

DATED

2014

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SANNE GROUP NOMINEES 1 (UK) LIMITED and  
SANNE GROUP NOMINEES 2 (UK) LIMITED

and

ESKMUIR FM LIMITED

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TRUST DEED

constituting

The Diversified Property Fund for Charities

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N A B A R R O

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## CONTENTS

Clause	Subject matter	Page
1.	INTERPRETATION.....	2
2.	NAME.....	10
3.	DECLARATION OF TRUST .....	11
4.	DEED TO BIND UNITHOLDERS.....	12
5.	INTERESTS IN TRUST PROPERTY REPRESENTED BY UNITS .....	12
6.	ISSUE OF UNITS .....	12
7.	FAILURE OF UNITHOLDERS TO PROVIDE FUNDING .....	14
8.	REGISTER OF UNITHOLDERS.....	16
9.	JOINT UNITHOLDERS AND CORPORATE UNITHOLDERS .....	17
10.	UNITS TO BE HELD FREE FROM EQUITIES.....	17
11.	UNITHOLDERS MUST HOLD UNITS FOR EXEMPT CHARITY FUNDS .....	18
12.	EVIDENCE OF EXEMPTION TO BE FURNISHED BY UNITHOLDERS.....	18
13.	INDEMNITY .....	22
14.	TRANSFER OF UNITS.....	22
15.	RIGHT TO REFUSE REGISTRATION .....	23
16.	EXECUTION OF TRANSFERS .....	23
17.	STAMPING AND REGISTRATION OF TRANSFERS.....	23
18.	REALISATION AND TRANSFER OF UNITS .....	23
19.	SCHEME OF INVESTMENT .....	25
20.	ENGAGEMENT OF THIRD PARTIES .....	26
21.	POWER TO BORROW.....	27
22.	TRUST EXPENSES.....	28
23.	RESPONSIBILITY FOR INVESTMENTS .....	29
24.	PROVISIONS FOR LIABILITIES .....	29
25.	VAT .....	30
26.	NET INCOME.....	30
27.	DISTRIBUTIONS AND DISTRIBUTION ACCOUNT .....	30
28.	DISTRIBUTION PAYMENTS.....	31
29.	TAXATION .....	32
30.	ACCOUNTS.....	32
31.	ANNUAL GENERAL MEETING.....	33
32.	VOTING RIGHTS.....	33
33.	APPOINTMENT AND REMOVAL OF THE MANAGER.....	33
34.	INVESTORS' COMMITTEE.....	35
35.	REMUNERATION OF THE TRUSTEES AND MANAGER .....	37
36.	APPOINTMENT OF DEPOSITARY.....	38
37.	DEALINGS AS PRINCIPAL .....	38
38.	DUTIES OF THE MANAGER AND TRUSTEES .....	38
39.	ENGAGEMENT OF AGENTS AND ADVISERS.....	39
40.	TRUSTEES' AND MANAGER'S POWERS .....	39
41.	INDEMNIFICATION OF TRUSTEES AND MANAGER.....	41
42.	RETIREMENT AND INDEMNITY OF TRUSTEES.....	42
43.	DURATION .....	42
44.	TERMINATION .....	42
45.	MANNER OF LIQUIDATION .....	43

46.	NOTICES TO UNITHOLDERS .....	43
47.	MODIFICATION OF TRUST DEED.....	44
48.	THIRD PARTY RIGHTS .....	45
49.	CHOICE OF ENGLISH LAW AND JURISDICTION .....	45
Schedule 1.....		46
	Form of Indemnity .....	46
Schedule 2.....		48
	Valuation .....	48
Schedule 3.....		51
	Investment Operating Criteria .....	51
Schedule 4.....		52
	Subscription Agreement.....	52
Schedule 5.....		56
	Form of Authorisation.....	56
Schedule 6.....		57
	Meetings of Unitholders .....	57
Schedule 7.....		60
	Risk Management and portfolio management services.....	60

## TRUST DEED

DATE

2014

### PARTIES

- (1) SANNE GROUP NOMINEES 1 (UK) LIMITED (incorporated and registered in England and Wales under company registration number 08334755) and SANNE GROUP NOMINEES 2 (UK) LIMITED (incorporated and registered in England and Wales under company number 08334719), the registered office of both of which is at Pollen House, 10 Cork Street, London W1S 3NP (the "**Trustees**"); and
- (2) ESKMUIR FM LIMITED (incorporated and registered in England and Wales under company number 9249737 the registered office of which is at 8 Queens Anne Street, London W1G 9LD (the "**Manager**").

### RECITALS

- (A) The Trustees and the Manager have determined to constitute an unauthorised exempt unit trust scheme to be known as The Diversified Property Fund for Charities.
- (B) The Trust is an AIF for the purposes of the AIFMD and a collective investment scheme for the purposes of section 235 of FSMA.
- (C) The Trustees have appointed the Manager as the AIFM of the Trust pursuant to the terms of this Trust Deed. The Manager is registered with the FCA to act as a small registered UK AIFM pursuant to Regulation 10(3) of the AIFM Regulations.
- (D) The Trustees and the Manager have appointed the Operator which is authorised and regulated by the FCA, to establish and operate the Trust pursuant to the Operating Agreement. The Operator has permission under Part 4A of FSMA to carry out the regulated activity of establishing, operating and winding up a collective investment scheme.
- (E) The Trust is established for United Kingdom charities which are Exempt Charity Funds for the purposes of investing in commercial property in the United Kingdom and other investments permitted by and subject to the terms of the Trust Deed.
- (F) The parties wish to establish the Trust from the date of and on the terms and subject to the conditions of the Trust Deed.

**IT IS HEREBY AGREED AS FOLLOWS:**

**1. INTERPRETATION**

1.1 In this Trust Deed unless the context otherwise requires:

**"Accounting Date"**

means 30 September in each year or such other date as may be determined by the Trustees from time to time or (in the case of the final Accounting Period) the date on which the last distribution is made to Unitholders;

**"Accounting Period"**

means a period ending on and including an Accounting Date and beginning on the day following the preceding Accounting Date with the first accounting period ending on the 30 September 2015;

**"AIF"**

means an alternative investment fund as defined in Regulation 3 of the AIFM Regulations;

**"AIFM"**

means the Manager or such other person who is responsible for the management of the Trust in accordance with Regulation 4 of the AIFM Regulations;

**"AIFMD"**

means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and, where applicable and the context requires, references to the AIFMD includes references to Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing the AIFMD and any legislation implementing the AIFMD into the national law of a jurisdiction;

**"AIFM Regulations"**

means the UK Alternative Investment Fund Managers Regulations 2013 (SI 2013/1773) which implement the AIFMD into UK law;

**"Annual General Meeting"**

means a general meeting of Unitholders held once in every calendar year (in accordance with **clause 31** and **Schedule 6**);

**"Applicable Interest Rate"**

means 4 per cent. per annum over the base rate of Barclays Bank Plc or such other rate as the Manager may from time to time determine taking into account prevailing market rates of interest;

**"Approval Date"**

means the date on which the Trust first attained HMRC approval as an exempt unauthorised unit trust;

**"Asset Manager"**

means Eskmuir Asset Management Limited (or an Associate of it or such other person) as may be appointed from time to time pursuant to the Asset Manager Agreement to be the property asset manager of assets of the Trust;

**"Asset Manager Agreement"**

means an agreement between the Trustees, the Manager and the Asset Manager appointing the Asset Manager of the Trust;

**"Associate"**

means, in relation to the person concerned:

- (a) in relation to a corporation, a holding company of, a subsidiary of, or a subsidiary of any holding company of, the person, or of an "Associate" of any such person under another paragraph of this definition;
- (b) a firm in which the person (or an "Associate" of any such person under another paragraph of this definition) is a partner and holds alone or together with its "Associates" at least 51 per cent of the total equity interest in such firm; or
- (c) in relation to an individual or firm or other unincorporated body, any corporation or firm directly or indirectly under the Control of the person;

**"Auditors"**

means such firm of internationally recognised or leading UK chartered accountants appointed to act as auditors to the Trust by the Manager with the approval of the Investors' Committee, the first auditors to be Deloitte LLP;

**"Authorised Investments"**

means any Investment, Property or Property Security including any debt or interest rate hedging instrument;

**"Business Day"**

means any day from Monday to Friday (except bank or other public holidays) on which banks are open for business in London;

**"Cause"**

means:

- (a) fraud by the Manager;
- (b) any wilful illegal act of the Manager;
- (c) gross negligence of the Manager which has a material adverse effect on the Trust and/or the Unitholders;
- (d) wilful default of the Manager;

- (e) without prejudice to any of the foregoing, any indictable offence (or the equivalent in any jurisdiction) committed by the Manager or any director of the Manager in his capacity as such;
- (f) any act or omission by the Trustees or the Manager (as the case may be) being a material breach of the provisions of the Trust Deed not being capable of remedy or which is not remedied within 30 Business Days (or such other longer period as is reasonable and appropriate in the circumstances) of the Trustees or the Manager (as the case may be) being required in writing to do so;
- (g) in relation to the Manager, the Asset Manager being terminated for cause under the Asset Management Agreement;
- (h) the Manager ceasing to hold the required regulatory authorisations to act as manager of the Trust; or
- (i) the Trustees or the Manager becoming Insolvent (as the case may be);

**"Condition"**

has the meaning given to that expression in **clause 11**;

**"Control"**

means in relation to any person, being entitled to exercise, or control the exercise of, 50 per cent or more of:

- (a) the voting power at any general or other meeting of such person; or
- (b) the voting equity of any body corporate, firm or other unincorporated body which "Controls" such entity by reason of the application of **paragraph (a)** or one or more applications of this **paragraph (b)**;

**"Default Amount"**

has the meaning given to that expression in **clause 7.1**;

**"Defaulting Unitholder"**

has the meaning given to that expression in **clause 7.1**;

**"Depositary"**

means if required under AIFMD a company appointed by the Manager on behalf of the Trust which is authorised by the FCA to act as the depositary of an AIF;

**"Disqualified Realisation Price"**

means the amount paid or payable to a Disqualified Unitholder in accordance with **clause 12.1.7**;

**"Disqualified Unitholder"**

means a Unitholder whose Units have been transferred to a Temporary Unitholder pursuant to **clause 12.1.7** during the period that such Units are held by such Temporary Unitholder and up to and including the date of cancellation of such Units in accordance with **clause 12.1.7**;

**"Distribution"**

means a distribution referred to in **clause 27**;

**"Distribution Account"**

means the account referred to in **clause 27.4**;

**"Distribution Date"**

means no later than 1 April (in respect of the Distribution Period ended 31 December), 1 July (in respect of the Distribution Period ended 31 March), 1 October (in respect of the Distribution Period ended 30 June), and 1 January (in respect of the Distribution Period ended 30 September), in each year, or such date or dates as the Manager may appoint but so that there shall be a Distribution Date not later than 14 weeks after the end of each Distribution Period;

**"Distribution Period"**

means each period ending on 31 December, 31 March, 30 June and 30 September in each year for the duration of this Trust;

**"Drawdown Notice"**

has the meaning given to that expression in **clause 6.7**;

**"Establishment Costs"**

means the costs of establishing the Trust including the costs of the Trustees, the Manager and the Asset Manager incurred in the establishment of the Trust;

**"Establishment Date"**

means the date of this Trust Deed;

**"Event"**

has the meaning given to that expression in **clause 12.1.7**;

**"Exempt Charity Fund"**

means any person:

- (a) other than a person who, if a unit holder, would cause the Trust not to qualify for exemption from tax on chargeable gains under Regulation 10 Unauthorised Unit Trusts (Tax) Regulations 2013; and
- (b) (i) who is a charity as defined in paragraph 1(1) Schedule 6, Finance Act 2010 and which holds the units for qualifying charitable purposes within the meaning of paragraph 1 (2) Schedule 8, Finance Act 2003; or
- (ii) who is a unit trust scheme (as defined in section 101(4) Finance Act 2003) in which all the unit holders are charities described in (i) above.

**"Extraordinary General Meeting"**

means a meeting held as provided for in **Schedule 6**;



**"Extraordinary Resolution"**

means a resolution passed as such at a meeting of Unitholders duly convened and held in accordance with **Schedule 6** by a majority consisting of 75 per cent. or more of the total number of votes cast for and against such resolution;

**"fiscal and sale charges" or "fiscal and purchase charges"**

means all stamp and other duties, stamp duty, stamp duty land tax, taxes, governmental charges, agents' fees (being the fees of legal and other professional advisers), surveyors' and valuers' fees, bank charges, transfer fees, registration fees and other duties and charges;

**"FCA"**

means the Financial Conduct Authority;

**"FCA Rules"**

means the FCA Handbook of Rules and Guidance as issued, amended or replaced by the FCA from time to time;

**"FSMA"**

means the Financial Services and Markets Act 2000 and any amending or successor legislation, together with related statutory instruments;

**"HMRC"**

means Her Majesty's Revenue & Customs;

**"Initial Closing Date"**

means the date on which subscriptions for Units are first accepted by the Trustees;

**"INREV Unit NAV"**

means the fair value of a Unit based on the net asset value calculated in accordance with the guidelines issued by the European Association for Investors in Non-Listed Real Estate Vehicles;

**"Investment"**

includes assets of all kinds, whether real or personal, wheresoever situate, other than cash and provided always that such Investments meet the conditions in Regulation 10(3)(iii) and Regulation 10(3)(iv) of the AIFM Regulation;

**"Investment Operating Criteria"**

means the investment operating criteria set out in **Schedule 3**;

**"Investors' Committee"**

means the committee of representatives of Unitholders established pursuant to **clause 34**;

**"Issue Price"**

means the issue price of a Unit payable in accordance with **clause 6.6** and determined in accordance with **Schedule 2**, with the first issue price of Units being £1;

**"Laing"**

means Charities seeded by Laing Family Members and Trusts;

**"Laing Holder"**

means any Associate of Laing which becomes a Unitholder;

**"Minimum Holding"**

means for each Unitholder, Units with an Issue Price of not less than £250,000 or, where such proposed Unitholder already holds Units, such existing Unitholder agrees to acquire additional Units, the value of which is equal to or more than the Minimum Investment;

**"Minimum Investment"**

means Units with an Issue Price of not less than £50,000 at the relevant time or, in each case, such other amount as the Trustees may from time to time determine either generally or in any particular case or cases;

**"NAV"**

has the meaning given to it in **Schedule 2**;

**"Non-Defaulting Unitholder"**

has the meaning given to that expression in **clause 7.2**;

**"Operator"**

means Sanne Group Administration Services (UK) Limited or such other person which the Trustees and the Manager appoint to operate the Trust from time to time;

**"Operating Agreement"**

means the agreement between the Trustees, the Manager and the Operator pursuant to which the Operator agrees to operate the Trust;

**"Ordinary Resolution"**

means a resolution passed as such at a meeting of Unitholders duly convened and held in accordance with **Schedule 6** by a simple majority of the votes cast for and against such resolution;

**"Percentage Interests"**

means, with respect to each Unitholder at any time, the percentage derived by:

- (a) dividing the number of Units held by such Unitholder by the aggregate of the Units then in issue; and
- (b) multiplying such quotient by 100;

**"Period"**

means an Accounting Period or a Distribution Period, as the case may require;

**"Preliminary Charge"**

means a charge of up to 2 per cent of the Issue Price payable in respect of the issue of Units as detailed in **clause 6** to cover the estimated cost of investing the Unitholders' Subscription Proceeds and as a contribution to the original set up costs.

**"Property"**

means the real estate properties, or any interest in real estate, from time to time owned directly or indirectly by the Trust;

**"Property Securities"**

means stocks, shares, funds and securities in any body corporate (wherever incorporated) which is wholly or mainly engaged whether directly or indirectly in any of the following, namely, the selling, purchasing, leasing, holding, managing, improving, developing or otherwise dealing with any property, and making loans or advances on the security of property and **"Property Security"** shall be construed accordingly;

**"Property Valuer"**

means [ ● ] or such other person appointed from time to time by the Manager with the approval of the Investors' Committee to act as valuer of the Property;

**"Quarter Days"**

means 31 December, 31 March, 30 June and 30 September in each year;

**"Realisation Date"**

means a Quarter Day on which a Realisation Notice expires (subject to postponement in accordance with **clause 18** and **Schedule 2**);

**"Realisation Notice"**

means a notice served by a Unitholder pursuant to **clause 18**;

**"Realisation Price"**

means the realisation price of a Unit calculated in accordance with **Schedule 2**;

**"Realisation Charge"**

means a charge of up to 2 per cent of the Realisation Price as detailed in **clause 18.6** payable to cover costs of realising Trust Property including any applicable fiscal and sale charges as well as any tax payable;

**"Register"**

means the Register held by the Trustees containing details of the Unitholders as outlined in **clause 8**;

**"Relevant Valuation Date"**

has the meaning ascribed to it in **paragraph 1 of Schedule 2**;

**"Retiring Unitholder"**

means a Unitholder who has submitted a Realisation Notice;

**"Sterling"**

means pounds sterling or the lawful currency of the United Kingdom from time to time;

**"Stockbroker"**

means a member of a Stock Exchange and includes a firm of such members;

**"Stock Exchange"**

includes London Stock Exchange plc and any other recognised investment exchange within the meaning ascribed to that expression by the FSMA, and any other stock exchange or market for dealing in investments (wheresoever situate) which may be recognised by the Trustees and the Manager by instrument in writing for the purposes of this Trust;

**"Subscription Agreement"**

means a subscription agreement in the form set out in **Schedule 4** or in such other form (if any) as may be acceptable to the Trustees (acting reasonably);

**"Subscription Proceeds"**

means the gross proceeds of subscriptions for Units received by the Trustees in accordance with the Trust Deed;

**"Tax Certificate"**

means a certificate issued to a Unitholder in accordance with **clause 29.3**;

**"Temporary Unitholder"**

means any person (including the Trustees) to whom Units shall be transferred pursuant to **clause 12.1.7** while such person shall hold such Units on a temporary basis pursuant thereto in the ordinary course of administering the Trust;

**"Trust"**

means the trust hereby constituted namely "The Diversified Property Fund for Charities";

**"Trust Deed"**

means this deed entered into between the Trustees and the Manager and any deed entered into supplemental to it;

**"Trust Objective"**

means investing in Property in accordance with the Investment Operating Criteria (as such objective may be altered by Extraordinary Resolution);

**"Trust Property"**

means the Subscription Proceeds and all other property and assets held or deemed to be held upon the trusts of the Trust Deed from time to time;

**"Unit"**

means a unit in the Trust;

**"Unit NAV"**

means the fair value NAV of a Unit;

**"Unitholder"**

means an Exempt Charity Fund that is registered as the holder of a Unit or Units and shall include:

- (a) a Temporary Unitholder for the purposes only of **clauses** 8 to 11 inclusive and for no other purpose whatsoever; and
- (b) subject to the provisions of **clause** 12.1.7, a Disqualified Unitholder;

**"Valuation Date"**

means any Quarter Day in each year or such other date or dates each year as the Manager may from time to time determine.

- 1.2 Words importing persons include corporations, words importing the singular include the plural and vice versa, words importing the masculine gender include the feminine and vice versa and the words "written" or "in writing" include printing, emails, engraving or other means of visible reproduction but not text messages.
- 1.3 References in the Trust Deed to any "company", "corporation" or "body corporate" include any body (other than an authorised unit trust) falling within the definition of the term "company" in Sections 709(2) and 832 of the Income and Corporation Taxes Act 1988.
- 1.4 References to clauses and schedules are to clauses of, and schedules to, the Trust Deed. The schedules to the Trust Deed shall be incorporated into and form part of the Trust Deed.
- 1.5 References to statutory provisions shall be deemed to extend to any statutory modifications or re-enactments thereof for the time being in force.
- 1.6 The marginal notes and headings in the Trust Deed are for convenience only and shall not affect the construction hereof.

**2. NAME**

The Trust hereby constituted is known as " The Diversified Property Fund for Charities".

### 3. DECLARATION OF TRUST

- 3.1 The Trustees shall hold the Trust Property upon the trust of the Trust Deed and shall issue Units, constituting undivided shares of the Trust Property to Exempt Charity Funds as expressly provided in the Trust Deed. No Unitholder will have any interest in any of the cash or individual assets comprised in the Trust Property and, except as provided in the Trust Deed, the Trustees will have the same full and unrestricted powers in relation to the Trust Property as if it were the beneficial owner of all the cash and individual assets comprised in the Trust Property. Any person dealing with the Trustees for value will be entitled and bound to assume that the Trustees has the powers of an absolute beneficial owner as provided in the Trust Deed and will not be concerned to see that the Trustees have obtained any direction or consent from the Manager or any Unitholder before exercising any of such powers and will not be prejudiced by any failure of the Trustees to obtain any such direction or consent.
- 3.2 The Trustees shall pay the Establishment Costs from the assets of the Trust. The Establishment Costs shall be amortised as a cost to the Trust over five years from the Establishment Date.
- 3.3 No Units which are from time to time in issue, or any rights and interests of the Unitholders in the Trust, shall be purchased by or cancelled by the Trustees in whole or in part, otherwise than in accordance with the Trust Deed.
- 3.4 The terms and conditions of the Trust Deed shall be binding on each Unitholder and all persons claiming through it, as if the Trust Deed contained:
- 3.4.1 covenants on the part of each Unitholder for itself and for all such persons to observe and be bound by its provisions; and
- 3.4.2 an authorisation by each Unitholder to the Trustees to do all such acts and things as the Trust Deed may require or permit the Trustees to do.
- 3.5 A copy of the Trust Deed and any instrument supplemental to it shall be made available for inspection by any of the Unitholders at the registered office of the Trustees at all times during usual business hours on a Business Day. Copies shall be supplied by the Trustees to a Unitholder on application and on payment of an amount equal to the Trustees' reasonable costs in providing the same.
- 3.6 Without prejudice to any fiduciary duties the Trustees may have, the Trustees undertake, throughout the term of the Trust Deed, in respect of its duties and obligations and any other services it provides to the Trust:
- 3.6.1 to use its judgment and to act lawfully and in good faith towards the Trust (including its agents or delegates); and
- 3.6.2 to act with such reasonable skill and care as is to be expected of a competent and prudent trustee, qualified and experienced in providing managing trustee services to a unit trust of a comparable nature, size, scope and complexity of the Trust with a comparable objective to the Trust Objective.

#### **4. DEED TO BIND UNITHOLDERS**

- 4.1 The terms and conditions of the Trust Deed shall be binding on each Unitholder and all persons claiming through such Unitholder as if it had been a party to the Trust Deed.
- 4.2 A copy of the Trust Deed will be supplied free of charge to any Unitholder upon a written request to the Manager. The Manager will bear any cost associated with providing such documents to Unitholders.

#### **5. INTERESTS IN TRUST PROPERTY REPRESENTED BY UNITS**

The interest in the Trust Property of each Unitholder shall be that represented by the Units for the time being held by such Unitholder. Every Unit shall constitute an undivided share of the Trust Property to the intent that no Unitholder shall, except as expressly provided in the Trust Deed, be entitled to any interest in individual assets comprised in the Trust Property.

#### **6. ISSUE OF UNITS**

- 6.1 The Manager shall have the exclusive right to direct the time or times at which Units shall be issued on behalf of the Trust by the Trustees.
- 6.2 Each applicant subscribing for Units shall deliver to the Manager a duly executed Subscription Agreement. No application for Units shall be accepted unless:
- 6.2.1 the relevant Subscription Agreement is in respect of a commitment to subscribe for Units to the value of not less than the Minimum Holding; or
- 6.2.2 where the Subscriber is a Holder already holding in excess of the Minimum Holding, Units to the value of not less than the Minimum Investment.

The Manager shall be entitled to require any applicant subscribing for Units to provide such guarantee or credit support in relation to its obligations under its Subscription Agreement to subscribe for Units as the Manager may consider necessary or desirable.

- 6.3 Units shall be issued on the date which the Issue Price is paid or deemed paid or such later date as the Manager shall determine.
- 6.4 Notwithstanding **clause 6.1**, the Trustees shall be entitled in its absolute discretion to refuse to issue Units to any applicant for Units and shall not be obliged to give any reason or explanation for any such refusal to the applicant.
- 6.5 Unitholders may only be Exempt Charity Funds or their trustees.
- 6.6 The Issue Price of Units shall be calculated in accordance with **Schedule 2**. Units will be denominated in Sterling. The Issue Price for each Unit will be the Issue Price on the Quarter Day immediately before the due date of payment.
- 6.7 The Trustees may determine, upon the recommendation of the Manager, that a Preliminary Charge shall be charged upon the issue of Units, such amount being not more than 2 per cent. of the Issue Price of the Units being issued.

- 6.8 The Manager may propose that an applicant may subscribe for Units on terms as detailed in a Subscription Agreement to subscribe for Units to be issued and paid for in instalments or otherwise at a date or dates to be determined by further notice from the Manager ("**Drawdown Notice**"). Each Unitholder who has delivered to the Manager a duly executed Subscription Agreement and which is accepted by the Trustees and the Manager, shall subscribe and be obliged to pay for Units, including the Preliminary Charge, upon receipt of a Drawdown Notice (on not less than 10 Business Days' notice) from the Manager. Any commitment to subscribe for Units to be issued and paid for in instalments will only be available to be called upon until the date 12 months after the date of the Subscription Agreement. Where a number of such commitments are outstanding, they shall be called upon in the order in which they were made so that the earliest commitments shall be exhausted before any later commitment is called upon. Where more than one applicant make a commitment on the same date to subscribe for Units their commitments shall be called on together and if amounting to more than is required for application in the Trust, pro rata to those commitments.
- 6.9 The obligations of an applicant to subscribe for Units pursuant to this **clause 6** shall not be capable of being assigned, transferred or otherwise disposed of (except with the consent of the Trustees) so that each applicant shall at all times remain liable to subscribe for Units in accordance with the terms of its Subscription Agreement but without prejudice to its right to sell, assign, transfer or otherwise realise or dispose of Units once issued.
- 6.10 The Manager may direct the Trustees to issue Units against the vesting as Trust Property any property approved by the Manager for inclusion in the Trust and in that connection the following provisions shall apply:
- 6.10.1 all fiscal charges, costs, fees and expenses arising in connection with the vesting so far as not paid by the person to whom the Units are to be issued may be paid out of the Trust;
- 6.10.2 the number of Units to be issued shall be that number which would have fallen to be issued for cash at the Issue Price (on the Quarter Day immediately before the vesting of the Property in the Trustees) against the payment of a sum equal to the value of the Property vested in the Trustees, deducting there-from such sum as the Manager may consider represents the Preliminary Charge;
- 6.10.3 the value of the Property so vested in the Trustees shall be valued on such basis as the Manager may decide so long as the same does not exceed the highest amount that would have been obtained by applying the provisions of **Schedule 2**;
- 6.10.4 the Manager shall be satisfied that the terms of such vesting shall not be such as are likely to result in any prejudice to the interests of existing Unitholders; and
- 6.10.5 no Units shall be issued until the Property has been vested in the Trustees or their nominees to the Trustees' satisfaction.
- 6.11 Joint Unitholders of a Unit shall be jointly and severally liable to pay all calls and instalments of the Issue Price.
- 6.12 Unitholder shall be entitled to receive Distributions and to be present and vote at any meeting of Unitholders and to exercise any other privilege or right as a Unitholder, only in respect of Units that have paid for and been issued.



- 6.13 The Manager shall provide the Trustees from time to time on demand a statement of all issues of Units and of the terms on which the Units are issued and of any Property, or other assets which are purchased for the account of the Trust, and also a statement of any Property or other assets sold for account of the Trust, of all dealings in the management of the Trust and any other information which may be necessary so that the Trustees may be at all times advised of the exercise by the Manager of any of its powers.

## 7. FAILURE OF UNITHOLDERS TO PROVIDE FUNDING

- 7.1 Notwithstanding any provision of the Trust Deed to the contrary, if any Unitholder or applicant for Units fails to pay to the Trustees any amount which is the subject of a Drawdown Notice on the due date (the "**Default Amount**"), such Unitholder or applicant for Units (the "**Defaulting Unitholder**") shall, in addition to its liability for the Default Amount, also pay interest to the Trustees on the Default Amount during the period from the due date up to the date of payment at a rate of ten per cent per annum compounded daily or such other rate as may be permitted by law.
- 7.2 If a Defaulting Unitholder fails to pay to the Trustees the Default Amount on the due date then the Trustees shall notify the other Unitholders (the "**Non-Defaulting Unitholders**") as soon as practicable following the due date, and the Non-Defaulting Unitholders, or any of them, shall be entitled (but not obliged) to advance to the Trustees the Default Amount. If the Non-Defaulting Unitholders wish to make advances which in aggregate exceed the Default Amount, then the amounts to be advanced by such Non-Defaulting Unitholders shall be reduced proportionately in accordance with their respective Percentage Interests so that the total amount advanced equals the Default Amount. Interest shall accrue on the amount of the advances at a rate of ten per cent per annum compounded daily or such other rate as may be permitted by law.
- 7.3 The Trustees shall repay any advance made by a Non-Defaulting Unitholder pursuant to **clause 7.2** (together with any accrued but unpaid interest) to the extent not already repaid (or in the case of interest, paid) out of any sums subsequently paid to the Trustees by the Defaulting Unitholder and any sums received following a sale pursuant to **clause 7.6** in order to remedy the Defaulting Unitholder's failure to provide the Default Amount.
- 7.4 If any Distribution of income or capital is due to the Defaulting Unitholder prior to repayment in full of any advance made by a Non-Defaulting Unitholder pursuant to **clause 7.2** (including any accrued but unpaid interest) being made, then the Trustees shall, from the amount due to be repaid or paid to the Defaulting Unitholder by way of a Distribution of income or capital (as the case may be), repay the Non-Defaulting Unitholder the advance made by such Non-Defaulting Unitholder (including any accrued but unpaid interest) and the amount of Trust moneys so utilised shall be deemed to be a payment made by the Defaulting Unitholder to the Trustees in respect of the Default Amount (in whole or in part as appropriate) plus any interest accrued on it.
- 7.5 If any Distribution of income or capital is due to the Defaulting Unitholder prior to the Defaulting Unitholder paying to the Trustees the Default Amount plus any interest accrued on it, in respect of which the other Unitholders have not made advances pursuant to **clause 7.2** then the Trustees shall, from the amount due to be repaid or paid to the Defaulting Unitholder by way of a Distribution of income or capital (as the case may be), not make such repayment or payment (as the case may be) and instead deem such amount to be a

payment made by the Defaulting Unitholder to the Trustees in payment of the Default Amount (in whole or in part as appropriate) plus any interest accrued on it.

- 7.6 Notwithstanding **clause 7.2**, if a Defaulting Unitholder fails to pay to the Trustees the Default Amount on the due date then the Trustees may serve a notice on the Defaulting Unitholder advising the Defaulting Unitholder that if payment of the principal amount together with accrued interest has not been made by the Defaulting Unitholder prior to the expiration of 20 Business Days after the due date then the following provisions shall apply:
- 7.6.1 the Trustees may exercise its lien in respect of the Units of the Defaulting Unitholder in which event the Trustees may sell in such manner as it determines the Units in accordance with the following provisions:
- (a) each Unitholder, to the extent that it becomes a Defaulting Unitholder, irrevocably, unconditionally and by way of security appoints the Trustees to be its attorney for a period of one year from the date of its default to execute on behalf of the Defaulting Unitholder a Transfer of Units to any transferee. The title of the transferee to the Units shall not be affected by any irregularity in or invalidity of the proceedings of such sale;
  - (b) the Trustees may sell some or all of the Units for an amount equal to not less than 85 per cent. of the most recent Issue Price, subject to any further discount that the Trustees (in consultation with the Auditors, the Manager and the Asset Manager where the Trustees deem necessary) may determine is applicable having regard to the sale of similar interests under prevailing market conditions. The net proceeds of sale of the Units shall be applied in payment of so much of the sum for which the lien exists as is presently payable (including any amounts due to the Non-Defaulting Unitholders (if any) pursuant to **clause 7.2**), and subject to **clause 7.9**, any residue shall be paid to the Defaulting Unitholder;
  - (c) any Units to be transferred pursuant to **clause 7.6.1** shall be offered first by the Trustees to the Unitholders in accordance with their respective Percentage Interests (other than the Defaulting Unitholder) and if any such Units are not acquired by any of the Unitholders, the Trustees shall be entitled to offer such Units for sale to a third party; and
  - (d) any transfer of Units pursuant to this **clause 7.6.1** shall be subject to the provisions of **clause 14**;
- 7.6.2 the Trustees may serve further Drawdown Notices on the Non-Defaulting Unitholders requiring them to subscribe for further Units up to the Default Amount (but in no circumstances in excess of their Subscription Amount) to enable the Trustees to meet any commitment or to pay any sum due at any time; and/or
- 7.6.3 the Trustees may cancel the amount outstanding under a Defaulting Unitholder's Subscription Agreement.
- 7.7 A Defaulting Unitholder shall not, whilst it continues to be a Defaulting Unitholder, be entitled to attend, vote or be counted in the quorum at any meeting of the Unitholders and its Percentage Interest shall be disregarded in determining whether or not any resolution of the Unitholders has been passed at any such meeting.
- 7.8 A Defaulting Unitholder will cease to be a Defaulting Unitholder once its Default Amount has been repaid by it in full, including whether due to distributions pursuant to **clause 7.4** or **7.5** or sale pursuant to **clause 7.6**.

- 7.9 The Defaulting Unitholder shall be responsible for all fees, costs and expenses incurred by the Trustees in relation to its failure to pay on the due date the Default Amount including in relation to any action taken by the Trustees pursuant to this **clause 7** and the Defaulting Unitholder shall indemnify the Trustees accordingly for all such amounts.
- 7.10 The Trustees shall not be liable to any Unitholder for the consequences (direct or indirect) of any failure to meet any commitment or to pay any sum due at any time to a third party where such failure is as a consequence of any failure by any Unitholder to pay any sum due under this Instrument.
- 7.11 If a Unitholder ceases to be an Exempt Charity Fund, then the Trustees may serve notice on the relevant Unitholder notifying it that it is deemed to be a Defaulting Unitholder and the provisions of **clauses 7.6, 7.6.3, 7.7 and 7.9** shall apply to the relevant Unitholder mutatis mutandis.

## **8. REGISTER OF UNITHOLDERS**

- 8.1 Subject to **clause 8.5**, a Register of Unitholders shall be kept by or under the control of the Trustees and there shall be entered in the Register:
- 8.1.1 The full names and addresses of the Unitholders;
- 8.1.2 The number of Units held by every Unitholder;
- 8.1.3 The full name or title of the Exempt Charity Fund on behalf of which the Units are held if the Units are not registered in the name of such Exempt Charity Fund;
- 8.1.4 The date on which the name of every Unitholder is entered in respect of the Units standing in that Unitholder's name and, where that Unitholder becomes the Unitholder by virtue of an instrument of transfer, a sufficient reference to enable the name and address of the transferor to be identified;
- 8.1.5 The date on which each transfer is registered and a sufficient reference to enable the name and address of the transferee to be identified; and
- 8.1.6 Particulars sufficient to establish that each Unitholder satisfies the Condition in **clause 11**.
- 8.2 Any change of name or address on the part of any Unitholder or of any Exempt Charity Fund for which Units are held shall forthwith be notified to the Trustees who on compliance with such formalities as it may require shall alter the Register accordingly.
- 8.3 Except when the Register is closed in accordance with **clause 8.4** the Register shall by appointment during usual business hours (subject to such reasonable restrictions as the Trustees may impose but so that not less than two hours in each Business Day shall be allowed for inspection) be open to the inspection of any Unitholder without charge.
- 8.4 **Closing of Register**
- The Register may be closed at such times and for such periods as the Trustees may from time to time determine provided that it shall not be closed for more than 30 Business Days in any year.

## 8.5 Undertakings of the Registrar

The Trustees may appoint any other person (the "**Registrar**") as its agent for the purpose of keeping the Register subject to them giving in writing the following undertakings:

- 8.5.1 To keep the Register in all respects in accordance with the requirements of the Trust Deed.
- 8.5.2 To maintain the Register in such form and in such manner as the Trustees may from time to time determine and to permit no alteration in the form of the Register or its conduct without the consent in writing of the Trustees and the Manager.
- 8.5.3 To supply on request to the Trustees and the Manager all such information and explanations in relation to the Register and the conduct thereof as the Trustees or the Manager may from time to time require.
- 8.5.4 To permit the Trustees and the Manager, its authorised officials or any person representing either of them to have access at all times to the Register and to all subsidiary documents and records relating to the conduct of the Register.
- 8.5.5 To permit the Trustees and the Manager, its authorised officials or any person representing it to attend at the Registrar's premises at any time with or without previous notice to inspect any documents relating to the Trust that the Trustees or the Manager may wish to have inspected and to carry out such checks as may seem to the Trustees or the Manager to be desirable.

## 8.6 No certificates

No certificates shall be issued to Unitholders representing the Units issued.

## 9. JOINT UNITHOLDERS AND CORPORATE UNITHOLDERS

Several persons may be registered as the joint Unitholders but the Trustees shall not be obliged to enter the names of more than four persons in the Register as joint Unitholders of any Unit. A body corporate may be registered as a Unitholder or as one of joint Unitholders.

## 10. UNITS TO BE HELD FREE FROM EQUITIES

- 10.1 The Unitholder shall be the only person to be recognised by the Trustees as having any right, title or interest in or to the Units registered in that Unitholder's name. The Trustees may recognise the Unitholder as absolute owner of the relevant Units and shall not be bound by any notice to the contrary nor bound to take notice of or to see to the execution of any trust or, save as ordered by some court of competent jurisdiction, to recognise any trust or equity or other interest affecting the title to any Units.
- 10.2 The receipt of the Unitholder for any moneys payable in respect of any Units shall be a good discharge to the Trustees and if several persons are registered as joint Unitholders, or in consequence of the death of a Unitholder are entitled to be registered, the Trustees may accept a receipt signed by any one of them as an effectual receipt for any such moneys.

## 11. UNITHOLDERS MUST HOLD UNITS FOR EXEMPT CHARITY FUNDS

Notwithstanding anything to the contrary contained in the Trust Deed, it is an express condition of the Trust (the "**Condition**") that no person shall be or become or remain a Unitholder of any Units (whether by subscription, purchase or otherwise) unless that Unitholder is an Exempt Charity Fund or unless all Units registered in that Unitholder's name are held by that Unitholder as a trustee of or otherwise on behalf of one or more Exempt Charity Funds.

## 12. EVIDENCE OF EXEMPTION TO BE FURNISHED BY UNITHOLDERS

12.1 For the purpose of ensuring compliance with the Condition in **clause 11**:

12.1.1 The Trustees may require to be incorporated in or annexed to every Subscription Agreement for the issue of Units and every instrument of transfer of Units:

- (a) a certificate by the applicant or transferee (in such form as may be prescribed by the Trustees with the approval of the Manager) that satisfies the Condition in **clause 11**; and
- (b) an authority in the form set out in **Schedule 5** or such other form as the Trustees may decide addressed to HMRC empowering them to inform the Trustees immediately if the Exempt Charity Fund by or on behalf of which the Units are being acquired shall cease to comply with the definition of an Exempt Charity Fund in **clause 1**.

12.1.2 Each Subscription Agreement or such other form as the Trustees may decide shall contain the full name or title of the Exempt Charity Fund which will hold, or for which the applicant will hold the Units and upon the issue of any Units pursuant to a Subscription Agreement the name or title of such Exempt Charity Fund shall be entered in the Register of Unitholders, to be maintained by the Trustees in accordance with **clause 8**.

12.1.3 In the 20 Business Days immediately preceding 20 Business Days before each anniversary of the Approval Date, each Unitholder shall furnish to the Trustees such information by way of statutory declaration or otherwise as the Trustees may deem necessary for the purpose of verifying whether that Unitholder complies or continues to comply with the Condition in **clause 11**. If a Unitholder fails to furnish to the Trustees the said written confirmation or other evidence acceptable to the Trustees as aforesaid such failure shall be deemed to be an acknowledgement by such Unitholder that an Event (as defined in **clause 12.1.7**) has happened and the provisions of **clause 12.1.7** shall apply. The date and nature of the Event shall be determined by the Trustees as the Trustees shall on the recommendation of the Manager decide.

12.1.4 In addition to the Unitholder's obligations under **clause 12.1.3** above, the Trustees may from time to time either before or after any person shall have been registered as a Unitholder require that person:

- (a) to furnish to the Trustees such further information by way of statutory declaration or otherwise as the Trustees may deem necessary for the purpose of verifying whether that person complies or continues to comply with the Condition in **clause 11**; and/or
- (b) to furnish to HMRC such evidence as it may require for the like purpose and if any Unitholder fails to comply with a requirement under this **clause** within 10 Business Days after service upon him of written notice in that behalf or (where evidence is to

be furnished to HMRC) such longer period as HMRC may in any particular case allow, the Trustees shall be entitled and bound to assume that the Condition in **clause 11** is not complied with and **clause 12.1.8** shall have effect accordingly.

12.1.5 The Trustees may as often as required by HMRC inform HMRC of the full names of Unitholders (and in the case of any Unitholder that falls within limb limits b(ii) of the definition of an Exempt Charity Fund in **clause 1**, the full names of the unit holders in that Unitholder) and of the Exempt Charity Funds on behalf of which Units are held insofar as they are known to the Trustees and of the numbers of Units from time to time held by or on behalf of such Unitholders and Exempt Charity Funds respectively, and of the dates of acquisition and disposal of such Units or of the interests of such Exempt Charity Funds and generally may give to HMRC all such information in their power with respect to Unitholders and such Exempt Charity Funds as may assist HMRC to determine whether the Condition in **clause 11** is complied with.

12.1.6 A Unitholder shall:

- (a) Forthwith inform the Trustees in writing if there shall be any change in the identity or name of the Exempt Charity Fund for which the Units are held and furnish with respect to the Exempt Charity Fund for which Units are to be held, after the change, the like certificate and authority as are mentioned **clause 12.1.1**;
- (b) In the case of a Unitholder that falls within limb b(ii) of the definition of an Exempt Charity Fund in **clause 1**, notify the Trustees in writing if there has been any change in the unitholders in that Unitholder and provide an updated certificate and authority as are mentioned in **clause 12.1.1**; and
- (c) Forthwith inform the Trustees in writing of any material change or anticipated material change in the trusts upon which Units are held (including the unit holders in a unit trust scheme falling within the limits of b(ii) of the definition of an Exempt Charity Fund). Any change shall be deemed material which affects compliance with the Condition in **clause 11**.

12.1.7 Notwithstanding anything contained in the Trust Deed to the contrary if a Unitholder (other than a Temporary Unitholder) did not comply with the Condition in **clause 11** on the date of acquisition of any Unit by such Unitholder or after such date ceased to comply with the Condition in **clause 11** (such acquisition or cessation being the "**Event**") such Unitholder shall forthwith upon becoming aware of the Event give written notice of the Event and the date of the Event to the Trustees and such Unitholder shall as from the date of the Event be deemed to have held the Units registered in the name of such Unitholder for the account of the Trust and the following provisions shall apply:

- (a) Upon the Trustees receiving the Unitholder's written notice or upon the Trustees otherwise becoming aware of the Event, the Unitholder shall immediately give (or be deemed to have given) to the Trustees an irrevocable request in writing for the transfer of all the Units held by that Unitholder or all the Units held by that Unitholder as trustee for or otherwise on behalf of a particular Exempt Charity Fund to which the Event relates, to the Trustees or to such other person as shall be nominated by the Trustees (a "**Temporary Unitholder**"). The Trustees shall upon any transfer make or procure the making of the appropriate entries in the Register and the Disqualified Unitholder shall be entitled only to the Disqualified Realisation Price for such Units in accordance with the provisions of **clause 12.1.7**;
- (b) On payment to the Disqualified Unitholder of the Disqualified Realisation Price in respect of such Units the Trustees shall cancel the Units in respect of which the

Disqualified Realisation Price is paid. The Trustees shall be entitled in its absolute discretion to determine the date of payment of the Disqualified Realisation Price;

- (c) Subject to **clause** 12.1.7(c)(iv)(A) the Disqualified Realisation Price in respect of any Unit shall be:
- (i) in respect of a Disqualified Unitholder who has ceased to comply with the Condition in **clause** 11 the lower of:
    - (A) the Realisation Price on the Valuation Date immediately prior to the date of the Event, and
    - (B) the Realisation Price on the Valuation Date immediately preceding the date on which the Disqualified Unitholder is paid for such Unit;
  - (ii) in respect of a Disqualified Unitholder who on the date of acquisition of the Unit concerned did not satisfy the Condition in **clause** 11 the lowest of:
    - (A) the amount paid in respect of the acquisition of the Unit concerned;
    - (B) the Realisation Price on the Valuation Date immediately preceding the date on which the Disqualified Unitholder acquired the Unit concerned; and
    - (C) the Realisation Price on the Valuation Date immediately preceding the date on which the Disqualified Unitholder is paid for such Unit;
  - (iii) In order to determine the Disqualified Realisation Price of any Unit the amount determined in accordance with **clause** 12.1.7 shall be reduced by the amount (if any) of any payments made after the date of the Event including any payments of income tax made in connection therewith as shall in the opinion of the Manager (after consultation with the Auditors) be attributable thereto but excluding any payment to which the Disqualified Unitholder is entitled under **clause** 12.1.7(c)(v);
  - (iv) Notwithstanding any other provision in the Trust Deed:
    - (A) neither the Disqualified nor the Temporary Unitholder shall be entitled to participate under **clause** 27 in any Distribution in respect of any Unit registered in the name of such Disqualified or Temporary Unitholder for a Distribution Period commencing after the date of the Event;
    - (B) the Disqualified Unitholder shall be entitled to participate under **clause** 27 in any Distribution in respect of any Unit registered in the name of such Disqualified Unitholder for a Distribution Period or any part of a Distribution Period ending prior to the date of the Event (notwithstanding that such Unit shall cease to be in issue and/or cease to be registered in the name of such Disqualified Unitholder prior to the expiry of such Distribution Period) and any such Disqualified Unitholder:
      - (I) shall only be entitled to participate in a Distribution in respect of a Distribution Period in which the Event occurs to the extent to which income shall have accrued in respect of such Unit from the commencement of such Distribution Period up to and including the day immediately preceding the date of the Event; and
      - (II) shall remain liable in respect of such costs charges and expenses of a revenue nature and value added tax in respect

thereof as are, in the opinion of the Manager after consultation with the Auditors, attributable under **clause 27** to the whole or any part of a Distribution Period ending prior to the date on which such Disqualified Unitholder shall give notice of the occurrence of the Event to the Trustees pursuant to this **clause 12.1.7** or on which the Trustees shall otherwise become aware of the Event;

- (v) The Trustees shall if so requested by the Manager in writing at any time notify the Disqualified Unitholder that it proposes to transfer to such Disqualified Unitholder, Investments and/or cash forming part of the Trust Property, the selection of which shall be at the discretion of the Manager, of a value (in the opinion of the Manager) equal to the Disqualified Realisation Price less the costs and expenses of the Trustees payable in respect of the transfer of such Investments or cash in lieu of payment of the Disqualified Realisation Price such transfer to be effected at such time as the Trustees shall determine. The Trustees shall only transfer Investments if the Investment was contributed by the Disqualified Unitholder in exchange for Units or if otherwise agreed between the Disqualified Unitholder and the Manager;
- (vi) Any amount deducted in determining the Disqualified Realisation Price under **clause 12.1.7(c)(iv)(B)(II)** above and any profit which may arise from any cancellation of a Unit pursuant to the provisions of this clause shall accrue to the Trust Property;
- (vii) The provisions of **clause 18** shall not apply to any Disqualified Unitholder or to any Unitholder who shall have failed or be deemed to have failed to have provided the Trustees with such satisfaction as is mentioned in **clause 12.1.8** and any Realisation Notice given by any such Unitholder shall be ineffective until such Unitholder shall have provided the Trustees with such satisfaction as aforesaid;
- (viii) On and after the date of any transfer of Units made pursuant to this **clause 12.1.7** neither the Disqualified Unitholder nor the Temporary Unitholder shall be liable under any Drawdown Notices made in respect of such Units and neither of them shall be entitled to cast any votes in respect of any such Units at any Meeting of Unitholders convened in accordance with **Schedule 6**;
- (ix) Except as specifically provided to the contrary in this **clause 12.1.7** a Disqualified Unitholder shall have all the obligations imposed by the Trust Deed on Unitholders but shall not be entitled to exercise any right conferred by the Trust Deed on Unitholders unless the Disqualified Unitholder shall have obtained and delivered to the Trustees written confirmation by HMRC that the exercise of such right will not affect the exemption of the Trust from United Kingdom taxation in respect of capital gains and Stamp Duty Land Tax.

12.1.8 If the Trustees have reason to believe that any Unitholder does not comply or has ceased to comply with the Condition in **clause 11** the Trustees may serve a notice on the Unitholder requiring it to furnish to the Trustees within 5 Business Days of the date of the notice (or such longer period as the Trustees shall stipulate) written confirmation by HMRC (or other evidence acceptable to the Trustees) that the Unitholder does comply



with the Condition in **clause 11** and has since the date of acquiring any Unit always so complied. If such Unitholder fails to provide to the Trustees (within such period as the Trustees shall stipulate) the written confirmation or other evidence that shall be deemed to be an acknowledgement by the Unitholder that the Event has happened and the provisions of **clause 12.1.7** shall apply. The date and nature of the Event shall be determined by the Trustees. The Trustees shall act on the recommendation of the Manager.

- 12.2 If a notice is given pursuant to **clauses 12.1.7** or **12.1.8**, the Trustees shall have a lien on and may retain any cash and may realise any Investments to which the Unitholder would otherwise be entitled pursuant to such realisation up to such amount or value as shall be sufficient to meet and discharge any liability of the Unitholder in respect of which the Unitholder has been required to indemnify the Trust under **clause 13**. The application of any cash or of the net proceeds of sale of any Investments in discharge of the liability of the Unitholder to the Trust and the payment of any balance to the person entitled shall be a full and sufficient discharge of the Trustees. Any cash (including any such proceeds of sale) on which the Trustees have for the time being, a lien may be placed on deposit with a bank and the net amount of the interest on it shall accrue to the deposit.
- 12.3 If the Trust shall become liable to United Kingdom taxation in respect of capital gains or shall become liable to pay Stamp Duty Land Tax the Trustees shall give notice of that fact to every Unitholder as soon as practicable after becoming aware of it.
- 12.4 No liability shall attach to the Manager or to the Trustees by reason of any action taken or not taken by either of them with respect to the matters referred to in this **clause** or by reason of the fact that a Unitholder shall be found never to have complied with or to have ceased to comply with the Condition in **clause 11**.

### **13. INDEMNITY**

- 13.1 The Trustees may at any time and from time to time in its sole discretion if it considers it necessary or desirable having regard to the interests of the Unitholders as a whole require a Unitholder for the time being holding Units and a Unitholder in whose name Units may subsequently be registered, which ceases to comply with the Condition in **clause 11**, to indemnify the Trust, the Trustees and the Manager, in the same terms as specified in **Schedule 1** or as the Trustees may decide. The indemnity shall be against all taxation (whether in respect of capital gains or otherwise) assessed on the Trust by reason of that Unitholder ceasing to comply with the Condition in **clause 11**.
- 13.2 No liability shall attach to the Manager or to the Trustees by reason of any act or omission by either of them in respect of the matters referred to in this **clause**.

### **14. TRANSFER OF UNITS**

Subject to the transferor and transferee(s) each having the Minimum Holding following any transfer (save in the case of the transferor transferring all of its Units), every Unitholder shall be entitled to transfer any Units held by it by an instrument in writing in such form as the Trustees may from time to time approve, such approval not to be unreasonably withheld. No transfer shall be registered unless the transferee of the Units is a person who satisfies the Trustees that the transferee complies with the Condition in **clause 11**.

## 15. RIGHT TO REFUSE REGISTRATION

The Trustees shall be entitled to refuse to register a transfer to a person of whom the Trustees shall not approve without giving any reason or explanation for the refusal whether to the transferor, the transferee, the Manager or otherwise.

## 16. EXECUTION OF TRANSFERS

Every instrument of transfer must be signed by the transferor. An instrument of transfer of a Unit which is not fully paid up must also be signed by the transferee. The transferor shall remain the Unitholder of the Units which are the subject of any transfer until the name of the transferee is entered in the Register.

## 17. STAMPING AND REGISTRATION OF TRANSFERS

Every instrument of transfer must be duly adjudicated as not chargeable to stamp duty under section 129, Finance Act 1982 and left with the Trustees for registration accompanied by:

- 17.1 such evidence as the Trustees may require to prove the title of the transferor or the transferor's right to transfer the Units; and
- 17.2 such certificate, authority and other documents (if any) as may be required by the Trustees pursuant to **clause 12**;

All instruments of transfer which shall be registered may be retained by the Trustees.

## 18. REALISATION AND TRANSFER OF UNITS

- 18.1 Subject to a Unitholder continuing to hold at least the Minimum Holding following any redemption (save in the case of any intention to redeem all of its Units) and to **clause 18.3**, a Unitholder (referred to in this **clause** as the "**Retiring Unitholder**") may, at any time following eighteen months of the date of issue of the Units proposed for redemption, serve upon the Manager a Realisation Notice of the number of Units as it wishes to realise at the following Realisation Date.
- 18.2 Such Retiring Unitholder shall be entitled to realise those Units in accordance with the provisions of this **clause 18** and to receive in respect of each Unit a sum equal to the Realisation Price determined as at the Relevant Valuation Date less any Realisation Charge applied in accordance with **clause 18.6**. A Realisation Notice may only be revoked by the Unitholder with the consent of the Trustees, which they may in their absolute discretion grant or withhold without giving any reason.
- 18.3 In the event that the aggregate number of Units forming the subject matter of all Realisation Notices served requiring a redemption on the same Realisation Date exceeds 6.25 per cent. of Units then in issue, the Trustees shall on the direction of the Manager notify all Retiring Unitholders that all Realisation Notices have been reduced pro rata so that the aggregate of Units to be redeemed at the next Realisation Date equals 6.25 per cent. of Units then in issue plus the balance of any Units which, as a result of the calculation, would leave a Unitholder with less than the Minimum Holding.

- 18.4 The balance of the Units subject to a Realisation Notice that have been reduced pursuant to **clause** 18.3 and not subsequently realised shall be treated as if the Realisation Notice for those Units has been cancelled and a new Realisation Notice will need to be served by the Retiring Unitholder for any unrealised Units it wishes to realise at the following Realisation Date, with such Realisation Notice being treated the same as any other Realisation Notice subsequently received. No preferential treatment shall be given to those Retiring Unitholders who had their previous Realisation Notice reduced in accordance with **clause** 18.3.
- 18.5 A Realisation Notice shall be in such form as the Trustees with the approval of the Manager shall from time to time determine.
- 18.6 The Trustees may determine, upon the recommendation of the Manager, that a Realisation Charge shall be charged to a Retiring Unitholder of such amount (if any) as may be reasonably determined by the Trustees, such amount being not more than 2 per cent. of the Realisation Price of the Units being realised.
- 18.7 The Trustees shall on or as soon as practicable after the Realisation Date and subject to the provisions of **clauses** 18.5 and 18.10 notify the Retiring Unitholder of the Realisation Price of each Unit as at the Relevant Valuation Date.
- 18.8 The amount payable on realisation shall (subject to **clauses** 18.10 and 18.12 and **paragraphs** 7 and 8 of **Schedule 2**) be paid to the Retiring Unitholder where reasonably possible within six months of the Realisation Date on which the Realisation Notice has been accepted. The Realisation Price shall be adjusted after each Quarter Day after the Realisation Date so that the Realisation Price is calculated on the preceding Quarter Day to the date of payment
- 18.9 In order to give effect to a Realisation Notice:
- 18.9.1 Subject to the provisions of **clause** 18.10, the Manager may direct the Trustees to raise in such manner as may be thought fit by the Manager (including the sale of or, subject to **clause** 21, the borrowing of moneys upon the security of any part of the Trust Property) a sum equal to the amount payable on realisation of all or any of the Units comprised in any Realisation Notice and to pay that sum to the Retiring Unitholder whereupon such Units shall be cancelled; or
- 18.9.2 the Trustees may, at the request of the Manager, offer all or any of the Units comprised in the Realisation Notice to such persons (whether already Unitholders or not) who satisfy the Condition in **clause** 11 as the Trustees may at its discretion think fit at a price not less than the Realisation Price less the Realisation Charge of the Units so offered. The Retiring Unitholder shall be bound upon payment of the amount payable on realisation to transfer to any person accepting an offer made pursuant to this paragraph all Units in respect of which that person accepts the offer.
- 18.10 The Manager and the Trustees may in their respective discretions exercise any one or more of the several powers conferred by **clause** 18.9 in any particular case. If the Manager shall fail within six months after the Realisation Date to direct the Trustees to raise the amount payable on the Units to which the Realisation Notice relates, the Trustees shall act with due diligence to raise the appropriate amount having regard to the interests of the Unitholders as a whole. Provided that if the Trustees or the Manager is of the opinion that it would have an adverse effect on the Trust as a whole immediately to raise the said amount, or if the Trustees shall be prevented by any cause beyond its control from raising or paying the

amount, the Trustees shall be entitled to postpone the realisation (and so, if the Trustees thinks fit, the Realisation Date) for a period of up to 24 months as shall be agreed with the Manager to be reasonably necessary.

- 18.11 In respect of any sale of Units effected pursuant to an offer made under **clause** 18.9.2 the Manager shall be entitled to appoint any person to execute a transfer of Units on behalf of the Retiring Unitholder and thereafter the name of the purchaser shall be entered in the Register as the Unitholder of the Units. The Trustees shall as agent for the Retiring Unitholder and not as trustee account for the purchase moneys without interest to the Retiring Unitholder. The receipt of the Trustees for the purchase moneys shall be a good discharge to the purchaser who shall not be bound to see to the application and after the name of the purchaser has been entered in the Register in purported exercise of these powers the validity shall not be questioned by any person. The receipt of the Retiring Unitholder for moneys paid to him by the Trustees in respect of any such sale shall be a complete discharge of the Trustees.
- 18.12 If more than one Realisation Notice is served requiring a redemption on the same Realisation Date the Unitholders serving such Realisation Notices shall rank *pari passu* regarding the redemption of their Units and if there are insufficient funds to pay the amount payable on realisation of all the Units which are the subject of such Realisation Notices the realisation of such Units shall be postponed (as shall the Realisation Date, if the Manager thinks fit) until such time as the Trustees are able to raise sufficient funds to pay the amount payable on realisation of all such Realisation Notices, and during the time of such postponement the processing of any further Realisation Notices served by any Unitholders in respect of any subsequent Realisation Date shall be postponed until the Realisation Notices in respect of all preceding Realisation Dates have been fully satisfied.

## 19. SCHEME OF INVESTMENT

- 19.1 All Subscription Proceeds, cash and Investments which ought in accordance with the provisions of this Trust Deed to form part of the Trust Property shall be paid or transferred to the Trustees and all cash shall, except in so far as such cash may in the opinion of the Manager be required for transfer to the Distribution Account or for other purposes, be applied by the Trustees (but subject always to the provisions of this Trust Deed) in the acquisition of Authorised Investments.
- 19.2 The Trustees shall have full power to acquire by purchase, lease, exchange or otherwise, and to dispose of charge, mortgage, vary or transpose any and all Authorised Investments subject only to the provisions of **clause** 23, shall not be restricted to Investments authorised by law for the investment of trust funds.
- 19.3 Without limiting the foregoing powers the Trustees shall have in relation to the Trust Property the same powers as if it were the absolute beneficial owner solely entitled. The Trustees shall exercise any such powers through agents or may delegate the exercise of such powers to any person (including the Manager or any person directly or indirectly associated with the Manager or the Asset Manager) and all costs and expenses of and incidental to such exercise and delegation shall be payable out of the Trust Property. The Trustees may at any time cause the whole or any part of the Trust Property to be held either within or outside the United Kingdom in the name of any other person or company as nominee on behalf of the Trustees and may pay any expenses in that connection out of the capital or income of the

Trust Property. The Trustees shall not be liable for any loss which may be occasioned by the exercise of this power. In the event that the Trustees shall be requested to indemnify any such person against all or any liabilities which it may incur in connection with the holding of the Trust Property as nominee of the Trustees, the Trustees shall be entitled to enter into such an indemnity on such terms as the Trustees and the Manager shall agree and any amount for which the Trustees shall at any time become liable in connection with any indemnity shall be payable out of the Trust Property.

- 19.4 All Property acquired by the Trustees in accordance with the provisions of this Trust Deed shall be held by the Trustees upon trust of land for so long as the Trustees shall in their absolute discretion think fit.
- 19.5 Notwithstanding any other provision in the Trust Deed, all or any amount of cash may during such time as the Manager may determine be retained in any currency in cash or on deposit with any banker incorporated or established in the United Kingdom, local authority or building society or, with the approval of the Trustees, any other person for the time being receiving moneys on deposit from the public, or may be invested temporarily in cash instruments.
- 19.6 Any Investment comprised in the Trust Property may at any time be realised by the Trustees, subject to **clause** 23, either in order to invest the proceeds of sale in Authorised Investments or to provide cash required to be paid out of the Trust Property for the purpose of any provision of the Trust Deed or in order to retain the proceeds of sale in cash or on deposit or as otherwise provided in **clause** 19.5 or for any combination of the foregoing purposes.
- 19.7 Any transaction authorised under the Trust Deed may be effected in a currency other than sterling and for such purpose foreign currency may be acquired either at the official rate of exchange or otherwise and either for present or forward settlement and any costs and commissions thereby incurred shall be paid out of the Trust Property.
- 19.8 The Trustees may to the extent that it deems it expedient to do so for the efficient management of Investments and in particular of Properties, pay cash forming part of the Trust Property to any person to whom the Trustees delegate any of their powers and may permit that person to hold on current account for the purpose of meeting any outgoings (whether presently ascertained or not) to be paid on the Trustees' behalf any cash paid or received by such person on behalf of the Trustees.
- 19.9 Any sums payable out of the Trust Property shall be paid out of income if the Manager (after consulting the Auditors) shall consider that it ought to be charged against or provided out of income and out of capital if the Manager shall (after such consultation) so consider. Provided always that the Manager may in exceptional cases after consulting the Auditors elect to charge income expenditure to capital or vice versa.

## **20. ENGAGEMENT OF THIRD PARTIES**

- 20.1 The Trustees and the Manager have appointed the Operator to be the operator of the Trust pursuant to the terms of the Operating Agreement.
- 20.2 The Trustees and the Manager shall on behalf of the Trust appoint the Asset Manager to be the property asset adviser and manager of the assets of the Trust pursuant to the terms of the Asset Manager Agreement. The fees of the Asset Manager shall be paid by the Manager out of the fee received by the Manager under **clause** 35.6.

- 20.3 The Trustees shall on behalf of the Trust, to the extent that the Manager does not have the required authority under AIFMD to act as the AIFM of the Trust, to appoint a suitable qualified firm to fulfil the role whose fees shall be paid by the Trust.
- 20.4 The Trustees shall have power to amend, replace, assign or novate in whole or part any agreement for any appointment in this **clause 20** subject to the terms of any such appointments.
- 20.5 The Trustees shall appoint a property managing agent to carry out the day to day management of the Properties the cost of which will be for the account of the Trust.

## **21. POWER TO BORROW**

- 21.1 The Trustees at the direction of the Manager, shall have power to borrow Sterling to:
- 21.1.1 enable the Trustees to acquire for the account of the Trust any Property; or
  - 21.1.2 develop, refurbish or enhance any Property; or
  - 21.1.3 refinance any Property; or
  - 21.1.4 provide liquidity (including for the purposes of permitted redemptions of Units),
- in each case, on terms which are approved by the Manager and the Trustees and in accordance with the provisions and limitations referred to in this **clause 21**.
- 21.2 At the point of borrowing, without the consent of the Investors' Committee, the aggregate amount of borrowing shall not exceed 20 per cent of the gross asset value of the Trust Property.
- 21.3 The Manager shall take such reasonable steps and exercise all due diligence to ensure that the Trustees do not borrow sums of money repayable out of the Trust Property except in accordance with the provisions of this **clause 21**.
- 21.4 Any interest on any borrowing and any fees, charges and expenses incurred in negotiating, entering into, varying and carrying into effect (with or without variation), maintaining and terminating any such borrowing arrangements shall be treated as income expense unless the Manager determined to recover the same out of the Trust Property.
- 21.5 For the purpose of securing any borrowing, the Trustees shall be entitled (with the concurrence of the Manager) to charge, encumber, mortgage and pledge or allow to subsist any lien in any manner over, all or any part of the Trust Property provided always that the obligation to repay such borrowing shall be limited to the Trust Property only and shall be without recourse to the assets of the Trustees.
- 21.6 Any borrowing may be effected from any person selected by the Manager and approved by the Trustees (including the Manager or the Trustees or any Associate of either of them) provided that in the case of any borrowing from the Manager, the Trustees or any Associate (of either of them), such borrowing shall only be made on the best commercial terms available.
- 21.7 For the purposes of managing interest rate costs and risk, the manager shall be able to enter into derivatives, swaps, caps and interest rate hedges.

21.8 No person lending money to the Trustees shall be concerned to see or enquire whether the provisions of this clause are complied with.

## **22. TRUST EXPENSES**

22.1 The following costs and expenses are chargeable expenses payable directly by the Trust out of the Trust Property:

22.1.1 all expenses incurred in the establishment of the Trust including, without limitation, all legal, regulatory, structuring and start-up fees provided that in the event that such costs exceed £275,000 (including any irrecoverable value added tax or similar tax) then any excess shall be borne by the Investment Adviser;

22.1.2 all costs and expenses incurred in relation to the winding up of the Trust and the realisation of the assets of the Trust;

22.1.3 the remuneration of the Trustee and the Manager;

22.1.4 any licensing or other fee payable to any index information provider;

22.1.5 the remuneration and expenses of the Auditor incurred in relation to the production of the annual audited accounts of the Trust;

22.1.6 fees payable to lawyers, accountants, property valuers, property specific professionals and other professional advisers or consultants to the Trust;

22.1.7 any costs associated with property transactions including all duties, taxation, charges and expenses (including registration charges, stamp duty land tax and custodian's fees where applicable) payable in respect of the acquisition, disposal, maintaining or refurbishing, managing, holding of or dealing with or proposed or attempted acquisition or disposal (whether completed or not) of the Properties and Investments;

22.1.8 all costs and expenses reasonably incurred in relation to any variation to, the Trust documentation and the Operator or the Depositary engagement agreements;

22.1.9 any fees or expenses of any regulatory body or tax authority in any jurisdiction in which the Trust may be established and/or marketed;

22.1.10 any fees related to the provision of Operator or Depositary services;

22.1.11 costs and expenses incurred by the Trustees in relation to attending any meeting of the Trust and attending to any other Trust business;

22.1.12 any costs incurred in respect of meetings of Unitholders whether called by the Trustees or requisitioned by Unitholders;

22.1.13 any costs in relation to publishing and distributing quarterly investor reports and annual audited accounts, the annual strategy report and any other correspondence with Unitholders

22.1.14 any costs incurred in relation to publishing unit prices in relevant journals or with other information services including reporting to INREV, IPD and AREF;

22.1.15 reasonable costs associated with the production of marketing material relating directly to the marketing of the Trust to potential investors;

22.1.16 any litigation costs of the Trust;

- 22.1.17 the cost of maintaining insurance in relation to activities of the Trust and of the Trustees;  
and
- 22.1.18 any other costs and expenses as deemed necessary by the Trustees for the effective management of the Trust.
- 22.2 Payment of fees and expenses will be made out of the net income or capital receipts of the Trust Property. Where the net income or capital receipts of the Trust Property in any quarter are insufficient to cover fees and expenses, the payment of such fees and expenses may be made by drawing down Subscription Proceeds from Unitholders or through proceeds of the sale of Properties or Investments.

### **23. RESPONSIBILITY FOR INVESTMENTS**

- 23.1 The powers conferred upon the Trustees by **clause 19** shall be exercised only upon the written directions of the Manager, and the Trustees shall be bound to give effect to all directions with respect to the exercise of such powers, to the intent that the selection and management of Investments shall, save as provided in **clause 20.3**, in all respects be the responsibility of the Manager solely and not of the Trustees. Nevertheless the Trustees shall be entitled at any time and at their entire discretion and without assigning any reason to give notice to the Manager that it is not prepared to accept the transfer of any Investment which in the opinion of the Trustees infringe the terms of the Trust Deed or to which liabilities are attached exceeding the amount available to be set aside pursuant to **clause 24**. The Trustees shall be entitled to require the Manager to deposit in place of such Investments other Investments acceptable to the Trustees or cash.
- 23.2 Notwithstanding the foregoing provisions of this clause every person dealing with the Trustees when exercising the powers conferred by **clause 19** shall be entitled to assume that such exercise is in accordance with the requirements of this clause and shall not be concerned to see or enquire whether it is in fact so.

### **24. PROVISIONS FOR LIABILITIES**

Without prejudice to the powers of the Trustees under **clause 23.1** if any moneys shall be borrowed pursuant to **clause 21** for the account of the Trust or if the Manager shall apply any part of the Trust Property in the acquisition of Investments which have attached to them any liability (contingent or otherwise and whether quantified or capable of quantification or not) the Trustees shall be entitled to appropriate and set aside out of the Trust Property cash or Investments approved by the Manager and acceptable to the Trustees to a value not exceeding the amount borrowed less the value of any security given. The cash or Investments so appropriated shall form part of the Trust Property and shall be so regarded for the purposes of calculating the Issue and Realisation Prices under **Schedule 2** but shall not be available for application without the consent of the Trustees in any way except in repaying the loan or paying interest or discharging the liability in respect of which the appropriation was made so long as and to the extent that the loan or liability remains undischarged.



## 25. VAT

The fees payable under the Trust Deed shall be exclusive of any applicable VAT and any VAT due will be paid by the recipient of the supply in addition to the payment or other consideration for the supply upon production by the person making the supply of a valid VAT invoice.

## 26. NET INCOME

The net income of the Trust Property for each Accounting Period or Distribution Period shall comprise:

- 26.1 All rents and interest due and receivable and dividends received during the Accounting Period or Distribution Period;
- 26.2 All other sums receivable during the Accounting Period or Distribution Period which in the opinion of the Manager after consulting the Auditors are in the nature of income; and
- 26.3 Any sums receivable or estimated by the Manager after consulting the Auditors to be receivable in respect of taxes withheld in any part of the world from moneys receivable as aforesaid;

Less:

- 26.4 Any sum payable or estimated by the Manager after consulting the Auditors to be payable by way of expense, cost or taxation on the foregoing amounts;
- 26.5 Valuers' and advisers' fees and charges and such interest and other charges or expenses not provided for under **clause** 22 which shall in the opinion of the Auditors be deductible in computing the taxable income of the Trust for United Kingdom tax purposes.

## 27. DISTRIBUTIONS AND DISTRIBUTION ACCOUNT

### 27.1 Distributions

- 27.1.1 Subject to **clauses** 12.1.7(c)(iv)(A), 27.1.2, 27.2, 27.3 and 29, the Trustees will on each Distribution Date distribute the whole of the net income of the Trust Property calculated in accordance with **clause** 26 and other payment of any tax due and owing from the Trust (a "**Distribution**"), to the persons who have been Unitholders during the whole or part of the Distribution Period to which the Distribution Date relates in proportion to their respective holdings of Units during that Distribution Period. Units shall participate in a Distribution only to the extent to which income shall have accrued as from the date of their issue up to the date of payment of the amount payable on their realisation.
- 27.1.2 A Distribution shall only be made if on any Distribution Date the Trustees or Manager:
  - (a) has received from HMRC an approval that the Trust is an exempt unauthorised unit trust; and
  - (b) has not received notification from HMRC that such approval has been withdrawn.
- 27.2 The Trustees shall, upon the recommendation of the Manager, be permitted to retain net income of the Trust Property or any other distributions of cash forming part of the capital of the Trust Property where such amounts may be required by the Trust or it is of the opinion of

the Manager and the Trustees that it is in the interests of the Trust for such amounts to be retained.

### **27.3 Carrying forward of small amounts**

Notwithstanding the foregoing provisions the Trustees may carry forward to a later Distribution any sum which it considers too small to be conveniently distributed and any sum which it is unable to receive in the United Kingdom due to foreign exchange or other governmental regulations restrictions or instructions of the country in which the sum in question arose or is deposited.

### **27.4 Distribution Account**

The sum required to effect each Distribution shall be transferred to a special account called the "Distribution Account" as at the last day of the Distribution Period to which it relates (or as soon thereafter as it is received). Any interest earned by placing on deposit moneys standing to the credit of the Distribution Account shall be treated as income of the Trust Property. Save as provided, any amount standing to the credit of the Distribution Account shall not be treated as part of the Trust Property, but shall be held by the Trustees upon trust to distribute the same as provided in the Trust Deed.

### **27.5 Capital Distributions**

The Trustees may from time to time distribute to the Unitholders in proportion to their Percentage Interests all net capital proceeds derived from the realisation of the Trust Property and available for the purpose of such distribution. It is not the intention of the Trustees to make significant capital distributions before the Trust is terminated. However, if the Manager considers that no appropriate reinvestment opportunities are likely to arise in a reasonable period or if the Manager wishes to provide a distribution in addition to the income distribution, the Trustees may elect to make a capital distribution to Unitholders. Net capital proceeds shall be available for reinvestment or to meet realisations as the Manager shall determine.

### **27.6 In-Specie Distributions**

The Trustees may distribute capital proceeds by way of a transfer of Trust Property with the prior consent of the Unitholder receiving the distribution.

## **28. DISTRIBUTION PAYMENTS**

Any moneys payable to a Unitholder under the provisions of the Trust Deed shall either be paid by electronic bank transfer to such account of the Unitholder that shall be communicated under an authority received by the Trustees from any Unitholder or be paid by cheque or warrant sent through the post to the registered address of such Unitholder. In the case of joint Unitholders payments shall be sent to the registered address of that one of the joint Unitholders who is first named on the Register or to the registered address of such other of the joint Unitholders as may be authorised in writing by all of them. Every electronic bank transfer, cheque or warrant shall be made payable to the order of the person to whom it is delivered or sent and payment of the cheque or warrant by the banker upon whom it is drawn shall be a satisfaction of the moneys payable. Only where an authority shall have been received by the Trustees from any Unitholder

in such form as the Trustees shall consider sufficient the amount distributable to that Unitholder may be paid to his bankers or other agent and such payment shall be a good discharge.

## 29. TAXATION

- 29.1 The Unitholders shall furnish to the Trustees such information by way of statutory declaration or otherwise as the Trustees may deem necessary for the purpose of applying to HMRC for approval as an exempt unauthorised unit trust or updating HMRC on matters concerning the Trust's tax status from time to time.
- 29.2 Before making any Distribution or other payment in respect of any Unit the Trustees may (whether or not expressly authorised so to do by any other provision of the Trust Deed) make such deductions as by law the Trustees are required or entitled to make in respect of any income or other taxes, charges or assessments whatsoever and the Trustees may also deduct the amount of any stamp duties or other Governmental taxes or charges payable by it or for which it might be made liable in respect of such distribution or any documents signed by it.
- 29.3 In respect of each Distribution payment the Trustees shall issue to the Unitholder concerned a Tax Certificate in a form to be approved by the Manager. In the case of any Distribution containing a repayment of capital, whether on a liquidation of the Trust or otherwise, such Tax Certificate shall show what proportion of the Distribution represents capital and what proportion represents income.

## 30. ACCOUNTS

- 30.1 As at each Accounting Date the Manager shall cause to be made up in respect of the Accounting Period ending on that date a balance sheet and income and expenditure account in relation to the Trust.
- 30.2 The accounts referred to in **clause** 30.1 shall be audited by the Auditors and accompanied by a report by the Auditors stating whether in their opinion such accounts and statement have been properly prepared in accordance with the Trust Deed to show a true and fair view of the net income of the Trust for the Accounting Period and the state of its affairs at the Accounting Date as well as the audited Unit Issue Prices for the relevant Accounting Period.
- 30.3 If the Auditors are of the opinion that proper books of account have not been kept or if the balance sheet and income and expenditure account are not in agreement with the books of account or if they fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.
- 30.4 A copy of every such account and Auditors' report shall be filed with the Trustees and copies thereof shall be sent by the Manager to every Unitholder within six months after the Accounting Date. Provided this obligation is fulfilled neither the Trustees nor the Manager shall be obliged to provide any Unitholder with any other account or report.
- 30.5 The Manager shall, in the case of each Quarter Day that is not an Accounting Date, within 2 months of each Quarter Day use its reasonable endeavours to procure the preparation of unaudited management accounts ("**Quarterly Management Accounts**") as at each Quarter

Day in respect of the Trust. The unaudited quarterly management accounts will be prepared in accordance with FRS102. The Quarterly Management Accounts will include a Unit NAV and INREV Unit NAV.

- 30.6 The Manager shall, in the case of each Quarter Day within 20 Business Days of each Quarter Day use its reasonable endeavours to provide to Unitholders an estimate Unit NAV and an estimate INREV Unit NAV.
- 30.7 Accounts and reports complying with the provisions of this **clause 30** shall be conclusive and binding upon the Trustees, the Manager and every person claiming any interest in the Trust Property.

### **31. ANNUAL GENERAL MEETING**

- 31.1 The Manager shall once in every calendar year convene a general meeting of Unitholders to consider and, if thought fit, approve the accounts of the Trust made up to an Accounting Date not more than nine months (or such longer period as the Trustees may approve) prior to the date of the meeting, together with the accompanying report in accordance with **clause 30** which accounts and report shall be circulated with the notice convening the meeting. Such meetings are in the Trust Deed referred to as Annual General Meetings. All other meetings of Unitholders are in the Trust Deed referred to as Extraordinary General Meetings.
- 31.2 The provisions of **Schedule 6** shall apply to every Annual General Meeting except for those provisions which relate expressly to Extraordinary General Meetings only.

### **32. VOTING RIGHTS**

- 32.1 In the event that the rights of voting conferred by any of the Trust Property shall be exercised so as to effect, approve or confirm the appointment of any person, firm or company to any directorship, office or other position with any Associate of the Trustees and in the event that the Trustees shall be requested to indemnify such person, firm or company against all or any liabilities which he, they or it may incur in or about the performance of the duties of such directorship, office or other position, then the Trustees shall be entitled to enter into such an indemnity in such terms as the Trustees shall reasonably require and any amount or amounts for which the Trustees shall at any time become liable under or in connection with any such indemnity shall be payable out of the Trust Property.
- 32.2 The phrase "rights of voting" and the word "vote" used in this clause shall be deemed to include not only a vote at a meeting but also any consent to or approval of any arrangement, scheme or resolution or any alteration in or abandonment of any rights attaching to any part of the Trust Property and the right to requisition or join in a requisition to convene any meeting or to give notice of any resolution or to circulate any statement.

### **33. APPOINTMENT AND REMOVAL OF THE MANAGER**

- 33.1 By the Trust Deed the Manager is appointed by the Trustees as the AIFM of the Trust.

- 33.2 The Manager shall be subject to removal as follows:
- 33.2.1 The Manager may only be removed from its appointment with the sanction of an Ordinary Resolution (excluding the vote of the Laing Holder and its Associates, where the Manager is an Associate of Laing) for Cause, except where the Manager no longer has the requisite permission under FSMA and the AIFM Regulation to act as AIFM in which case the Trustees shall promptly appoint a replacement AIFM.
- 33.2.2 Upon termination of the Manager's appointment the Manager shall be entitled to the pro-rated proportion of all the sums payable to the Manager under the Trust Deed up to and including the date upon which the Manager no longer provides services to the Trust.
- 33.2.3 The removal of the Manager pursuant to **clause** 33.2.1 shall not take effect until the appointment of a replacement manager has been approved by the Trustees. If the Trustees shall have failed to approve an appointment within one calendar month of the date of passing of the relevant Ordinary Resolution to remove the Manager, the Manager may make such appointment as it sees fit by notice to the Trustees.
- 33.2.4 The termination of the appointment of the Manager for Cause shall automatically terminate the appointment of the Asset Manager any other Affiliate of the Manager appointed by the Trust.
- 33.3 The Manager shall have the power to retire in favour of a body corporate approved by the Trustees, subject to the Trustees obtaining the approval of the Unitholders by Ordinary Resolution to the choice of a new manager and to agreement as to the new manager's remuneration. Upon such agreement being reached the Manager shall be absolved and released from all further obligations towards the Trust, the Trustees or the Unitholders but without prejudice to the rights of the Trust or the Trustees or any Unitholder, in respect of any act or omission prior to such retirement.
- 33.4 As soon as practicable after removal or retirement the Manager shall deliver to the Trustees or as the Trustees directs all registers, books, accounts, deeds, documents, records and papers belonging to the Trust which are in its possession or under its control and pending such delivery shall hold such items to the order of the Trustees, and shall so far as practicable co-operate with the Trustees in the transfer of management to the new managers appointed by the Trustees.
- 33.5 On or before the giving of notice to Unitholders of a meeting at which a resolution to approve the removal of the Manager is to be proposed, notice of such resolution shall be given to the Manager. The Manager shall be entitled with respect to such resolution to make written representations and, to state, or require the Trustees (if it convenes the meeting) to state, in the notice of the resolution given to Unitholders the facts of the representations having been made. The Trustees shall send a copy of the representations to every Unitholder to whom notice of the meeting is sent. If a copy of the representations is not sent because it is received too late or because of the default of the Trustees or otherwise the Manager may (without prejudice to their right to be heard orally) require that the representations shall be read out at the meeting at which the resolution is proposed.
- 33.6 Subject to **clause** 33.7 the Trustees undertake to hold harmless and indemnify the Manager against all actions, proceedings, claims, costs, demands, losses, liabilities and expenses which may be brought against or incurred by the Manager by reason of its performance or non-performance of its obligations or functions under the terms of the Trust Deed (other than due to fraud, bad faith, wilful default or negligence on the part of the Manager or persons

designated by it). This will include all legal professional and other expenses reasonably incurred by the Manager or persons designated by it in the performance of its obligations or functions and including indemnity obligations owed by the Manager to persons designated by it (except such as shall arise from fraud, bad faith, wilful default or negligence in the performance or non-performance of such obligations or functions). In particular (but without limitation) this protection and indemnity shall extend to any such items as shall arise as a result of any loss suffered or any loss, delay, misdelivery or error in transmission of any communication or as a result of acting upon any forged document or signature but not tax on the overall income or profits of the Manager. References to the Manager in this clause shall include references to the employees, officers, servants, agents and delegates of the Manager.

- 33.7 Any amount for which the Trustees shall at any time become liable to the Manager, including any amount in relation to any indemnity, shall be payable out of the Trust Property.
- 33.8 The Manager shall be entitled to receive reimbursement of expenses as may from time to time be agreed between the Manager and the Trustees. Such expenses shall be payable together with any applicable VAT. The Trustees shall be entitled to have recourse to the Trust Property or any part thereof to meet the same and may confer on the Manager a similar direct right of recourse for the same.

#### **34. INVESTORS' COMMITTEE**

- 34.1 The Manager shall establish an Investors' Committee which shall, unless otherwise determined by the Manager in its sole discretion, consist of a maximum of five representatives made up of the five largest Unitholders. Where a Unitholder does not wish to be represented on the Investors' Committee, its place shall be offered to the next largest Unitholder.
- 34.2 A member of the Investors' Committee:
- (a) may resign at any time by serving written notice on the Manager and following such resignation may be replaced by a member chosen by the Unitholder that appointed such member by serving written notice on the Manager;;
  - (b) may be removed and replaced by any Unitholder that appointed such member by serving written notice on the Manager;
  - (c) shall be removed or prevented from voting by the Manager where the Unitholder that appointed such member ceases to be an Unitholder or, it is a Defaulting Unitholder;
  - (d) may be removed by the Manager where such representative member has acted fraudulently, recklessly, negligently, in bad faith, with wilful misconduct or has breached or disregarded the duties and obligations of the Investors' Committee or the provisions of the Trust Deed or where such member is regularly (as determined by the Manager) absent from meetings of the Investors' Committee subject to the relevant Unitholder being entitled to appoint a new member; and
  - (e) may be removed by the Manager if the Unitholder appointing the representative is no longer one of the five largest investors who wishes to have a representative on the Investors' Committee.

- 34.3 The Investors' Committee shall meet annually or more frequently as it may determine and may request the attendance of a representative of the Trustees, the Manager and the Asset Manager.
- 34.4 The Investors' Committee may operate as it may determine and may set rules for its operation provided always that any member of the Investors' Committee shall notify the other members of the Investors' Committee of any potential conflict of interest that he may have. In which event, the Investors' Committee shall determine how to manage its business accordingly.
- 34.5 The quorum of the meetings of the Investors' Committee shall be at least two thirds (sixty six per cent) of the members from time to time appointed to the Investors' Committee save that there must be a minimum of three members present. Each member shall have one vote and all decisions of the Investors' Committee shall require the approval of a simple majority of the members present, save that where only members are present, any decisions shall require unanimous approval.
- 34.6 The Investors' Committee shall be authorised to:
- 34.6.1 consent to, approve, review or waive any matter requiring the consent, approval, review or waiver of the Investors' Committee as set out in the Trust Deed;
  - 34.6.2 enquire into any aspect of the operation, administration of the management of the Trust or of the Investments and may require the Trustees to send to Unitholders any report of its enquiries;
  - 34.6.3 approve any changes to the fees payable by the Trust to the Manager or the Asset Manager (excluding the vote of any representative of the Laing Holder and its Associates, where the Manager is an Associate of Laing);
  - 34.6.4 approve the acquisition of any asset that is outside the Investment Operating Criteria;
  - 34.6.5 approve any increase in the borrowing level in accordance with **clause** 21.2;
  - 34.6.6 request full detail of any due diligence made by the Trustees, the Manager or the Asset Manager on any asset acquired or to be acquired by the Trust;
  - 34.6.7 inspect audit reports by the Auditors;
  - 34.6.8 approve replacement of the Auditors;
  - 34.6.9 inspect and make any enquiries of the annual business plan prepared by the Asset Manager; and
  - 34.6.10 approve replacement Property Valuers.
- 34.7 The Investors' Committee shall have no management responsibility for the management or operation of the Trust and shall have no fiduciary obligation to the Unitholders for any action or failure to act.
- 34.8 There shall be a chairman of the Investors' Committee. The Chairman of the Investors' Committee and each other member of the Investors' Committee shall not be entitled to receive a fee.
- 34.9 Subject to **clause** 40.15 the Trustees hereby undertake to hold harmless and indemnify the members of the Investors' Committee against all actions, proceedings, claims, costs,

demands, losses, liabilities and expenses which may be brought against or incurred by them by reason of the performance or non-performance of their obligations or functions under the terms of the Trust Deed (other than due to fraud or bad faith) including all legal professional and other expenses reasonably incurred by the members of the Investors' Committee by it in the performance of their obligations or functions.

### **35. REMUNERATION OF THE TRUSTEES, MANAGER AND OPERATOR**

- 35.1 The Trustees shall be entitled to receive in respect of each Accounting Period an annual fee at such rate as shall from time to time be agreed between the Trustees and the Manager.
- 35.2 The fees of the Trustees shall include:
- 35.2.1 an initial fee of £7,500 upon establishment of the Trust;
  - 35.2.2 an annual fee of £20,000 per annum, payable quarterly in arrears;
  - 35.2.3 a charge for time spent on execution of documentation; and
  - 35.2.4 a charge for time spent on dealing with non-routine matters on a basis to be agreed with the Manager from time to time by separate letter.
- 35.3 An Associate of the Trustee will provide administration services to the Trust for which a fee will be charged. The fee rate will vary according to fund size: 0.02 per cent of NAV where NAV does not exceed £100,000,000; and 0.01 per cent of NAV where NAV exceeds £100,000,000. The fee is subject to a minimum of £15,000 per annum.
- 35.4 The Operator will charge an annual fee of £20,000 per annum for its Operator responsibility to the Trust, payable quarterly in arrears plus transaction management fees.
- 35.5 The fees payable and expenses reimbursable to the Trustees under the Trust Deed and the Operator under the Operating Agreement shall be subject to an increase every year in line with the retail price index and as agreed by the Manager.
- 35.6 The Manager shall be entitled to receive in respect of each Accounting Period an annual fee equal to 0.6 per cent of the gross asset value of the Trust Property payable quarterly in arrears on 31 December, 31 March, 30 June and 30 September in each year.
- 35.7 The fees payable to the Asset Manager shall be paid by the Manager out of its fee.
- 35.8 The quarterly payment to the Trustees and the Manager will be payable on 31 December, 31 March, 30 June and 30 September in each year. The first payment shall be due on the next such date following the date of the Trust Deed and shall be a proportionate amount of a full quarter's fee calculated on a pro rata basis.
- 35.9 In respect of quarterly payments to the Trustees and the Manager made in respect of a period for which audited accounts of the Trust are not available the fees due will be estimated by the parties in consultation with the Trust's auditors. Once audited accounts are available for the relevant period(s) estimated fees paid will be adjusted by reference to the gross value of the Trust Property for the relevant period(s) as recorded in the audited accounts.
- 35.10 In respect of quarterly payments to the Trustees and the Manager made in respect of a period for which audited accounts of the Trust are available the fees due will be calculated



by reference to the gross value of the Trust Property for the relevant period as recorded in the audited accounts.

### **36. APPOINTMENT OF DEPOSITARY**

- 36.1 The Manager shall ensure that, if required, a Depositary is appointed from such time as required in accordance with and subject to the requirements of the AIFMD to:
- 36.1.1 ensure the Trust's cash flows are properly monitored;
  - 36.1.2 hold in custody all Authorised Investments which are AIF Custodial Assets (as defined in the FCA Rules);
  - 36.1.3 verify the Trust's ownership of Authorised Investments which are not AIF Custodial Assets (as defined in the FCA Rules);
  - 36.1.4 oversee and supervise the Manager and its performance of its obligations under the Trust Deed; and
  - 36.1.5 carry on any other functions either agreed between the Manager and the Depositary or required under the FCA Rules or the AIFMD.
- 36.2 The Manager shall enter into the Depositary Agreement with the Depositary on such terms as the Manager thinks fit.
- 36.3 The Trustees and the Manager shall ensure that the Depositary is granted all necessary powers and authorities to ensure the Depositary can perform its obligations under the Depositary Agreement, the AIFMD and any other applicable legislation.

### **37. DEALINGS AS PRINCIPAL**

- 37.1 The Trustees may not have any beneficial interest in any Units.
- 37.2 If the Trustees shall act as the trustee of any Exempt Fund or as custodian trustee or as nominee for the trustees of any Exempt Fund no regard shall be taken of their position as the Trustees with regard to its right either itself or through a nominee to become a Unitholder and to take the benefit of and become subject to the rights and obligations of and incidental to the holding of the relevant Units.

### **38. DUTIES OF THE MANAGER AND TRUSTEES**

#### **Managers duties**

- 38.1 The Manager shall act as AIFM of the Trust and shall provide risk management and portfolio management services in accordance with the provisions set out in **Schedule 7**.
- 38.2 The Manager shall keep or cause to be kept proper books of account and records showing all transactions effected on behalf of the Trust and shall permit the Trustees and/or members of the Investors' Committee from time to time on reasonable notice to examine and take copies of and extracts from such books of account and records. The Manager shall also whenever requested to do so, furnish to the Trustees and/or members of the Investors' Committee all such information and explanations as the Trustees and/or members of the

Investors' Committee may require in relation to such transactions or dealings or the conduct of the affairs of the Trust (in so far as such conduct is in the hands of the Manager). The Trustees and/or members of the Investors' Committee may accept but shall not be bound to verify information and documents so given or produced by the Manager.

### 38.3 **Trustees' duties**

Without limiting the provisions of **clause** 38.1 the Trustees shall furnish to the Manager from time to time on reasonable notice any information which the Manager may reasonably require in order to ascertain at any moment the value of the Trust Property. Every such statement shall, if the Manager so requires, be accompanied by a certificate given in the case of Properties by the Property Valuer and in the case of Property Securities by a stockbroker or other person approved by the Manager.

## 39. **ENGAGEMENT OF AGENTS AND ADVISERS**

The Trustees and the Manager may engage, pay and act upon any advice of or information obtained from the Property Valuer, any surveyors, valuers, bankers, accountants, stockbrokers, lawyers, agents or other persons acting as agents or advisers either of the Trustees or of the Manager and neither of them shall be liable for anything done or omitted or suffered in good faith in reliance upon such advice or information or for the acts or omissions of such persons.

## 40. **TRUSTEES' AND MANAGER'S POWERS**

- 40.1 Except in so far as otherwise expressly provided in the Trust Deed the Trustees and the Manager shall as regards all the trusts, powers, authorities and discretions vested in each of them respectively have absolute and uncontrolled discretion as to the exercise of such trusts powers, authorities and discretions and in the absence of fraud or negligence neither of them shall in any way be responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise of such trusts powers, authorities and discretions.
- 40.2 Neither the Trustees nor the Manager shall incur liability to the Unitholders for doing or (as the case may be) failing to do any act or thing which by reason of any provision of the Trust Deed or future law or regulation or judgment of any Court. If for any reason it becomes impossible or impracticable to carry out any of the provisions of the Trust Deed neither the Trustees nor the Manager shall be under any liability for failing to carry out any provision of the Trust Deed.
- 40.3 In exercise of any of the powers conferred upon the Trustees by the provisions of the Trust Deed or by law or otherwise, the Trustees shall have power to contract and to incur debts obligations or other liabilities on terms that the party with whom the transaction is effected shall have a direct right of recourse against the Trust Property.
- 40.4 In the event that the Trustees shall be requested to sanction the taking out of insurance against the risk that liabilities might be incurred arising out of or in connection with the performance by the Manager of its duties, or arising out of the performance of the duties of any directorship or other position by any such person as is referred to in **clause** 32.1, then the Trustees shall be entitled to sanction the taking out of such insurance with such insurer and on such terms as the Trustees shall think fit. Any amount or amounts payable by way of

premium in respect of such insurance shall be payable or reimbursable out of the Trust Property.

**40.5 Liability of Trustees**

40.6 Neither the Manager nor the Trustees shall be under any liability hereunder except as may be expressly assumed by them under the Trust Deed nor shall either be liable for any act or omission of the other or any delegate or sub-delegate of the same.

40.7 The Manager shall supply or cause to be supplied to the Trustees all information that the Trustees may reasonably require in respect of any dealing with the Trust Property or other transaction or act relating to or concerning the Trust and any proposed personal commitment of the Trustees.

40.8 The Trustees shall not be responsible for verifying or checking any valuation of the Investments of the Trust.

40.9 In all letters, circulars, advertisements or other publications referring to the issue or sale of Units or in any other document where reference is made to the Trustees, such reference shall be made to the Trustees only in terms previously approved by the Trustees.

40.10 Neither the Trustees nor the Manager shall be responsible for the consequences of acting upon any resolution purported to have been passed at any meeting of Holders convened and held in accordance with the provisions of **Schedule 6** in respect of which minutes shall have been made and signed even though it may be subsequently found that there was some defect in the constitution of the meeting of the passing of the resolution or that for any reason the resolution was not binding on all the Unitholders.

40.11 The Trustees shall not be under any liability on account of anything done or suffered by the Trustees in accordance with or in pursuance of any request, advice or direction of the Manager.

40.12 The Trustees and Manager shall not be responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any attorney, banker, lawyer, stockbroker, agent or other person acting hereunder as agent or adviser to the Trustees or the Manager.

**40.13 Trustees' Power to Delegate**

The Trustees may in the execution and exercise of all or any of the rights, privileges, powers, duties, trusts and discretions vested in it by the Trust Deed act by a responsible officer for the time being of such trustee. The Trustees may also delegate by power of attorney or otherwise to any person all or any of the rights privileges powers duties trusts and discretions vested in the Trustees by the Trust Deed. Any delegation may be made upon such terms and conditions and subject to such regulations as the Trustees may think fit and the Trustees shall not be bound to supervise the delegate or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate.

**40.14 Legal Proceedings**

The Trustees shall not be under any obligation to appear in, prosecute or defend any action or suit in respect of the provisions of the Trust Deed or in respect of the Trust Property or any part of the Trust Property or any corporate or shareholders' action or any other actions

relating to or arising from the Trust which in its opinion would or might involve it in expense or liability.

**40.15 No liability to meet claims**

Notwithstanding any other provision of the Trust Deed the Trustees will have no obligation to meet any claim or liability under the Trust Deed except to the extent that:

- 40.15.1 they can properly meet that claim or liability from the Trust Property; and
- 40.15.2 the Trust Property is from time to time sufficient for the purpose having regard to the claims of the Trustees personally and other creditors of the Trustees properly payable from the Trust Property (but not the claims of beneficiaries of the Trust).

**40.16 Registration for VAT**

The Trustees shall, if the Manager so requires, register the Trust for the purposes of any value added tax and shall make such elections as the Manager shall determine.

**41. INDEMNIFICATION OF TRUSTEES AND MANAGER**

**General indemnity out of the Trust**

- 41.1 The Trustees (and any officer, director, shareholder, agent and employee of it) shall be entitled to recover (and each of the Trustees and the Manager shall be entitled to be indemnified) out of the assets of the Trust all such monies which the Trustees or the Manager shall be liable to pay in respect of any actions, proceedings, claims, costs, demands, losses and expenses whatsoever (including any claim for reasonable legal fees or for any taxation duty or levy or amounts in respect of such duty or levy) which may be brought against or suffered or incurred by any of them in relation to the Trust or the carrying out of their respective duties in relation to such Trust or the execution of any powers or discretions conferred on them PROVIDED THAT there shall be no entitlement to payment recovery or indemnity hereunder to the extent that the actions, proceedings, claims, costs, demands, losses, expenses, taxation, duty or levy for which payment, recovery or indemnity is so claimed arise as a result of the fraud or negligence of the party claiming the payment recovery or indemnity.
- 41.2 Neither the Trustees nor the Manager shall be liable to any Unitholder or to the Trust for the negligence, dishonesty or bad faith of any agent or employee acting for it or on behalf of the Trust, provided that such agent or employee was selected, engaged and retained by the Trustees applying reasonable care.
- 41.3 Neither the Trustees nor the Manager shall be liable to any Unitholder or to the Trust if for any reason it becomes impossible or impracticable to carry out the provisions of the Trust Deed in relation to the Trust.
- 41.4 **Saving clause as to indemnities**

Any indemnity expressly given to the Trustees or to the Manager in the Trust Deed is in addition to and without prejudice to any indemnity allowed by law.

## 42. RETIREMENT AND INDEMNITY OF TRUSTEES

The Trustees shall be subject to removal by an Extraordinary Resolution. The Trustees shall not be entitled to retire or be removed except upon the appointment of a new trustee. In the event of the passing of such an Extraordinary Resolution or if the Trustees serve written notice upon the Manager of their desire to retire, the Manager shall use its reasonable endeavours to find new trustees (which holds all the requisite licences and authorisations necessary or required as a matter of law to act as a trustee of the Trust) and upon doing so shall be entitled to direct the Trustees to appoint such new trustees in their place by supplemental deed. If within the period of three months after the date of such Extraordinary Resolution or after the date on which the Trustees serve notice on the Manager of its desire to retire the Manager shall have failed to give a direction as to the appointment of a new trustee, the Trustees shall be entitled to appoint new trustees. Trustees retiring or being discharged shall be entitled to an indemnity in a form satisfactory to it from the new trustees in respect of all liabilities actual contingent or reasonably apprehended and all costs claims and expenses incidental thereto incurred by the retiring Trustees in connection with the lawful and proper administration of these trusts and the new trustee shall have full power to bind the Trust Property and its income provided that such indemnity shall be limited to an amount equal to the net assets of the Trust Property at the time of such retirement or discharge together with any liabilities for which the retiring Trustees shall subsequently be held to be liable or shall discharge with the consent of the Manager.

## 43. DURATION

The Trust will continue until the 50<sup>th</sup> anniversary of the Establishment Date unless previously terminated by the Trustees in accordance with **clause 44**.

## 44. TERMINATION

- 44.1 The Trust shall be terminated by the Trustees by notice in writing to Unitholders in any of the following events:
- 44.1.1 If in the opinion of the Trustees, the Manager shall be incapable of performing or shall in fact fail to perform its duties satisfactorily or shall do any other thing which in the opinion of the Trustees are calculated to bring the Trust into disrepute or to be harmful to the interests of the Unitholders. Provided that, if the Manager shall be dissatisfied with such opinion the matter shall be referred to the President for the time being of the Institute of Chartered Accountants in England and Wales or some person appointed by him for determination and his determination shall bind the Trustees;
  - 44.1.2 If any law shall be passed which renders it illegal or in the opinion of the Trustees impracticable or inadvisable to continue the Trust;
  - 44.1.3 By Extraordinary Resolution of the Unitholders to terminate the Trust;
  - 44.1.4 By Ordinary Resolution where the realisation of Units has been postponed for more than 24 months pursuant to **clause 18.10**; or
  - 44.1.5 If the Trust shall become liable to taxation (whether in the United Kingdom or elsewhere) in respect of income or capital gains or to transfer taxes at a rate considered by the Trustees with the approval of the Manager to be excessive in relation to the rate which

would be borne by the Unitholders if they owned directly the assets comprising the Trust Property.

- 44.1.6 If no replacement trustee is found within six months of the date of either the Extraordinary Resolution being passed or the written notice being given pursuant to Clause 42,

The Trustees shall be under no liability on account of any failure to terminate the Trust pursuant to this **clause** or otherwise.

- 44.2 The notice to Unitholders terminating the Trust shall fix the date at which such termination is to take effect, which date shall not be less than three months after the service of such notice.

## **45. MANNER OF LIQUIDATION**

Upon the Trust being terminated the Trustees shall proceed as follows:

- 45.1 The Trustees shall sell all Investments then remaining in its hands as part of the Trust Property and such sale shall be carried out and completed in such manner and within such period after the termination of the Trust as the Trustees thinks advisable.

- 45.2 The Trustees shall from time to time distribute to the Unitholders in proportion to their Percentage Interests all net cash proceeds derived from the realisation of the Trust Property and available for the purpose of such distribution. The Trustees shall not be bound (except in the case of the final distribution) to distribute any of the moneys for the time being in its hands the amount of which is insufficient to pay £100 in respect of each Unit. The Trustees shall be entitled to retain out of any moneys in its hands as part of the Trust Property full provision for all actions, damages, costs, charges, expenses, claims and demands incurred, made or apprehended by the Trustees against which the Trustees are entitled to be indemnified and in connection with or arising out of the liquidation of the Trust. Any unclaimed proceeds or other cash held by the Trustees under the provisions of this clause may at the expiration of 12 months from the date upon which the same were payable be paid into Court subject to the right of the Trustees to deduct from such proceeds any expenses it may incur in the making of such payment,

provided that the Trustees shall engage the Operator or the AIFM (whichever has the relevant permission under FSMA to do so) to wind up the Trust in consultation with the Trustees.

## **46. NOTICES TO UNITHOLDERS**

- 46.1 Any notices, demands or other communications given under or made pursuant to this Trust Deed:

- 46.1.1 Must be in writing and may be delivered personally or sent by post, facsimile or email;

- 46.1.2 May be given to each Unitholder (or, in the case of joint Unitholders, to the first named on the Register) at its registered office (or to such other address as may have been notified to the other parties for this purpose);

- 46.1.3 May be given to the Trustee at its registered office (or to such other address as may have been notified to the other parties for this purpose);

- 46.1.4 May be given to the Manager at its registered office (or to such other address as may have been notified to the other parties for this purpose);
- 46.1.5 Will be deemed to be served:
- (a) if personally delivered, at the time of delivery and, in proving service, it shall be sufficient to produce a receipt for the notice signed by or on behalf of the addressee;
  - (b) if by letter, at noon on the Business Day after such letter was posted (or, in the case of airmail, five Business Days after such letter was posted) and, in proving service, it shall be sufficient to prove that the letter was properly stamped first class (or airmail), addressed and delivered to the postal authorities;
  - (c) if by facsimile transmission, at noon on the Business Day after the day of transmission and, in proving service, it shall be sufficient to produce a transmission report from the sender's facsimile machine indicating that the facsimile was sent in its entirety to the recipient's facsimile number; and
  - (d) if by email, at noon on the Business Day after such message was sent and, in proving service, it shall be sufficient to produce a computer print out indicating that the message was sent to the recipient's e mail address.
- 46.2 Service of a notice on, or delivery of any document to, any one of several joint Unitholders shall be deemed effective service on, or delivery to, all such joint Unitholders.

#### **47. MODIFICATION OF TRUST DEED**

The Trustees with the agreement of the Manager shall be entitled by supplemental Deed to modify, alter or add to the provisions of the Trust Deed in such manner and to such extent as it may consider expedient for any purpose, provided that, save as provided in the rest of this **clause 0**, no such modification, alteration or addition shall be made without the sanction of an Extraordinary Resolution provided also that:

- 47.1 no such modification, alteration or addition shall impose upon any Unitholder any obligation to make any payment in respect of his Units in excess of the Issue Price of those Units or to accept any additional liability without the consent of the Unitholder affected;
- 47.2 no Extraordinary Resolution shall be required and the Trustees and the Manager shall therefore by agreement be entitled to modify, alter or add to the provisions of the Trust Deed provided any proposed modifications, alterations or additions shall not in the reasonable opinion of the Trustees and the Manager have an adverse effect on the economic interest of Unitholders; and
- 47.3 no such Extraordinary Resolution shall be submitted to a meeting of the Unitholders unless the Trustees shall have previously certified in writing to the Manager that in its reasonable opinion such modification, alteration or addition will not prejudice the rights of the Trustees under the Trust Deed.

**48. THIRD PARTY RIGHTS**

The Trust Deed is for the benefit of the Trustees, Manager, members of the Investors' Committee and Unitholders only and shall not confer any benefit on, or be enforceable by, a third party.

**49. CHOICE OF ENGLISH LAW AND JURISDICTION**

49.1 The Trust Deed and the rights and duties under the Trust Deed of the Trustees, the Manager, the Investors' Committee, the Unitholders and all persons interested in the Units and any of them shall be governed by and construed in accordance with the laws of England.

49.2 The Courts of England shall have jurisdiction over any dispute or question arising under or in connection with the Trust Deed.

IN WITNESS whereof the Trust Deed has been executed the day and year first above written.



## Schedule 1

### Form of Indemnity

To: The Trustees and Manager of The Diversified Property Fund for Charities

**[Insert Address]**

Full title of Fund or Institution:

Date:

We hereby certify that the Units will form part of a fund/institution that is named above and that (i) any gain accruing to the fund/institution on the Units if it were to dispose of them would be wholly exempt from capital gains tax and corporation tax on capital gains (otherwise than by reason of residence) (ii) that any land transactions in respect of which the fund/institution is the indirect purchaser will be wholly exempt from Stamp Duty Land Tax and (iii) that the fund/institution is an Exempt Charity Fund as defined below. The wholly exempt status of the fund/institution has been established with

HMRC Charities Reference: .....

We warrant and undertake that we will indemnify the Trustees and the Manager against any tax to which the Trust may be assessed (whether during the period in which the said Units are held or thereafter) and against any professional fees, interest or other costs incurred relative to such an assessment as a consequence of the fund/institution ceasing to be or never having been wholly exempt from Stamp Duty Land Tax and/or capital gains tax and corporation tax on capital gains (otherwise than by reason of residence or the fraud, negligence, wilful default or bad faith of the Manager or the Trustees) and/or ceasing to be or never having been an Exempt Charity Fund. This indemnity shall have effect notwithstanding that some other current or former Unitholder (or the persons for whom the Units are or were held) are or were not wholly exempt from tax otherwise than by reason of residence or may cease to be so exempt and notwithstanding that any assessment or assessments to which the indemnity applies may have been made wholly or partly in consequence of the non-compliance of such other current or former Unitholder (or the person for whom the said Units are or were held) but in that event the Manager may apportion the assessment between the relevant Unitholders as the Manager in its absolute discretion may think fit. Any such apportionment shall be final and binding.

In this indemnity "**Exempt Charity Fund**"

means any person:

- (a) other than a person who, if a unit holder, would cause the Trust not to qualify for exemption from tax on chargeable gains under Regulation 10 Unauthorised Unit Trusts (Tax) Regulations 2013; and
- (b) (i) who is a charity as defined in paragraph 1(1) Schedule 6, Finance Act 2010 and which holds the units for qualifying charitable purposes within the meaning of paragraph 1 (2) Schedule 8, Finance Act 2003; or  
  
(ii) who is a unit trust scheme (as defined in section 101(4) Finance Act 2003 in which all the unit holders are charities described in (i) above.

**IN WITNESS** whereof I/we have hereunto set my/our hand(s) and seal(s)/caused our Common Seal to be hereunto affixed [ ] 20[ ].

SIGNED SEALED and DELIVERED )  
by the said )  
in the presence of: )

## Schedule 2

### Valuation

1. Whenever any valuation is required for any purpose of the Trust Deed, it shall be made as at the Relevant Valuation Date. For the purpose of issues of Units it shall be the last preceding Valuation Date falling prior to the date of issue. For the purpose of realisations of Units it shall be the last preceding Valuation Date prior to the date of payment. For all other purposes it shall be the nearest practicable date for the purpose, as determined by the Manager with the approval of the Trustees.
2. When valuing the Trust Property it shall be assumed that the Trust Property includes at the Valuation Date:
  - 2.1 Investments which the Trustees have unconditionally contracted to buy for account of the Trust but have not bought at the Valuation Date;
  - 2.2 The net consideration to be received by the Trustees in respect of Investments which they have unconditionally contracted to sell for account of the Trust but have not sold at the Valuation Date; and
  - 2.3 Investments and/or cash which the Trustees have agreed to accept but has not received in respect of Units which it has agreed to issue by reference to a prior valuation and where a Drawdown Notice has been served;and does not include:
  - 2.4 Investments which the Trustees have unconditionally contracted to sell for account of the Trust but have not sold at the Valuation Date;
  - 2.5 The purchase consideration to be paid by the Trustees for any Investments within **paragraph 2.1**; and
  - 2.6 Cash to be paid pursuant to the powers conferred on the Trustees by **clause 18** of the Trust Deed, where the amount has been determined by reference to an earlier valuation.
3. It shall be assumed for all purposes under this Schedule that the number of Units in issue on the Valuation Date includes Units agreed to be issued and where a Drawdown Notice has been served and excludes Units in respect of which cash remains to be paid pursuant to **clause 18** of the Trust Deed.
4. The total Investments and cash comprised in the Trust Property shall first be valued as follows:
  - 4.1 Properties shall be valued as at the Valuation Date by the Property Valuer or such other independent professional valuers as may be selected by the Manager with the approval of the Investors' Committee on the basis of a sale in the open market between a willing buyer and a willing seller, provided that:
    - 4.1.1 When the valuation is for the purpose of ascertaining the Realisation Price of Units, any values arrived at on the above basis may be reduced at the discretion of the Manager by such amount as it deems appropriate, but so that the net figures so produced shall not be less than the value on an immediate sale basis of the Properties in respect of which the reduction is made; and

- 4.1.2 If any Property has been professionally valued for the Trust within a period of one year preceding the Valuation Date the Manager may accept that valuation and may add thereto the book value of any improvement of such Property without being bound to obtain a fresh valuation.
- 4.2 Investments other than Properties which are listed on the London Stock Exchange plc shall be valued at the last reported middle market price as shown by The Daily Official List of the London Stock Exchange plc.
- 4.3 Investments not listed or dealt in on the London Stock Exchange plc, but listed or dealt in on another Stock Exchange, shall be valued at their last reported middle market price ruling on such other Stock Exchange (or if more than one, such one as the Manager may select) as obtained from a member of such Stock Exchange approved by the Manager.
- 4.4 If an Investment is not listed or quoted on any Stock Exchange or, if being so listed or quoted, it is not regularly traded thereon or if no prices as referred to above are available, such Investment shall be valued initially at cost and thereafter with any reduction or increase in value (as the case may be) as the Manager shall after consultation with the Auditors its absolute discretion deem appropriate. In making such determination the Manager shall consider:
- (a) the cost of the Investment;
  - (b) the financial statements of the investee entity and its performance;
  - (c) developments affecting the business of the investee entity;
  - (d) yields and prices of comparable investments;
  - (e) such other factors which the Manager in its sole discretion consider to be relevant.
- In any other case, the Manager shall take such steps as it may deem appropriate to determine the middle market price being the mean of the lowest and highest prices at which Investments might be expected to be bought and sold respectively.
- 4.5 The value of any cash in hand or on deposit, bills and demand notes and accounts receivable, pre-paid expenses, cash dividends and interest accrued and not yet received shall be deemed to be the full amount thereof, unless it is unlikely to be paid or received in full in which case the value thereof shall be arrived at after making such discount as the Manager may consider appropriate to reflect the true value thereof.
- 4.6 The Manager may, in valuing any Investment or class of Investments, make such adjustment if any as it may in its absolute discretion think fit to take account of interest or dividends accruing due thereon.
5. There shall be deducted from the value of the Trust Property ascertained under **paragraph 4** an amount equal to any liability which ought to be charged to or provided out of capital.
6. The Issue Price and Realisation Price shall be ascertained as follows:
- 6.1 The Issue Price of a Unit shall be ascertained by dividing the value of the Trust Property ascertained in accordance with **paragraphs 4** and **5** by the number of Units then in issue (including those to be issued pursuant to an existing Drawdown Notice). The Preliminary Charge, as set out in **clause 6.7** may be charged in addition to the Issue Price.

- 6.2 The Realisation Price of a Unit shall be ascertained by dividing the value of the Trust Property ascertained under **paragraphs** 4 and 5 by the number of Units then in issue (including those to be issued pursuant to an existing Drawdown Notice). The Realisation Charge, as set out in **clause** 18.6 may be charged in addition to the Realisation Price.
7. Notwithstanding any of the provisions of this Schedule, if the Trustees and the Manager shall certify that they are of the opinion that by reason of the receipt of Realisation Notices in respect of such a number of Units as shall constitute a substantial part of the Units then in issue, the Realisation Price shall be calculated in accordance with the foregoing provisions of this Schedule but in all cases substituting the price that may be expected to be received for any Property or Property Securities on an immediate sale basis.
8. NAV is calculated by taking the gross value of the Trust Property as determined in this schedule and deducting the liabilities of the Trust whilst applying such additional guidelines as the auditors consider appropriate.

### **Schedule 3**

#### Investment Operating Criteria

With effect from the Establishment Date, the following criteria will be targeted however with effect from the third anniversary of the Establishment Date the following investment policy shall be followed save for material exceptions approved by the Investors' Committee:

1. At the time of investment in that asset, no single asset shall exceed in value 15% of the Trust's gross asset value.
2. No one tenant/group may represent more than 20% of the Trust's net rental income immediately after any acquisition of an investment exposed to that tenant/group.
3. At portfolio level the exposure to any UK region, as defined by IPD (except London and the South East) is to be limited to 35%.
4. A minimum Net Initial Yield (on a stabilised basis) of 5.5% on acquisition.
5. A diversified portfolio of assets predominantly within the three commercial property sectors of retail, office and industrial is to be targeted, subject to prevailing market conditions and sector performance.

For the above purposes, the gross asset value of the Trust will be calculated at the time of acquisition or disposal of the relevant Investment, or in the case of Investments made during the first three years of the Trust, following the third anniversary of the Establishment Date.

**Schedule 4**

Subscription Agreement

**FORM OF APPLICATION FOR UNITS IN**

**THE DIVERSIFIED PROPERTY FUND FOR CHARITIES**

To: Sanne Group Nominees 1 (UK) Ltd & Sanne Group Nominees 2 (UK) Ltd (the "**Trustee**") and Eskmuir FM Ltd (the "**Manager**") of The Diversified Property Fund for Charities

Price per Unit (at date of Subscription Agreement):	£
Net investment amount:	£
Preliminary charge:	£
Total investment amount:	£

Dated:

On behalf [of] [by] .....

HMRC Charities Reference: .....

To those concerned:

1. We irrevocably offer to subscribe for units up to the Total Investment Amount specified above (the "**Units**") and to become a unitholder in The Diversified Property Fund for Charities (the "**Trust**"), an exempt unit trust established pursuant to a trust deed dated [ ] 2014 as amended from time to time (the "**Trust Deed**"), a copy of which we have received and read. We acknowledge that we shall only be able to subscribe for units in a Trust once it has been established pursuant to the relevant Trust Deed.
2. We acknowledge and agree that the Trustees and the Manager shall be entitled to accept this Subscription Agreement at any time up to and including 12 months from the date we provide a signed Subscription Agreement to the Trustee and the Manager, provided that the Trustee and the Manager shall, in their absolute discretion, be entitled to accept this Subscription Agreement for only part of the Total Investment Amount subscribed for.
3. The expressions used in this Subscription Agreement shall have the meaning attributed to them in the Trust Deed except where the context otherwise requires.
4. Without prejudice to the generality of the foregoing, we agree to subscribe for and to pay to the Trustees (on behalf of the Trust) the Total Investment Amount in respect of the Units applied for by us under this Subscription Agreement in accordance with the terms of the Trust Deed and acknowledge that we may be required to, and we agree to, subscribe for Units on such dates and in such manner as required by the Manager upon service of a Drawdown Notice and at an Issue Price to be determined by the Manager at the relevant time.

5. We understand and have evaluated the risks connected with a purchase of Units and becoming a Unitholder.
6. By executing this Subscription Agreement, we agree to be bound by the terms of the Trust Deed (in respect of Units subscribed for under this Subscription Agreement and any other Units which may be acquired by us by Transfer from another Unitholder or otherwise) and this Subscription Agreement shall accordingly constitute our irrevocable agreement to be bound by the terms and conditions of the Trust Deed as a Unitholder.
7. We will provide the Trustees or the Manager with such information as they may reasonably request from time to time with respect to our citizenship, residency, ownership or control and other appropriate matters, so as to permit the Trustees or the Manager to evaluate and comply with any regulatory and tax requirements applicable to the Trust or any proposed Investments of the Trust, provided that any confidential information so provided shall be kept confidential by the Trustees and the Manager and shall not be disclosed to any third party unless required by law.
8. Subject to **clause 10**, we irrevocably appoint by way of security any one of the directors of the Manager to be our attorney (the "**Attorney**") in our name and on our behalf to do any of the following:
  - (a) execute all instruments relating to our admission as a Unitholder in the Trust;
  - (b) execute and file any documents necessary to be filed in connection with the business, property, assets and undertakings of the Trust, including, without limitation, documents relating to a consolidation of the Trust with another trust whereby the rights of the Unitholders would not be adversely affected;
  - (c) make any amendments, changes or modifications to the Trust Deed in the circumstances specified therein and to this Subscription Agreement, if such amendment is to cure an ambiguity or to correct or supplement any provisions contained therein or herein which may be defective or inconsistent with any other provisions contained therein or herein, provided that the cure, correction or supplemental provisions do not and will not adversely affect the interest of any Unitholder, as determined by the legal advisers to the Trust; and
  - (d) execute any other document or documents or make any such other amendments, modifications, variations or alterations whatsoever which, in the absolute discretion of the Attorney, are deemed by him to be necessary or required to be executed in connection with this Subscription Agreement and our admission as a Unitholder in the Trust.
9. Subject to **clause 10**, we undertake to ratify whatever our Attorney shall lawfully do or cause to be done hereunder and to indemnify our Attorney and keep our Attorney fully indemnified against all losses, liabilities, damage, costs, claims or expenses which our Attorney may suffer as a result thereof.
10. Where:
  - (a) we cease to be a Unitholder in the Trust, then the appointment under **clause 8** shall automatically terminate; and
  - (b) we reasonably believe that the Manager is guilty of fraud, negligence or material misconduct, then we shall notify the Manager in writing and, upon the Manager receiving such notification, the appointment of the directors of the Manager as our attorney under **clause 8** shall be suspended until:



- (i) it is proven that the Manager has not been guilty of any such fraud, negligence or material misconduct; or
- (ii) a replacement Manager is appointed, in which case such appointment shall be in favour of the directors of such replacement Manager,

provided that during any such period of suspension we hereby irrevocably appoint by way of security any one of the directors of the Trustees to be our attorney and the provisions of **clauses 8 and 9** shall apply (*mutatis mutandis*) as if such director were the Attorney thereunder.

11. We represent that we have had the opportunity to ask questions and receive answers concerning the Trust and to obtain all such additional information that we consider necessary or appropriate in evaluating an investment in the relevant Trust.
12. We represent that we have such knowledge and experience in financial and business matters that we are capable of evaluating the merits of, and are able to bear the economic risks of, an investment in the Trust.
13. We represent that in regard to the tax and other economic considerations related to our acquisition of Units and the activities of the Trust, we have relied and will rely only on the advice of our own professional advisers.
14. We represent that, in our opinion, we have sufficient knowledge and information for the purposes of our decision to acquire Units.
15. We agree, acknowledge and are aware that, by becoming a Unitholder, we will be bound by and subject to all the provisions of the Trust Deed and our interest will be as a beneficiary of the relevant Trust.
16. We represent that we are acting for and on behalf of the said Exempt Charity Fund and hereby warrant that we have full power and authority to bind the Trustees (if any) and the investments and property thereof. We confirm that there has been no change in the investment and other powers relating to the said Exempt Charity Fund since the date on which the first purchase of Units in The Diversified Property Fund for Charities was made on behalf of the said Exempt Charity Fund.

We hereby request you to register the Units of [ ]

(a) in the name of the signatories below; or (b) in our name

The number of Units in respect of which this application is accepted and a cheque for any amount overpaid should be sent to the first of the signatories below

**Name and address of person to whom documents to be sent**

Surname and designation..... (Mr., Mrs., Miss or Title)

PLEASE WRITE IN BLOCK LETTERS

Forename(s) in full .....

Address .....

**This form must be signed on behalf of the subscriber by an authorised official or officials whose designation must be stated.**

Executed by:

)

acting by:

)

)

)

Authorised signatory

Designation:

Authorised signatory

Date:

If any application is accepted for fewer Units than the number applied for, the balance of the application moneys will be returned by cheque through the post at the applicant's risk. No receipt for application moneys will be issued but an acknowledgement will be sent in due course in respect of the number of Units for which any application is accepted.

## Schedule 5

### Form of Authorisation

**HMRC Charities Reference:** .....

To: Her Majesty's Revenue and Customs.

#### **The Diversified Property Fund for Charities**

**[TRUSTEE]**

#### **Full title of the Fund:**

We are acquiring Units in the above Unit Trust.

As you know, no person may become or remain a Unitholder of any Units in the said Unit Trust, unless either such person is an Exempt Charity Fund.

In order to ensure compliance with the above conditions, we hereby authorise and request you to inform the Trustee of the Unit Trust immediately that the Fund named above is and if at any time it should cease to be an "Exempt Charity Fund" (as so defined). For ease of reference, this definition is set out overleaf. All communications should be addressed to the Trustees at its offices at Pollen House, 10 Cork Street, London, W1S 3NP.

We appreciate that the giving of this Authority in no way relieves us of our own responsibility under the Trust Deed to notify the Trustee immediately if we cease to comply with the above condition. We also confirm that this Authority shall remain in effect until receipt by you of written notice from us to the contrary.

Yours faithfully,

Definition of "Exempt Charity Fund" to be set out on reverse of Authority:

#### **"Exempt Charity Fund" means any person:**

- (a) other than a person who, if a unit holder, would cause the Trust not to qualify for exemption from tax on chargeable gains under Regulation 10 Unauthorised Unit Trusts (Tax) Regulations 2013; and**
- (b) (i) who is a charity as defined in paragraph 1(1) Schedule 6, Finance Act 2010 and which holds the units for qualifying charitable purposes within the meaning of paragraph 1 (2) Schedule 8, Finance Act 2003; or**  
**(ii) who is a unit trust scheme (as defined in section 101(A4) Finance Act 2003) in which all the unit holders are charities described in (i) above.**

Notwithstanding any of the above, no persons whatsoever shall be an Exempt Charity Fund if the total exemption of the Trust from taxation under Regulation 10 Unauthorised Unit Trusts (Tax) Regulations 2013 or the exemption from Stamp Duty Land Tax under paragraph 3 of Schedule 8 to the Finance Act 2003 would be prejudiced by such person holding Units.

## Schedule 6

### Meetings of Unitholders

1. Without prejudice to the provisions of **clause 31**, the Trustees may (and the Manager shall at the request in writing of Unitholders registered as holding not less than one tenth in value of the Units in issue) at any time convene a meeting of Unitholders at such time and place (subject as in this provided in this Schedule) as may be thought fit and the following provisions of this Schedule shall apply. The Manager shall be entitled to receive notice of and attend at any such meeting but shall not be entitled to vote or be counted in the quorum of such meeting and accordingly for the purposes of the following provisions of this Schedule Units held or deemed to be held by the Manager shall not be regarded as being in issue. The Trustees shall be entitled to attend and speak at any Annual General or Extraordinary General Meeting. Any such meeting shall be held at such place as the Trustees may determine or approve.
2. A meeting of Unitholders duly convened and held in accordance with the provisions of this Schedule shall be competent by Extraordinary Resolution to sanction any modification, alteration or addition to the provisions of the Deed which shall be agreed by the Trustees and the Manager as provided in **clause 46.1** or to terminate the Trust as provided in **clause 44** but shall not have any further or other powers than those specified in this paragraph and in **clause 31**.
3. Twenty-one Business Days' notice at the least (inclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of every Annual General Meeting and fourteen Business Days' notice at the least (inclusive as aforesaid) of every Extraordinary General Meeting shall be given to the Unitholders in manner provided in the Deed. The notice shall specify the place, day and hour of meeting and nature of the business to be transacted. Whenever such business includes consideration of an Extraordinary Resolution, the terms of the Resolution shall be stated in the notice. A copy of the notice shall be sent by post to the Trustees unless the meeting shall be convened by the Trustees. The accidental omission to give notice to or the non-receipt of notice by any of the Unitholders shall not invalidate the proceedings at any meeting.
4. The quorum shall be not less than three Unitholders present in person or by proxy. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
5. If within half an hour from the time appointed for the meeting a quorum is not present the meeting shall stand adjourned to such day and time not being less than 14 Business Days' notice thereafter and to such place as may be appointed by the Chairman; and at such adjourned meeting the Unitholders present in person or by proxy shall be a quorum. Five Business Days' notice at the least (inclusive of the day on which it is served or deemed to be served and of the day of the adjourned meeting) shall be given of any adjourned meeting and such notice shall state that the Unitholders present at the adjourned meeting whatever their number and the value of the Units held by them will form a quorum.
6. Some person nominated in writing by the Trustees shall preside as Chairman at every meeting and if no such person is nominated or if at any meeting the person nominated shall not be present within 15 minutes after the time appointed for holding the meeting the Unitholders present shall choose one of their number to be Chairman.

7. The Chairman may with the consent of any meeting at which a quorum is present and shall if so directed by the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully have been transacted at the meeting from which the adjournment took place.
8. At any meeting a resolution put to vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman or by one or more Unitholders present in person or by proxy. Unless a poll is so demanded a declaration by the Chairman that a resolution has been carried or carried unanimously or by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
9. If a poll is duly demanded it shall be taken in such manner as the Chairman may direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
10. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time and place as the Chairman directs. A demand for a poll may be withdrawn at any time.
11. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
12. Any corporation which is a Unitholder may by resolution of its Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Unitholders and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual Unitholder.
13. On a show of hands every Unitholder who (being an individual) is present in person or (being a corporation) is present by one of its officers as its representative shall have one vote. On a poll every Unitholder who is present in person or by proxy shall have one vote for every Unit held by him up to and including one hundred Units and thereafter one vote for every five Units held by him. Where a Unitholder has Units for more than one Exempt Charity Fund the holding for each Exempt Charity Fund shall be treated as a separate holding.
14. In the case of joint Unitholders the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint Unitholders and for this purpose seniority shall be determined by the order in which the names stand in the Register of Unitholders.
15. The instrument appointing a proxy shall be in writing, under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation either under the common seal or under the hand of an officer or attorney so authorised.
16. The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited at such place as the Trustees or the Manager with the approval of the Trustees may in the notice convening the meeting direct or if no such place is appointed then at the registered office of the Trustees not less than 48 hours before the time appointed for holding the meeting or adjourned meeting (or, in the case of a poll, before the time appointed for the taking of the poll) at which the person named in the instrument proposes to vote and in default the instrument of proxy shall

not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date named in it as the date of its execution. A person appointed to act as a proxy need not be a Unitholder.

17. An instrument of proxy may be in the following form or in any other form which the Trustees shall approve.

**" THE DIVERSIFIED PROPERTY FUND FOR CHARITIES**

I/We [ ] of being a Unitholder of Units of the above-named Trust hereby appoint [ ] of as my/our proxy to vote for me/us and on my/our behalf at the meeting of Unitholders of the said Trust to be held on [ ] 20[ ] and at any adjournment thereof.

**AS WITNESS** my/our hand(s) this [ ] 20[ ] "

18. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed or the transfer of the Units in respect of which the proxy is given provided that no intimation in writing of such death, insanity, revocation or transfer shall have been received at the place appointed for the deposit of proxies or, if no such place is appointed, at the registered office of the Trustees before the commencement of the meeting or adjourned meeting at which the proxy is used.
19. Minutes of all resolutions and proceedings at every meeting shall be made and duly entered in books to be from time to time provided for that purpose by the Trustees and any such minute as aforesaid if purporting to be signed by the Chairman of the meeting or Chairman of the next succeeding meeting shall be conclusive evidence of the matters stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed at that meeting have been duly passed.

## **Schedule 7**

### **Risk Management and portfolio management services**

The Manager is appointed to carry out the portfolio management and risk management functions as set out in Annex 1 of the AIFMD and the management and control of the business affairs of the Trust, except for those powers, rights and discretions that are reserved to the Trustees

In addition to the general management of the Trust, the Manager will carry out or procure the carrying out of the following services.

#### **1. RISK MANAGEMENT**

- 1.1 Establish the risk profile of the Trust.
- 1.2 Fulfil the risk management function for the Trust.
- 1.3 Monitor and manage the risk exposures of the Trust and seek to ensure that risk remains consistent with the Trust's objectives, including but not limited to:
  - 1.3.1 providing reporting in connection with the Trust's risk metrics, specifically provide leverage, stress test, liquidity measures calculated in accordance with the AIFMD;
  - 1.3.2 risk and compliance monitoring;
  - 1.3.3 management of conflicts of interest;
  - 1.3.4 management of fund and product governance;
  - 1.3.5 oversight of delegated functions; and
  - 1.3.6 management of business and operational risk.
- 1.4 To approve the annual business plan for the Trust.

#### **2. SUPERVISION OF PORTFOLIO MANAGEMENT SERVICES**

- 2.1 To review and monitor the performance and activities of the Asset Manager.
- 2.2 Be responsible for determining any change to the Investment Operating Criteria or other strategic matter.
- 2.3 To approve purchases and sale of Properties.
- 2.4 To approve the grant of occupational leases and monitor and approve leasing events.

#### **3. SUPERVISION AND APPOINTMENTS**

- 3.1 Arrange and be a party to the agreement to appoint, and decide whether or not to remove, the appointed Depositary.

- 3.2 Appoint and/or remove the Asset Manager.
- 3.3 Review and approve the Auditors.
- 3.4 Appoint and/or remove the Property Valuers.
- 3.5 Review and approve the terms of the appointments of sub-delegates, made by the Asset Manager.

#### **4. BANKING**

- 4.1 Operate the Trust bank account, handle Trust level receipts and expenses including drawdown from Unitholders, distributions, capital expenditure and payment of the fees of the Manager, Auditor and Valuers and ensure that there shall be no mixing of the funds of the Trust with the moneys or funds of any other entity, partnership or unincorporated association.
- 4.2 Produce bank reconciliations for the Trust.

#### **5. VALUATIONS**

- 5.1 Arrange valuations on the Properties and the other Trust Assets at such other times as may be required by the Trust Deed.
- 5.2 To the extent reasonably available to the Manager, to procure that the Property Valuers are provided with all information material to ensuring the accurate determination of the value of the Properties.

#### **6. TAXATION**

- 6.1 Procure the submission within the requisite statutory period of all the returns, claims, forms and other documentation to the relevant tax authorities on behalf of the Trust as may be required.
- 6.2 Monitor all Trust tax related issues and report to the Unitholders.
- 6.3 Request from any Unitholder, and at the request of any Unitholder, furnish promptly, any information that is necessary in order to determine or discharge any obligation to withhold tax or within the requisite statutory periods file tax returns and reports.

#### **6.4 VAT**

Oversee the registration of the Trust for VAT. Maintain accurate VAT records. Make or revoke elections to waive exemption for VAT purposes on behalf of the Trust. Complete VAT returns and file at HM Revenue & Customs. Deal with queries from HM Revenue & Customs.



Executed as a Deed by  
SANNE GROUP  
NOMINEES 1 (UK) LIMITED  
acting by:

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)  
)  
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Authorised signatory

Authorised signatory

Executed as a Deed by and  
SANNE GROUP  
NOMINEES 2 (UK) LIMITED  
acting by:

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Authorised signatory

Authorised signatory

Executed as a Deed by  
ESKMUIR FM LIMITED  
acting by:

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Authorised signatory

Authorised signatory