in the notice will be taken to hold no Target Securities. Target RE, in complying with the provisions of this agreement relating to it in respect of the Proposal Participant specifically identified in the notice as the deemed holder of all the specified Target

Securities, will be taken to have satisfied and discharged its obligations to the other Proposal Participants named in the notice.

- (c) Where the calculation of the Proposal Consideration to be provided to a particular Proposal Participant would result in the Proposal Participant becoming entitled to a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

10 Quotation of Target Securities and Status of new DEXUS Property Group Securities

10.1 Target Securities

- (a) The Target RE will apply to ASX to suspend trading on the ASX in Target Securities with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by the Bidder, the Target RE will apply:
 - (i) for termination of the official quotation of Target Securities on the ASX; and
 - (ii) to have the Trust removed from the official list of the ASX.

10.2 DEXUS Property Group Securities

Subject to the Proposal becoming Effective, the Bidder must:

- (a) issue the new DEXUS Property Group Securities required to be issued by it under the Proposal on terms such that each such new DEXUS Property Group Security will rank equally in all respects with each existing DEXUS Property Group Security;
- (b) ensure that each such new DEXUS Property Group Securities is duly and validly issued in accordance with all applicable laws and the Bidder's constituent documents, fully paid and free from any mortgage, charge, lien, encumbrance or other security interest; and
- (c) use all reasonable endeavours to ensure that such new DEXUS Property Group Securities are, by no later than the Implementation Date, quoted for trading on the ASX.

11 General

11.1 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Government Agency), all instructions, notifications or elections by a Proposal Participant to Target RE binding or deemed binding between the

Proposal Participant and Target RE relating to Target RE or Target Securities, including instructions, notifications or elections relating to:

- (a) whether distributions are to be paid by cheque or into a specific bank account;
- (b) payments of distributions on Target Securities; and
- (c) notices or other communications from Target RE (including by email),

will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Proposal, to be made by the Proposal Participant to Bidder and to be a binding instruction, notification or election to, and accepted by, Bidder in respect of the new DEXUS Property Group Securities issued to that Proposal Participant until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.

11.2 Binding effect of this Schedule

From the Effective Date:

- (a) this Schedule binds the Target RE and all of the present and future Target Securityholders (including those who did not attend the Meeting), did not vote at that meeting, or voted against the Proposal Resolutions) and, to the extent of any inconsistency, overrides any other Schedule of this deed:
- (b) the Target RE and, so far as is relevant, the Target Securityholders, must give effect to the Proposal; and
- (c) subject to section 601GA(2) of the Corporations Act, the Target RE shall not have any liability of any nature to Target Securityholders beyond the assets of the Trust out of which the Target RE is actually indemnified arising directly or indirectly from the Target RE doing or refraining from any act, matter or thing pursuant to or in connection with the Proposal.

11.3 Consent

Each of the Target Securityholders consents to the Target RE doing all things necessary or incidental to the implementation of the Proposal.

11.4 Further action

The Target RE must do all things and execute all documents necessary to give full effect to the Proposal and the transactions contemplated by it.

11.5 Nominee

- (a) If the Bidder has nominated a Nominee to acquire the Target Securities, then the Nominee will have all the obligations of the Bidder under this Schedule to acquire the Target Securities and to provide, or procure the provision of, the Proposal Consideration.

- (b) The Bidder must take all steps necessary to procure that the Nominee complies with its obligations to acquire the Target Securities and to provide, or procure the provision of, the Proposal Consideration.