

**CONFORMED COPY**

**(Comprehensive version including the Trust Deed dated 8 May 2013 and  
the First Supplemental Trust Deed dated 22 April 2016)**

**DATED 8 MAY 2013**

**LHIL MANAGER LIMITED  
(as Trustee and Manager)**

**AND**

**LANGHAM HOSPITALITY INVESTMENTS LIMITED  
(as the Company)**

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**DEED OF TRUST  
(AS AMENDED ON 22 APRIL 2016)  
CONSTITUTING  
LANGHAM HOSPITALITY INVESTMENTS  
朗廷酒店投資**

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## CONTENTS

	<b>Page</b>
1. INTERPRETATION.....	1
2. CONSTITUTION OF THE TRUST .....	11
3. UNITS LINKED TO UNDERLYING ORDINARY SHARES AND STAPLED TO PREFERENCE SHARES .....	13
4. CO-OPERATION AND CONSULTATION.....	21
5. ADDITIONAL REQUIREMENTS FOR THE ISSUE OF SHARE STAPLED UNITS AND/OR CONVERTIBLE INSTRUMENTS AND REPURCHASE OR REDEMPTION OF SHARE STAPLED UNITS .....	26
6. ISSUE PRICE .....	33
7. COMPLIANCE WITH THE LISTING RULES AND OTHER RELEVANT LAWS AND REGULATIONS.....	35
8. PROVISIONS AS TO UNITS AND UNITHOLDERS .....	36
9. SHARE STAPLED UNITS REGISTER AND TRANSFERS OF SHARE STAPLED UNITS .....	37
10. UNITS REGISTER AND TRANSFERS OF UNITS .....	45
11. REGISTER OF MEMBERS, TRANSFERS OF BENEFICIAL INTERESTS IN ORDINARY SHARES AND REGISTER OF BENEFICIAL INTERESTS .....	46
12. EXCHANGE.....	49
13. OBJECT AND PURPOSE OF THE TRUST .....	51
14. DISTRIBUTIONS.....	52
15. PLACE AND CONDITIONS OF PAYMENT.....	57
16. EXPENSES OF THE TRUST.....	59
17. POWERS OF THE TRUSTEE-MANAGER.....	59
18. DUTIES OF THE TRUSTEE-MANAGER.....	62
19. DUTIES OF THE TRUSTEE-MANAGER IN RELATION TO THE FINANCIAL STATEMENTS.....	68
20. ANNOUNCEMENTS, CIRCULARS AND NOTICES .....	72
21. LIABILITY AND INDEMNITY OF THE TRUSTEE-MANAGER.....	75
22. AUDITOR.....	78
23. APPOINTMENT, REMOVAL OR RESIGNATION OF TRUSTEE-MANAGER .....	79
24. TAX.....	84
25. TERMINATION OF THE TRUST .....	84
26. MODIFICATION OF TRUST DEED.....	86
27. MEETINGS OF REGISTERED HOLDERS OF UNITS AND MEETINGS OF REGISTERED HOLDERS OF SHARE STAPLED UNITS .....	89
28. BENEFICIAL OWNERSHIP .....	89
29. DIRECTORS OF THE TRUSTEE-MANAGER .....	90
30. COMPANY SECRETARY .....	95
31. AUDIT COMMITTEE.....	95
32. NO ACCEPTANCE OF AN OFFER FOR THE ORDINARY SHARES OR OTHER DISPOSAL OF ORDINARY SHARES .....	95
33. MATTERS REQUIRING THE APPROVAL OF REGISTERED HOLDERS OF UNITS AND MODIFICATION OF CLASS RIGHTS .....	95
34. POWER TO COMPULSORILY ACQUIRE SHARE STAPLED UNITS OF REGISTERED HOLDERS OF SHARE STAPLED UNITS .....	98
35. INSPECTION OF TRUST DEED AND ARTICLES .....	99
36. GOVERNING LAW .....	99
37. APPLICATIONS TO THE COURTS OF HONG KONG .....	99
SCHEDULE 1 - MEETINGS OF REGISTERED HOLDERS OF UNITS AND PROCEEDINGS AT MEETINGS .....	101
SCHEDULE 2 - EXPENSES.....	107
SCHEDULE 3 - CERTIFICATES .....	110

**THIS DECLARATION OF TRUST** is made on the 8th day of May 2013

**PARTIES:**

- (1) **LHIL MANAGER LIMITED** (Company Registration Number 1856872) (the *Trustee-Manager*), the registered office of which is situated at 33rd Floor, Great Eagle Centre, 23 Harbour Road, Wanchai, Hong Kong; and
- (2) **LANGHAM HOSPITALITY INVESTMENTS LIMITED** (Company Registration Number CT-275046) (the *Company*), the registered office of which is situated at Cricket Square, Hutchins Drive, P.O. Box 2681, Grand Cayman KY1-1111, Cayman Islands.

**THIS DEED WITNESSES:**

That, in consideration of, among other things, the mutual promises contained in this Deed, the parties agree, and it is declared, as follows:

**1. INTERPRETATION**

**1.1 Definitions**

Unless the context otherwise requires, the following words and expressions shall have the meanings respectively assigned to them, namely:

*Adjustments* means adjustments of certain items which are charged or credited to the statement of profit or loss and other comprehensive income of the Group for the relevant Financial Year or the relevant distribution period (as the case may be), including, but not limited to:

- (a) unrealised revaluation gains/losses, including impairment provisions and reversals of impairment provisions;
- (b) impairment loss of goodwill/recognition of negative goodwill;
- (c) material non-cash gains/losses;
- (d) costs of any public offering of Share Stapled Units that are expensed through the statement of profit or loss and other comprehensive income but are funded by proceeds from the issuance of such Share Stapled Units;
- (e) depreciation and amortisation;
- (f) any difference in the accounting base rent and/or variable rent and the actual contractual base rent and/or variable rent paid in cash pursuant to any master lease agreement entered into by any member of the Group;
- (g) deferred tax charges and/or adjustments;
- (h) any difference between cash and accounting finance costs; and
- (i) the portion of the fee(s) which is paid or payable for services provided to the Group in the form of Share Stapled Units;

**Alternative Stock Exchange** has the meaning set out in **Clause 3.9(b)**;

**Articles** means the articles of association of the Company as from time to time altered or modified;

**associate** has the meaning given to that expression in the Listing Rules;

**Auditor** means the auditor of the Trust appointed under **Clause 22**;

**Authorised Business** means:

- (a) investing in the Company (including, without limitation, investment in securities and other interests in the Company);
- (b) the exercise of the Trustee-Manager's powers, authorities and rights, and the performance of its duties and obligations, under this Deed; and
- (c) any thing or activity which is necessary or desirable for or in connection with the activities referred to in **paragraphs (a) and/or (b)** above;

**Business Day** means any day (other than a Saturday, Sunday or public holiday and days on which a tropical cyclone warning No. 8 or above or a "black" rainstorm warning signal is in effect in Hong Kong at any time) on which licensed banks are open for general business in Hong Kong and the Hong Kong Stock Exchange is open for trading;

**Cash** means cash and any amount standing to the credit of any bank account of the Trust;

**Cayman Companies Law** means the Companies Law (2013 Revision) of the Cayman Islands and any amendments thereto or re-enactment thereof for the time being in force and includes every other law or subsidiary legislation incorporated therewith or substituted therefor;

**CCASS** means the Central Clearing and Settlement System established and operated by Hong Kong Securities Clearing Company Limited or any successor thereto;

**CCASS Account** means a securities account maintained by a CCASS Participant with CCASS;

**CCASS Participant** means a person admitted by Hong Kong Securities Clearing Company Limited as a participant of CCASS;

**CCASS Requirements** means the General Rules of CCASS, the CCASS Operational Procedures and any other rules, procedures and/or requirements of CCASS;

**Certificate** means a certificate issued or to be issued in accordance with **Clause 9** and **Schedule 3**;

**close associate** has the meaning given to that expression in the Listing Rules;

**Companies Ordinance** means the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) and any amendments thereto or re-enactment thereof for the time being in force and includes every other law or subsidiary legislation incorporated therewith or substituted therefor;

**Connected Person** means a connected person (as defined in the Listing Rules) of the Company and/or the Trust and, in the case of the Trust, shall include the Trustee-Manager, its directors and controlling shareholder, and any of their associates;

**Convertible Instruments** means any options, warrants or similar rights for the subscription or issue of Share Stapled Units issued by Langham Hospitality Investments and the Company and any securities issued by the Company or any subsidiaries of the Company which are convertible into or exchangeable for Share Stapled Units; and references to an issue of Share Stapled Units *pursuant to* any Convertible Instruments means an issue of Share Stapled Units pursuant to exercise of any subscription (or similar), conversion or exchange rights under the terms and conditions of such Convertible Instruments;

**Custody Account** means the securities custody account to be opened and operated in accordance with **Clause 18.3**;

**Deed** means this deed as from time to time altered, modified or added to in accordance with the provisions herein contained and shall include any deed supplemental hereto executed in accordance with the provisions herein contained;

**Dissenting Holder** has the meaning given in **Clause 34.1(a)**;

**Distribution** means a distribution of profits, income or other payments or returns, whether in the nature of income or capital;

**Distributions Account** means the bank account to be opened and operated in accordance with **Clause 18.2**;

**Exchange Date** has the meaning given in **Clause 12.2(b)**;

**Exchange Right** has the meaning given in **Clause 12.1(a)**;

**Excluded Amounts** has the meaning given in **Clause 14.1(c)**;

**Extraordinary Resolution of Registered Holders of Units** means a resolution proposed and passed as such by a majority consisting of 75% or more of the total number of votes cast for and against such resolution at a meeting of Registered Holders of Units;

**FF&E Reserve** means the amount of reserves for furniture, fixtures and equipment;

**Financial Statements** means the accounts and reports of the Trust, the Company and the Trustee-Manager referred to in **Clause 19**;

**Financial Year** means:

- (a) for the first Financial Year, the period from the Listing Date to the 31 December immediately following the Listing Date (both days inclusive);
- (b) for the last Financial Year, the period from and including the most recent 1 January before the date the Trust terminates to and including the date the Trust terminates; and
- (c) in all other circumstances, the 12-month period ending on 31 December in each year;

**Group** means the Company and its subsidiaries, and each of them is a *member of the Group*;

**Group Distributable Income** means the consolidated audited net profit after tax of the Group for the relevant Financial Year or the relevant distribution period after eliminating the effects of the Adjustments, and as further adjusted by deducting, at the discretion of the directors of the Company, a sum equal to the aggregate of the following:

- (a) any amounts paid and/or set aside in respect of the FF&E Reserve and capital expenditure; and
- (b) any amounts set aside for the purpose of servicing future debt repayments and/or for the purpose of complying with covenants in any credit facility agreement;

**HKSCC** means Hong Kong Securities Clearing Company Limited including, where the context so requires, its agents, nominees, representatives, officers and employees;

**HKSCC Nominees** means HKSCC Nominees Limited in its capacity as nominee for Hong Kong Securities Clearing Company Limited (or any successor thereto) as operator of CCASS and any successor, replacement or assign of HKSCC Nominees Limited as nominee for the operator of CCASS;

**Holder of Share Stapled Units** means persons registered in the Share Stapled Units Register as holders of Share Stapled Units and, where the registered holder of Share Stapled Units is HKSCC Nominees, shall also include, where the context so admits, the CCASS Participants whose CCASS Accounts are deposited with the Share Stapled Units. For the avoidance of doubt, references to **Registered Holders of Share Stapled Units** and **Joint Registered Holders of Share Stapled Units** shall not include CCASS Participants;

**Hong Kong Branch Register of Members** means the branch register of members to be established and maintained by the Company in Hong Kong in accordance with the provisions of **Clause 11.4**;

**Hong Kong Stock Exchange** means The Stock Exchange of Hong Kong Limited or any successor thereto;

**Initial Issue Price** has the meaning given in **Clause 6.2(a)**;

**Initial Public Offering** means the initial public offering and listing of the Share Stapled Units on the Hong Kong Stock Exchange;

**Issue Price** means the issue price of the Share Stapled Units;

**Joint Registered Holders of Share Stapled Units** means such persons for the time being entered in the Share Stapled Units Register as joint holders in respect of a Share Stapled Unit;

**Joint Registered Holders of Units** means such persons for the time being entered in the Units Register as joint holders in respect of a Unit;

**Liabilities** means all the liabilities in respect of the Trust whether incurred directly or indirectly by the Trustee-Manager (including, in each case, liabilities accrued but not yet paid) and any provisions which the Trustee-Manager decides should be taken into account in determining the liabilities of the Trust in accordance with generally accepted accounting principles in Hong Kong or International Financial Reporting Standards promulgated by the International Accounting Standards Board;

**Linked** means the matching and linking of each Unit in the Trust with and to a specifically identified Ordinary Share held by the Trustee-Manager in its capacity as trustee-manager of the Trust, so that the Registered Holder of the Unit has a beneficial interest in the specifically identified Ordinary Share and any transfer of the Unit also transfers the beneficial interest in the Ordinary Share, in accordance with **Clause 3** and the other provisions of this Deed; and **Linking** shall be construed accordingly;

**Listing Agreement** means the Listing Agreement between the Trustee- Manager in its capacity as trustee-manager of the Trust and the Hong Kong Stock Exchange, pursuant to which the Trust undertakes to the Hong Kong Stock Exchange to perform the covenants set out in the Listing Agreement fully and in good faith;

**Listing Date** means the date on which the Trust and the Company are first listed on the Hong Kong Stock Exchange;

**Listing Rules** means:

- (a) in relation to the Trust, the listing rules for the time being applicable to the listing of the Trust on the Hong Kong Stock Exchange as the same may be modified, amended, supplemented, revised or replaced from time to time; and
- (b) in relation to the Company, the listing rules for the time being applicable to the listing of the Company on the Hong Kong Stock Exchange as the same may be modified, amended, supplemented, revised or replaced from time to time;

**Market Price** has the meaning given in **Clause 6.2(d)**;

**Meeting of Registered Holders of Share Stapled Units** means a combined meeting of Registered Holders of Units and Shareholders, as referred to in **Clause 4.7(b)**;

**Minor** means any individual under the age of 18 years;

**New Specific Regulations** has the meaning given in **Clause 26(a)(iv)**;

**Offering Circular** means any offering circular issued by the Trustee-Manager and the Company in connection with any issue of Share Stapled Units, as amended, supplemented or updated from time to time;

**Officer**, in relation to the Trustee-Manager, includes any director or company secretary of the Trustee-Manager or a person employed in an executive capacity by the Trustee-Manager;

**Ordinary Resolution of Registered Holders of Units** means a resolution proposed and passed as such by a majority being more than 50% of the total number of votes cast for and against such resolution at a meeting of Registered Holders of Units;

**Ordinary Shareholder** means a person registered at the relevant time in the Register of Members or the Hong Kong Branch Register of Members as the holder of an Ordinary Share;

**Ordinary Shares** means ordinary shares of HK\$0.0005 each in the capital of the Company conferring the rights set out in the Articles;

**parties** means the Trustee-Manager and the Company and each of them is referred to herein as a **party**;

**Preference Shareholder** means a person registered at the relevant time in the Register of Members or the Hong Kong Branch Register of Members as the holder of a Preference Share;

**Preference Shares** means preference shares of HK\$0.0005 each in the capital of the Company conferring the rights set out in the Articles;

**Prospectus** means the prospectus to be issued by the Trustee-Manager and the Company in connection with the Initial Public Offering;

**Record Date** means the date or dates determined by the Trustee-Manager for the purpose of identifying the Registered Holders of Units who are entitled to receive any Distribution or to receive notice of and/or attend and vote at any Meeting of Registered Holders of Share Stapled Units or meeting of Registered Holders of Units;

**Register of Beneficial Interests** means the register of beneficial interests in the Ordinary Shares which are registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust, to be established and maintained under **Clause 11.3**;

**Register of Members** means the principal register of members of the Company maintained in the Cayman Islands;

**Registered Holders of Share Stapled Units** means persons registered at the relevant time in the Share Stapled Units Register as holders of Share Stapled Units, including persons so registered as Joint Holders of Share Stapled Units; and the expression

**Registered Holder of a Share Stapled Unit** and similar expressions shall be construed accordingly;

**Registered Holders of Units** means persons registered at the relevant time in the Units Register as holders of Units, including persons so registered as Joint Registered Holders of Units; and the expression **Registered Holder of a Unit** and similar expressions shall be construed accordingly;

**Registers** means the Share Stapled Units Register, the Units Register, the Register of Members, the Hong Kong Branch Register of Members and the Register of Beneficial Interests, collectively, and **Register** means any of them;

**Registrable Documents** means the meaning given in **Clause 18.11**;

**Registrar** means such person as may from time to time be appointed:

- (a) by the Trustee-Manager and the Company to, *inter alia*, keep and maintain the Share Stapled Units Register and the Register of Beneficial Interests; and
- (b) by the Trustee-Manager to, *inter alia*, keep and maintain the Units Register;

**Relevant Laws and Regulations** means:

- (a) in relation to the Trust and as applicable in the context, any or all laws and regulations in Hong Kong that apply to the Trust, including the Securities and Futures Ordinance, the Listing Rules, and all directions, guidelines or requirements imposed by any competent authority to apply to the Trust, as the same may be modified, amended, supplemented, revised or replaced from time to time; and
- (b) in relation to the Company and as applicable in the context, any or all laws and regulations in Hong Kong that apply to the Company, including the Securities and Futures Ordinance, the Listing Rules, and all directions, guidelines or requirements imposed by any competent authority to apply to the Company, as the same may be modified, amended, supplemented, revised or replaced from time to time;

**Requisition Notice** has the meaning given in **Clause 23.1(d)**;

**Resignation Notice** has the meaning given in **Clause 23.2(a)**;

**Resigning Trustee-Manager** has the meaning given in **Clause 23.2(a)**;

**Rights Issue** has the meaning given in **Clause 5.2(b)**;

**Securities and Futures Ordinance** means the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong), as the same may be modified, amended, supplemented, revised or replaced from time to time;

**SFC** means the Hong Kong Securities and Futures Commission or any successor thereto;

**Share Stapled Unit** means the combination of the following securities or interests in securities which, subject to **Clause 12**, can only be dealt with together and may not be dealt with individually or one without the others:

- (a) a Unit in the Trust;
- (b) the beneficial interest in a specifically identified Ordinary Share Linked to the Unit and held by the Trustee-Manager as legal owner as trustee-manager of the Trust; and
- (c) a specifically identified Preference Share Stapled to the Unit;

**Share Stapled Units Option Scheme** means any option scheme which may be adopted by the Trustee-Manager and the Company from time to time pursuant to **Clause 5.5** for the purpose of granting options in respect of Share Stapled Units, to the management, executives or employees of the Group, or other participants (other than the Trustee-Manager) permitted by the applicable Listing Rules to be specified in relevant scheme;

**Share Stapled Units Register** means the register of Registered Holders of Share Stapled Units referred to in **Clause 9.1**;

**Shareholder** means a person registered at the relevant time in the Register of Members or the Hong Kong Branch Register of Members as the holder of a Share;

**Shares** means the Ordinary Shares and the Preference Shares and a **Share** means any of them;

**Stapled** means attaching each Unit in the Trust to a specifically identified Preference Share so that one may not be dealt with without the other, in accordance with **Clause 3** and the other provisions of this Deed; and **Stapling** shall be construed accordingly;

**Subscriptions Account** means the bank account to be opened and operated in accordance with **Clause 18.4**;

**Tax** means any income tax, value added tax, goods and services tax, stamp duty, capital, issue and registration duties and any other taxes, duties, levies, imposts, deductions and charges and any interest, penalties or fines imposed in connection with any of them;

**Trading Day** means a day on which the Hong Kong Stock Exchange is open for trading in securities;

**Transferee** has the meaning given in **Clause 34.1(a)**;

**Trust** means the trust constituted by this Deed and known as “Langham Hospitality Investments” (or “朗廷酒店投資” in Chinese) or by such other name as may from time to time be determined in accordance with the provisions of this Deed;

**Trust Property**, in relation to the Trust, means all property and rights of any kind whatsoever which are held on trust for the Registered Holders of Units, in accordance with the terms of this Deed, including:

- (a) securities and other rights and interests in the Company acquired by the Trust;
- (b) contributions of money to the Trust and subscription monies for the issuance of Units;
- (c) the rights in respect of any contract, agreement or arrangement relating to the Authorised Business entered into by and on behalf of the Trustee-Manager in its capacity as trustee-manager of the Trust; and
- (d) profits, interest, income and property derived from the securities, money and other rights and interests referred to in **paragraphs (a) to (c)** above;

**Trustee-Manager** means LHIL Manager Limited or any other person appointed to act as trustee-manager of the Trust in accordance with the provisions of this Deed;

**Trustee Ordinance** means the Trustee Ordinance (Chapter 29 of the Laws of Hong Kong), as the same may be modified, amended, supplemented, revised or replaced from time to time;

**Unclaimed Monies** means any monies payable to a Registered Holder of Units under this Deed which are unclaimed;

***Underwriting Agreements*** has the meaning given in **Clause 17.4(e)**;

***Unit*** means one unit in the Trust which confers the rights set out in this Deed;

***Unitholders***:

- (a) means persons registered in the Units Register as holders of Units and includes, for the avoidance of doubt, persons holding Units as components of Share Stapled Units and registered in the Share Stapled Units Register as holders of the Share Stapled Units which include the Units; and
- (b) where the registered holder of Units is HKSCC Nominees, shall also include, where the context so admits, the CCASS Participants whose CCASS Accounts are deposited with the Units registered in the name of HKSCC Nominees. For the avoidance of doubt, references to ***Registered Holders of Units*** and ***Joint Registered Holders of Units*** shall not include CCASS Participants;

***Units Register*** means the register of Registered Holders of Units referred to in **Clause 10**; and

***year*** means a calendar year.

## **1.2 Currencies**

Unless expressly provided to the contrary, references herein to ***Hong Kong Dollar*** or ***HK\$*** are to the lawful currency of Hong Kong.

## **1.3 Statutes**

References to any statute or regulatory provision shall be construed as references to the same as it may have been from time to time amended, modified, consolidated or re-enacted.

## **1.4 Indemnify**

In this Deed, any reference to indemnifying any person against any event, matter or circumstances shall be construed as a reference to indemnifying that person (to the fullest extent permitted by applicable law) in full and holding such person harmless from and against any and all claims (whether or not successful, compromised or settled), actions, liabilities, demands, proceedings or judgments which may be instituted, made, threatened, alleged, asserted or established in any jurisdiction against or otherwise involving such person and from all losses, costs, damages, charges or expenses (including legal expenses reasonably incurred and all losses suffered or incurred in establishing a right to be indemnified under this Deed) which such person may suffer or incur from time to time, in any such case arising out of, based upon or in connection with, whether directly or indirectly, such event, matter or circumstance and the expressions ***indemnified*** and ***indemnify*** and similar expressions shall be interpreted accordingly.

## **1.5 Person**

In this Deed, any reference to a person includes a body corporate, unincorporated association of persons (including a partnership), government, state, agency, organisation and any other entity whether or not having separate legal personality, and an individual, his estate and personal representatives.

## 1.6 Business Days

If the day on or by which a person must do something under this Deed is not a Business Day, the person must do it on or by the immediately next Business Day.

## 1.7 Miscellaneous Construction

Words importing the singular number only shall include the plural and *vice versa*; words importing the masculine gender only shall include the feminine and neuter genders and *vice versa*; the words *written* or *in writing* include (1) faxes and (2) any form of electronic communication approved by the Trustee-Manager; a reference to a document includes an amendment or supplement to, or replacement or novation of, that document. References to *Clauses* and *Schedules* are to be construed as references to the clauses of, and the schedules to, this Deed.

## 1.8 Headings

The headings in this Deed are for convenience only and shall not affect the construction hereof.

## 1.9 Relevant Laws and Regulations to Prevail

For the avoidance of doubt, in the event of a conflict between any provision of this Deed and the Relevant Laws and Regulations, the Relevant Laws and Regulations shall prevail.

## 1.10 Clause Paramount

- (a) Notwithstanding anything expressed or implied to the contrary in this Deed, if there are any inconsistencies between this **Clause 1.10** and any other provision of this Deed, this **Clause 1.10** shall prevail to the extent of the inconsistency.
- (b) The Trustee-Manager has all the powers necessary to observe the Relevant Laws and Regulations and the Trustee-Manager may:
  - (i) do, or cause to be done, any matter or thing necessary in order to satisfy the Relevant Laws and Regulations; and
  - (ii) refrain from doing any matter or thing which would cause a breach of, or non-compliance with, the Relevant Laws and Regulations.
- (c) Each provision of this Deed, and each power exercisable by the Trustee-Manager or any other person under this Deed, is to be severed, read down or limited to the extent necessary in order to:
  - (i) avoid any provision of this Deed being rendered void or invalid under the Relevant Laws and Regulations;
  - (ii) generally ensure observance of the Relevant Laws and Regulations; and
  - (iii) ensure that, as far as lawfully possible, this Deed is valid and enforceable.

- (d) Nothing in this Deed shall exempt the Trustee-Manager from any liability to Holders of Share Stapled Units imposed under any Relevant Laws and Regulations or breaches of trust through fraud, wilful default or negligence by the Trustee-Manager, nor may the Trustee-Manager be indemnified against such liability by Holders of Share Stapled Units or at the Trust's expense. In addition, nothing in this Deed shall diminish or exempt the Trustee-Manager or the Company from any of the duties or liabilities which it may have under the applicable Listing Rules.

## **2. CONSTITUTION OF THE TRUST**

### **2.1 Trust Property and Declaration of Trust**

- (a) The trust known as “Langham Hospitality Investments” is hereby constituted pursuant to this Deed. The name of the Trust in Chinese is 朗廷酒店投資. The name of the Trust may be changed by an Extraordinary Resolution of Registered Holders of Units.
- (b) The Trust Property shall be initially constituted out of:
- (i) all rights arising out of agreements in relation to the Authorised Business entered into by the Trustee-Manager acting in its capacity as trustee-manager of the Trust after the date of the constitution of the Trust;
  - (ii) the Ordinary Shares to be acquired by the Trustee-Manager pursuant to the agreements referred to in **Clause 2.1(b)(i)** above; and
  - (iii) the proceeds to be received by the Trustee-Manager from the issue of Share Stapled Units.
- (c) The Trustee-Manager shall hold the Trust Property for the time being on trust for the benefit of the Registered Holders of Units pursuant to this Deed, *pari passu* according to the number of Units held by each Registered Holder of Units.

### **2.2 Fixed Investment Trust and Limitation to Authorised Business**

- (a) The Trust is constituted, upon and subject to the terms and conditions of this Deed, as a fixed investment trust to engage solely in the Authorised Business.
- (b) The Trust may not carry on any other activities other than engaging in the Authorised Business in accordance with the provisions of this Deed.

### **2.3 Appointment and Authority of Trustee-Manager and Power to Engage in Authorised Business**

The Trustee-Manager be and is hereby appointed as the trustee of the Trust and as the manager of the Trust, and is hereby authorised to act as both trustee and manager for the Trust.

## **2.4 No Personal Liability and Indemnity Against Any Personal Liability**

- (a) In engaging in any Authorised Business in its capacity as trustee-manager of the Trust, the Trustee-Manager shall, save in the case of fraud, wilful default or negligence, be entitled to have recourse to the Trust Property and shall incur no personal liability in respect of any liabilities, costs, claims, damages, expenses, penalties or demands which may arise directly or indirectly from such engaging in any Authorised Business.
- (b) Unless the Trustee-Manager is indemnified to its satisfaction against all liability which it may incur on that account or the Trustee-Manager does not require in any particular case to be so indemnified, the Trust shall not be bound to engage in any Authorised Business which may expose the Trustee-Manager to any personal liability, actual, contingent, prospective or of some other kind, and the Trustee-Manager shall not be bound to enter into any contract or other transaction under which it may be exposed to any such personal liability.

## **2.5 Application of the Trustee Ordinance**

The Trustee Ordinance shall apply to the Trust, except for the following Parts of the Trustee Ordinance which are hereby expressly excluded and shall not apply to the Trust:

- (a) Part IA (Statutory Duty of Care);
- (b) Part II (Investments); and
- (c) Part III (General Powers of Trustees and Personal Representatives).

## **2.6 Duties of Trustee-Manager**

- (a) The Trustee-Manager shall at all times act honestly and exercise the degree of care and diligence required of the Trustee-Manager under Hong Kong law and this Deed in the exercise of all its powers authorities and discretions (which, for the avoidance of doubt, includes the decision whether or not to exercise such powers, authorities and discretions) and the performance of all its duties and obligations, whether conferred or imposed by this Deed or by any Relevant Laws and Regulations.
- (b) The Trustee-Manager shall:
  - (i) act honestly and in good faith in the best interests of all the Registered Holders of Units as a whole;
  - (ii) give priority to the interests of all the Registered Holders of Units as a whole over its own interests in the event of a conflict between the interests of all the Registered Holders of Units as a whole and its own interests;
  - (iii) treat all Registered Holders of Units fairly and equally;
  - (iv) ensure that the Trust Property is properly accounted for and be answerable to the Registered Holders of Units for the application or misapplication of any Trust Property;

- (v) act for proper purpose;
  - (vi) avoid actual and potential conflicts of interest and duty; and
  - (vii) disclose fully to the Registered Holders of Units its interests in contracts with the Trust and/or the Group.
- (c) The Trustee-Manager shall not make improper use of any information acquired by virtue of its position as trustee or manager of the Trust to gain, directly or indirectly, an advantage for itself or for any other person to the detriment of the Registered Holders of Units.

### **3. UNITS LINKED TO UNDERLYING ORDINARY SHARES AND STAPLED TO PREFERENCE SHARES**

#### **3.1 Numbers of Units and Shares**

Subject to **Clause 12**, at all times:

- (a) the number of Units in issue must be equal to the number of Ordinary Shares in issue (and *vice versa*);
- (b) the number of Units in issue must also be equal to the number of Preference Shares in issue (and *vice versa*); and
- (c) the number of Ordinary Shares in issue must be equal to the number of Preference Shares in issue (and *vice versa*).

#### **3.2 Units and Ordinary Shares to be Linked**

- (a) Subject to **Clause 12**, at all times:
  - (i) all of the issued Ordinary Shares must be registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust;
  - (ii) each Unit issued or to be issued by the Trust must be matched by and linked to a specifically identified Ordinary Share issued or to be issued by the Company to the Trustee-Manager in its capacity as trustee-manager of the Trust;
  - (iii) the Trustee-Manager must not issue or sell any Units to any person unless an identical number of specifically identified Ordinary Shares is or has been issued by the Company to the Trustee-Manager in its capacity as trustee-manager of the Trust, before, or at substantially the same time as, the issue or sale of the relevant Units; and
  - (iv) the Company must not issue or sell any Ordinary Shares unless the Ordinary Shares are specifically identified and issued to the Trustee-Manager in its capacity as trustee-manager of the Trust and an identical number of Units in respect of the relevant specifically identified Ordinary Shares are or will be issued by the Trustee-Manager.

- (b) Each Unit confers on its registered holder a beneficial interest, on and subject to the terms and conditions of this Deed, in a specifically identified Ordinary Share registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust.
- (c) The Trustee-Manager shall distribute the proceeds of any and all dividends, distributions and other payments to be made in respect of the specifically identified Ordinary Shares registered in the Register of Members in the name of the Trustee-Manager to the Registered Holders of the relevant Units which are matched with and linked to those specifically identified Ordinary Shares, upon and subject to the terms and conditions of this Deed (including, without limitation, those terms and conditions permitting certain payments and other deductions to be made out of the Trust Property).
- (d) Each Share Stapled Unit may be exchanged for the specifically identified Ordinary Share which is matched with and linked to the Unit which is a component of the relevant Share Stapled Unit, in accordance with the provisions of **Clause 12**.

### **3.3 Units and Preference Shares to be Stapled**

- (a) In addition to the requirements under **Clause 3.2** for each Unit to be matched by and linked to a specifically identified Ordinary Share held by the Trustee-Manager in its capacity as trustee-manager of the Trust, at all times, subject to **Clause 12**:
  - (i) each Unit issued or to be issued by the Trust must be Stapled to a specifically identified Preference Share issued or to be issued by the Company;
  - (ii) the Trustee-Manager must not issue or sell any Units to any person unless an identical number of specifically identified Preference Shares is or has been issued by the Company and those Preference Shares are issued or transferred, to the same persons to whom the Units are issued or sold (and registered in the Register of Members or the Hong Kong Branch Register of Members in the names of the same persons in which the Units are registered in the Units Register), in the ratio of one specifically identified Preference Share for each Unit and on the basis that each specifically identified Preference Share is Stapled to a Unit so that one may not be dealt with without the other. The Preference Shares may be issued by the Company, at the request of the Trustee-Manager, directly to the subscribers for, or purchasers of, Share Stapled Units. Alternatively, the Preference Shares may be issued by the Company to the Trustee-Manager upon terms that the Trustee-Manager must Staple each Preference Share to a Unit and transfer the Preference Shares to the subscribers for, or purchasers of, Share Stapled Units together with (and Stapled to) the Units. For the avoidance of doubt, Preference Shares issued by the Company to the Trustee-Manager under this provision are only issued for the purpose of transferring to the subscribers or purchasers of the Share Stapled Units and for Stapling the Preference Shares to the Units, and not for the Trustee-Manager to hold as part of the Trust Property; and
  - (iii) the Company must not issue or sell any Preference Shares unless the Preference Shares are issued in accordance with **Clause 3.3(a)(ii)**.

- (b) Each Unit must be Stapled to a specifically identified Preference Share (and *vice versa*) on or immediately after the later of:
  - (i) the date of issue of a Unit; and
  - (ii) the date of issue of a Preference Share.

### **3.4 Issue and Transfers of Units and Shares**

- (a) Subject to **Clause 12**, the Trustee-Manager and the Company must not:
  - (i) do any act, matter or thing (including registering any transfer of any Unit or any Share); or
  - (ii) refrain from doing any act, matter or thing,if to do so or refrain from doing so (as the case may be) would result directly or indirectly in:
  - (1) the number of issued Units no longer being equal to the number of issued Ordinary Shares;
  - (2) the number of issued Units no longer being equal to the number of issued Preference Shares;
  - (3) the number of issued Ordinary Shares no longer being equal to the number of issued Preference Shares;
  - (4) any Unit no longer being Linked to an underlying specifically identified Ordinary Share registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust;
  - (5) any Unit no longer being Stapled to a specifically identified Preference Share; or
  - (6) any Preference Share no longer being Stapled to a Unit.
- (b) Without limiting the provisions of **Clause 3.4(a)**, but subject to **Clause 12**, the Trustee-Manager:
  - (i) must not offer any Units for subscription or sale unless:
    - (1) the Company has agreed to issue an identical number of specifically identified Ordinary Shares to the Trust and the Trustee-Manager agrees to subscribe for or buy in its capacity as trustee-manager of the Trust a number of Ordinary Shares equal to the number of Units to be offered by the Trustee-Manager;
    - (2) an identical number of specifically identified Preference Shares is offered to the same persons to whom the Units are offered for subscription or sale, in the ratio of one specifically identified Preference Share for each Unit; and
    - (3) the terms of the offer of Units require each offeree to subscribe for or buy or otherwise receive a number of specifically identified Preference Shares equal to the number of Units subscribed for or bought;

- (ii) must not issue or sell any Units to any person unless (1) an identical number of specifically identified Preference Shares is also issued, sold or transferred to the same person at the same time (and registered in the name of the same person), in the ratio of one specifically identified Preference Share for each Unit and (2) an identical number of specifically identified Ordinary Shares is also issued to the Trustee-Manager in its capacity as trustee-manager of the Trust or the beneficial interest in an identical number of specifically identified Ordinary Shares with which the Units are Linked is sold or transferred to the same person at the same time, in the ratio of one specifically identified Ordinary Share for each Unit;
  - (iii) except for the repurchase and cancellation of the Preference Shares by the Company under **Clause 12.4** following the exercise of the Exchange Right and the redemption of the Preference Shares by the Company under **Clause 25.4** on termination of the Trust for any reason other than exercise of the Exchange Right, must not consolidate, sub-divide, cancel, buy-back or redeem any Units unless there is also a corresponding consolidation, sub-division, cancellation, buy-back or redemption of both the issued specifically identified Ordinary Shares Linked to the relevant Units and the issued specifically identified Preference Shares Stapled to the relevant Units; and
  - (iv) must not register any transfer of any Unit unless there is a matching transfer of:
    - (1) the beneficial interest in the specifically identified Ordinary Share with which the Unit is Linked; and
    - (2) the specifically identified Preference Share to which the Unit is Stapled.
- (c) Without limiting the provisions of **Clause 3.4(a)**, but subject to **Clause 12**, the Company:
- (i) must not offer any Shares for subscription or sale unless the offer comprises an equal number of Ordinary Shares and Preference Shares and:
    - (1) the offer of all the Ordinary Shares is made to the Trustee-Manager and is made in connection with an offer by the Trustee-Manager of an identical number of Units for issue or sale; and
    - (2) the offer of all the Preference Shares is made in accordance with the provisions of **Clause 3.3(a)(ii)**;
  - (ii) must not offer any Ordinary Shares for subscription or sale otherwise than to the Trustee-Manager in its capacity as trustee-manager of the Trust;
  - (iii) must not offer any Preference Shares for subscription or sale or issue or sell any Preference Shares otherwise than in accordance with the provisions of **Clause 3.3(a)(ii)**;

- (iv) must not consolidate, sub-divide, cancel, buy-back or redeem any Shares unless there is also a corresponding consolidation, sub-division, cancellation, buy-back or redemption of the Units in the Trust and of both the issued specifically identified Ordinary Shares which are Linked to the relevant Units and the issued specifically identified Preference Shares which are Stapled to the relevant Units; and
- (v) must not register any transfer of any:
  - (1) beneficial interest in any Ordinary Share in the Register of Beneficial Interests; or
  - (2) Preference Share in the Register of Members or the Hong Kong Branch Register of Members,

unless there is a matching transfer in the Units Register, to the same person(s), of the Unit with which the relevant Ordinary Share is Linked and to which the relevant Preference Share is Stapled.

### **3.5 Issue of Units by the Trustee-Manager**

- (a) Units may only be issued in combination with a specifically identified Ordinary Share and Preference Share, as a component of a Share Stapled Unit.
- (b) Subject to **Clauses 3.5(d)** and **3.5(e)**, if the Trustee-Manager notifies the Company that the Trustee-Manager proposes to issue Units, the Company must cause the issue of:
  - (i) an identical number of specifically identified Ordinary Shares to the Trustee-Manager in its capacity as trustee-manager of the Trust; and
  - (ii) an identical number of specifically identified Preference Shares in accordance with the provisions of **Clause 3.3(a)(ii)**, so that the specifically identified Preference Shares are issued, or sold or transferred, to (and registered in the respective names of) the same persons to whom the Units are issued.
- (c) The provisions of **Clause 3.5(b)** shall apply equally to any issue of Units pursuant to any Convertible Instrument.
- (d) The Trustee-Manager and the Company must consent to the issue of and agree the terms of issue, including the price, of any Share Stapled Units and each of the individual components (Units, Ordinary Shares and Preference Shares), or any Convertible Instruments to be issued by the Trustee-Manager and the Company, in each case, before any offer to issue or sell the relevant securities is made.
- (e) The obligations of the Company under **Clause 3.5(b)** are subject to the Relevant Laws and Regulations, the Articles and any consent or other approval from any necessary authority.

### **3.6 Issue of Shares by the Company**

- (a) Subject to **Clauses 3.6(b)** and **3.6(c)**, if the Company notifies the Trustee-Manager that the Company proposes to issue:
  - (i) Ordinary Shares, the Company must also issue an identical number of Preference Shares in accordance with the provisions of **Clause 3.3(a)(ii)** and the Trustee-Manager must cause the issue of an identical number of Units; or
  - (ii) Preference Shares, the Company must also issue an identical number of Ordinary Shares in accordance with the provisions of **Clause 3.2** and the Trustee-Manager must cause the issue of an identical number of Units.
- (b) The Company and the Trustee-Manager must consent to the issue of, and agree the terms of issue, including the price, of any Shares to be issued by the Company before any offer to issue or sell such Shares is made.
- (c) The Company shall pay the expenses of the issue and delivery of, and all expenses of obtaining listing for, Shares issued to or at the request of the Trustee-Manager.
- (d) The obligations of the Company and the Trustee-Manager under **Clause 3.6(a)** are subject to the requirements of the Relevant Laws and Regulations, this Deed and any consent or other approval from any necessary authority.

### **3.7 Units and Ordinary Shares to Remain Linked and Units and Preference Shares to Remain Stapled**

- (a) Subject to **Clause 12**, the Trustee-Manager and the Company must ensure that each Unit remains Linked to a specifically identified Ordinary Share registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust.
- (b) Subject to **Clause 12**, the Trustee-Manager and the Company must ensure that each Unit remains Stapled to a specifically identified Preference Share.

### **3.8 Issue of Convertible Instruments by the Trustee-Manager**

- (a) Subject to **Clauses 3.8(b)** and **3.8(d)** and **Clause 5**, the Trustee-Manager and the Company or any of its subsidiaries may issue Convertible Instruments.
- (b) The Trustee-Manager shall not be permitted to issue any debt securities or convertible debt securities.
- (c) The Company and any of its subsidiaries shall be permitted to issue debt securities or convertible debt securities.
- (d) Any Convertible Instrument issued under **Clause 3.8(a)** must provide that it may only be converted into or exchanged for Share Stapled Units in their entirety and shall not be convertible into or exchangeable for any of the individual components (Unit, Ordinary Share and Preference Share) of a Share Stapled Unit.

### 3.9 Share Stapled Units to Remain Listed and Price Quotation

- (a) Subject to **Clause 3.10**, the Trustee-Manager and the Company shall use all their respective reasonable endeavours to maintain a listing on the Hong Kong Stock Exchange for:
- (i) all the issued Share Stapled Units for the time being; and
  - (ii) each individual security which is a component of the Share Stapled Units, being all the issued Units, Ordinary Shares and Preference Shares for the time being,

provided that, for as long as the Share Stapled Units remain listed on the Hong Kong Stock Exchange, there shall be a single price quotation for a Share Stapled Unit incorporating the three components described in the definition of Share Stapled Unit in **Clause 1.1** and there will not be separate published price quotations for the listed Units, listed Ordinary Shares or listed Preference Shares comprising the Share Stapled Units.

- (b) If the Trustee-Manager and the Company are unable to obtain or maintain such listing having used such reasonable endeavours, the Trustee-Manager and the Company shall use all reasonable endeavours to obtain and maintain a listing for such Share Stapled Units (as a single composite security) on any other recognised stock exchange selected by the Trustee-Manager and the Company and approved by an Ordinary Resolution of Registered Holders of Units and otherwise approved in accordance with any applicable requirements of the Listing Rules (an *Alternative Stock Exchange*); and references in this Deed to the Hong Kong Stock Exchange in respect of the Share Stapled Units and/or their component parts (being the Units, the Ordinary Shares and the Preference Shares) shall thereafter be construed as applying to such Alternative Stock Exchange.
- (c) In addition, the Trustee-Manager and the Company may jointly agree to cause the Trust and the Company to be secondarily listed on any Alternative Stock Exchanges or cause the Trust and the Company to have a dual primary listing on such Alternative Stock Exchange and the Hong Kong Stock Exchange. The listing of the Trust on the Hong Kong Stock Exchange and any secondary or dual primary listing shall be at the cost and expense of the Trust, which may be paid out of the Trust Property. The listing of the Company on the Hong Kong Stock Exchange and any secondary listing shall be at the cost and expense of the Company. In the case of any such secondary or dual primary listing, the Share Stapled Units must be listed (as a single composite security) and references in this Deed to the Hong Kong Stock Exchange in respect of the Share Stapled Units shall thereafter be construed as including the relevant Alternative Stock Exchange(s) on which the Share Stapled Units are also listed.
- (d) The Trustee-Manager and the Company are entitled to take such actions, including making modifications, alterations or additions to the provisions of this Deed in accordance with the provisions of **Clause 26**, as may be required of the Trust and/or the Company to comply with all applicable rules of the Hong Kong Stock Exchange and any Alternative Stock Exchanges on which the Share Stapled Units are listed and the conditions of any applicable exemptions and waivers granted by the Hong Kong Stock Exchange and any such Alternative Stock Exchanges in this connection.

- (e) This Deed will remain in full force and effect in accordance with its terms notwithstanding any alternative listing of the Share Stapled Units on any Alternative Stock Exchange, or any secondary or dual primary listing on any such Alternative Stock Exchange, for as long as the Share Stapled Units remain listed on the Hong Kong Stock Exchange or any Alternative Stock Exchange.

**3.10 Listing and Price Quotation Requirements After Exercise of Exchange Right or in the Event of a Distribution in Specie of the Ordinary Shares under Clause 25 (Termination of the Trust)**

- (a) Following the exercise of the Exchange Right under **Clause 12**, pursuant to which Registered Holders of Share Stapled Units can exchange their Share Stapled Units for Ordinary Shares and the Trust is terminated under **Clause 25**, the Trustee-Manager and the Company shall not be required to maintain a listing for the Units and Preference Shares comprising the Share Stapled Units which have been exchanged for Ordinary Shares, but the Company shall be required to continue to use all its reasonable endeavours to maintain a listing for the Ordinary Shares transferred pursuant to the exercise of the Exchange Right on the Hong Kong Stock Exchange or any Alternative Stock Exchange.
- (b) If the Trust is terminated under **Clause 25** and the Ordinary Shares are distributed *in specie* to the Registered Holders of Units in accordance with **Clause 25.2(a)**, the Trustee-Manager and the Company shall not be required to maintain a listing for any of the Units (or for the Preference Shares which have been redeemed by the Company under **Clause 25.4**) but the Company shall be required to continue to use its reasonable endeavours to maintain a listing on the Hong Kong Stock Exchange or any Alternative Stock Exchange for the Ordinary Shares distributed *in specie* and, pending their redemption, for any Preference Shares which have not been redeemed by the Company under **Clause 25.4**.

**3.11 Voting Rights Conferred by the Ordinary Shares**

The provisions of **Clause 4.8** shall apply in relation to the exercise by the Trustee-Manager of the voting rights conferred by the Ordinary Shares registered in the Register of Members in the name of the Trustee-Manager in its capacity as trustee-manager of the Trust.

**3.12 Delivery of Underlying Ordinary Shares and Rights of Unitholders to the Trust Property**

- (a) The beneficial interest in the Trust is divided into Units.
- (b) Subject to the provisions of this Deed (including, without limitation, the provisions of **Clauses 3.10, 12 and 25**):
  - (i) a Unitholder is not entitled to the transfer to it of the Trust Property or any part of the Trust Property; and
  - (ii) the right of a Unitholder in the Trust Property and under this Deed is limited to the right to require the due administration of the Trust in accordance with this Deed including, without limitation, by suit against the Trustee-Manager and the other rights expressly provided under this Deed.

- (c) The Unitholders (whether at a meeting of Registered Holders of Units convened pursuant to **Clause 27** and **Schedule 1** or otherwise), may not:
  - (i) subject to **Clause 3.11**, interfere or seek to interfere with the rights, powers, authority or discretion of the Trustee-Manager;
  - (ii) except as expressly provided in **Clause 12**, exercise any right in respect of the Trust Property or any part of the Trust Property or lodge any caveat or other notice affecting the Trust Property or any part of the Trust Property; and
  - (iii) except as expressly provided in **Clause 12**, require that any part of the Trust Property be transferred to the Unitholders.

#### **4. CO-OPERATION AND CONSULTATION**

##### **4.1 Overriding Obligation**

- (a) The parties must co-operate in respect of all matters relating to the Share Stapled Units, the Units and the Shares and must (in the case of the Company to the extent permitted by the Cayman Companies Law), do all things necessary to give effect to this Deed.
- (b) Each party hereby agrees that it shall do all things reasonably necessary to assist the other party to enable each of them to give effect to this Deed and their respective obligations under this Deed, from time to time.

##### **4.2 Consultation**

Each party must consult with the other prior to causing any act to be done or omission to be made which may materially affect the value of the Share Stapled Units, the Units and/or the Shares.

##### **4.3 Distributions**

Each party must consult with the other prior to announcing or paying a Distribution by the Trust or a dividend, distribution or other payment to the Trust by the Company.

##### **4.4 Other Corporate Actions**

- (a) No party may cause a placement, rights issue, distribution or dividend reinvestment plan or perform any other corporate action which requires an announcement to be made under the Listing Rules, without the prior consent of both parties.
- (b) Except for the repurchase and cancellation of the Preference Shares by the Company under **Clause 12.4** following the exercise of the Exchange Right and the redemption of the Preference Shares by the Company under **Clause 25.4** on termination of the Trust for any reason other than exercise of the Exchange Right, no party may buy-back, repurchase or redeem Share Stapled Units or Units or Shares (as the case requires) without the prior consent of both parties and complying with the requirements of **Clauses 3** and **5.12**.

#### **4.5 Information**

- (a) Each party agrees to make available to the other all information in the party's possession as may be necessary or desirable to fulfil the respective obligations of the parties under this Deed or any other document, deed or arrangement relating to the Share Stapled Units, the Units and/or the Shares.
- (b) Subject to **Clause 4.5(c)**, each party must keep confidential any information obtained concerning the affairs or assets of the other party and not use it for any purpose other than those set out in **Clause 4.5(a)**.
- (c) A party may disclose any information:
  - (i) with the prior written consent of the other party (which consent shall not be unreasonably withheld or delayed);
  - (ii) if it is required to do so by law, by any regulatory or governmental agency or by the Hong Kong Stock Exchange;
  - (iii) if the information has come within the public domain, other than by a breach of this **Clause 4.5** by any party; and
  - (iv) to the party's bankers or professional advisers.

#### **4.6 Actions Requiring Approval by Resolution of Registered Holders of Units Also Require Approval by Resolution of Shareholders**

The parties shall procure that, to the extent permitted by the Relevant Laws and Regulations:

- (a) no action requiring approval by an Ordinary Resolution of Registered Holders of Units under this Deed shall be taken unless it is also approved by an ordinary resolution of Shareholders passed in accordance with the Articles; and
- (b) no action requiring approval by an Extraordinary Resolution of Registered Holders of Units under this Deed shall be taken unless it is also approved by a special resolution of Shareholders passed in accordance with the Articles.

#### **4.7 Co-ordinate Meetings of Registered Holders of Units and Shareholders**

- (a) The Trustee-Manager and the Company shall ensure that:
  - (i) a meeting of Shareholders is not convened and held unless a meeting of Registered Holders of Units is also convened and held either as a combined meeting with the meeting of Registered Holders of Units or separately but consecutively with (and immediately after) the meeting of Registered Holders of Units; and
  - (ii) a meeting of Registered Holders of Units is not convened and held unless a meeting of Shareholders is also convened and held.
- (b) To the extent permitted under the Relevant Laws and Regulations, meetings of Registered Holders of Units and meetings of Shareholders convened under **Clause 4.7(a)** shall be held on a combined basis as a single meeting characterised as a Meeting of Registered Holders of Share Stapled Units.

- (c) If that is not possible under the Relevant Laws and Regulations, the meetings convened under **Clause 4.7(a)** shall be held separately and consecutively, with the meeting of Registered Holders of Units being held immediately prior to the meeting of Shareholders. The meeting of Registered Holders of Units is required to be held immediately prior to the meeting of Shareholders in order to enable the Registered Holders of Units, by exercising the voting rights conferred by the Units held by them, to give directions to the Trustee-Manager as to how to vote the specifically identified Ordinary Shares held by the Trustee-Manager which are Linked to those Units, in respect of the resolution(s) to be proposed at the meeting of Shareholders.
- (d) In relation to a Meeting of Registered Holders of Share Stapled Units, to the extent practicable, a single resolution shall be proposed to approve the matter to be considered by the Registered Holders of Units and the Shareholders, which resolution shall be characterised as a resolution of the Registered Holders of Share Stapled Units and shall serve as both a resolution of Registered Holders of Units and a resolution of Shareholders.
- (e) In relation to meetings of Registered Holders of Units and Shareholders to be held separately but consecutively in accordance with **Clause 4.7(c)**, to the extent practicable, the same or a substantially similar resolution (with any modifications which are necessary or desirable to reflect the manner in which the matter being considered affects the Trust or the Company differently) shall be proposed for consideration at each meeting.
- (f) In relation to both Meetings of Registered Holders of Share Stapled Units and meetings of Registered Holders of Units and Shareholders to be held separately but consecutively in accordance with **Clause 4.7(c)**:
  - (i) in respect of each individual Share Stapled Unit, the voting rights conferred by a Unit and the specifically identified Preference Share which is Stapled to it, which are components of the relevant Share Stapled Unit, can only be exercised in the same way (either for or against) in respect of (as the case may be) (1) a single resolution of Registered Holders of Units and Shareholders proposed at a Meeting of Registered Holders of Share Stapled Units or (2) a resolution of Registered Holders of Units and a resolution of Shareholders dealing with the same, or substantially the same, matter proposed at separate but consecutive meetings of Registered Holders of Units and Shareholders referred to in **Clause 4.7(c)** (and shall not be exercised in favour of one resolution but against the other); and
  - (ii) a Registered Holder of a Share Stapled Unit shall cast a single vote in respect of that Share Stapled Unit, either for or against the relevant resolution(s), which shall serve as a vote in respect of both the Unit and the Preference Share constituting that Share Stapled Unit, either for or against (as the case may be) in respect of (as the case may be) (1) a resolution of Registered Holders of Share Stapled Units proposed at a Meeting of Registered Holders of Share Stapled Units, or (2) a resolution of Registered Holders of Units and a resolution of Shareholders which deal with the same, or substantially the same, matter proposed at meetings of Registered Holders of Units and Shareholders held separately but consecutively in accordance with **Clause 4.7(c)**.

- (g) A Registered Holder of Share Stapled Units holding more than one Share Stapled Unit may vote some of the Share Stapled Units registered in his name in favour of a resolution proposed at a Meeting of Registered Holders of Share Stapled Units and some of them against the relevant resolution provided that the provisions of **Clause 4.7(f)** are complied with in respect of each individual Share Stapled Unit registered in his name. Similarly, a Registered Holder of Share Stapled Units holding more than one Share Stapled Unit may vote some of the Share Stapled Units registered in his name in favour of both resolutions dealing with the same, or substantially the same, matter proposed at separate meetings of Registered Holders of Units and Shareholders held consecutively under **Clause 4.7(c)** and some of them against both those resolutions, provided that the provisions of **Clause 4.7(f)** are complied with in respect of each individual Share Stapled Unit registered in his name.

#### **4.8 Requirements for the Exercise by the Trustee-Manager of the Voting Rights Conferred by the Ordinary Shares**

- (a) The Trustee-Manager shall exercise the voting rights conferred by the Ordinary Shares held by it in respect of a resolution proposed at a Meeting of Registered Holders of Share Stapled Units in the same way (either for or against the relevant resolution) as the votes conferred by the Units to which those Ordinary Shares are Linked are or have been exercised in respect of the same resolution.
- (b) In relation to any resolution to be proposed at a meeting of Shareholders to be held separately but consecutively with a meeting of Registered Holders of Units in accordance with **Clause 4.7(c)**, a corresponding resolution shall first be proposed at the meeting of Registered Holders of Units convened under **Clause 4.7(a)**. This is to enable Registered Holders of Units, by exercising the voting rights conferred by the Units held by them, to give directions to the Trustee-Manager as to how to vote the specifically identified Ordinary Shares held by the Trustee-Manager which are Linked to those Units, in respect of the resolution(s) to be proposed at the meeting of Shareholders.
- (c) Subject to **Clause 4.8(a)**, the Trustee-Manager shall only exercise the voting rights conferred by the Ordinary Shares held by it in respect of a resolution proposed at a meeting of Shareholders:
- (i) if a meeting of Registered Holders of Units is or has been convened and held to consider the same, or substantially the same, matter (with any modifications which are necessary or desirable to reflect the manner in which the matter being considered affects the Trust or the Company differently) or to determine how the Trustee-Manager should exercise the voting rights conferred by the Ordinary Shares at the meeting of Shareholders; and
  - (ii) in the same way (either for or against the relevant resolution) as the votes conferred by the Units to which those Ordinary Shares are Linked are or have been exercised in respect of the resolution of Registered Holders of Units referred to in **Clause 4.8(c)(i)**.
- (d) In respect of a resolution of Shareholders to be proposed at a Meeting of Registered Holders of Share Stapled Units, the Trustee-Manager shall not exercise the voting rights conferred by the Ordinary Shares held by it which are Linked to Units in respect of which no voting rights are or have been exercised at the relevant Meeting of Registered Holders of Share Stapled Units.

- (e) Similarly, in respect of a resolution of Shareholders to be proposed at a separate but consecutive meeting of Shareholders held in accordance with **Clause 4.7(c)**, the Trustee-Manager shall not exercise the voting rights conferred by the Ordinary Shares held by it which are Linked to Units in respect of which no voting rights have been exercised at a meeting of Registered Holders of Units convened under **Clause 4.8(c)(i)** to consider the same or substantially the same matter or to determine how the Trustee-Manager should exercise the voting rights conferred by the Ordinary Shares.

#### **4.9 Forms of Proxy and Voting Papers**

- (a) To the extent permitted by the Relevant Laws and Regulations, in the case of a Meeting of Registered Holders of Share Stapled Units, the form of proxy to be provided to Registered Holders of Share Stapled Units, and the form of voting paper, will, in each case, be a single, composite, form. Unless otherwise expressly stated in the form of proxy or the form of voting paper provided for use in respect of the Meeting of Registered Holders of Share Stapled Units, the effect of completing a form of proxy or voting paper (as the case may be) indicating a vote either for or against a resolution characterised in the form of proxy or voting paper as a resolution of Registered Holders of Share Stapled Units to be proposed at a Meeting of Registered Holders of Share Stapled Units shall be that the vote given in respect of the Share Stapled Units in question shall constitute:
  - (i) a vote of the Units included in the Share Stapled Units, in respect of any required resolution of Registered Holders of Units;
  - (ii) a vote of the Preference Shares Stapled to those Units in respect of any required resolution of Shareholders; and
  - (iii) an instruction to the Trustee-Manager to vote the number of Ordinary Shares Linked to the relevant Units in the same way (either for or against) in respect of any required resolution of Shareholders.
- (b) To the extent permitted by the Relevant Laws and Regulations, in the case of meetings of Registered Holders of Units and Shareholders held separately but consecutively under **Clause 4.7(c)** to consider the same, or substantially the same, resolution (with any modifications which are necessary or desirable to reflect the manner in which the matter being considered affects the Trust or the Company differently), the form of proxy and the form of voting paper provided for use in respect of the meeting of Registered Holders of Units shall, unless expressly stated otherwise in the relevant form, have the effect that the vote given in respect of Units either for or against a resolution shall also constitute an instruction to the Trustee-Manager to vote the same number of Ordinary Shares which are Linked to the Units in the same way (either for or against) in respect of the resolution dealing with the same, or substantially the same, matter at the separate but consecutive meeting of Shareholders.
- (c) The forms of proxy and voting paper provided for use in respect of the meetings referred to in **Clauses 4.9(a)** and **4.9(b)** above shall contain prominent statements detailing the effect of completing the relevant form indicating a vote either for or against the relevant resolution(s).

#### **4.10 Effect of Meetings of Registered Holders of Share Stapled Units**

To the extent permitted by the Relevant Laws and Regulations and the Articles, a Meeting of Registered Holders of Share Stapled Units shall constitute:

- (a) a meeting of the Registered Holders of Units; and
- (b) a meeting of Shareholders.

#### **4.11 Restructuring**

Each of the Trustee-Manager and the Company must consult with the other in relation to:

- (a) effecting any reorganisation or restructuring of the Units and/or the capital of the Company; and
- (b) effecting any changes to the Stapling arrangements and/or Linking arrangements contemplated by this Deed.

### **5. ADDITIONAL REQUIREMENTS FOR THE ISSUE OF SHARE STAPLED UNITS AND/OR CONVERTIBLE INSTRUMENTS AND REPURCHASE OR REDEMPTION OF SHARE STAPLED UNITS**

#### **5.1 Right Vested in Trustee-Manager and the Company**

Subject to complying with the provisions of **Clauses 3 and 4**, the Trustee-Manager and the Company, acting jointly by mutual agreement between them, have the right to effect the creation and issue of Share Stapled Units and/or Convertible Instruments in accordance with this Deed (including, but not limited to, an initial issue of Share Stapled Units and/or Convertible Instruments, a rights issue, a capitalisation issue, an issue of new Share Stapled Units and/or Convertible Instruments otherwise than by a rights issue, an issue pursuant to a re-investment of distributions arrangement or an issue of Share Stapled Units and/or Convertible Instruments in consideration of the contribution of securities or other investments in the Company).

#### **5.2 New Issue on *Pro Rata* Basis**

- (a) After the Listing Date, new Share Stapled Units and/or Convertible Instruments may be offered on a *pro rata* basis as a Rights Issue (as defined in **Clause 5.2(b)**) without the prior approval of Registered Holders of Units or Registered Holders of Share Stapled Units other than where any such issue together with such Convertible Instruments (assuming their exercise in full), would increase the total number of issued Share Stapled Units by more than 50% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) (on its own or when aggregated with any other *pro rata* issue of Share Stapled Units under this **Clause 5.2** or open offers announced, (1) within the 12 month period immediately preceding the announcement of the proposed Rights Issue; or (2) prior to such 12-month period where dealing in respect of Share Stapled Units issued pursuant thereto commenced within such 12 month period, together with any Convertible Instruments (assuming their exercise in full) granted or to be granted to Holders of Share Stapled Units as part of such *pro rata* issues or open offers), in which case such issue shall require the prior approval of an Ordinary Resolution of Registered Holders of Units, in respect of which any Holder of Share Stapled Units holding not less than 30% of the issued Share Stapled Units, and the associates of any such Holder, or where there is no person holding 30% or more of the issued Share Stapled Units, directors of the Company and the Trustee-Manager (in each case, excluding independent non-executive

directors), the chief executive of the Company and the associates of those directors and the chief executive, shall abstain from voting in favour. For the purposes of this **Clause 5.2(a)**, the effect on the total number of issued Share Stapled Units of any relevant issue under this **Clause 5.2** (and the relevance and effect of any other issue within the relevant preceding 12 month period) shall be estimated and determined by the Trustee-Manager and the Company jointly, in good faith and using their respective best endeavours, having regard to the terms and conditions of the relevant offer(s) or issue(s) under this **Clause 5.2**.

- (b) A **Rights Issue** means an offer of Share Stapled Units and/or Convertible Instruments to all existing Registered Holders of Share Stapled Units on a *pro rata* basis and an offer of Share Stapled Units and/or Convertible Instruments shall be considered and deemed to be made on a *pro rata* basis notwithstanding that (1) the Trustee-Manager and the Company acting jointly may, after making due enquiry regarding the applicable jurisdiction, determine that Share Stapled Units and/or Convertible Instruments are not to be offered to some or all of the persons whose addresses are outside Hong Kong, and/or that the Share Stapled Units and/or Convertible Instruments shall be offered on a basis, or containing such other terms, providing for any such other exclusions or adjustments determined by the Trustee-Manager and the Company acting jointly, if the Trustee-Manager and the Company by mutual agreement between them consider such exclusions or adjustments to be necessary or expedient in relation to fractional entitlements or having regard to any restrictions or obligations under the laws, or under the requirements of any recognised regulatory body or stock exchange, of any territory or jurisdiction outside Hong Kong and/or (2) where and to the extent that Registered Holders of Share Stapled Units do not accept any offer of Share Stapled Units and/or Convertible Instruments within the applicable period for acceptance (as determined by the Trustee-Manager and the Company acting jointly by mutual agreement between them), such Share Stapled Units and/or Convertible Instruments may be offered or made available to, and taken up by, other persons as determined by the Trustee-Manager and the Company acting jointly by mutual agreement between them, subject to compliance with the Relevant Laws and Regulations (including the applicable Listing Rules).

### **5.3 New Issue Other Than on a Pro Rata Basis Under General Mandate**

- (a) Subject to the “lock-up” provisions applicable under the Listing Rules, any applicable “lock-ups” agreed with underwriters, any other applicable provisions of the Listing Rules and **Clauses 3, 5.3(c) and 5.6**, Share Stapled Units may be issued, or agreed (conditionally or unconditionally) to be issued, after the Listing Date and on or prior to the date of the first Annual General Meeting of Registered Holders of Units held after the Listing Date (whether directly or pursuant to any Convertible Instrument) without the approval of an Ordinary Resolution of Registered Holders of Units if the total number of new Share Stapled Units issued, or agreed (conditionally or unconditionally) to be issued, under this **Clause 5.3**, otherwise than pursuant to (i) a Rights Issue referred to in **Clause 5.2** or (ii) any Distribution reinvestment arrangement referred to in **Clause 14.5** providing for the issue of Share Stapled Units in lieu of all or part of a Distribution on Share Stapled Units in accordance with this Deed and the Articles, does not increase the number of Share Stapled Units which are outstanding immediately following the Listing Date by more than 20%.

- (b) Any issue of, or any agreement (whether conditional or unconditional) to issue, new Share Stapled Units exceeding the percentage threshold specified in **Clause 5.3(a)** shall require specific prior approval by an Ordinary Resolution of Registered Holders of Units, except that agreements to issue new Share Stapled Units exceeding such percentage threshold which are conditional upon specific prior approval by an Ordinary Resolution of Registered Holders of Units may be entered into without first obtaining such prior approval.
- (c) The authority granted under this **Clause 5.3** shall only remain in effect until the conclusion of the first Annual General Meeting of Registered Holders of Units following the Listing Date, or the expiration of the period within which such Annual General Meeting is required to be held, or until revoked, renewed or varied by an Ordinary Resolution of Registered Holders of Units, whichever occurs first.
- (d) At each subsequent Annual General Meeting, Registered Holders of Units may by an Ordinary Resolution of Registered Holders of Units grant a general mandate to the directors of the Company and the Trustee-Manager to issue Share Stapled Units not exceeding 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) of the Share Stapled Units in issue as at the date of the passing of such Ordinary Resolution in accordance with the provisions of this Deed, the terms of such Ordinary Resolution and the Relevant Laws and Regulations.

#### **5.4 Issues Other Than on a *Pro Rata* Basis**

Any other issue of, or any agreement (whether conditional or unconditional) to issue, new Share Stapled Units and/or Convertible Instruments shall require specific prior approval by an Ordinary Resolution of Registered Holders of Units, except that agreements to issue new Share Stapled Units which are conditional upon specific prior approval by an Ordinary Resolution of Registered Holders of Units may be entered into without first obtaining such prior approval.

#### **5.5 New Issue Under Share Stapled Units Option Scheme**

- (a) Subject to prior approval by an Ordinary Resolution of Registered Holders of Units and subject to compliance with the Listing Rules, the Trustee-Manager and the Company may from time to time adopt any Share Stapled Units Option Scheme and, notwithstanding **Clauses 5.4, 5.6 and 6.2**, no further approval of Registered Holders of Units will be required for any issue of options to subscribe for new Share Stapled Units (including, if not so prohibited under such Share Stapled Units Option Scheme, to any Connected Person) pursuant to such Share Stapled Units Option Scheme (including, if not so prohibited under such Share Stapled Units Option Scheme, without any consideration) or any issue of Share Stapled Units pursuant to the exercise of any such options (including, if not so prohibited under such Share Stapled Units Options Scheme, to any Connected Person and/or without any consideration).
- (b) The Trustee-Manager is not permitted to be a participant under any Share Stapled Units Option Scheme.

## 5.6 New Issue to a Connected Person

An issue or offer of new Share Stapled Units and/or Convertible Instruments to a Connected Person (other than (i) pursuant to a Rights Issue or as part of any offer made to all Registered Holders of Share Stapled Units on a *pro rata* basis or (ii) where the Connected Person receives a *pro rata* entitlement to Share Stapled Units and/or Convertible Instruments in its capacity as a Registered Holder of Share Stapled Units) shall require specific prior approval by an Ordinary Resolution of Registered Holders of Units in respect of which the Connected Person does not vote in favour of the Ordinary Resolution of Registered Holders of Units, except where such issue or offer is made under any of the following circumstances:

- (a) a capitalisation issue (in so far as such issue is offered to the Registered Holders of Share Stapled Units on a *pro rata* basis);
- (b) an issue of Share Stapled Units in respect of reinvestment of Distributions to Registered Holders of Share Stapled Units;
- (c) an issue of Share Stapled Units upon the exercise of options granted to a Connected Person made in accordance with **Clause 5.5**;
- (d) an issue of Share Stapled Units and/or Convertible Instruments to a Connected Person made in accordance with **Clause 5.7**;
- (e) an issue of Share Stapled Units and/or Convertible Instruments to a Connected Person made in accordance with **Clause 5.8**; or
- (f) an issue of Share Stapled Units to a Connected Person made in accordance with **Clause 5.9**.

For the purpose of this **Clause 5.6**, an offer of Share Stapled Units and/or Convertible Instruments shall be considered and deemed to be made on a *pro rata* basis notwithstanding that (i) the Trustee-Manager and the Company, acting jointly, may, after making due enquiry regarding the applicable jurisdiction, determine that Share Stapled Units and/or Convertible Instruments are not to be offered to some or all of the persons whose addresses are outside Hong Kong, and/or that the Share Stapled Units and/or Convertible Instruments should be offered on a basis, or containing such other terms, providing for any such other exclusions or adjustment determined by the Trustee-Manager and the Company acting jointly, if the Trustee-Manager and the Company by mutual agreement between them consider such exclusions or adjustments to be necessary or expedient in relation to fractional entitlements or having regard to any restrictions or obligations under the laws, or under the requirements of any recognised regulatory body or stock exchange, of any territory or jurisdiction outside Hong Kong; and/or (ii) where and to the extent that Registered Holders of Share Stapled Units do not accept any offer of Share Stapled Units and/or Convertible Instruments within the applicable period for acceptance (as determined by the Trustee-Manager and the Company acting jointly by mutual agreement between them), such Share Stapled Units and/or Convertible Instruments may be offered or made available to, and taken up by, other persons as determined by the Trustee-Manager and the Company acting jointly by mutual agreement between them, subject to compliance with the Relevant Laws and Regulations (including the applicable Listing Rules).

## 5.7 Top-Up Placing

An issue of new Share Stapled Units and/or Convertible Instruments to a Connected Person may be made without specific prior approval by an Ordinary Resolution of Registered Holders of Units where the following requirements are complied with:

- (a) new Share Stapled Units and/or that class of Convertible Instruments are issued to a Connected Person within 14 days after such Connected Person has executed an agreement to reduce its holding of Share Stapled Units and/or that class of Convertible Instruments by placing such Share Stapled Units and/or class of Convertible Instruments to a third person or third persons who is/are not its associate(s);
- (b) such new Share Stapled Units and/or class of Convertible Instruments must be issued at a price not less than the placing price (which issue price may however be adjusted for the expenses of the placing); and
- (c) the number of new Share Stapled Units and/or that class of Convertible Instruments issued to the Connected Person must not exceed the number of Share Stapled Units and/or that class of Convertible Instruments placed by it.

## 5.8 Connected Underwriting

An issue of new Share Stapled Units and/or Convertible Instruments to a Connected Person may be made without specific prior approval by an Ordinary Resolution of Registered Holders of Units where the Connected Person is acting as underwriter or sub-underwriter of an issue of new Share Stapled Units and/or Convertible Instruments and the following requirements are complied with:

- (a) full disclosure of the terms and conditions of the underwriting or sub-underwriting shall be made in the listing document pursuant to which such new Share Stapled Units and/or Convertible Instruments may be issued;
- (b) if no arrangements or arrangements other than those described in **Clause 5.10** are made for the disposal of Share Stapled Units and/or Convertible Instruments (in the case of a Rights Issue) not subscribed by the allottees under provisional letters of allotment or their renounces or (in the case of an open offer) not validly applied for, then the absence of such arrangements or the making of such other arrangements must be specifically approved by an Ordinary Resolution of Registered Holders of Units and those persons who have a material interest in such other arrangements must abstain from voting on the matter at the meeting and the circular to Registered Holders of Share Stapled Units must contain full details of the terms and conditions of that underwriting and/or sub-underwriting; and
- (c) any applicable provisions of the Listing Rules where a Connected Person is acting as an underwriter or sub-underwriter of any offer of shares or other securities by a listed company (with necessary changes being made, as if those provisions were applicable to the Share Stapled Units) are complied with.

## 5.9 Issue to a Connected Person as Payment for Services Provided

An issue of new Share Stapled Units to a Connected Person may be made without specific prior approval by an Ordinary Resolution of Registered Holders of Units where the following requirements are complied with:

- (a) the new Share Stapled Units are issued to a Connected Person as payment of all or part of such Connected Person's fee for services provided pursuant to an agreement entered into between such Connected Person and a member of the Group relating to the provision of hotel management services by such Connected Person and/or the grant of a licence to use certain trademarks owned by such Connected Person or pursuant to such other agreement(s) as the Group may enter into with a Connected Person, provided that the Company has complied with the applicable requirements of the Listing Rules in relation to such agreement(s) or transactions contemplated thereunder, subject to such waivers as may be granted by the Hong Kong Stock Exchange;
- (b) the new Share Stapled Units shall be issued to such Connected Person at the Market Price;
- (c) (i) the maximum number of Share Stapled Units which may be issued to all Connected Persons as payment of all or part of their fees for any Financial Year shall, in aggregate, be limited to such number of Share Stapled Units which represents 1.5% of the total number of Share Stapled Units in issue as at the Listing Date or the last day of the immediately preceding Financial Year (as the case may be) plus the number of Share Stapled Units (if any) issued in that Financial Year (other than Share Stapled Units issued to Connected Persons) (or such other number of Share Stapled Units as may be approved by an Ordinary Resolution of Registered Holders of Units in accordance with the applicable requirements of the Listing Rules or the Hong Kong Stock Exchange) and (ii) where a general mandate has been granted to the directors of the Company and the Trustee-Manager to issue Share Stapled Units as referred to in **Clause 5.3** above, the aggregate number of such Share Stapled Units issued to Connected Persons in that Financial Year shall accordingly reduce the number of Share Stapled Units which may be issued pursuant to the general mandate then in effect;
- (d) any issuance of Share Stapled Units to such Connected Person as payment of all or part of its fee shall be made strictly in accordance with the requirements of the relevant agreement(s) entered into between such Connected Person and the relevant member of the Group; and
- (e) in the event that the payment of all or part of such Connected Person's fee in the form of Share Stapled Units exceeds the relevant threshold referred to in **Clause 5.9(c)** above, and the specific prior approval by an Ordinary Resolution of Registered Holders of Units is not obtained for the issue of Share Stapled Units for such purpose, then the payment of that excess part of such Connected Person's fee will be paid by the relevant member of the Group to such Connected Person in cash.

Nothing in this **Clause 5.9** shall permit the issue of new Share Stapled Units to the Trustee-Manager.

## **5.10 Arrangements in Connection with Rights Issue and Open Offer**

- (a) In every Rights Issue, the Trustee-Manager and the Company may by mutual agreement between them, make arrangements to:
- (i) dispose of Share Stapled Units and/or Convertible Instruments not subscribed by allottees under provisional letters of allotment or their renounees by means of excess application forms, in which case such Share Stapled Units and/or Convertible Instruments must be available for subscription by all Registered Holders of Share Stapled Units (provided that the Trustee-Manager and the Company acting jointly may, after making enquiry regarding the applicable law in any applicable jurisdiction other than Hong Kong, in their absolute discretion, elect to exclude those Registered Holders of Share Stapled Units whose addresses are outside Hong Kong if the Trustee-Manager and the Company jointly consider such exclusion to be necessary or expedient on account either of the legal restrictions or requirements of the regulatory bodies or stock exchanges in such jurisdiction(s)) and allocated on a fair basis; or
  - (ii) dispose of Share Stapled Units and/or Convertible Instruments not subscribed by allottees under provisional letters of allotment in the market, if possible, for the benefit of the persons to whom they were offered by way of rights,

and the offer of such securities must be fully disclosed in the rights issue announcement, listing document and any relevant circular.

- (b) In every open offer, the Trustee-Manager and the Company may jointly, by mutual agreement between them, make arrangements to dispose of Share Stapled Units and/or Convertible Instruments not validly applied for by Registered Holders of Share Stapled Units in excess of their assured allotments, in which case such Share Stapled Units and/or Convertible Instruments must be available for subscription by all Registered Holders of Share Stapled Units (provided that the Trustee-Manager and the Company may, after making enquiry regarding the applicable law in any applicable jurisdiction other than Hong Kong, in their absolute discretion, elect to exclude those Registered Holders of Share Stapled Units whose addresses are outside Hong Kong if the Trustee-Manager and the Company jointly consider such exclusion to be necessary or expedient on account either of the legal restrictions or requirements of the regulatory bodies or stock exchanges in such jurisdictions(s)) and allocated on a fair basis, and the offer of such securities must be fully disclosed in the open offer announcement, listing document and any relevant circular.

## **5.11 Fractions, Board Lots and Timing of Issue**

- (a) No fraction or part of a Share Stapled Unit (or any component part thereof) shall be issued whether on an initial issue of Share Stapled Units or any subsequent issue.
- (b) If any fraction of a Share Stapled Unit (or any component part thereof) arises, the Trustee-Manager and the Company acting jointly shall, in respect of each Registered Holder of Share Stapled Units' entitlement to Share Stapled Units, round down (and not round up) to the nearest whole Share Stapled Unit and any balance of subscription monies arising from such rounding down of the Share Stapled Unit (or any component part thereof) shall be retained as part of the Trust Property.

- (c) The Trustee-Manager and the Company shall not be bound to accept an application for an issue of Share Stapled Units pursuant to an initial public offering of Share Stapled Units giving rise to a holding of fewer than 500 Share Stapled Units (or such other number of Share Stapled Units as may be determined by the Trustee-Manager and the Company by mutual agreement).
- (d) Issues of Share Stapled Units shall only be made on a Business Day unless and to the extent that the Trustee-Manager and the Company otherwise jointly prescribe.

#### **5.12 Repurchase or Redemption of Share Stapled Units**

- (a) Holders of Share Stapled Units have no right to demand for the repurchase or redemption of their Share Stapled Units.
- (b) Except for the repurchase or redemption of the Preference Shares in accordance with the provisions of this Deed and the Articles, the Trustee-Manager shall not repurchase or redeem any Share Stapled Units on behalf of the Trust unless and until expressly permitted to do so by the relevant codes and guidelines issued by the SFC from time to time. Thereafter, the Trustee-Manager may repurchase or redeem Share Stapled Units but only to the extent permitted by, and in accordance with the provisions of, the Relevant Laws and Regulations and any applicable codes and guidelines as may be issued by the SFC from time to time; and only with the agreement of the Company and in circumstances where the Company repurchases or redeems the Ordinary Shares and the Preference Shares included in any Share Stapled Units to be repurchased or redeemed.

### **6. ISSUE PRICE**

#### **6.1 Issue Price on Listing Date**

The issue of Share Stapled Units on the Listing Date, pursuant to the Initial Public Offering, shall be at an issue price determined on or before the Listing Date for such Share Stapled Units on the basis disclosed in the Prospectus. Subject to the Initial Public Offering becoming unconditional, the Trustee-Manager and the Company shall, on the basis as disclosed in the Prospectus determine:

- (a) the Issue Price;
- (b) the manner of (and amount payable and any applicable refund on) an application for Share Stapled Units during the Initial Public Offering; and
- (c) the timetable for, and application procedures relating to, the Initial Public Offering.

## 6.2 Issue Price After Listing Date

- (a) After the Listing Date, and for so long as the Share Stapled Units are listed on the Hong Kong Stock Exchange, the Trustee-Manager and the Company may jointly, by mutual agreement between them, effect or agree to effect the issue of Share Stapled Units (whether directly, or pursuant to any Convertible Instruments) (either for cash or other consideration) pursuant to a general mandate granted under **Clause 5.3** on any Business Day at an Issue Price per Share Stapled Unit that is equal to the Market Price or, in their joint discretion, at a discount of not more than 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) to the Market Price, or on the pricing basis as may be approved by an Ordinary Resolution of Registered Holders of Units pursuant to **Clause 6.2(b)**. In the case of any Convertible Instruments or agreements, the Issue Price shall be construed as meaning the initial price per Share Stapled Unit at which Share Stapled Units are to be issued pursuant to such Convertible Instruments or agreements, before any adjustments which may apply thereunder (the *Initial Issue Price*).
- (b) An issue of new Share Stapled Units pursuant to a general mandate granted under **Clause 5.3** at an Issue Price that is at a discount of more than 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) to the Market Price shall require specific prior approval by an Ordinary Resolution of Registered Holders of Units.
- (c) This **Clause 6.2** shall not apply to (i) any Rights Issue or bonus issue on a *pro rata* basis (subject to the exceptions referred to in **Clause 5.2(b)**) or (ii) any issue of Share Stapled Units for cash consideration where the Trustee-Manager and the Company can satisfy the Hong Kong Stock Exchange that the Trust or the Company is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves an issue of Share Stapled Units at a discount of more than 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) to the Market Price or that there are other exceptional circumstances. In such cases, the Issue Price shall be determined by the Trustee-Manager and the Company in their joint discretion.
- (d) For the purposes of this **Clause 6.2**, *Market Price* shall mean the price as determined by the Trustee-Manager and the Company jointly, by mutual agreement between them, being the higher of:
  - (i) the closing price of the Share Stapled Units on the Hong Kong Stock Exchange on the Trading Day immediately preceding the date of the relevant agreement or other instrument for (1) the proposed issue of Share Stapled Units or (2) the proposed issue of any Convertible Instruments; and
  - (ii) the average of the closing prices of the Share Stapled Units on the Hong Kong Stock Exchange in the 10 Trading Days immediately prior to the earliest of:
    - (1) the date of announcement of (A) the proposed issue of Share Stapled Units or (B) the proposed issue of any Convertible Instruments;
    - (2) the date of the relevant agreement or other instrument for (A) the proposed issue of Share Stapled Units or (B) the proposed issue of any Convertible Instruments; and

- (3) the date on which the Issue Price is fixed.

Notwithstanding the provisions of **Clauses 6.2(d)(i)** and **6.2(d)(ii)** above, for the purposes of the issue of Share Stapled Units to a Connected Person pursuant to **Clause 5.9, Market Price** shall mean the price as determined in accordance with the requirements of the agreement(s) entered into with such Connected Person.

### **6.3 Payment of Issue Price**

Payment of the Issue Price in respect of any Share Stapled Units agreed to be issued by the Trustee-Manager and the Company shall be paid to the Trustee-Manager before the seventh Business Day after the date on which the Share Stapled Units were agreed to be issued (or such other date as the Trustee-Manager and the Company may agree in writing). The Trustee-Manager shall pay the Issue Price to the Company on such date as the Trustee-Manager and the Company shall agree. If no payment is received within the prescribed period, the agreement to issue such Share Stapled Units shall lapse automatically and the Share Stapled Units shall be cancelled, unless at that time the Trustee-Manager and the Company jointly agree in writing to extend the payment period. Upon the lapse of the agreement to issue the Share Stapled Units, the applicant therefore shall not be entitled to any right or claim in respect thereof against the Trustee-Manager or the Company, provided that:

- (a) the Trustee-Manager and the Company, acting jointly by mutual agreement between them, shall have the right to charge the applicant a cancellation fee of such amount as they may from time to time jointly determine to represent the administrative costs involved in processing the application for such Share Stapled Units from such applicant (such fee shall be retained as part of the Trust Property); and
- (b) this **Clause 6.3** shall not apply to any Share Stapled Units which are issued (i) to the stabilising manager or the underwriters in accordance with **Clause 17.4(b)**; (ii) in connection with the Initial Public Offering; or (iii) in accordance with the Prospectus or any other Offering Circular.

## **7. COMPLIANCE WITH THE LISTING RULES AND OTHER RELEVANT LAWS AND REGULATIONS**

- (a) The Trustee-Manager shall be responsible for compliance by the Trust with the Listing Rules applicable to the Trust and other Relevant Laws and Regulations.
- (b) The Company shall be responsible for compliance by the Company with the Listing Rules applicable to the Company and other Relevant Laws and Regulations.
- (c) Each of the Trustee-Manager and the Company must co-operate with each other to:
  - (i) ensure that each party complies with the obligations imposed by the Listing Rules, including, without limitation, the disclosure obligations; and
  - (ii) co-ordinate disclosure to the Hong Kong Stock Exchange.

- (d) Each of the Trustee-Manager and the Company must:
  - (i) give notice (of a period reasonable in all the circumstances) to the other of its intention to enter into a transaction which would constitute a notifiable transaction for the Trust or the Company under Chapter 14 of the Listing Rules (or any successor provisions to those in Chapter 14) at the time of giving such notice; and
  - (ii) not enter into such a transaction without having first consulted with the other.

## **8. PROVISIONS AS TO UNITS AND UNITHOLDERS**

### **8.1 Terms and Conditions of Trust Deed and Supplemental Deeds to Bind Unitholders and Enforcement of Rights and Obligations**

- (a) The terms and conditions of this Deed and all supplemental deeds shall be binding on each Unitholder and all persons claiming through him as if he had been party to this Deed and all supplemental deeds (if any) and as if this Deed and such supplemental deeds contained covenants on the part of each Unitholder to observe and be bound by all the provisions hereof and thereof and an authorisation by each Unitholder to do all such acts and things as this Deed and such supplemental deeds may require the Trustee-Manager and/or the Company to do.
- (b) Registered Holders of Units shall be entitled to enforce the rights of the Registered Holders of Units and the obligations of the Trustee-Manager and the Company to the Registered Holders of Units under this Deed.
- (c) Without prejudice to **Clause 8.1(b)**:
  - (i) the Trustee-Manager may also enforce the obligations of the Company to the Registered Holders of Units under this Deed, on behalf of the Registered Holders of Units; and
  - (ii) the Company may also enforce the obligations of the Trustee-Manager to the Registered Holders of Units under this Deed, on behalf of the Registered Holders of Units and/or the Shareholders.

### **8.2 Sub-division and Consolidation of Units**

- (a) Subject to **Clause 3** and to the Relevant Laws and Regulations, the Trustee-Manager and the Company may jointly, by mutual agreement between them, with the prior approval of an Ordinary Resolution of Registered Holders of Units, determine that each Unit shall be sub-divided into two or more Units or consolidated with one or more other Units and the Unitholders shall be bound accordingly. The Trustee-Manager and the Company shall procure that the specifically identified Ordinary Shares held by the Trustee-Manager and Linked to the Units and the specifically identified Preference Shares Stapled to the Units shall each be sub-divided or consolidated (as the case may be) on the same terms, *mutatis mutandis*, as the Units which are being sub-divided or consolidated (as the case may be).

- (b) The Units Register shall be altered accordingly to reflect the new number of Units held by each Registered Holder of Units as a result of such sub-division or consolidation. Corresponding alterations shall also be made to the Share Stapled Units Register, the Register of Members, the Hong Kong Branch Register of Members and the Register of Beneficial Interests to reflect the sub-division or consolidation of the Units, the specifically identified Ordinary Shares and the specifically identified Preference Shares (as applicable).

### **8.3 Registered Holder of Units Treated as Absolute Owner**

A holder entered in the Units Register as the Registered Holder of Units shall be the only person entitled to be recognised by the Trustee-Manager as having any right, title or interest in or to the Units registered in his name and the Trustee-Manager may recognise such holder as absolute owner thereof and shall not be bound by any notice to the contrary and shall also not be bound to take notice of or to see to the execution of any trust, express, implied or constructive, save as herein expressly provided or, save as required by any court of competent jurisdiction or the Relevant Laws and Regulations, to recognise any trust or equity or other interest affecting the title to any Units. Save as provided in this Deed, no notice of any trust, express, implied or constructive, shall be entered on the Units Register.

### **8.4 Restrictions**

The Unitholders shall not give any directions to the Trustee-Manager (whether at a meeting of Registered Holders of Units or at a Meeting of Registered Holders of Share Stapled Units, or otherwise) if it would require the Trustee-Manager to do or omit doing anything which may result in the Trust or the Trustee-Manager or the Company ceasing to comply with the Relevant Laws and Regulations.

### **8.5 Creditors of Unitholders Have No Right to Trust Property**

The Trust Property does not form part of the assets of any Unitholder available to its creditors in the event of insolvency of the Unitholder.

## **9. SHARE STAPLED UNITS REGISTER AND TRANSFERS OF SHARE STAPLED UNITS**

### **9.1 Share Stapled Units Register**

- (a) The Trustee-Manager and the Company must maintain, or procure the maintenance of, the Share Stapled Units Register and must exercise all reasonable care in procuring that an up-to-date Share Stapled Units Register is kept and maintained in such manner as may be required by the Relevant Laws and Regulations.
- (b) The Share Stapled Units Register must be maintained in Hong Kong and may be kept either in written form or by such other means capable of being reproduced in written form (including computer record, microfilm, microfiche or electronic recording) as the Trustee-Manager and the Company shall from time to time determine.

- (c) The Trustee-Manager and the Company may, at any time or from time to time, appoint an agent on their behalf to, *inter alia*, keep and maintain the Share Stapled Units Register. Any Registrar so appointed must be a common registrar appointed by both the Trustee-Manager and the Company, except that the Company may appoint a different person, located in the Cayman Islands, as the registrar to maintain the Register of Members in the Cayman Islands. The fees and expenses of the Registrar (as may be agreed from time to time between the Trustee-Manager, the Company and the Registrar) may be paid out of the Trust Property to the extent that those fees and expenses relate to the Share Stapled Units Register and the Units Register, but shall be paid by the Company to the extent that such fees and expenses relate to the Register of Members, the Hong Kong Branch Register of Members and/or the Register of Beneficial Interests.
- (d) The information specified in **Clause 9.1(g)** in respect of Share Stapled Units and transfers of those Share Stapled Units must be entered in the Share Stapled Units Register.
- (e) The information specified in **Clause 9.1(g)**, *mutatis mutandis*, in respect of:
  - (i) the Units and the Stapled Preference Shares which are components of the Share Stapled Units, and transfers of those Units and Stapled Preference Shares, must also be entered in the Units Register and the Register of Members, respectively; and
  - (ii) the beneficial interests in the Linked Ordinary Shares which are components of the Share Stapled Units and transfers of those beneficial interests must also be entered in the Register of Beneficial Interests.
- (f) For so long as the Share Stapled Units are listed on the Hong Kong Stock Exchange, the Trustee-Manager and the Company shall use their respective reasonable endeavours to ensure that:
  - (i) the Share Stapled Units are eligible for admission to CCASS;
  - (ii) the Trustee-Manager shall record HKSCC Nominees as the registered holder of all Share Stapled Units in issue which are deposited with CCASS and shall record a holder (other than HKSCC Nominees) as the registered holder of Share Stapled Units which are held by such holder and not deposited with CCASS;
  - (iii) a Share Stapled Unit represented by an entry in the Share Stapled Units Register in the name of the Registered Holder of a Share Stapled Unit (other than HKSCC Nominees) can be deposited in CCASS and registered in the Share Stapled Units Register in the name of HKSCC Nominees in accordance with the CCASS Requirements and otherwise on terms and conditions as may be prescribed by HKSCC or the Trustee-Manager and the Company acting jointly; and

- (iv) a Share Stapled Unit deposited in CCASS can be withdrawn from CCASS and be represented by an entry in the Share Stapled Units Register in the name of a Registered Holder of a Share Stapled Unit (other than HKSCC Nominees) in accordance with the CCASS Requirements and otherwise on terms and conditions as may be prescribed by HKSCC or by the Trustee-Manager and the Company acting jointly.
- (g) There shall be entered in the Share Stapled Units Register the following information as soon as practicable after the Trustee-Manager, the Company or the Registrar receives the relevant information:
  - (i) the names and addresses of the Registered Holders of Share Stapled Units (and, in the case where the Registered Holder of Share Stapled Units is HKSCC Nominees, the name and address of HKSCC Nominees);
  - (ii) the number of Share Stapled Units held by each Registered Holder of Share Stapled Units, the distinctive numbers of the Units, Ordinary Shares and Preference Shares comprising the Share Stapled Units and the distinctive numbers of the Certificate(s), if any, issued in respect thereof;
  - (iii) the date on which every such person entered in the Share Stapled Units Register in respect of the Share Stapled Units standing in his name became a Registered Holder of Share Stapled Units;
  - (iv) the date on which any transfer is registered, the name and address of the transferee and, where practicable, a sufficient reference to enable the name and address of the transferor to be identified;
  - (v) the date on which any person ceased to be a Registered Holder of Share Stapled Units; and
  - (vi) the date on which any Share Stapled Units have been repurchased or redeemed pursuant to **Clause 5.12**.
- (h) Share Stapled Units may be issued or transferred to Joint Registered Holders of Share Stapled Units provided that not more than 4 persons may be registered as Joint Registered Holders of Share Stapled Units, unless such Joint Registered Holders of Share Stapled Units are executors or trustees of a deceased Registered Holder of Share Stapled Units.

## 9.2 Certificates

Certificates in respect of Share Stapled Units will be printed in accordance with all applicable requirements of the Hong Kong Stock Exchange and/or any Alternative Stock Exchange on which the Share Stapled Units are listed from time to time, will be in a form approved by the Trustee-Manager and the Company and shall be *prima facie* evidence of the title of the person named in the Certificate to the Share Stapled Units. Further provisions relating to the form, execution, delivery and issue of Certificates and related matters are as set out in **Schedule 3**.

### **9.3 Change of Name or Address**

Any change of name or address on the part of any Registered Holder of Share Stapled Units shall forthwith be notified to the Registrar (or where there is no Registrar, to the Trustee-Manager) in writing or in such other manner as the Registrar (or where there is no Registrar, the Trustee-Manager) may approve, who, on being satisfied thereof and on compliance with such formalities as it may require, shall alter or cause to be altered the Share Stapled Units Register and other applicable Registers accordingly.

### **9.4 Inspection of Registers**

Except when the Registers are closed in accordance with **Clause 9.5**, the Registers shall during business hours (subject to such reasonable restrictions in compliance with the applicable provisions of the Listing Rules as the Trustee-Manager and the Company may impose) be open for the inspection of any Holder of Share Stapled Units, without charge; provided that if any Register is kept electronically or in accordance with some other system such that it is not capable of being recorded in the normal manner, the provisions of this **Clause 9.4** may be satisfied by the production of legible evidence of the contents of the relevant Register (at the discretion of the Registrar).

### **9.5 Closure of Registers**

Subject to the Relevant Laws and Regulations, the Registers (or any one or more of them) may be closed at such times and for such periods as the Trustee-Manager may from time to time determine, provided that no Register shall be closed for more than 30 days in any one year. Notice of the closure of the Registers (or any one or more of them) shall be given to the Registered Holders of Share Stapled Units by way of announcement in accordance with the requirements of the Listing Rules.

### **9.6 Alteration and Rectification of Registers**

- (a) Any change of name or address on the part of a Registered Holder of Share Stapled Units shall forthwith be notified in writing to the Registrar (or where there is no Registrar, to the Trustee-Manager) which, on being satisfied therewith and on compliance with such formalities (including in the case of a change of name the surrender of any Certificate previously issued to such Registered Holder of Share Stapled Units) as the Registrar (or where there is no Registrar, the Trustee-Manager) may require, shall alter the relevant Registers (or shall cause the relevant Registers to be altered) accordingly; and in the case of a change of name may issue a new or amended Certificate to such Registered Holder of Share Stapled Units, if applicable subject to payment of a reasonable fee.
- (b) The Trustee-Manager and the Company, acting jointly, shall have the power to rectify the Share Stapled Units Register, the Units Register and/or the Register of Beneficial Interests if it appears to the Trustee-Manager and the Company that any of the particulars recorded in the Share Stapled Units Register (including those particulars set out in **Clause 9.1(g)**), the Units Register or the Register of Beneficial Interests is wrongly entered or omitted.

- (c) If:
- (i) the name of any person is without sufficient cause entered in or omitted from any Register; or
  - (ii) default is made or unnecessary delay takes place in entering in any Register the fact of any person having ceased to be a Registered Holder of Share Stapled Units or any of their individual components,

the person aggrieved or any Registered Holder of Share Stapled Units may make an application to the courts of Hong Kong to make an order for the relevant Register to be rectified and/or for payment by the Trustee-Manager to the person for any damages sustained.

## **9.7 Transfer of Share Stapled Units**

- (a) If and for so long as the Share Stapled Units are listed on the Hong Kong Stock Exchange, transfers of Share Stapled Units between CCASS Participants shall be effected electronically through CCASS making an appropriate entry in its records in respect of the Share Stapled Units that have been transferred, in accordance with the CCASS Rules and Procedures and the provisions of **Clauses 9.7(b) to 9.7(l)** shall not apply.
- (b) In respect of Share Stapled Units which are not deposited with CCASS, every Registered Holder of Share Stapled Units shall be entitled to transfer any of the Share Stapled Units held by him or, in the case of Joint Registered Holders of Share Stapled Units, by them, as follows:
  - (i) a transfer of Share Stapled Units shall be effected (1) by an instrument of transfer in writing in such form as the Trustee-Manager and the Company may from time to time approve or in a form prescribed by the Hong Kong Stock Exchange, accompanied by the Certificate(s) issued in respect of the relevant Share Stapled Units or (2) in any other manner as the Trustee-Manager and the Company may from time to time approve; and
  - (ii) every instrument of transfer referred to in **Clause 9.7(b)(i)** relating to Share Stapled Units must be signed by the transferor and the transferee and the transferor shall be deemed to remain the holder of the Share Stapled Units transferred until the name of the transferee is entered in the Share Stapled Units Register in respect thereof. The instrument of transfer need not be a deed. The Trustee-Manager and the Company may also agree, upon request by the transferor or the transferee, to accept mechanically executed transfers. Instruments of transfer executed by machine imprinted signatures of a clearing house shall be acceptable.
- (c) Every instrument of transfer referred to in **Clause 9.7(b)** must be duly stamped (if required by law) and left with the Registrar (or where there is no Registrar, with the Trustee-Manager) for registration accompanied by the Certificate(s) issued in respect of the relevant Share Stapled Units and any necessary declarations or other documents that may be required in consequence of any Relevant Laws and Regulations and by such evidence as the Registrar or the Trustee-Manager or the Company may require to prove the title of the transferor or his right to transfer the Share Stapled Units. The Registrar (or where there is no Registrar, the Trustee-Manager) may dispense with the production of any Certificate which shall have become lost, stolen or destroyed upon compliance by the transferor with the like requirements to those arising in the case of an application by him for the replacement thereof.

- (d) In respect of Share Stapled Units which are not deposited with CCASS, the Trustee-Manager and the Company shall alter or cause to be altered the Share Stapled Units Register (and the other Registers) to record the date of each transfer of Share Stapled Units and the name and address of the transferee.
  - (e) Each new Certificate to be issued upon the transfer of Share Stapled Units shall, within 10 Business Days of receipt by the Registrar of the duly completed instrument of transfer and the original Certificate and any other documents required under **Clause 9.7(c)**, in accordance with the requirements of this **Clause 9.7**, be made available for collection at the specified office of the Registrar (or where there is no Registrar, at the office of the Trustee-Manager) or, if so requested in the form of transfer, be mailed by uninsured mail at the risk of the holder entitled to the Share Stapled Units (but free of charge to the holder) to the address specified in the instrument of transfer.
  - (f) Where only some of the Share Stapled Units in respect of which a Certificate is issued are to be transferred, a new Certificate in respect of the Share Stapled Units not so transferred shall, within 10 Business Days of deposit or surrender of the original Certificate with or to the Registrar (or where there is no Registrar, with or to the Trustee-Manager), be made available for collection at the specified office of the Registrar or, if so requested by the relevant Registered Holder of Share Stapled Units, be mailed by uninsured mail at the risk of the relevant Registered Holder of Share Stapled Units (but free of charge to the Registered Holder of Share Stapled Units) not so transferred to the address of such Registered Holder of Share Stapled Units appearing on the Share Stapled Units Register.
  - (g) Registration of transfers of Share Stapled Units will be effected without charge by or on behalf of the Trust, the Trustee-Manager, the Company or the Registrar, but upon payment (or the giving of such indemnity) as the Trustee-Manager, the Company or the Registrar may require in respect of any Tax or other governmental charges which may be imposed in relation to it.
  - (h) No Registered Holder of a Share Stapled Unit may require the transfer of a Share Stapled Unit to be registered during any period for which the Share Stapled Units Register is closed under **Clause 9.5**.
  - (i) Share Stapled Units shall only be transferable:
    - (i) in the form of Share Stapled Units and not as the individual components (Unit, beneficial interest in an Ordinary Share and a Preference Share) comprising a Share Stapled Unit; and
    - (ii) in multiples of one Share Stapled Unit.
- No transfer shall be registered if the registration thereof would result in the transferor or the transferee being a registered holder of less than one Share Stapled Unit.
- (j) No transfer or purported transfer of a Share Stapled Unit other than a transfer made in accordance with this **Clause 9.7** shall entitle the transferee to be registered in respect thereof. No notice of such transfer or purported transfer (other than as aforesaid) shall be entered upon the Share Stapled Units Register or any other Register.
  - (k) The Trustee-Manager and the Company shall not have a lien on any Share Stapled Unit which is fully paid up.

- (l) Subject to the Relevant Laws and Regulations and to any order of any court of competent jurisdiction or other competent authority, the Trustee-Manager and the Company shall not be entitled to refuse to register a transfer of any Share Stapled Unit which is fully paid up and which is made in accordance with this **Clause 9.7**.

## **9.8 Joint Holders**

Notwithstanding anything to the contrary in this Deed, the Registrar, or where there is no Registrar, the Trustee-Manager, shall not be bound to register more than one person as the Registered Holder of any Share Stapled Unit or more than four persons as Joint Registered Holders of any Share Stapled Unit. Persons registered as Joint Registered Holders of a Share Stapled Unit hold such Share Stapled Unit as joint tenants and not as tenants in common unless the Trustee-Manager otherwise agrees. Joint Registered Holders of Share Stapled Units shall be jointly and severally liable in respect of all payments, including, but not limited to, payment of the Issue Price and any applicable Tax, which ought to be made in respect of the Share Stapled Units (or any option to subscribe for Share Stapled Units). Only the person whose name appears first in the Share Stapled Units Register as one of the Joint Registered Holders of a Share Stapled Unit is entitled to delivery of any notices, cheque or other communications from the Trustee-Manager or the Company and any notice, cheque or other communication given to that person is deemed to be given to all Joint Registered Holders of the Share Stapled Units.

## **9.9 Death of Registered Holders of Share Stapled Units**

The executors, administrators or other personal representatives of a deceased Registered Holder of Share Stapled Units (not being a Joint Registered Holder of Share Stapled Units) shall be the only persons recognised by the Trustee-Manager and the Company as having title to the Share Stapled Units. In case of the death of any one of the Joint Registered Holders of Share Stapled Units, subject to applicable law, the survivor(s), upon producing such evidence of death as the Trustee-Manager and the Company (or the Registrar on their behalf) may require, shall be the only person or persons recognised by the Trustee-Manager and the Company as having any title to or interest in the Share Stapled Units provided that where the sole survivor is a Minor, the Trustee-Manager and the Company shall act only on the requests, applications or instructions of the surviving Minor after he attains the age of 18 years and shall not be obliged to act on the requests, applications or instructions of the heirs, executors or administrators of the deceased Joint Registered Holder of Share Stapled Units, and shall not be liable for any claims or demands whatsoever by the heirs, executors or administrators of the deceased Joint Registered Holder of Share Stapled Units, or for any claims or demands whatsoever by the Minor Joint Registered Holder of Share Stapled Units or the Minor Joint Registered Holder of Share Stapled Units' legal guardian in omitting to act on any request, application or instruction given by the Minor before he attains such age.

## **9.10 Body Corporate**

A body corporate may be registered as a Registered Holder of Share Stapled Units or as one or more of the Joint Registered Holders of Share Stapled Units. The successor in title of any corporate Registered Holder of Share Stapled Units which loses its legal entity status by reason of a merger or amalgamation shall be the only person recognised by the Trustee-Manager and the Company (or the Registrar on their behalf) as having title to the Share Stapled Units of such corporate Registered Holder of Share Stapled Units.

## **9.11 Minors**

A Minor shall not be registered as a sole Registered Holder of Share Stapled Units but may be registered as a Joint Registered Holder of Share Stapled Units provided that each of the other Joint Registered Holders of Share Stapled Units is a person who has attained the age of 18 years. In the event that one of the Joint Registered Holders of Share Stapled Units is a Minor, the Trustee- Manager need only act on the instructions given by the adult Joint Registered Holder of Share Stapled Units.

## **9.12 Transmission**

- (a) Any person becoming entitled to a Share Stapled Unit in consequence of the death, bankruptcy, insolvency or liquidation of any Registered Holder of Share Stapled Units or being the survivor of Joint Registered Holders of Share Stapled Units may (subject as hereinafter provided), upon producing such evidence as to his title as the Registrar (or where there is no Registrar, as the Trustee-Manager and the Company) shall think sufficient, either be registered himself as Registered Holder of such Share Stapled Unit (upon giving to the Registrar, or where there is no Registrar, to the Trustee-Manager and the Company, notice in writing of his desire) or transfer such Share Stapled Unit to some other person. The Registrar (or where there is no Registrar, the Trustee-Manager and the Company) shall upon the receipt by it or them (as the case may be) of any such notice alter or cause to be altered the Share Stapled Units Register and other applicable Registers accordingly. All the limitations, restrictions and provisions of this Deed relating to transfers shall be applicable to any such notice or transfer as if the death or bankruptcy had not occurred and such notice or transfer were a transfer executed by the Registered Holder of Share Stapled Units.
- (b) Any person becoming entitled to a Share Stapled Unit in consequence of death, bankruptcy, insolvency or liquidation as aforesaid may give an effective receipt (which shall discharge the Registrar, the Trustee-Manager and the Company (or where there is no Registrar, the Trustee-Manager and the Company)) for all monies payable in respect of the Share Stapled Unit but he shall not be entitled in respect thereof to receive notices of or to attend or vote at any meeting of Registered Holders of Units or at any meeting of Shareholders (or at any meeting characterised as a meeting of Registered Holders of Share Stapled Units) until he shall have been registered as the Registered Holder of such Share Stapled Unit in the Share Stapled Units Register or unless (in the case of attendance and voting at any meeting of Registered Holders of Units or at any meeting of Shareholders) at least 48 hours before the time of the holding of such a meeting or adjourned meeting (as the case may be) at which he proposes to vote, he shall satisfy the Trustee-Manager and the Company of his right to be registered as the holder of such Share Stapled Unit or the Trustee-Manager and the Company shall have previously admitted his right to vote at such meeting in respect thereof. Any person who by operation of law, transfer or other means whatsoever shall become entitled to any Share Stapled Unit shall be bound by every notice in respect of such Share Stapled Unit which prior to his name and address being entered on the Share Stapled Units Register shall have been duly given to the person from whom he derives his title to such Share Stapled Unit. Any notice or document delivered or sent to any Registered Holder of Share Stapled Units pursuant to this Deed shall, notwithstanding that such Registered Holder of Share Stapled Units be then deceased and whether or not the Trustee-Manager and/or the Company has notice of his death, be deemed to have been duly served in respect of any registered Share Stapled Units whether held solely or jointly with other persons by such Registered Holder of Share Stapled Units until some other person be registered in his stead as the

holder or joint holder thereof, and such service shall for all purposes of this Deed be deemed a sufficient service of such notice or document on his executors, administrators or other personal representatives and all persons (if any) jointly interested with him in any such Share Stapled Units.

- (c) The Registrar (or where there is no Registrar, the Trustee-Manager and the Company) may retain any monies payable in respect of any Share Stapled Unit which any person is, under the provisions as to the transmission of Share Stapled Units hereinbefore contained, entitled to be registered as the Registered Holder of Share Stapled Units, or which any person under those provisions is entitled to the transfer of, until such person shall be registered as the Registered Holder of such Share Stapled Units or shall duly transfer the same.

### **9.13 Payment of Fee**

The Registrar (or where there is no Registrar, the Trustee-Manager and the Company acting jointly) may require from the person applying for the registration of any transfer of Share Stapled Units, Units or Preference Shares a fee not exceeding the amount prescribed by the Listing Rules for a transfer of equity securities in a company listed on the Hong Kong Stock Exchange, together with a sum sufficient to cover any stamp duty or other Taxes or charges or other charges that may be payable in connection with such registration and/or the issue of any Certificates. Such fee must, if required by the Registrar (or where there is no Registrar, by the Trustee-Manager and the Company acting jointly), be paid before the registration of any transfer. The amount of any such fee and the terms of payment must at all times comply with the relevant provisions of the applicable Listing Rules.

### **9.14 Title to Share Stapled Units**

- (a) Title to the Share Stapled Units passes only by transfer of Share Stapled Units and registration of the transferee(s) in the Share Stapled Units Register in accordance with this **Clause 9**, or by transmission of Share Stapled Units and registration in the Share Stapled Units Register in accordance with this **Clause 9**.
- (b) The entries in the Share Stapled Units Register shall (save in the case of manifest error) be conclusive evidence of the number of Share Stapled Units held by each Registered Holder of Share Stapled Units and the title of that Registered Holder of Share Stapled Units to those Share Stapled Units.

## **10. UNITS REGISTER AND TRANSFERS OF UNITS**

### **10.1 Units Register**

- (a) The Trustee-Manager must maintain, or procure the maintenance of, the Units Register and must exercise all reasonable care in procuring that an up-to-date Units Register is kept and maintained in such manner as may be required by the Relevant Laws and Regulations.
- (b) The information specified in **Clause 9.1(g)**, *mutatis mutandis*, in respect of the Units which are components of the Share Stapled Units, and in respect of dealings in those Units, must be entered in the Units Register.
- (c) The registered holder(s) of a Share Stapled Unit shown in the Share Stapled Units Register and the registered holder(s) of the Unit which is a component of the relevant Share Stapled Unit must, at all times, be the same person(s).

- (d) The Trustee-Manager must ensure that the information in the Units Register is at all times entirely consistent with the information in the Share Stapled Units Register.
- (e) The Trustee-Manager may, at any time or from time to time, appoint an agent on its behalf to, *inter alia*, keep and maintain the Units Register. If the Trustee-Manager does appoint such an agent, the Trustee-Manager must appoint the Registrar.

## **10.2 Transfers of Units**

- (a) Units may only be transferred and dealt with as components of Share Stapled Units.
- (b) The provisions of **Clause 9** shall apply in respect of transfers of the Units as components of Share Stapled Units.

## **10.3 Title to Units**

- (a) Title to the Units passes only by transfer of Units as components of Share Stapled Units, and registration of the transferee(s) in the Units Register in accordance with **Clause 10.1**, or by transmission of Units as components of Share Stapled Units and registration in the Units Register.
- (b) The entries in the Units Register shall (save in the case of manifest error) be conclusive evidence of the number of Units held by each Registered Holder of Units and the title of that Registered Holder of Units to those Units.

## **11. REGISTER OF MEMBERS, TRANSFERS OF BENEFICIAL INTERESTS IN ORDINARY SHARES AND REGISTER OF BENEFICIAL INTERESTS**

### **11.1 Register of Members**

- (a) The Company must maintain, or procure the maintenance of, the Register of Members and must exercise all reasonable care in procuring that an up-to-date Register of Members is kept and maintained in such manner as may be required by the Relevant Laws and Regulations.
- (b) The Register of Members, which shall be the principal register of members of the Company, shall be maintained in the Cayman Islands and shall not be brought into Hong Kong.
- (c) The information specified in **Clause 9.1(g)**, *mutatis mutandis*, in respect of the Ordinary Shares which are components of the Share Stapled Units, and in respect of dealings in those Ordinary Shares, must be entered in the Register of Members.

### **11.2 Transfers of Beneficial Interests in Ordinary Shares**

- (a) The Trustee-Manager shown in the Register of Members as the registered holder of Ordinary Shares shall be the legal owner of the relevant Ordinary Shares, but shall hold those Ordinary Shares on the trusts constituted by this Deed and subject to the beneficial interests of the Registered Holders of Units which are Linked to those Ordinary Shares, in accordance with the provisions of this Deed including, but not limited to, **Clause 3**.

- (b) Each Registered Holder of a Unit shown in the Units Register shall have a beneficial interest (on and subject to the terms and conditions of this Deed) in a number of Ordinary Shares registered in the name of the Trustee-Manager in the Register of Members equal to the number of Units registered in the name of the relevant Registered Holder of Units. Specifically, each Registered Holder of a Unit shown in the Units Register shall have a beneficial interest (on and subject to the terms and conditions of this Deed) in the specifically identified Ordinary Share which is Linked to the relevant Unit registered in the name of the Registered Holder of that Unit.
- (c) Each transfer of Units in the Units Register shall include the transfer of the beneficial interest of the Registered Holder of Units in an equal number of Ordinary Shares registered in the name of the Trustee-Manager in the Register of Members (specifically, the specifically identified Ordinary Shares which are Linked to the Units being transferred) to the same transferee.

### **11.3 Register of Beneficial Interests**

- (a) In respect of those Ordinary Shares registered in the Register of Members in the name of the Trustee-Manager, in its capacity as trustee-manager of the Trust, the Trustee-Manager and the Company must also maintain, or procure the maintenance of, a register of person(s) having a beneficial interest in those Ordinary Shares in accordance with **Clause 11.2**; such persons being the Registered Holders of the Units to which the relevant Ordinary Shares are Linked.
- (b) The information specified in **Clause 9.1(g)**, *mutatis mutandis*, in respect of the beneficial interests in Ordinary Shares which are components of the Share Stapled Units, and in respect of dealings in those beneficial interests in Ordinary Shares, must be entered in the Register of Beneficial Interests.
- (c) For so long as the Trustee-Manager holds Ordinary Shares in its capacity as trustee-manager of the Trust:
  - (i) the Company shall record the Trustee-Manager (or procure that the Trustee-Manager is recorded) as the registered holder of those Ordinary Shares in the Register of Members; and
  - (ii) the Trustee-Manager and the Company shall record the holders of the beneficial interests in those Ordinary Shares in the Register of Beneficial Interests (or procure that such holders are recorded in the Register of Beneficial Interests).
- (d) The Company must ensure that the information in the Register of Beneficial Interests is at all times entirely consistent with the information in the Share Stapled Units Register.

### **11.4 Hong Kong Branch Register of Members**

- (a) The Company must maintain, or procure the maintenance of, the Hong Kong Branch Register of Members and must exercise all reasonable care in procuring that an up-to-date Hong Kong Branch Register of Members is kept in such manner as may be required by the Relevant Laws and Regulations.
- (b) The Hong Kong Branch Register of Members must be maintained in Hong Kong.

- (c) The information specified in **Clause 9.1(g)**, *mutatis mutandis*, in respect of the Preference Shares which are components of Share Stapled Units, and in respect of dealings in those Preference Shares must be entered in the Hong Kong Branch Register of Members.
- (d) The registered holder(s) of a Share Stapled Unit shown in the Share Stapled Units Register and the registered holder(s) of the Preference Share which is a component of the relevant Share Stapled Unit must, at all times, be the same person(s).
- (e) The Company must ensure that the information in the Hong Kong Branch Register of Members relating to the holders of the Preference Shares is at all times entirely consistent with the information in the Share Stapled Units Register.

#### **11.5 Exchange of Share Stapled Units for Ordinary Shares**

- (a) If Share Stapled Units are exchanged for Ordinary Shares under **Clause 12**:
  - (i) the Ordinary Shares to be transferred to the exchanging Registered Holders of Share Stapled Units shall be transferred to such exchanging Registered Holders of Share Stapled Units on the Register of Members in the Cayman Islands and such exchanging Registered Holders of Share Stapled Units shall be entered in the Register of Members in the Cayman Islands as the registered holders of the relevant Ordinary Shares for which the Share Stapled Units are exchanged;
  - (ii) after the transfer referred to in **Clause 11.5(a)(i)** above has been completed, the Ordinary Shares shall be transferred to the Hong Kong Branch Register of Members and registered in the names of the exchanging Registered Holders of Share Stapled Units in the Hong Kong Branch Register of Members; and
  - (iii) the Preference Shares registered in the Hong Kong Branch Register of Members shall be cancelled in accordance with **Clauses 12.1(b)** and **12.4**.
- (b) Ordinary Shares may only be transferred to, and registered in the names of Shareholders in, the Hong Kong Branch Register of Members if the Exchange Right in respect of those Ordinary Shares has been exercised under **Clause 12** or if the Trust is being terminated and the Ordinary Shares are distributed to the Registered Holders of Units in accordance with **Clause 25**.

#### **11.6 Appointment of an Agent to Maintain the Register of Members, Register of Beneficial Interests and Hong Kong Branch Register of Members**

- (a) The Company may, at any time or from time to time, appoint an agent on its behalf to, *inter alia*, keep and maintain the Register of Members and the Hong Kong Branch Register of Members.
- (b) The Company may appoint an agent jointly with the Trustee-Manager to, *inter alia*, keep and maintain the Register of Beneficial Interests.
- (c) If the Company does appoint such an agent under **Clause 11.6(a)** or **11.6(b)**, the Company must appoint the Registrar in respect of the Hong Kong Branch Register of Members and jointly with the Trustee-Manager in respect of the Register of Beneficial Interests; but may appoint another person located in the Cayman Islands in respect of the Register of Members.

## 11.7 Registers Must Be Consistent

- (a) The Trustee-Manager and the Company must ensure that the Share Stapled Units Register, the Units Register, the Hong Kong Branch Register of Members (in so far as it relates to the Preference Shares) and the Register of Beneficial Interests are entirely consistent with one another.
- (b) The registered holder(s) of a Share Stapled Unit shown in the Share Stapled Units Register, the Registered Holder(s) of the Unit which is a component of the relevant Share Stapled Unit, the holder of the beneficial interest in the specifically identified Ordinary Share which is Linked to that Unit and the registered holder(s) of the specifically identified Preference Share which is a component of the relevant Share Stapled Unit must, at all times, be the same person(s).

## 12. EXCHANGE

### 12.1 Exchange Period and Price

- (a) The Registered Holders of Share Stapled Units have the right to exchange all the Share Stapled Units for Ordinary Shares at any time, by passing an Extraordinary Resolution of Registered Holders of Units providing for the exchange of Share Stapled Units for Ordinary Shares. The right of the Registered Holders of Share Stapled Units to exchange their Share Stapled Units for Ordinary Shares is called the *Exchange Right* in this Deed. Any such Extraordinary Resolution of Registered Holders of Units, if duly passed, shall have the effect of exercising the Exchange Right in respect of all the issued and outstanding Share Stapled Units at the relevant time and shall be binding on all the Registered Holders of Share Stapled Units.
- (b) Upon the exercise of the Exchange Right by passing an Extraordinary Resolution of Registered Holders of Units in accordance with **Clause 12.1(a)**, the Units and the Preference Shares comprising the issued and outstanding Share Stapled Units shall be exchanged with the Trustee-Manager and cancelled, and in consideration and in exchange therefor the Trustee-Manager shall transfer the specifically identified Ordinary Shares held by the Trustee-Manager which are Linked to the Units comprising the Share Stapled Units so cancelled, to the persons registered in the Share Stapled Units Register as the registered holders of those Share Stapled Units.
- (c) The number of Ordinary Shares to be transferred on exchange of Share Stapled Units is one Ordinary Share for each Unit which is a component of the Share Stapled Units. Therefore, because each Share Stapled Unit includes one Unit, the number of Ordinary Shares to be transferred on exchange of Share Stapled Units is one Ordinary Share for each Share Stapled Unit.
- (d) The Exchange Right may not be exercised following an Ordinary Resolution of Registered Holders of Units or Extraordinary Resolution of Registered Holders of Units directing the termination of the Trust having been passed under **Clause 25**.

## 12.2 Procedure for Exchange

- (a) The Exchange Right may only be exercised by the Registered Holders of Units passing an Extraordinary Resolution of Registered Holders of Units providing for the exchange of all the Share Stapled Units issued and outstanding as at the record date for the exercise of the Exchange Right (to be specified in, or determined in accordance with, the Extraordinary Resolution of Registered Holders of Units) for Ordinary Shares.
- (b) The exchange date in respect of the Share Stapled Units (the *Exchange Date*) must fall at a time when the Exchange Right attaching to the Share Stapled Units is expressed in this Deed to be exercisable and shall be the exchange date specified in, or determined in accordance with the provisions of, the Extraordinary Resolution of Registered Holders of Units providing for the exchange of all the issued and outstanding Share Stapled Units.
- (c) All Certificates in respect of Share Stapled Units, as referred to in **Clause 9.2**, shall be deemed to be cancelled, and shall cease to be evidence of title to Share Stapled Units, with effect from the Exchange Date.
- (d) As soon as practicable, and in any event not later than 10 Business Days after the Exchange Date, the Trustee-Manager shall transfer the number of Ordinary Shares calculated in accordance with **Clause 12.1(c)** to the person or persons registered in the Share Stapled Units Register as the Registered Holder(s) of the Share Stapled Units in respect of which the Exchange Right has been exercised and register such person or persons as holder(s) of the relevant numbers of Ordinary Shares in the Register of Members.
- (e) The person or persons referred to in **Clause 12.2(d)** shall be deemed for all purposes to be the holder of record of the number of Ordinary Shares to be exchanged upon exercise of the Exchange Right with effect from the Exchange Date. A holder of Ordinary Shares transferred on exercise of the Exchange Right in respect of Share Stapled Units shall not be entitled to any rights the record date for which precedes the Exchange Date.
- (f) Following the foregoing procedures referred to in this **Clause 12.2** having been completed, the Ordinary Shares shall be transferred to the Hong Kong Branch Register of Members (in the names of the registered holders of the Ordinary Shares), in accordance with **Clause 11.5(a)**. As soon as practicable thereafter, and in any event not later than 10 Business Days after the Exchange Date, the Trustee-Manager will mail a certificate or certificates for the relevant Ordinary Shares to the person registered in the Hong Kong Branch Register of Members as the registered holder of the relevant Ordinary Shares (or, in the case of joint registered holders, to the first named joint registered holder who is not a Minor) to the address of that person shown in the Hong Kong Branch Register of Members.

- (g) With effect from the Exchange Date:
- (i) the Units and the Preference Shares shall confer no further rights, except for the right to receive the Ordinary Shares Linked to the Units pursuant to the exercise of the Exchange Right, and shall be cancelled; and
  - (ii) the Certificates in respect of the Share Stapled Units shall cease to be valid and shall cease to be evidence of title to any securities or other rights, other than the right to receive the Ordinary Shares Linked to the Units in respect of which the Certificates were issued, irrespective of whether or not the Certificates in respect of the Share Stapled Units are delivered to the Registrar or the Trustee-Manager for exchange and cancellation.

### **12.3 Stamp Duty, Tax and Other Charges**

Before procuring the transfer of any Shares or the issue of any certificate following an exercise of the Exchange Right, the Registrar (or where there is no Registrar, the Trustee-Manager and the Company) may require from the person to whom the certificate is to be issued the payment to the Registrar (or where there is no Registrar, the Trustee-Manager) of a sum sufficient to cover any stamp duty or other Taxes or charges or other charges that may be payable in connection with the transfer and registration of the relevant person's Units and/or Shares pursuant to the exercise of the Exchange Right and/or the issue of certificate(s) to such person.

### **12.4 Repurchase of Exchanged Preference Shares by the Company from the Trustee-Manager**

On or as soon as possible after the Exchange Date, all of the Preference Shares which are required under this Deed to be exchanged (together with the Units to which they are Stapled) with the Trustee-Manager for the Ordinary Shares held by the Trustee-Manager shall be repurchased by the Company from the Trustee-Manager for an aggregate consideration of HK\$1.00 and cancelled by the Company.

## **13. OBJECT AND PURPOSE OF THE TRUST**

### **13.1 Scheme of Investment**

All Cash and other assets which in accordance with the provisions of this Deed form a part of the Trust Property shall be paid or transferred to the Trustee-Manager and all Cash shall be applied for the purposes of the Authorised Business in accordance with the provisions of this Deed or to make payments out of the Trust Property for the purpose of any provision of this Deed, or to make Distributions in accordance with the provisions of this Deed.

### **13.2 Trustee-Manager's Scope of Business**

Subject to the provisions of this Deed, the Trustee-Manager's scope of business and the business objectives of the Trust are as follows:

- (a) the Trust is established to engage in the Authorised Business; and
- (b) the Trustee-Manager shall, in exercising its powers and fulfilling its duties in relation to the management of the Trust Property, comply with the restrictions and other provisions of this Deed and exercise all reasonable care in managing the Trust and conducting the Authorised Business undertaken by the Trust in compliance with the Relevant Laws and Regulations.

### **13.3 Restrictions**

- (a) Subject to the restrictions and requirements in the Relevant Laws and Regulations, the Trust may not carry on any other principal activities other than engaging in the Authorised Business.
- (b) The Trustee-Manager is not permitted to:
  - (i) either for itself or for the Trust, borrow or raise monies or to charge, mortgage or create security over all or any of the assets or rights of the Trust; or
  - (ii) issue debentures or other debt securities.
- (c) The Trust shall not assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person.

### **13.4 Trustee-Manager's Discretion**

- (a) Subject to the provisions of this Deed and the Relevant Laws and Regulations, the Trustee-Manager shall have absolute discretion to carry on any Authorised Business undertaken by the Trust as well as to determine the manner in which and the terms upon which any Cash or other assets forming part of the Trust Property which are not required to be distributed to Registered Holders of Units under this Deed should be invested in the Company.
- (b) No Unitholder shall be entitled to operate or manage or interfere in any Authorised Business undertaken by the Trust, or any business undertaken by the Group, or recommend or propose to the Trustee-Manager the manner in which any Authorised Business undertaken by the Trust, or any business undertaken by the Group, should be managed, administered, operated or carried on or in which any Trust Property should be dealt with.

### **13.5 Acquisition and Disposal Costs Payable Out of the Trust Property**

Any brokerage, commission, stamp duty, legal and other costs and valuation fees incurred in and expenses relating to the acquisition or disposal or attempted acquisition or disposal of or otherwise in relation to any assets forming part, proposed to form part or previously forming part, of the Trust Property shall be paid out of the Trust Property.

## **14. DISTRIBUTIONS**

### **14.1 Cash Distributions**

- (a) Subject to the Relevant Laws and Regulations and to **Clauses 14.1(b)** and **14.1(c)**, the Trustee-Manager may declare a Distribution in cash to the Registered Holders of Units out of the Trust Property in respect of such period, of such amounts and on such dates as it may think fit.
- (b) The Trustee-Manager shall ensure that 100% of the dividends, distributions and other amounts received by the Trustee-Manager in respect of the Ordinary Shares from the Company are distributed to the Registered Holders of Units, after deduction of any and all amounts permitted to be deducted or paid from the Trust Property under this Deed.

- (c) It is the current intention, as at the date of this Deed, of the board of directors of the Company to declare and distribute:
- (i) 100% of the Group Distributable Income in respect of each Financial Year ending 31 December 2013, 2014 and 2015; and
  - (ii) not less than 90% of the Group Distributable Income in respect of each Financial Year thereafter,

to the Trustee-Manager to fund Distributions in respect of the Share Stapled Units to be made by the Trustee-Manager.

It is currently, as at the date of this Deed, the intention of the board of directors of the Company that the Company will declare and make distributions to the Trust on a semi-annual basis (save that only one distribution will be made in respect of the Financial Year ending 31 December 2013), with the interim and final distributions in respect of a full Financial Year being equal, in aggregate, to 100% or not less than 90% (as the case may be) of the Group Distributable Income in respect of that Financial Year. The respective proportions of the aggregate annual Distribution to be paid as an interim Distribution and a final Distribution shall be determined by the board of directors of the Company in its discretion and the amount of the interim distribution need not be proportionate to the Group Distributable Income in respect of the first six months of the relevant Financial Year (or other period in respect of which the distribution is made) or proportionate to the Group Distributable Income in respect of the relevant Financial Year.

In addition, if the Group sells any fixed assets or properties, the directors of the Company may, at their discretion, retain all or any part of the proceeds (including any realised gains) from such sale (less associated taxes and expenses and associated debt repayments), including any amounts retained for the purpose of servicing future debt repayments and/or for the purpose of complying with covenants in any credit facility agreement (such amounts retained for debt repayment and covenant compliance being “**Excluded Amounts**”), for up to three years following such sale and may utilise the retained proceeds (other than the Excluded Amounts) for the acquisition of other fixed assets or properties, FF&E Reserve and/or capital expenditure. To the extent that all or any part of the retained proceeds (other than the Excluded Amounts) are not utilised for the purposes described above within three years following such sale, the Company shall distribute such retained proceeds (other than the Excluded Amounts) to the Trustee-Manager.

- (d) The Trustee-Manager shall make Distributions to Registered Holders of Share Stapled Units on a semi-annual basis (save that only one distribution will be made in respect of the Financial Year ending 31 December 2013), from the interim and final Distributions to be made by the Company to the Trustee-Manager referred to in **Clause 14.1(c)**. The Trustee-Manager shall pay the interim Distribution within four months after 30 June and the final Distribution within six months after 31 December of each year. The Trustee-Manager shall distribute 100% of the amount distributed or paid to the Trustee-Manager in respect of the Ordinary Shares, after deduction of any and all amounts permitted to be deducted or paid from the Trust Property under this Deed, in respect of each Financial Year by way of the interim and final Distributions referred to above in this **Clause 14.1(d)**.

- (e) The statement of the Company's current intention, as at the date of this Deed, to declare and distribute 100% or not less than 90% (as the case may be) of the Group Distributable Income in respect of each Financial Year to the Trustee-Manager to fund Distributions in respect of the Share Stapled Units is a distribution policy only and a statement of the Company's current intention, as at the date of this Deed, only. It is not a legally binding obligation of the Company, the Trustee-Manager or the Trust and is subject to change (and, for the avoidance of doubt, any such change to the distribution policy would not constitute or require a modification, amendment, alteration or addition to this Deed; but would need to be notified to the Hong Kong Stock Exchange and announced under **Clause 14.3**). Nor is it guaranteed by any person.

The form, frequency and amount of future Distributions (if any) in respect of Share Stapled Units will depend on the earnings, financial position and results of operations of the Group, as well as contractual restrictions (including limitations on borrowings by the Trustee-Manager under this Deed and compliance with financial undertakings imposed under the Group's loan facilities agreements), provisions of applicable laws and regulations and other factors including, but not limited to, funding requirements with reference to the prevailing business environment and operations, and expansion plans, other capital management considerations, the overall stability of distributions and prevailing industry practice.

- (f) Upon declaration of any Distribution per Unit made by the Trustee- Manager on behalf of the Trust, the Trust shall be obliged to pay such Distribution per Unit regardless of the number of Units in issue as at the Record Date for the relevant Distribution, save where there is any consolidation or sub-division of Units in which case appropriate adjustments should be made accordingly.

#### **14.2 Entitlement to Distribution**

- (a) Upon the declaration by the Trustee-Manager of a Distribution, each Registered Holder of Units shall, on or after the date on which such Distribution is expressed to be due and payable, be entitled to receive a *pro rata* share of the Distribution declared, determined based on the number of fully paid up Units held by that Registered Holder of Units as at the Record Date for the relevant Distribution.
- (b) The persons who are Registered Holders of Units on the Record Date are entitled to receive such Distribution declared by the Trustee-Manager in respect of such given period.
- (c) If new Units are issued after the declaration of a Distribution but on or before the Record Date for such Distribution, the total amount to be distributed by the Trust shall be proportionally increased such that Registered Holders of Units as at the Record Date shall all receive the Distribution per Unit as declared. Notwithstanding the provisions of **Clause 14.2(b)** and the foregoing provisions of this **Clause 14.2(c)**, where the Trust does not have sufficient cashflow to meet payments of a Distribution to Registered Holders of Units as a result of new Units having been issued after the declaration of a Distribution and the operation of **Clause 14.1(f)**, or if a payment of a Distribution to Registered Holders of Units, if made, will breach any applicable covenants to which the Trust or the Group is subject, such unpaid Distribution shall be accrued and shall be paid to the persons entitled thereto as soon as practicable after the Trust has sufficient cashflow to meet the payment obligations or is able to meet the payment obligations without breaching any applicable covenant (as the case may be), provided that no interest shall be paid on Registered Holders of Units' Distribution entitlement accrued but not paid and that Registered Holders of Units shall be notified of the suspension of payments.

- (d) The Trustee-Manager may deduct from each Registered Holder of Units' Distribution entitlement all amounts which:
- (i) are necessary to avoid distributing a fraction of a cent by rounding down the relevant amount to the nearest cent;
  - (ii) the Trustee-Manager determines not to be practical to distribute on a Distribution date;
  - (iii) equal any amount of Tax which has been paid or which the Trustee-Manager determines is or may be payable by it in respect of the portion of the income of the Trust attributable to such Registered Holder of Units, or the amount of the Distribution otherwise distributable to such Registered Holder of Units. The Trustee-Manager may, but is not bound to, consult or rely on (1) any advice of or calculation by any accountants, tax advisers or the Auditor or (2) any information obtained from the Tax or government authorities in respect of any such Tax before making such deduction. The Trustee-Manager shall not be liable to account to any holder or otherwise for any such deduction or payment made or suffered by the Trustee-Manager in good faith and in the absence of fraud, wilful default or negligence, notwithstanding that any such deduction or payment ought not to be or need not have been made or suffered. If any such deduction which ought not to be, or need not have been, made or suffered is not required to be paid to a Tax or government authority, or a refund of any amount of Tax which ought not to be, or need not have been, made or suffered is subsequently obtained, the relevant amount shall form part of the Trust Property and be held by the Trustee-Manager upon and subject to the terms and conditions of this Deed and shall be added to the amount to be distributed to the Registered Holders of Units in respect of the next following interim or annual Distribution to be made by the Trustee- Manager;
  - (iv) are required to be deducted by the Relevant Laws and Regulations or this Deed; or
  - (v) are payable by the Registered Holder of Units to the Trustee-Manager or the Company.
- (e) The Trustee-Manager shall determine the Distribution entitlement per Unit of the Registered Holders of Units for a Financial Year, which shall be notified to the Registrar, where appointed. The Trustee-Manager shall arrange for the Auditor to review and verify the Trustee-Manager's calculation of the Distribution entitlement per Unit of the Registered Holders of Units for the Financial Year and issue a confirmation letter to the Trustee-Manager. In respect of each Financial Year, the Trustee-Manager shall instruct the Registrar, where appointed, to pay to each Registered Holder of Units his Distribution entitlement on or before the Distribution Date for the Financial Year.
- (f) No distribution or other monies payable on or in respect of a Unit shall bear interest as against the Trust. Any Unclaimed Monies shall be dealt with in the manner provided in **Clause 15.3**.

### **14.3 Trustee-Manager Announcement Requirement**

- (a) The Trustee-Manager shall inform the Hong Kong Stock Exchange immediately of:
  - (i) any decision to declare, recommend or pay any Distribution and the rate and amount thereof;
  - (ii) any decision not to declare, recommend or pay any Distribution which would otherwise have been expected to be declared, recommended or paid in due course; and
  - (iii) any preliminary announcement of profits or losses for any year, half year or other period.
- (b) The Trustee-Manager shall inform the Registered Holders of Share Stapled Units of any decision referred to in **Clause 14.3(a)(i)** or **14.3(a)(ii)** above, by way of an announcement. The announcement must be made as soon as possible after the decision, but should only be published before the market opens, or after it closes or during the lunchtime break.
- (c) An announcement made in respect of a decision to declare, recommend or pay any Distribution must include:
  - (i) the amount of the Distribution and the Distribution entitlement per Unit of the Registered Holders of Units;
  - (ii) the Record Date and approximate payment date for the Distribution;
  - (iii) confirmation that the Auditor has reviewed and verified the Trustee-Manager's calculation of the Distribution entitlement per Unit, in accordance with **Clause 14.2(e)**; and
  - (iv) confirmation by the Trustee-Manager's board of directors that, having made all reasonable enquiries, immediately after making the relevant Distribution to the Registered Holders of Units, the Trustee-Manager will be able to fulfil, from the Trust Property, the liabilities of the Trust as they fall due.

### **14.4 Unitholder Notification Requirements**

Each Unitholder must, as and when required by the Trustee-Manager, provide such information as to his place of residence or any other information relevant for Tax purposes as the Trustee-Manager may from time to time determine.

### **14.5 Distribution Reinvestment Arrangements**

The Trustee-Manager may, with the prior consent of the Company, advise Registered Holders of Units, from time to time, in writing that Registered Holders of Units may on terms specified in the notice participate in an arrangement under which Registered Holders of Units may request that all or a proportion of specified Distributions due to them be applied to the issue of further Units (as components of Share Stapled Units) on such terms and at such Issue Price as the Trustee-Manager may determine, subject to **Clause 3**. The Units so issued shall be deemed to be purchased by such Registered Holders of Units. The Trustee-Manager shall, with the prior consent of the Company, be entitled to amend the terms of any such Distribution reinvestment arrangements from time to time by notice in writing to Registered Holders of Units.

## **14.6 Non-Cash Distributions**

Without prejudice to the power to make cash Distributions in accordance with **Clause 14.1** and any Distribution policy articulated by the Trustee-Manager from time to time, but subject to the Relevant Laws and Regulations and by an Ordinary Resolution of Registered Holders of Units, the Trustee-Manager may declare a Distribution other than in cash to the Registered Holders of Units to be payable out of the Trust Property. To the extent that the other Clauses in this **Clause 14** apply to a Distribution other than in cash, they shall apply *mutatis mutandis*.

## **14.7 Distribution of Capital and Unrealised Gains**

The Trustee-Manager may cause the distribution of an amount which represents:

- (a) part of the capital of the Trust and which the Trustee-Manager reasonably determines to be in excess of the financial needs of the Trust; and/or
- (b) part or all of the unrealised gains.

## **14.8 Categories and Sources of Income**

- (a) For any category or source of income the Trustee-Manager may keep separate accounts and allocate the income from any category or source to any Registered Holder of Units.
- (b) The Trustee-Manager may cause the distribution of any amount recorded in an account or record kept pursuant to **Clause 14.8(a)** before the distribution of any other amount.

## **14.9 Restrictions in respect of Distributions**

The Trustee-Manager shall not make a Distribution if and to the extent that doing so would result in the Trust being unable to pay its debts.

## **15. PLACE AND CONDITIONS OF PAYMENT**

### **15.1 Place and Conditions of Payment**

- (a) Any monies payable by the Trustee-Manager to any Registered Holder of Units on the relevant Record Date under the provisions of this Deed shall be paid, in the case of Registered Holders of Units who do not hold their Units jointly with any other person, by cheque or warrant sent through the post to the registered address of such Registered Holder of Units or, in the case of Joint Registered Holders of Units, to the registered address of the Joint Registered Holder of Units who is first named on the Units Register or to the registered address of any other of the Joint Registered Holders of Units as may be authorised by all of them. Every such 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 monies payable and shall be a good discharge to the Trustee-Manager. Where the Trustee-Manager receives the necessary authority in such form as the Trustee-Manager shall consider sufficient, it shall pay the amount due to any Registered Holder of Units to his bankers or other agent, by telegraphic or electronic transfer, and payment of such an amount to such bankers or other agent shall be a satisfaction of the monies payable and a good discharge to the Trustee-Manager.

- (b) In the case of Units which are components of Share Stapled Units held in CCASS, payment of the monies by the Trustee-Manager to, or as directed by, HKSCC Nominees shall be a satisfaction of the monies payable to the relevant Unitholders holding interests in Units which are components of Share Stapled Units deposited in CCASS and shall be a good discharge to the Trustee-Manager. Any charges payable to HKSCC Nominees for the distribution of monies in respect of those Unitholders holding interests in Units which are components of Share Stapled Units deposited in CCASS may be paid out of the Trust Property.
- (c) No amount payable to any Unitholder shall bear interest.

## **15.2 Receipt of Unitholders**

The receipt of the Registered Holder of Units or (as the case may be) HKSCC Nominees on behalf of those Unitholders holding interests in Units which are components of Share Stapled Units deposited in CCASS for any amounts payable in respect of the relevant Units shall be a good discharge to the Trustee-Manager, and if several persons are registered as Joint Registered Holders of Units or, in consequence of the death of a Registered Holder of Units, are entitled to be so registered, any one of them may give effectual receipts for any such amounts.

## **15.3 Unclaimed Monies**

- (a) The Trustee-Manager shall, from time to time, make payments to any Registered Holder of Units claiming any Unclaimed Monies. For the avoidance of doubt, no interest shall be payable to a Registered Holder of Units on such Unclaimed Monies.
- (b) The Trustee-Manager may, at its absolute discretion and if practicable, cause such sums which represent Unclaimed Monies which remain unclaimed for six years after the date on which such Unclaimed Monies are due to be paid, to be forfeited. For the avoidance of doubt:
  - (i) the monies so forfeited shall revert to the Trust and form part of the Trust Property; and
  - (ii) the relevant Registered Holder of Units shall not have any right or claim in respect of such monies against the Trust or the Trustee-Manager if a period of six years has elapsed from the date such monies are first payable.
- (c) The Trustee-Manager may cease sending cheques for Distribution entitlements or Distribution warrants by post if such cheques or warrants have been left uncashed on two consecutive occasions. However, the Trustee-Manager may exercise its power to cease sending cheques for Distribution entitlements or Distribution warrants after the first occasion on which such a cheque or warrant is returned undelivered.

- (d) The Trustee-Manager and the Company shall be entitled to sell any Share Stapled Units of a Registered Holder of Share Stapled Units or the Share Stapled Units to which a person is entitled by virtue of transmission on death or bankruptcy or operation of law if and provided that:
- (i) during a 12 year period, at least three Distributions in respect of the Share Stapled Units in question have become payable and no Distribution during that period has been claimed by the Registered Holder of Share Stapled Units (or the person who is entitled to the Share Stapled Units by virtue of transmission on death or bankruptcy or operation of law); and
  - (ii) upon expiry of the 12 year period, the Trustee-Manager and the Company have caused an advertisement to be published in the newspapers, or, subject to the Listing Rules, by electronic communication in the manner in which notices may be served by the Trustee-Manager and the Company by electronic means as herein provided, giving notice of their intention to sell such Share Stapled Units, and a period of three months has elapsed since such advertisement and the Hong Kong Stock Exchange has been notified of such intention.

## **16. EXPENSES OF THE TRUST**

Subject to the Relevant Laws and Regulations, the Trustee-Manager is entitled to apply, or to be reimbursed from, the Trust Property (at such times and over such periods as the Trustee-Manager may determine in any particular case) for all Liabilities (save in the case of fraud, wilful default or negligence), fees, costs, charges and expenses that may be properly and reasonably suffered or incurred by the Trustee-Manager in the performance of its obligations or the exercise of its powers under this Deed, or otherwise arising out of or in connection with this Deed, including, but not limited to, the amounts specified in **Schedule 2**.

## **17. POWERS OF THE TRUSTEE-MANAGER**

### **17.1 Agreement to Act**

The Trustee-Manager has agreed to act as trustee and manager of the Trust.

### **17.2 General Powers of Trustee-Manager**

Subject to this Deed, the Trustee-Manager has the powers and legal capacity of a natural person or a corporation acting in his, her or its own personal capacity.

### **17.3 Specific Powers of Trustee-Manager**

In addition to the powers conferred on it by law and elsewhere in this Deed, the Trustee-Manager shall have the following powers:

- (a) to engage in any Authorised Business;
- (b) to enter into all agreements, deeds and documents or to refrain from entering into such agreements, deeds or documents on behalf of the Trust;

- (c) performing and enforcing agreements;
- (d) instituting, prosecuting, compromising and defending legal proceedings on behalf of the Trust, including legal proceedings instituted to secure compliance with the provisions of this Deed and of any Relevant Laws and Regulations and legal proceedings instituted to recover any loss suffered by Holders of Share Stapled Units in respect of their investment under this Deed;
- (e) to act in the exercise of any of its powers under this Deed:
  - (i) by delegating to responsible officers for the time being; or
  - (ii) by appointing an agent,

in respect of all or any of the trusts, powers and discretions vested in it by this Deed on such terms and conditions (including power to sub- delegate) as the Trustee-Manager thinks fit. The Trustee-Manager shall exercise all reasonable care in selecting the potential delegates and agents appointed by it, and shall supervise the proceedings and activities of such delegates and agents to ensure that the functions intended to be carried out by them are properly carried out. Notwithstanding the foregoing, the Trustee-Manager shall be fully liable and shall indemnify the Trust for all losses, liabilities, damages, costs and expenses suffered or incurred by the Trust as a result of any fraud, wilful default, negligence or breach of this Deed by any such delegate or agent. The Trustee-Manager shall have no liability for any clearing system or depository operator or, except when the Trustee-Manager is fraudulent, in wilful default or negligent, for the licensed bank(s) in Hong Kong with which the segregated Distributions Account, Custody Account and Subscriptions Account referred to in **Clauses 18.2, 18.3 and 18.4**, respectively, are opened;

- (f) insuring the Trust Property;
- (g) attending and voting at meetings of Shareholders;
- (h) paying any outgoings connected with the Trust Property or this Deed which are not otherwise payable by the Trustee-Manager, including, without limitation, all Taxes imposed in connection with the Trust Property;
- (i) exercising all the rights, powers and authorities vested in the Trustee-Manager by virtue of its ownership of the Trust Property or otherwise by any statute, the common law or rules of equity;
- (j) subject to the requirements of **Clause 5**, offering jointly with the Company new Share Stapled Units and Convertible Instruments for subscription and sale and investing the proceeds of such subscriptions and sales in the Company as Authorised Business in accordance with the provisions of this Deed;
- (k) subject to the restrictions in **Clauses 3 and 8.2**, sub-dividing or consolidating the Units;
- (l) if and to the extent permitted by **Clause 5.12**, carrying out the repurchase and/or redemption of Units in accordance with **Clause 5.12**;

- (m) the powers contained in **Schedule 1** concerning Meetings of Registered Holders of Share Stapled Units; and
- (n) the right to require Unitholders and all persons claiming through or under each such Unitholder to disclose to the Trustee-Manager, upon request of the Trustee-Manager, all their beneficial interests in the Trust or any Share Stapled Units, provided that this power shall not apply in respect of HKSCC Nominees as the Registered Holder of Share Stapled Units as nominee for HKSCC and HKSCC Nominees shall not be required to disclose information to the Trustee-Manager pursuant to the exercise of this power by the Trustee-Manager.

#### **17.4 Powers of Trustee-Manager Incidental to Offering for Sale or Subscription of Share Stapled Units**

The Trustee-Manager shall have the power, to the extent permitted by the Relevant Laws and Regulations, to:

- (a) do everything necessary or desirable to be done in connection with any offering for sale or subscription of Share Stapled Units;
- (b) do all acts, enter into all such documents and do everything necessary or desirable to be done pursuant to or in connection with the Initial Public Offering, including, without limitation, (i) entering into underwriting arrangements with respect to the offering of Share Stapled Units, (ii) jointly with the Company issuing Share Stapled Units on or after the Listing Date other than under the terms of the Initial Public Offering; (iii) make available Share Stapled Units to any stabilising manager, underwriter or other person pending exercise or lapse of any over-allotment option and otherwise doing anything for the purpose of facilitating or assisting in effecting the stabilisation of Share Stapled Units (including the deferred settlement of Share Stapled Units or the cancellation of Share Stapled Units);
- (c) negotiate and determine the terms of, and enter into on behalf of the Trust (and so as to bind the Trust Property) and perform, each of:
  - (i) the agreements entered into on behalf of the Trust described in and contemplated by the Prospectus or any other Offering Circular; and
  - (ii) any other agreement entered into on behalf of the Trust which may be required in connection with the Initial Public Offering or the underwriting of the Initial Public Offering;
- (d) do any acts, enter into any document and do everything necessary or desirable to be done pursuant to or in connection with any other offering for sale or subscription of Share Stapled Units which takes place prior to, simultaneously with or subsequent to the Initial Public Offering, including, without limitation, the matters referred to in **Clause 17.4(b)** above in relation to such other offering; and negotiate and determine the terms of and enter into on behalf of the Trust (and so as to bind the Trust) and perform, all agreements entered into on behalf of the Trust which may be required in connection with such offering (including the underwriting or marketing of such offering);

- (e) pay on behalf of the Trust (and from the Trust Property) underwriting commissions and similar or related fees (including any incentive fees), and all relevant costs and expenses, as stipulated or contemplated in any underwriting agreement(s) entered into on behalf of the Trust for the issue of Share Stapled Units (including under the Initial Public Offering) or offering for the sale or subscription of Share Stapled Units at any time and from time to time (collectively, the *Underwriting Agreements*); and
- (f) give representations, warranties, undertakings and covenants, and grant guarantees and/or indemnities, on behalf of the Trust (and so as to bind and to be payable out of the Trust Property), including but not limited to any representations, warranties, undertakings, covenants and/or indemnities under or in connection with any Underwriting Agreements and/or each of the agreements referred to in **Clause 17.4(b)** (and, for the avoidance of doubt, subject to **Clause 21.10**, such indemnity and indemnities may indemnify third parties for the acts and omissions of the Trustee-Manager on behalf of the Trust).

Notwithstanding the powers granted to the Trustee-Manager under this **Clause 17.4**, nothing in this **Clause 17.4** shall be construed as obliging the Trustee-Manager to exercise these powers or requiring the Trustee-Manager to be a party to any Underwriting Agreements, or any agreements relating to the issue or offering for sale or subscription of Share Stapled Units or any other agreements described in and contemplated by the Prospectus or any other Offering Circular, which the Trustee-Manager considers, in its reasonable discretion, that it shall not be a party to.

## **18. DUTIES OF THE TRUSTEE-MANAGER**

### **18.1 Safe Custody of Trust Property**

- (a) The Trustee-Manager shall have the fiduciary duty to hold the Trust Property on trust for the benefit of the Registered Holders of Units, and to comply with this Deed and the Relevant Laws and Regulations.
- (b) The Trustee-Manager shall be responsible for the safe custody of the Trust Property and shall comply with the provisions of **Clauses 18.2, 18.3 and 18.4**.

### **18.2 Segregated Distributions Account**

- (a) The Trustee-Manager shall open and maintain with a licensed bank in Hong Kong a bank account in the joint names of the Trustee-Manager and the Company to be known as the “*Langham Hospitality Investments Distributions Account*” or a similar name agreed between the Trustee-Manager and the Company (the *Distributions Account*). The Distributions Account shall be operated by joint authorised signatories, at least one of whom shall be designated by the Trustee-Manager and at least one of whom shall be designated by the Company. The Distributions Account shall be a segregated account and amounts standing to the credit of the Distributions Account shall be held on trust for the Registered Holders of Units upon and subject to the terms and conditions of this Deed.
- (b) All or any amount of Cash received by the Trustee-Manager from the Group for the purpose of making Distributions to the Unitholders shall be deposited in the Distributions Account pending the relevant Distribution to Unitholders.

### **18.3 Segregated Custody Account**

- (a) The Trustee-Manager shall open and maintain with a licensed bank in Hong Kong a securities custody account in the joint names of the Trustee-Manager and the Company to be known as the “*Langham Hospitality Investments Custody Account*” or a similar name agreed between the Trustee-Manager and the Company (the *Custody Account*). The Custody Account shall be operated by joint authorised signatories, at least one of whom shall be designated by the Trustee-Manager and at least one of whom shall be designated by the Company. The Custody Account shall be a segregated account and securities held in the Custody Account shall be held on trust for the Registered Holders of Units upon and subject to the terms and conditions of this Deed.
- (b) All of the Ordinary Shares held by the Trustee-Manager under this Deed shall be held in the Custody Account.

### **18.4 Segregated Subscriptions Account**

- (a) The Trustee-Manager shall open and maintain with a licensed bank in Hong Kong a bank account in the joint names of the Trustee-Manager and the Company to be known as the “*Langham Hospitality Investments Subscriptions Account*” or a similar name agreed between the Trustee-Manager and the Company (the *Subscriptions Account*). The Subscriptions Account shall be operated by joint authorised signatories, at least one of whom shall be designated by the Trustee-Manager and at least one of whom shall be designated by the Company. The Subscriptions Account shall be a segregated account and amounts standing to the credit of the Subscriptions Account shall be held on trust for the Registered Holders of Units pending the acceptance of their subscription applications for Share Stapled Units and the issue of their Share Stapled Units; and thereafter shall be held on trust for the Company; in each case, upon and subject to the terms and conditions of this Deed.
- (b) All or any amount of Cash received by the Trustee-Manager as the proceeds of subscriptions for the issue and/or sale of Share Stapled Units shall be deposited in the Subscriptions Account pending the issue of the Share Stapled Units subscribed for by investors and completion of the relevant investment in the Company as part of the Authorised Business.

### **18.5 Liability in Relation to the Distributions Account, the Custody Account and the Subscriptions Account**

Save where the Trustee-Manager is fraudulent, in wilful default or negligent, the Trustee-Manager shall not incur any liability to the Unitholders in respect of or be responsible for losses incurred through the insolvency of, or any act or omission of, any of the licensed banks in Hong Kong with which the Distributions Account, the Custody Account and/or the Subscriptions Account is opened.

## 18.6 Other Duties of the Trustee-Manager

The Trustee-Manager shall:

- (a) use its best endeavours to carry on and conduct its business in a proper and efficient manner in the best interests of the Unitholders as a whole;
- (b) exercise all due diligence and vigilance in carrying out its functions and duties and in protecting the rights and interests of Unitholders, and in respect of such duties and functions the Trustee-Manager may seek and rely upon the opinion or advice of independent professional advisers as it deems appropriate subject to **Clauses 18.7 and 18.8**;
- (c) ensure that the Trust Property is properly segregated and held for the benefit of the Unitholders in accordance with the provisions of this Deed and comply with the provisions of **Clauses 18.1 to 18.4** (inclusive);
- (d) give priority to the interests of the Unitholders as a whole over its own interests in the event of a conflict of interests of the Unitholders as a whole and its own interests;
- (e) manage the Trust and engage in any Authorised Business in a proper and efficient manner in accordance with the Relevant Laws and Regulations and this Deed;
- (f) be liable for the acts and omissions of its nominees and agents in relation to the Trust Property (other than the Registrar (in respect of which the Trustee-Manager's liability shall be in accordance with **Clause 21.1(b)**), the licensed banks in Hong Kong referred to in **Clauses 18.2, 18.3 and 18.4** (in respect of which the Trustee-Manager's liability shall be in accordance with **Clauses 17.3(e) and 18.5**) and any clearing system or depositary operator (in respect of which the Trustee-Manager's liability shall be in accordance with **Clause 17.3(e)**);
- (g) take all reasonable care to ensure that the sale, issue and (if and when permitted under **Clause 5.12**) repurchase and cancellation of Share Stapled Units are carried out in accordance with the provisions of this Deed, any applicable codes and guidelines as may be issued by the SFC from time to time, the Listing Rules and other Relevant Laws and Regulations;
- (h) send to Registered Holders of Share Stapled Units such reports, within the time limits and disclosing the matters, as required by this Deed and the Relevant Laws and Regulations;
- (i) take all reasonable care to ensure that it and its close associates will conduct all transactions with or for the Trust at arm's length and on normal commercial terms, unless in accordance with the Relevant Laws and Regulations;
- (j) keep or cause to be kept such books as will sufficiently explain the transactions and financial position of the Trust and of the Trustee- Manager and enable true and fair accounts to be prepared from time to time and in such manner as will enable such books to be conveniently and properly audited;

- (k) send or cause to be sent to each Registered Holder of Units the Financial Statements in accordance with the provisions of **Clause 19** and the Listing Rules, within the time limits imposed under **Clause 19** and the Listing Rules;
- (l) take all reasonable care to ensure that any Certificates are not issued until subscription monies (if any) have been paid in full;
- (m) at all times comply with the Relevant Laws and Regulations (including, without limitation, in the event that the Trust is listed and for so long as the Trust is listed, all the provisions in the Listing Rules) and this Deed;
- (n) at all times exercise all reasonable care in taking steps to do or refrain from doing all such things as the Hong Kong Stock Exchange or the SFC or, as the case may be, any other competent authority, may direct;
- (o) ensure that this Deed and the Articles are made available for inspection by the public in Hong Kong, free of charge, at all times during Business Hours at the place of business of the Trustee-Manager and ensure that copies of such documents are available upon request by any person upon the payment of a reasonable fee;
- (p) keep or cause to be kept such books that accurately record and minute the proceedings of all general meetings of Registered Holders of Units and the resolutions passed at those general meetings of Registered Holders of Units;
- (q) execute or procure the execution of such other documents and carry out or procure the carrying out of such other acts as may be necessary to give effect to this Deed; and
- (r) possess the human, organisational and technical resources to properly perform its functions in relation to the Trust and observe high standards of integrity, market conduct, fair dealing and corporate governance.

## **18.7 Appointment of Experts by the Trustee-Manager**

Subject to the Relevant Laws and Regulations, without in any way affecting the generality of its powers and duties, the Trustee-Manager, in the exercise of any or all of its powers and discretions and to perform all or any of its obligations under this Deed may, where it is reasonable and appropriate to do so, appoint and engage experts, including any legal practitioners, accountants, valuers, qualified advisers, financial advisers, surveyors and other service providers, who may be Connected Persons. Subject as otherwise expressly provided in this Deed, all fees, charges and monies payable to any of such persons and all disbursements, expenses, duties and outgoings in relation thereto shall be solely paid out of the Trust Property. The Trustee-Manager shall exercise all reasonable care to select the experts appointed by it.

## **18.8 Trustee-Manager Not Responsible for Errors of Judgment**

The Trustee-Manager may reasonably rely upon any opinion, advice or information obtained from any bankers, accountants, brokers, lawyers, valuers, agents, financial advisers, surveyors or other persons acting as advisers of the Trustee-Manager and the Trustee-Manager shall not be liable for anything done or omitted or suffered in reliance upon such opinion, advice or information, provided that the Trustee-Manager has acted in good faith and has taken due care (in the absence of fraud, wilful default or negligence) in the appointment thereof. The Trustee-Manager shall not be responsible for any omission, recklessness, misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any such banker, accountant, broker, lawyer or other person as aforesaid or of the Trustee-Manager, if it acts in good faith and with due care (in the absence of fraud, wilful default or negligence) in the appointment thereof. Any such opinion, advice or information may be obtained or sent by letter, facsimile, email or other electronic means and the Trustee-Manager shall not be liable for acting in good faith (in the absence of fraud, wilful default or negligence) on any opinion, advice or information purported to be conveyed by any such letter, facsimile, email or other electronic means although the same contains some error or shall not be authentic.

## **18.9 Dealings with Joint Registered Holders**

Should the Trustee-Manager, prior to acting on any request, application or instruction from any Joint Registered Holder of Share Stapled Units or Joint Registered Holder of Units, receive a contradictory request, application or instruction from any other Joint Registered Holder of Share Stapled Units or Joint Registered Holder of Units (as the case may be), the Trustee-Manager may elect to act on the latest request, application or instruction received or to act on the joint mandate of all Joint Registered Holders of Share Stapled Units or all Joint Registered Holders of Units (as the case may be), or not to act at all, and will not be held liable for so acting or omitting to act.

## **18.10 Verification of Signatures**

Save in the case of fraud, wilful default or negligence, the Trustee-Manager shall not be responsible for any authenticity of any signature or of any seal affixed to any endorsement on any certificate or to any transfer or form of application, endorsement or other document affecting the title to or transmission of Share Stapled Units or Units or be in any way liable for any forged or unauthorised signature on or any seal affixed to such endorsement, transfer or other document or for acting upon or giving effect to any such forged or unauthorised signature or seal. The Trustee-Manager shall nevertheless be entitled but not bound to require that the signature of any Registered Holder of Units or Registered Holder of Share Stapled Units, to any document required to be signed by or on behalf of the Trustee-Manager under or in connection with this Deed shall be verified to the Trustee-Manager's reasonable satisfaction.

## 18.11 Retention of Documents

The Trustee-Manager shall be entitled to destroy all instruments of transfer, probate, letters of administration, stop notices, powers of attorney, certificates of marriage or death and other documents relating to or affecting title to the Share Stapled Units and/or the Units (the **Registrable Documents**) which have been registered at any time after the expiration of six years from the date of registration thereof and all Distribution mandates and notifications of change of address at any time after the expiration of two years from the date of recording thereof and all Certificates in respect of Share Stapled Units and/or Units which have been cancelled at any time after the expiration of one year from the date of the cancellation thereof and it shall conclusively be presumed in favour of the Trustee-Manager that every entry in any Register if purporting to have been made on the basis of an instrument of transfer or Registrable Document so destroyed was duly and properly made and every instrument of transfer or Registrable Document so destroyed was a valid and effective instrument or document duly and properly registered and every Certificate in respect of Share Stapled Units and/or Units so destroyed was a valid and effective certificate duly and properly cancelled and every other document hereinbefore mentioned so destroyed was a valid and effective document in accordance with the recorded particulars thereof in the books or records of the Trustee-Manager, provided always that:

- (a) the provisions aforesaid shall apply only to the destruction of a document in good faith and without express notice of the Trustee-Manager of any claim (regardless of the parties thereto) to which the document might be relevant;
- (b) nothing herein contained shall be construed as imposing upon the Trustee-Manager any liability in respect of the destruction of any such document earlier than as aforesaid or in any other circumstances which would not attach to the Trustee-Manager in the absence of this **Clause 18.11**; and
- (c) references herein to the destruction of any document include references to the disposal thereof in any manner.

Notwithstanding any provision contained in this Deed, the Trustee-Manager may, if permitted by the Relevant Laws and Regulations, authorise the destruction of any documents referred to in this **Clause 18.11** or any other documents in relation to registration of Share Stapled Units and/or Units which documents have been microfilmed or electronically stored by the Trustee-Manager or by the Registrar on its behalf, provided always that this **Clause 18.11** shall apply only to the destruction of a document in good faith and without express notice to the Trustee-Manager that the preservation of such document might be relevant to a claim.

## 18.12 Trustee-Manager to Prepare Cheques

It shall be the duty of the Trustee-Manager or its agent to prepare all cheques which have to be issued as hereby provided, to stamp and to sign the same as necessary and issue them on the day on which they ought to be issued.

## **19. DUTIES OF THE TRUSTEE-MANAGER IN RELATION TO THE FINANCIAL STATEMENTS**

### **19.1 Maintenance of Books and Accounts**

- (a) The Trustee-Manager shall maintain or cause to be maintained proper books and accounts and records of the Trust (or copies thereof) in Hong Kong and containing the information required by the Relevant Laws and Regulations. The Trustee-Manager shall prepare or cause to be prepared the Trust's financial statements which are in agreement with the Trust's books and records and in accordance with accounting principles generally accepted in Hong Kong or International Financial Reporting Standards promulgated from time to time by the International Accounting Standards Board and in accordance with the Relevant Laws and Regulations and this Deed, which give a true and fair view of the state of affairs of the Trust at the end of the relevant Financial Year and of the financial transactions of the Trust for the relevant Financial Year. The Trustee-Manager shall cause those financial statements to be audited by the Auditor.
- (b) The Company shall maintain or cause to be maintained proper books and accounts and records of the Company (or copies thereof) in Hong Kong and containing the information required by the Relevant Laws and Regulations. The Company shall prepare or cause to be prepared the Company's financial statements (on a consolidated basis if the Company has subsidiaries) which are in agreement with the Company's books and records and in accordance with accounting principles generally accepted in Hong Kong or International Financial Reporting Standards promulgated from time to time by the International Accounting Standards Board and in accordance with the Relevant Laws and Regulations and this Deed, which give a true and fair view of the state of affairs of the Company at the end of the relevant Financial Year and of the financial transactions of the Company for the relevant Financial Year. The Company shall cause those financial statements to be audited by the Auditor.
- (c) The Trustee-Manager shall maintain or cause to be maintained proper books and accounts and records of the Trustee-Manager (or copies thereof) in Hong Kong and containing the information required by the Relevant Laws and Regulations. The Trustee-Manager shall prepare or cause to be prepared the Trustee-Manager's financial statements which are in agreement with the Trustee-Manager's books and records and in accordance with accounting principles generally accepted in Hong Kong or International Financial Reporting Standards promulgated from time to time by the International Accounting Standards Board and in accordance with the Relevant Laws and Regulations and this Deed, which give a true and fair view of the state of affairs of the Trustee-Manager at the end of the relevant Financial Year and of the financial transactions of the Trustee-Manager for the relevant Financial Year. The Trustee-Manager shall cause those financial statements to be audited by the Auditor.

### **19.2 Financial Statements and Reports**

- (a) The Trustee-Manager shall prepare and publish (at the expense of the Trust):
  - (i) annual reports and financial statements of the Trust to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the annual reports and financial statements of the Trust;

- (ii) semi-annual reports and financial statements of the Trust to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the semi-annual reports and financial statements of the Trust; and
  - (iii) the financial statements, preliminary announcements of results and other reports, circulars and information required to be provided under the Listing Rules applicable to the Trust and other Relevant Laws and Regulations, within the relevant time periods prescribed by those Listing Rules and other Relevant Laws and Regulations.
- (b) The Trustee-Manager and the Company shall prepare and publish (at the expense of the Company):
  - (i) annual reports and financial statements of the Company to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the annual reports and financial statements of the Company;
  - (ii) semi-annual reports and financial statements of the Company to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the semi-annual reports and financial statements of the Company; and
  - (iii) the financial statements, preliminary announcements of results and other reports, circulars and information required to be provided under the Listing Rules applicable to the Company and other Relevant Laws and Regulations, within the relevant time periods prescribed by those Listing Rules and other Relevant Laws and Regulations.
- (c) The Trustee-Manager shall prepare and publish (at the expense of the Trust):
  - (i) annual financial statements of the Trustee-Manager to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the annual reports and financial statements of the Trust; and
  - (ii) semi-annual financial statements of the Trustee-Manager to be published and distributed to Registered Holders of Share Stapled Units within the period prescribed by the Listing Rules for the publication of the semi-annual reports and financial statements of the Trust; and
  - (iii) the financial statements, preliminary announcements of results and other reports, circulars and information required to be provided under the Listing Rules applicable to the Trustee-Manager and other Relevant Laws and Regulations, within the relevant time periods prescribed by those Listing Rules and other Relevant Laws and Regulations.
- (d) The financial statements of the Trust and the Company referred to in **Clauses 19.2(a)** and **19.2(b)** shall be prepared on a consolidated basis. The financial statements of the Trustee-Manager referred to in **Clause 19.2(c)** shall be prepared on an unconsolidated basis, unless the Trustee-Manager has any subsidiaries, in which case those financial statements shall be prepared on a consolidated basis.

- (e) The Trustee-Manager and the Company shall prepare and publish their respective reports referred to in **Clauses 19.2(a)** and **19.2(b)** in the form of a combined document which shall be sent to the Registered Holders of the Share Stapled Units within the applicable period specified in **Clauses 19.2(a)** and **19.2(b)**. The combined document shall also include the financial statements of the Trustee-Manager in respect of the relevant period, referred to in **Clause 19.2(c)**.
- (f) The financial statements of the Trust, the Company and the Trustee-Manager referred to in **Clauses 19.2(a), 19.2(b)** and **19.2(c)** shall include:
  - (i) a statement of financial position, statement of profit or loss and other comprehensive income and cashflow statement;
  - (ii) a distributions statement;
  - (iii) comparative figures for each of the foregoing for the corresponding previous period;
  - (iv) accounting principles and explanatory notes;
  - (v) in respect of the annual financial statements for a full Financial Year, an auditor's report; and
  - (vi) such other information as may be prescribed by the Listing Rules, including, but not limited to, any and all corporate governance reports required by the Listing Rules.
- (g) (i) The board of directors of the Trustee-Manager shall confirm in the annual report that:
  - (1) the charges paid or payable out of the Trust Property to the Trustee-Manager are in accordance with the Trust Deed;
  - (2) the connected transactions are entered into (A) in the ordinary and usual course of business of the Group and (B) either on normal commercial terms or on terms no less favourable to the Group than terms available to or obtained from the independent third parties, with the relevant agreements governing them on terms that are fair and reasonable and in the interests of the Holders of Share Stapled Units as a whole; and
  - (3) the board of directors of the Trustee-Manager is not aware of any violation of duties of the Trustee-Manager which would have a material adverse effect on the business of the Trust or on the interests of all the Holders of Share Stapled Units as a whole.
- (ii) The Trustee-Manager's corporate governance report referred to in **Clause 19.2(f)(vi)** shall include a description of the policies and measures taken by the Trustee-Manager to manage conflicts and potential conflicts of interests between (1) the Trust and (2) any Unitholder holding 30% or more of the Units in issue, or any director or shareholder of the Trustee-Manager holding 30% or more of the issued shares in the Trustee-Manager.

- (h) Each party must make available to the other information and provide all assistance in relation to the preparation of the financial statements of the Trust, the Company and the Trustee-Manager.
- (i) Without limiting **Clause 19.2(h)**, the parties must make available to each other all information and provide all assistance to enable the provision of all reports, circulars and other information which are required by this Deed and/or any Relevant Laws and Regulations or which it may be reasonably desirable to provide to Holders of the Share Stapled Units.
- (j) Subject to the Relevant Laws and Regulations and unless otherwise agreed by the Trustee-Manager and the Company, the parties shall procure that the financial statements of the Trust, the Company and the Trustee-Manager are prepared under the same accounting standards and using substantially the same accounting policies.

### **19.3 Accounting Principles**

The financial statements of the Trust, the Company and the Trustee-Manager referred to in **Clause 19.2** shall each be prepared in accordance with the Relevant Laws and Regulations and either (1) generally accepted accounting principles in Hong Kong or (2) International Financial Reporting Standards as promulgated from time to time by the International Accounting Standards Board.

### **19.4 Audit of Annual Financial Statements**

The annual financial statements of the Trust, the Company and the Trustee-Manager, covering a full Financial Year, shall each be audited by the same auditor, which shall be the Auditor appointed under **Clause 22**, and shall be accompanied by a report of the Auditor, each in accordance with the Relevant Laws and Regulations and the requirements of **Clause 19.3**.

### **19.5 Laying of Annual Financial Statements Before Registered Holders of Units**

- (a) The annual financial statements of the Trust, the Company and the Trustee-Manager, covering a full Financial Year, shall be laid before the Registered Holders of Units in each Annual General Meeting of Registered Holders of Units and accompanied by a copy of the report of the Auditor thereon and a report made by the directors of the Trustee-Manager.
- (b) A copy of:
  - (i) the annual audited financial statements of Langham Hospitality Investments, the Company and the Trustee-Manager, together with the applicable directors' reports; or
  - (ii) summary financial reports permitted by the Listing Rules,

shall, at least 21 days before the date of the Annual General Meeting, be sent by post to the registered address of each Registered Holder of Share Stapled Units.

## **20. ANNOUNCEMENTS, CIRCULARS AND NOTICES**

### **20.1 Registered Holders of Share Stapled Units to be Sent All Circulars and Other Documents**

The Trustee-Manager and the Company shall ensure that Registered Holders of Share Stapled Units are sent:

- (i) all circulars and other documents required to be issued (including, but not limited to, those required to be issued under the Listing Rules) to Shareholders or which are otherwise issued to Shareholders for any reason; and
- (ii) all circulars and other documents required to be issued (including, but not limited to, those required to be issued under the Listing Rules) to Registered Holders of Units, or which are otherwise issued to Registered Holders of Units for any reason.

### **20.2 Publication of Announcement**

- (a) The Trustee-Manager and the Company shall inform Registered Holders of Share Stapled Units by way of announcement as soon as reasonably practicable of:
  - (i) any inside information (as defined in the Securities and Futures Ordinance) in relation to the Trust and/or the Company as required by the Securities and Futures Ordinance;
  - (ii) any information in relation to the Trust and/or the Company required to be disclosed pursuant to the Listing Rules or other Relevant Laws and Regulations; and
  - (iii) any other information in relation to the Trust and/or the Company which requires approval by a resolution of Registered Holders of Share Stapled Units.
- (b) Without prejudice to the generality of **Clause 20.2(a)**, the Trustee- Manager and the Company shall inform Registered Holders of Share Stapled Units by way of announcement:
  - (i) of any Resignation Notice being given by the Trustee-Manager under **Clause 23.2**, immediately following the Resignation Notice having been given;
  - (ii) of any requisition under **Clause 23.1(c)** to convene a meeting of Registered Holders of Units to remove the Trustee-Manager, immediately following receipt by the Trustee-Manager of the requisition notice; and
  - (iii) as soon as practicable after the Trustee-Manager or the Company becomes aware of any circumstances described in Rule 13.25 of the Listing Rules affecting the Trustee-Manager, the Company, any subsidiary of the Company which fulfils the requirements of Rule 13.25(2) of the Listing Rules or any controlling shareholder (as defined in the Listing Rules) of the Company.

### **20.3 Despatch of Circular for Approval of Registered Holders of Share Stapled Units**

The Trustee-Manager and the Company shall issue a circular to Registered Holders of Share Stapled Units in respect of transactions that, pursuant to the Listing Rules or this Deed (or in the reasonable opinion of the Trustee-Manager), require approval by a resolution of Registered Holders of Units, including the matters listed in **Clause 33**.

### **20.4 Time for Despatch of Circular**

The Trustee-Manager and the Company shall send out a circular to Registered Holders of Share Stapled Units as soon as reasonably practicable after the issuance of an announcement in respect of the entry into of a transaction referred to in **Clause 20.3** (and shall inform Registered Holders of Share Stapled Units in the relevant announcement of the expected date of despatch of the circular). Where a general meeting is to be held, the relevant circular shall be sent to Registered Holders of Share Stapled Units:

- (a) not less than 21 days (exclusive of the day of service or deemed service of the circular and of the day on which the circular is despatched) prior to the day of such meeting for an Extraordinary Resolution of Registered Holders of Units; and
- (b) not less than 14 days (exclusive of the day of service or deemed service of the circular and of the day on which the circular is despatched) prior to the day of such meeting for an Ordinary Resolution of Registered Holders of Units.

### **20.5 Result of General Meeting**

The Trustee-Manager and the Company shall inform Holders of Share Stapled Units of the result of any voting at a general meeting of Registered Holders of Share Stapled Units, or a general meeting of Registered Holders of Units, or a general meeting of Shareholders, by way of announcement.

### **20.6 Service**

Any notice or document required to be served upon a Registered Holder of a Share Stapled Unit or a Registered Holder of a Unit shall be deemed to have been duly given (i) if sent by post to or left at his address as appearing in the Share Stapled Units Register or the Units Register, as the case may be, or in the case of Joint Registered Holders of Share Stapled Units or Joint Registered Holders of Units, to the joint holder whose name stands first in the relevant Register or (ii) where it is sent by electronic means (which shall be in accordance with the applicable requirements of the Listing Rules and the Hong Kong Stock Exchange and the Relevant Laws and Regulations), if transmitted to any electronic number or address or website supplied by the Registered Holder of Share Stapled Units or the Registered Holder of Units (as the case may be) (or in the case of joint holders, by the joint holder whose name stands first in the relevant Register) or by placing it on the website of the Trust or the Company provided that the Trustee-Manager and the Company have obtained either (a) the Register Holder of Share Stapled Units' or the Register Holder of Units' prior express positive confirmation in writing or (b) the Registered Holder of Share Stapled Units' or the Registered Holder of Units' deemed consent, in the manner specified in the Listing Rules to receive or otherwise have made available to him notices and documents to be given or issued to him by the Company by such electronic means, or (in the case of notice) by advertisement published in the manner prescribed under the Listing Rules. Except as otherwise required by the applicable provisions of the Listing Rules or the requirements of the Hong Kong Stock Exchange from time to time, any notice or document so served by post shall be deemed to have been served on the day following that on which it is put into a post office situated within Hong Kong, and in proving such service it shall be sufficient to prove that the envelope or wrapper

containing the notice or document was properly pre-paid, addressed and put into such post office (and a certificate in writing signed by the Company Secretary or other person appointed by the Trustee-Manager that the envelope or wrapper containing the notice or document was so addressed pre-paid and put into such post office shall be conclusive evidence thereof); any notice or document delivered or left at the registered address of a Registered Holder of Share Stapled Units or a Registered Holder of Units (as the case may be) otherwise than by post shall be deemed to have been served on the day it was so delivered or left; any notice given by electronic means shall be deemed to have been served and delivered on the day following that on which it is successfully transmitted or at such later time as may be prescribed by the applicable provisions of the Listing Rules, the requirements of the Hong Kong Stock Exchange or any Relevant Laws and Regulations.

#### **20.7 Means of Communication**

Any announcement, circular, notice or communication that is required to be published, issued, sent, given or made available to Registered Holders of Share Stapled Units or Registered Holders of Units pursuant to this Deed may be published, issued, sent, given or otherwise made available by any means (including electronic means (which term includes sending or otherwise making available such announcement, circular, notice or communication to the registered holder in electronic format)) as permitted under the Relevant Laws and Regulations and as may be permitted or required by the applicable provisions of the Listing Rules or the requirements of the Hong Kong Stock Exchange, from time to time.

#### **20.8 Joint Registered Holders of Share Stapled Units and Joint Registered Holders of Units**

Service of a notice or document on the Joint Registered Holder of Share Stapled Units or the Joint Registered Holder of Units (as the case may be) whose name stands first in the relevant Register shall be deemed effective service on all joint holders.

#### **20.9 Sufficiency of Service**

Any notice or document sent to a Registered Holder of Units in accordance with the requirements of this Deed shall, notwithstanding that such registered holder is then dead or bankrupt and whether or not the Trustee-Manager has notice of his death or bankruptcy, be deemed a sufficient service on all persons interested (whether jointly with or as claiming through or under him) in the Units concerned.

#### **20.10 Notices to Trustee-Manager**

Any notice to the Trustee-Manager shall be addressed to the Trustee-Manager at its specified office and shall be delivered by hand or sent by facsimile transmission or prepaid post. Any such notice sent by facsimile transmission shall be deemed to be served at the time of receipt by the Trustee-Manager and any such notice sent by post shall, in the absence of industrial action affecting any relevant part of the postal services, be deemed to have been served 3 Business Days after posting (if posted in Hong Kong) or 10 Business Days after posting (if posted from overseas), and in proving such service it shall be sufficient to prove that the letter containing the same was properly addressed, stamped and posted.

#### **20.11 Risk of Service**

Any notice or document sent by post to the Trustee-Manager shall be sent at the risk of the person sending the notice or document.

## **20.12 Substituted Service**

Notwithstanding the preceding provisions of this **Clause 20** but subject to the Relevant Laws and Regulations, any notice or other document required to be served upon or sent to all the Registered Holders of Share Stapled Units or the Registered Holders of Units for the time being shall be deemed to have been duly served or sent if published in any one leading English language daily newspaper in Hong Kong and any one leading Chinese language daily newspaper in Hong Kong. Any notice or document so served or sent shall be deemed to have been so served or sent on the date of such publication and, if the publication in the two newspapers does not appear on the same day, on the date of the later publication.

## **21. LIABILITY AND INDEMNITY OF THE TRUSTEE-MANAGER**

### **21.1 Limitation of Liability of the Trustee-Manager**

- (a) In the absence of fraud, wilful default, negligence or breach of this Deed by the Trustee-Manager (including its directors, employees, agents and delegates), the Trustee-Manager (including its directors, employees, agents and delegates) shall not be in any way responsible to the Trust, the Unitholders, the Holders of Share Stapled Units or any other person for any loss, costs, damage or inconvenience that may result from the exercise or non exercise of its powers.
- (b) Save to the extent where the resulting loss or damage arises out of or is caused by or is attributable to the fraud, wilful default, negligence or breach of this Deed, the Trustee-Manager (including its directors, employees, agents and delegates) shall have no liability for any act or omission of the Registrar (including its directors, employees, agents and delegates), provided that any such liability of the Trustee-Manager shall not exculpate the Registrar or any of its directors, employees, agents or delegates from their own liabilities to the Trust for any act or omission.
- (c) In the absence of fraud, wilful default or negligence by the Trustee-Manager (including its directors, employees, agents and delegates), any liability incurred and any indemnity to be given by the Trustee-Manager shall be limited to the Trust Property over which the Trustee-Manager has recourse.
- (d) In the absence of fraud, wilful default or negligence by the Trustee-Manager (including its directors, employees, agents and delegates), the Trustee-Manager shall not incur any liability by reason of any error of judgment or any matter or thing done or suffered or omitted to be done by it in good faith hereunder.
- (e) Subject to the provisions of **Clause 1.10(d)**, the Trustee-Manager shall not incur any liability in respect of or be responsible for losses incurred through the insolvency of or any act or omission of any depository or clearing system with which Trust Property may be deposited or of the Hong Kong licensed banks with which the Distribution Account, the Custody Account and the Subscriptions Account are opened pursuant to **Clauses 18.2, 18.3 and 18.4**, or any broker, financial institution or other person with whom Trust Property is deposited, except where such broker, financial institution or other person is an associated company of the Trustee-Manager.

## **21.2 Legal Proceedings**

Unless the Trustee-Manager is indemnified to its satisfaction against all liability or the Trustee-Manager does not require in any particular case to be so indemnified, the Trustee-Manager shall not be under any obligation to institute, acknowledge service of, appear in, prosecute or defend any action, suit, proceedings or claim in respect of the provisions hereof or in respect of the Trust Property or any part thereof or any corporate or Unitholders' action which, in its opinion, would or might involve it in expense or liability.

## **21.3 Limitations of Liability of Holders**

If the Issue Price of the Share Stapled Unit held by a Holder of Share Stapled Units has been fully paid, such Holder of Share Stapled Units, by reason alone of being a Holder of Share Stapled Units or a Unitholder, shall not be held personally liable to indemnify the Trustee-Manager in the event that the Trust Property is insufficient for the purposes of indemnifying the Trustee-Manager as provided in this Deed.

## **21.4 Beyond Control**

The Trustee-Manager shall not be responsible to the Trust or any Holder of Share Stapled Units, for any loss or damage arising from reasons or causes beyond its control, or the control of any of its directors or employees, including, without limitation, nationalisation, expropriation, currency restrictions, acts of war, terrorism, insurrection, revolution, civil unrest, riots or strikes, nuclear fusion or fission or acts of God.

## **21.5 Legislation**

Save in the case of fraud, wilful default or negligence, the Trustee-Manager, its directors, employees, servants and agents shall incur no liability to the Holders of Share Stapled Units for doing or failing to do any act or thing which by reason of any provision of any present or future law or regulation, or of any decree, order or judgment of any court, or by reason of any request, announcement or similar action (whether of binding legal effect or not) which may be taken or made by any person or body acting with or purporting to exercise the authority of any government (whether legally or otherwise) the Trustee-Manager or any such director, employee, servant or agent shall be directed or requested to do or perform or to forbear from doing or performing. If for any reason it becomes impossible or impracticable to carry out any of the provisions of this Deed, the Trustee-Manager, its directors, employees, servants and agents shall not be under any liability therefor or thereby.

## **21.6 Registered Holders of Units' Resolutions**

Save in the case of fraud, wilful default or negligence, the Trustee-Manager, its directors, employees, servants and agents shall incur no liability for the consequences of acting upon any resolution purported to have been passed at any meeting of Registered Holders of Units duly convened and held in accordance with the provisions contained in **Schedule 1** in respect of which minutes have been made and signed even though it may be subsequently found that there was some defect in the constitution of the meeting or the passing of the resolution or that for any reason the resolution was not binding on the Registered Holders of Units.

## **21.7 Practices and Rulings**

At all times and for all purposes of this Deed the Trustee-Manager, its directors, employees, servants and agents may rely upon the established practice and rulings of the Hong Kong Stock Exchange (or any other Alternative Stock Exchange on which the Share Stapled Units are listed) and any committees and officials thereof on which any dealing in the Share Stapled Units or any part of the Trust Property is from time to time effected in determining what shall constitute good delivery and any similar matters and such practices and rulings shall be conclusive and binding upon all Unitholders and any persons under this Deed.

## **21.8 Saving Clause as to Indemnities**

Any indemnity expressly given to the Trustee-Manager and its directors, employees, servants and agents in this Deed is in addition to and without prejudice to any indemnity allowed by law; provided nevertheless that any provision of this Deed shall be void insofar as it would have the effect of exempting the Trustee-Manager or its directors, employees, servants and agents from or indemnifying it or them against any liability to the Registered Holders of Units for fraud, dishonesty, wilful default or negligence.

## **21.9 Acts of Trustee-Manager**

- (a) Any provision in this Deed providing for any act or matter to be done by the Trustee-Manager may be performed on behalf of the Trustee-Manager by any Officer or responsible official of the Trustee-Manager and any act or matter so performed shall be deemed for all the purposes of this Deed to be the act of the Trustee-Manager.
- (b) Save in the case of fraud, wilful default or negligence, the Trustee-Manager, its directors, employees, servants and agents shall not be liable to account to any Unitholder or otherwise for any payment made or suffered to be made by the Trustee-Manager or its directors, employees, servants or agents in good faith to any duly empowered authority of Hong Kong or elsewhere for Tax or other charges in any way arising out of or relating to any transaction of whatsoever nature under this Deed notwithstanding that any such payments ought not to be or need not have been made or suffered to be made.
- (c) The Trustee-Manager, its directors, employees, servants and agents shall be entitled to rely absolutely on any declaration of tax residence or any information otherwise relevant for Tax purposes which may be received from a Unitholder or prospective Unitholder or applicant for Share Stapled Units or Units.
- (d) Save in the case of fraud, wilful default or negligence, the Trustee-Manager, its directors, employees, servants and agents shall incur no liability in respect of any action taken or thing suffered by it or them in reliance upon any notice, resolution, direction, consent, certificate, affidavit, statement, certificate of stock, plan or reorganisation or other paper or document believed to be genuine and to have been passed, sealed or signed by the proper parties.

## **21.10 Indemnity Out of the Trust Property**

- (a) Subject as herein expressly provided and without prejudice to any right of indemnity at law given to the Trustee-Manager, (or to any director, employee, servant or agent of the Trustee-Manager), the Trustee- Manager and any director, employee, servant and agent of the Trustee- Manager shall be indemnified out of, and shall be entitled for the purpose of indemnity to have recourse to, the Trust Property or any part thereof against any actions, costs, claims, damages, expenses, penalties or demands to which it or he/she may be put as Trustee-Manager of the Trust and as director, employee, servant or agent of the Trustee-Manager, save where such action, cost, claim, damage, expense, penalty or demand is occasioned by the fraud, wilful default or negligence of the Trustee- Manager or any director, employee, servant, agent or delegate of the Trustee-Manager.
- (b) If the Trustee-Manager is being wound up or is under receivership:
  - (i) any provision of this Deed which purports to deny the Trustee-Manager a right to be indemnified out of the Trust Property that the Trustee-Manager would have had if it were not being wound up or under receivership, as the case may be, shall be void against the liquidator or receiver of the Trustee-Manager, as the case may be; and
  - (ii) any right of the Trustee-Manager to be indemnified out of the Trust Property shall be exercised by the liquidator or receiver of the Trustee-Manager, as the case may be.

## **22. AUDITOR**

### **22.1 Appointment and Removal of Auditor**

- (a) The Trust shall at each Annual General Meeting of the Registered Holders of Units appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next Annual General Meeting of the Registered Holders of Units.
- (b) Where at an Annual General Meeting of Registered Holders of Units no auditor is appointed or reappointed, the court may, on the application of any Registered Holder of Units, appoint a person to fill the vacancy.
- (c) The first auditor of the Trust may be appointed by the Trustee-Manager at any time before the first Annual General Meeting of Registered Holders of Units, and the auditor so appointed shall hold office until the conclusion of that Annual General Meeting.
- (d) The Trustee-Manager, or the Registered Holders of Units in general meeting by an Ordinary Resolution of Registered Holders of Units, may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.
- (e) The Registered Holders of Units may by an Ordinary Resolution of Registered Holders of Units remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between the Trustee-Manager and the auditor.

- (f) The remuneration of the auditor of the Trust:
  - (i) in the case of an auditor appointed by the Trustee-Manager or by the court, may be fixed by the Trustee-Manager or by the court, as the case may be; and
  - (ii) subject to **Clause 22.1(f)(i)** above, shall be fixed by the Registered Holders of Units in general meeting, by an Ordinary Resolution of Registered Holders of Units, or in such manner as the Registered Holders of Units in general meeting may determine.
- (g) The appointment of a firm by its firm name to be the auditor of the Trust shall be deemed to be an appointment of those persons who shall from time to time during the currency of the appointment be the partners in that firm as from time to time constituted and who are qualified for appointment as auditors of the Trust, provided that any such appointment shall lapse, and thereby create a casual vacancy in the office of auditor, if all those persons who were partners in the firm and qualified as aforesaid at the date of the appointment cease to be partners or so qualified before the period of the appointment expires.

## **22.2 The Trust, the Company and the Trustee-Manager Must Have the Same Auditor**

The Trustee-Manager and the Company shall procure that the auditor of the Trust, the auditor of the Company and the auditor of the Trustee-Manager shall, at all times, be the same person or firm.

## **22.3 Fees and Expenses of the Auditor**

The fees (including disbursements) of the auditors of the Trust and the Trustee-Manager in connection with the audit of any financial statements of the Trust and/or the Trustee-Manager may be paid out of the Trust Property.

## **22.4 Costs of Removal**

Any costs and expenses incurred in connection with the removal or retirement of the auditors under this **Clause 22** may be paid out of the Trust Property.

## **23. APPOINTMENT, REMOVAL OR RESIGNATION OF TRUSTEE-MANAGER**

### **23.1 Appointment and Removal of the Trustee-Manager**

- (a) The appointment and removal of the Trustee-Manager shall only be in accordance with this Deed and the Relevant Laws and Regulations. Under the Listing Rules, the Hong Kong Stock Exchange would normally expect the Trustee-Manager to be a company which has not carried on any business other than the management and operation of the Trust as its trustee-manager.
- (b) The Trustee-Manager may be removed by an Ordinary Resolution of Registered Holders of Units. A replacement trustee-manager shall be appointed by an Ordinary Resolution of Registered Holders of Units or in accordance with **Clause 23.1(g)**.
- (c) The Registered Holders of Units may requisition a meeting to vote on a resolution to remove the Trustee-Manager if the Registered Holders of Units requisitioning the meeting hold at the date of the requisition not less than 5% of the total voting rights of all Registered Holders of Units having on that date a right to vote.

- (d) Within 7 days of receiving a requisition referred to in **Clause 23.1(c)**, the incumbent original trustee-manager shall give to the Registered Holders of Units notice of the requisition (the **Requisition Notice**) and, in that notice, inform the Registered Holders of Units of their right to nominate a replacement trustee-manager in accordance with **Clause 23.1(e)**.
- (e) Registered Holders of Units may nominate a company which has consented in writing to serve as the replacement trustee-manager for appointment by the Registered Holders of Units by an Ordinary Resolution of Registered Holders of Units to be proposed at a meeting of Registered Holders of Units to be convened pursuant to **Clause 23.1(f)**, if those Registered Holders of Units hold, at the date of nomination, not less than 5% of the total voting rights of all Registered Holders of Units having on that date a right to vote, and the nomination by those Registered Holders of Units is served on the incumbent trustee-manager not more than 21 days after the date of the Requisition Notice.
- (f) Upon the expiry of 21 days of the date of the Requisition Notice, the incumbent trustee-manager shall call a general meeting of Registered Holders of Units within 28 days and give to Registered Holders of Units notice of the meeting and any resolution(s) to be proposed at that meeting not less than 14 days before the meeting. The resolutions to be proposed shall include resolution(s) for the appointment as the replacement trustee-manager of the Trust of one of the eligible candidates for appointment nominated for appointment by the Registered Holders of Units under **Clause 23.1(e)**. All of the eligible candidates so nominated shall be included in the list of candidates to be specified in the resolution(s) to be proposed at the meeting of Registered Holders of Units.
- (g) If, within 21 days of receipt of a Requisition Notice, the incumbent trustee-manager has not received a nomination of a company to serve as trustee-manager, Registered Holders of Units representing not less than 5% of the total voting rights of all Registered Holders of Units may apply to the court to make an order under Section 42 of the Trustee Ordinance appointing a company to act as trustee-manager with effect from the date fixed for the meeting to be convened in accordance with **Clause 23.1(f)**, provided that the resolution to remove the original trustee-manager is passed as an Ordinary Resolution of Registered Holders of Units at such meeting.
- (h) Any resolution to remove the incumbent trustee-manager shall not take effect until a replacement trustee-manager is appointed and a replacement trustee-manager shall only be appointed by an Ordinary Resolution of the Registered Holders of Units and such appointment shall only become effective in accordance with, and subject to, the provisions of **Clause 23.6(a)**.
- (i) For as long as the Trustee-Manager is a subsidiary of Great Eagle Holdings Limited, it must remain a wholly owned subsidiary of Great Eagle Holdings Limited.

## 23.2 Resignation of the Trustee-Manager

- (a) The Trustee-Manager (the *Resigning Trustee-Manager*) may resign by giving notice (the *Resignation Notice*) of its intention to all Registered Holders of Units and shall nominate another company, which has consented in writing to serve as the replacement trustee-manager. The resignation of the Trustee-Manager shall only be effective upon the appointment of another corporation as the trustee-manager of the Trust and subject to such corporation entering into a deed supplemental hereto providing for such appointment. The Resigning Trustee-Manager shall also inform the Registered Holders of Units of their right to nominate a company as the replacement trustee-manager in accordance with **Clause 23.2(b)**.
- (b) The Registered Holders of Units may nominate a company which has consented in writing to serve as the replacement trustee-manager for approval to be appointed by an Ordinary Resolution of Registered Holders of Units to be proposed at a meeting of Registered Holders of Units to be convened pursuant to **Clause 23.2(c)**, if those Registered Holders of Units hold, at the date of nomination, not less than 5% of the total voting rights of all Registered Holders of Units having on that date a right to vote, and the nomination by those Registered Holders of Units is served on the Resigning Trustee-Manager not more than 21 days after the date of the Resignation Notice.
- (c) Upon the expiry of 21 days of the date of the Resignation Notice, the Resigning Trustee-Manager shall call a general meeting within 28 days and give to Registered Holders of Units notice of the meeting and any resolutions to be proposed at that meeting not less than 14 days before the meeting. The resolutions to be proposed shall include resolutions for the appointment as the replacement trustee-manager of the Trust of one of the candidates nominated for appointment by the Trustee-Manager under **Clause 23.2(a)** or by the Registered Holders of Units under **Clause 23.2(b)**. All of the eligible candidates so nominated shall be included in the list of candidates to be specified in the resolution(s) to be proposed at the meeting of Registered Holders of Units.
- (d) If, within 21 days of the date of the Resignation Notice, no nomination of a company to serve as the replacement Trustee-Manager has been made, Registered Holders of Units representing not less than 5% of the total voting rights of all Registered Holders of Units may apply to the court to make an order under Section 42 of the Trustee Ordinance appointing a company to act as trustee-manager with effect from the date fixed for the meeting to be convened in accordance with **Clause 23.2(c)**.
- (e) A replacement trustee-manager shall only be appointed with the approval of an Ordinary Resolution of Registered Holders of Units and the resignation of the Resigning Trustee-Manager shall not take effect until a replacement trustee-manager is appointed and the provisions of **Clause 23.6(a)** have been complied with.
- (f) The Resignation Notice shall:
  - (i) state the reasons for resignation;
  - (ii) nominate a company to replace the Resigning Trustee-Manager as trustee-manager of the Trust; and
  - (iii) inform the Holders of Units of their right to nominate a new trustee-manager of their choice.

### **23.3 Costs of Appointment, Removal or Resignation**

Any costs and expenses incurred in connection with the appointment, removal or resignation of the Trustee-Manager under this **Clause 23** may be paid out of the Trust Property. For the avoidance of doubt, such costs and expenses may include the costs and expenses of organising a general meeting of Registered Holders of Units or applying for a court order in connection with the appointment, removal or resignation of the Trustee-Manager, but shall not include (i) the costs and expenses incurred in connection with the winding up of the Trustee-Manager, and (ii) any remuneration or compensation payable upon the termination of the service contract of any Officer of the Trustee-Manager.

### **23.4 Notice to Registered Holders of Units**

The new Trustee-Manager shall, as soon as practicable after its appointment, give notice in writing to the Registered Holders of Units specifying the new Trustee-Manager's name and the address of its office.

### **23.5 Insolvency of the Trustee-Manager**

- (a) If the Trustee-Manager goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved by an Ordinary Resolution of Registered Holders of Units) or if a receiver is appointed over any of its assets or if a judicial manager is appointed in respect of the Trustee-Manager (or any such analogous process occurs or any analogous person is appointed in respect of the Trustee-Manager) or if the Trustee-Manager ceases to carry on business, the Trustee-Manager must immediately give a Resignation Notice and the provisions of **Clause 23.2** shall apply.
- (b) If the Trustee-Manager fails to give a Resignation Notice within 5 Business Days of the relevant event referred to in **Clause 23.5(a)** having occurred, any Registered Holder of Units may make an application to the court to make an order pursuant to Section 42 of the Trustee Ordinance to appoint a temporary trustee-manager who will act as trustee-manager until a trustee-manager is appointed by an Ordinary Resolution of Registered Holders of Units.

### **23.6 Transfer of Rights, Obligations and Liabilities of the Trustee-Manager**

- (a) The removal or resignation of the Trustee-Manager shall only be effective upon the incumbent Trustee-Manager which is being removed, or the Resigning Trustee-Manager (as the case may be), having taken all necessary steps to transfer legal title to all Trust Property to the incoming trustee-manager, including, but not limited to, the Ordinary Shares. The responsibilities and obligations of the Trustee-Manager which is being removed or is resigning will only cease, and the responsibilities and obligations of the incoming trustee-manager will only commence, upon all those necessary steps having been completed.
- (b) On removal or resignation or retirement, the removed or resigning or retiring Trustee-Manager shall vest the Trust Property in the new trustee-manager, and give the new trustee-manager all books, documents, records and any other property held by or on behalf of the removed or resigning or retiring Trustee-Manager relating to the Trust. All costs and expenses reasonably incurred in vesting the Trust Property in any new trustee-manager shall be borne out of the Trust Property by the Trust.

- (c) On effective removal or retirement hereunder and the provisions of **Clause 23.6(a)** having been complied with, the Resigning Trustee-Manager (or the Trustee-Manager being removed or retiring) shall be discharged and shall no longer be liable in any matter hereunder except as to acts or occasions occurring prior to such removal, resignation or retirement and except as provided in **Clause 23.6(g)**, and the new trustee-manager shall thereupon undertake and perform all duties and be entitled to all rights and compensations as the Trustee-Manager under this Deed or any other supplemental trust deed. The successor Trustee-Manager shall not be under any liability hereunder for any default by the predecessor and shall be indemnified out of the Trust Property against all such liability.
- (d) The Resigning Trustee-Manager (or the Trustee-Manager being removed or retiring), shall assign or novate to the new Trustee-Manager on terms reasonably acceptable to the successor Trustee-Manager (and obtain the written consent of the counterparties thereto) all agreements of which it, as trustee and/or manager, is a party concerning the Trust.
- (e) Upon the removal, resignation or retirement of the Trustee-Manager:
  - (i) all obligations entered into and Liabilities incurred by the Trustee-Manager in its capacity as trustee and/or manager or otherwise for the account of the Trust shall survive the removal, resignation or retirement of the Trustee-Manager as obligations and Liabilities enforceable against the successor Trustee-Manager and/or the Trust Property, as the case may be;
  - (ii) any claims (actual or contingent) which any person may have against the Trust Property howsoever arising shall not in any way be prejudiced or otherwise affected by the removal, resignation or retirement of the Trustee-Manager; and
  - (iii) the successor trustee-manager shall be under the same obligations with respect to the performance and discharge of any obligations entered into or Liabilities incurred by the Resigning Trustee-Manager (or the Trustee-Manager being removed or retiring) in its capacity as trustee and/or manager or otherwise for the account of the Trust as the Resigning Trustee-Manager (or the Trustee-Manager being removed or retiring) or otherwise for the account of the Trust as the Resigning Trustee-Manager (or the Trustee-Manager being removed or retiring) was or would have been but for its resignation, removal or retirement.
- (f) Any Trust Property and other rights and obligations entered into by the Trustee-Manager in its capacity as trustee and/or manager of the Trust not otherwise transferred to and assumed by a newly appointed trustee- manager shall vest in the new trustee-manager as if Section 41 of the Trustee Ordinance applied to such Trust Property and other rights and obligations.
- (g) The following rights and obligations shall remain with the Trustee- Manager which has been removed or is retiring, or the Resigning Trustee-Manager, as the case may be:
  - (i) any right to be indemnified for expenses it had incurred before it ceased to be the trustee-manager; and
  - (ii) any liability in respect of which it would have no claim of indemnification out of the Trust Property if it had remained the trustee-manager.

- (h) The Trustee-Manager which is being removed or is retiring, or the Resigning Trustee-Manager, as the case may be, shall provide reasonable assistance to an incoming trustee-manager to enable it to assume its role as trustee-manager of the Trust.
- (i) **Clause 21.10** shall continue to be in full force and effect as regards to the Trustee-Manager notwithstanding the retirement, resignation or removal of the Trustee-Manager.

## **24. TAX**

### **24.1 Value Added Tax or Goods and Services Tax**

Where any value added tax or goods and services tax is payable by the Trustee-Manager in relation to services rendered to the Trust by it in connection with the exercise of its powers and discretions and/or the performance of its obligations under this Deed, the Trustee-Manager shall be entitled to be reimbursed therefor out of the Trust Property or such value added tax or goods and services tax may be paid out of the Trust Property.

### **24.2 Deduction of Tax**

Before making any Distribution or other payment in respect of any Unit, the Trustee-Manager may make such deductions as by the law of Hong Kong or the Cayman Islands or by the law of any other country in which such Distribution or payment is made the Trustee-Manager is required or entitled to make in respect of any income or other Taxes, charges or assessments whatsoever. The Trustee-Manager may also deduct the amount of any stamp duties or other Taxes or charges payable by it or for which it may be made liable in respect of such Distribution or payment or any documents signed by it in connection therewith.

## **25. TERMINATION OF THE TRUST**

### **25.1 Termination**

- (a) The duration of the Trust constituted by this Deed is 80 years less one day but the Trust may, without prejudice to the provisions of the Relevant Laws and Regulations, be terminated by the Trustee-Manager prior to the expiry of that period:
  - (i) in the event that any law shall be passed which renders it illegal or, in the reasonable opinion of the Trustee-Manager, impracticable or inadvisable to continue the Trust and approval for the winding up has been given by way of an Ordinary Resolution of Registered Holders of Units duly passed in accordance with this Deed; or
  - (ii) at any time if approval for the termination has been given by way of an Extraordinary Resolution of Registered Holders of Units duly passed in accordance with this Deed.
- (b) The Trust shall terminate upon completion of the exercise of the Exchange Right by Registered Holders of Share Stapled Units in accordance with **Clause 12**.

- (c) In the event that the Trustee-Manager is removed under **Clause 23.1** and no new trustee-manager is willing to take the place of the existing Trustee-Manager within 60 days of the removal of the Trustee-Manager (or such longer period as the Trustee-Manager considers appropriate), any Registered Holder of Units may apply to the court to make an order under the Trustee Ordinance or under the court's inherent jurisdiction to either:
  - (i) appoint a company to act as trustee-manager; or
  - (ii) terminate the Trust.
- (d) The Trustee-Manager shall have no liabilities for any consequence arising out of any termination of the Trust which has been approved by an Ordinary Resolution of Registered Holders of Units (under **Clause 25.1(a)(i)**) or an Extraordinary Resolution of Registered Holders of Units (under **Clause 25.1(a)(ii)**) or which results from completion of the exercise of the Exchange Right or upon the expiry of the period of 80 years less one day, in each case in the absence of fraud, wilful default or negligence.

## **25.2 Manner of Liquidation**

In the event that the Trust is to be wound up (whether on the expiry of the Trust period of 80 years less one day or otherwise in accordance with the provisions of **Clause 25.1**), the Trustee-Manager shall, subject to authorisations or directions (if any) given to it by an Ordinary Resolution of Registered Holders of Units referred to in **Clause 25.1(a)(i)** or an Extraordinary Resolution of Registered Holders of Units referred to in **Clause 25.1(a)(ii)** (as the case may be), proceed as follows:

- (a) The Trustee-Manager shall distribute the Ordinary Shares to the Registered Holders of Units *in specie* and distribute the remaining Trust Property (if any) to the Registered Holders of Units in proportion to the number of fully paid up Units held by each of them; provided that, the Trustee-Manager shall be entitled to retain out of any monies in its hands as part of the Trust Property full provision for all fees, costs, charges, expenses, claims and demands incurred, made or apprehended by the Trustee-Manager in connection with or arising out of the termination of the Trust and the distribution and/or realisation of the Trust Property and out of the monies so retained to be indemnified and saved harmless against any such costs, charges, expenses, claims and demands.
- (b) The Trustee-Manager shall effect the distribution referred to in **Clause 25.2(a)** in such manner and within such period after the termination of the Trust as the Trustee-Manager in its absolute discretion deems advisable and shall ensure the proper discharge of any obligations and Liabilities of the Trust and adequate provisions for such obligations and liabilities; provided that such period may not exceed six months.

### **25.3 Documents Prepared Upon Completion of Liquidation**

Upon the completion of the liquidation of the Trust, the following shall be prepared:

- (a) the Trustee-Manager's review and comment on the performance of the Trust and an explanation as to how the Trust Property has been disposed of;
- (b) financial statements of the Trust which shall be distributed to Registered Holders of Units within three months of completion of the liquidation of the assets of the Trust; and
- (c) an Auditor's report in relation to those financial statements.

### **25.4 Redemption of Preference Shares and Cancellation of Units**

In the event that the Trust is to be terminated under **Clause 25.1(a)**, or terminates on the expiry of the Trust period of 80 years less one day, the Company shall redeem all the issued Preference Shares in accordance with the Articles and following the completion of the distribution referred to in **Clause 25.2(a)**, the Units shall be cancelled.

### **25.5 Termination of this Deed**

- (a) Upon completion of the liquidation of the Trust, this Deed shall terminate and the Trust will cease to exist.
- (b) This Deed shall also terminate, and the Trust will cease to exist, upon completion of the exercise of the Exchange Right under **Clause 12**.

## **26. MODIFICATION OF TRUST DEED**

- (a) The Trustee-Manager and the Company shall jointly, by mutual agreement between them, and subject to the Relevant Laws and Regulations, be entitled by deed supplemental hereto to modify, amend, alter or add to the provisions of this Deed if and to the extent that such modification, amendment, alteration or addition:
  - (i) either does not prejudice the interests of the Unitholders or any prejudice is immaterial; and does not operate to release to any material extent the Trustee-Manager from any responsibility to the Unitholders; and does not increase the costs or charges payable from the Trust Property (other than charges, fees and expenses incurred in connection with the supplemental deed); or
  - (ii) is necessary in order to comply with applicable fiscal, statutory or official requirements (whether or not having the force of law), including, without limitation, requirements under the Relevant Laws and Regulations; or
  - (iii) is made to correct a manifest error; or

- (iv) is made to reflect any changes made to the Relevant Laws and Regulations after the Listing Date and the relevant modification, amendment, alteration or addition is consistent with the changes made to the Relevant Laws and Regulations and is approved by an Extraordinary Resolution of Registered Holders of Units. In the interests of clarity, this **Clause 26(a)(iv)** is intended to permit, and does permit, the Trustee-Manager and the Company acting jointly by mutual agreement between them and subject to prior approval by an Extraordinary Resolution of Registered Holders of Units, to modify, amend, alter or add to the provisions of this Deed to change the arrangements set out in this Deed to make them consistent with a structure which complies with any future Relevant Laws and Regulations which are introduced in Hong Kong to specifically govern the listing, operation and management of listed trusts which hold an operating business (including holding such a business by holding shares in one or more companies conducting an operating business) as the sole or principal asset of the trust (the *New Specific Regulations*). If such New Specific Regulations are introduced in the future it is intended that, subject to prior approval by an Extraordinary Resolution of Registered Holders of Units, the Trustee-Manager and the Company would have the authority to change the arrangements set out in this Deed to a structure which is authorised under, and fully compliant with, the New Specific Regulations and that those aspects of the arrangements set out in this Deed which are not required under such New Specific Regulations could be dispensed with provided that the New Specific Regulations are fully complied with in respect of any changed structure and any modifications, amendments, alterations or additions to the provisions of this Deed.

The Trustee-Manager shall certify in writing that, in its opinion, the relevant modification, amendment, alteration or addition falls within one or more of the descriptions above.

- (b) Subject to **Clause 26(a)**, no modification, amendment, alteration or addition of or to any of the following provisions of this Deed shall be made:
- (i) **Clause 2** (*Constitution of the Trust*);
  - (ii) **Clause 3** (*Units Linked to Underlying Ordinary Shares and Stapled to Preference Shares*);
  - (iii) **Clause 4** (*Co-operation and Consultation*);
  - (iv) **Clause 5.12** (*Repurchase or Redemption of Share Stapled Units*);
  - (v) **Clause 7** (*Compliance with the Listing Rules and Other Relevant Laws and Regulations*);
  - (vi) **Clause 9** (*Share Stapled Units Register and Transfers of Share Stapled Units*);
  - (vii) **Clause 10** (*Units Register and Transfers of Units*);
  - (viii) **Clause 11** (*Register of Members, Transfers of Beneficial Interests in Ordinary Shares and Register of Beneficial Interests*);
  - (ix) **Clause 12** (*Exchange*);
  - (x) **Clause 13** (*Object and Purpose of the Trust*);

- (xi) **Clause 14.1(b)**, which provides that the Trustee-Manager shall ensure that all amounts distributed or paid to the Trustee-Manager by the Company in respect of the Ordinary Shares are distributed to the Registered Holders of Units, subject to the deduction of any and all amounts permitted to be deducted or paid from the Trust Property under this Deed but excluding (for the avoidance of doubt) all other provisions of **Clause 14**;
  - (xii) **Clauses 18.1 to 18.5**, relating to the safe custody of the Trust Property and the segregated accounts, but excluding (for the avoidance of doubt) all the other provisions of **Clause 18**;
  - (xiii) **Clause 20.1**, providing that Registered Holders of Share Stapled Units shall receive all notices in respect of both the Trust and the Company, but excluding (for the avoidance of doubt) all the other provisions of **Clause 20**;
  - (xiv) **Clause 23** (*Appointment, Removal or Resignation of Trustee-Manager*);
  - (xv) this **Clause 26** (*Modification of Trust Deed*);
  - (xvi) **Clause 29** (*Directors of the Trustee-Manager*);
  - (xvii) **Clause 32** (*No Acceptance of an Offer for the Ordinary Shares or Other Disposal of Ordinary Shares*); and
  - (xviii) **Clause 36** (*Governing Law*).
- (c) Subject to **Clauses 26(a)** and **26(b)**, any other modification, amendment, alteration or addition to the provisions of this Deed may only be made with the sanction of an Extraordinary Resolution of Registered Holders of Units.
- (d) No modification, amendment, alteration or addition to the provisions of this Deed (whether made under **Clause 26(a)**, **26(b)** or **26(c)**) shall impose upon:
- (i) any Unitholder any obligation to make further payments in respect of the Units included in his holding of Share Stapled Units (where the issue price of such Units has already been fully paid) or to accept any liability in respect thereof; or
  - (ii) any holder of Preference Shares or Ordinary Shares any obligation to make further payments in respect of the Shares included in his holding of Share Stapled Units (where the issue price of such Shares has already been fully paid).
- (e) The Trustee-Manager shall as soon as practicable after any modification, amendment, alteration or addition to the provisions of this Deed give notice of the relevant modification, amendment, alteration or addition to the Registered Holders of Units by way of announcement published in accordance with the Listing Rules, unless the relevant modification, amendment, alteration or addition is not, in the opinion of the Trustee-Manager, of material significance. All fees, costs and expenses incurred by the Trustee-Manager in connection with any such document supplemental to this Deed (including expenses incurred in the holding of a meeting of Registered Holders of Units, if necessary) shall be charged against the Trust Property.
- (f) Notwithstanding anything expressed or implied to the contrary in this Deed, no modification, amendment or alteration shall be made to **Clause 23.1(i)**.

- (g) The Trustee-Manager and the Company must disclose the Linked and Stapled structure in their listing documents (as defined in the Listing Rules) and annual reports and must disclose any proposed changes to the structure by way of announcement published in accordance with the Listing Rules.

**27. MEETINGS OF REGISTERED HOLDERS OF UNITS AND MEETINGS OF REGISTERED HOLDERS OF SHARE STAPLED UNITS**

- (a) The provisions set out in **Schedule 1** relating to meetings and proceedings of Registered Holders of Units shall have effect as if the same were included herein.
- (b) The provisions set out in **Schedule 1** shall also apply in relation to Meetings of Registered Holders of Share Stapled Units, in respect of all aspects of those meetings which relate to the Units and/or the Registered Holders of Units. Accordingly, the notice provisions in **paragraph 2** of **Schedule 1**, the quorum and voting provisions in **paragraph 3** of **Schedule 1**, the provisions relating to adjourned meetings in **paragraph 4** of **Schedule 1** and the provisions relating to minutes of meetings in **paragraph 5** of **Schedule 1** are all applicable, and must be complied with, in respect of the Units and the Registered Holders of Units in relation to any meeting characterised as a Meeting of Registered Holders of Share Stapled Units. In addition, the equivalent provisions of the Articles are applicable, and must be complied with, in respect of the Shares and the Shareholders in relation to any such meeting.
- (c) If at any time the Units are divided into different classes of Units and it is required to hold a separate meeting of any class of Units, the provisions of **Schedule 1** shall apply, modified as follows:
  - (i) each reference to a Registered Holder of Units in **Schedule 1** (other than in **paragraph 1.1** of **Schedule 1** relating to the requirement to hold an Annual General Meeting of Registered Holders of Units) shall be construed as if it were a reference to a Registered Holder of the relevant class of Units; and
  - (ii) each reference to Units in **Schedule 1** (other than in **paragraph 1.1** of **Schedule 1** relating to the requirement to hold an Annual General Meeting of Registered Holders of Units) shall be construed as if it were a reference to the relevant class of Units.

**28. BENEFICIAL OWNERSHIP**

The Trustee-Manager may by notice in writing require any Unitholder other than HKSCC Nominees, within such reasonable time as is specified in the notice, to inform the Trustee-Manager:

- (i) whether it holds any Units as beneficial owner or as trustee, and if any Units are held by it as trustee, as far as it can, the person for whom it holds them (either by name or by other particulars sufficient to enable those persons to be identified) and the nature of the interest; and
- (ii) whether any of the voting rights carried by any Units held by it is the subject of an agreement or arrangement under which another person is entitled to control the exercise of those rights and, if so, to give particulars of the agreement or arrangement and the parties to it.

## **29. DIRECTORS OF THE TRUSTEE-MANAGER**

### **29.1 Board of Directors of the Trustee-Manager and the Company to be the Same**

- (a) The board of directors of the Trustee-Manager shall at all times comprise the same individuals who serve as directors of the Company.
- (b) No person shall serve as a director of the Trustee-Manager unless he also serves as a director of the Company at the same time.
- (c) No person shall serve as a director of the Company unless he also serves as a director of the Trustee-Manager at the same time.
- (d) The office of a director of the Trustee-Manager shall be vacated if he ceases to be a director of the Company.
- (e) The office of a director of the Company shall be vacated if he ceases to be a director of the Trustee-Manager.
- (f) The articles of association of the Trustee-Manager shall contain provisions to the effect set out in **Clauses 29.1(a), 29.1(b), 29.1(d) and 29.1(g)** and the Articles shall contain provisions to the effect set out in **Clauses 29.1(c), 29.1(e) and 29.1(h)**.
- (g) No person shall be appointed or serve as an alternate in respect of a director of the Trustee-Manager unless he is also appointed and serves as an alternate of the same person in his capacity as a director of the Company.
- (h) No person shall be appointed or serve as an alternate in respect of a director of the Company unless he is also appointed and serves as an alternate of the same person in his capacity as a director of the Trustee- Manager.

### **29.2 Appointment and Removal of Directors of the Company and Directors of the Trustee-Manager**

- (a) Subject to **Clause 29.1**, Shareholders may appoint a person to be a director of the Company (either to fill a casual vacancy or to increase the number of directors) by an ordinary resolution of Shareholders.
- (b) By operation of **Clause 29.1**, a person appointed as a director (including an alternate director) of the Company by an ordinary resolution of Shareholders passed pursuant to **Clause 29.2(a)**, shall also be appointed as a director or an alternate director, as the case may be, of the Trustee-Manager.
- (c) Subject to **Clause 29.1**, Shareholders may remove a director of the Company by an ordinary resolution of Shareholders.
- (d) By operation of **Clause 29.1**, a person removed as a director (including his alternate) of the Company by an ordinary resolution of Shareholders pursuant to **Clause 29.2(c)**, shall also be removed as a director (including his alternate) of the Trustee-Manager.

- (e) Under the Articles, where proposals are under consideration concerning the appointment (including fixing or varying the terms of or terminating the appointment) of two or more directors of the Company to offices or employments with the Company or any company in which the Company is interested, such proposals shall be divided and considered in relation to each director separately.
- (f) Under the Articles, the board of directors of the Company has power from time to time and any time, subject to the provisions of the Articles, to appoint any person as a director of the Company either to fill a casual vacancy or as an addition to the board of directors of the Company. Any director of the Company so appointed shall also be appointed as a director of the Trustee-Manager.
- (g) Any director of the Company and any director of the Trustee-Manager appointed to fill a casual vacancy, as referred to in **Clause 29.2(f)**, shall only hold office until the next following general meeting of the Company or the next following general meeting of the Trust, as the case may be, and shall be eligible for re-election at that meeting, subject to compliance with the applicable provisions of the Articles and this Deed. Any director of the Company and any director of the Trustee-Manager appointed as an addition to the board of directors of the Company, as referred to in **Clause 29.2(f)**, shall only hold office until the next following Annual General Meeting of the Company or the next following Annual General Meeting of the Trust, as the case may be, and shall be eligible for re-election at that meeting, subject to compliance with the applicable provisions of the Articles and this Deed. The Annual General Meeting of the Company and the Annual General Meeting of the Trust shall be held on a combined basis or, if that is not possible under the Relevant Laws and Regulations, separately and consecutively, in accordance with the provisions of **Clause 4.7**.
- (h) Any director of the Company and any director of the Trustee-Manager may at any time by notice delivered to the registered office or head office or at a meeting of the directors of the Company or the Trustee-Manager, as the case may be, appoint any person to be his alternate director. Any person so appointed shall have all the rights and powers of the director or directors of the Company or the Trustee-Manager, as the case may be, for whom such person is appointed in the alternative, provided that such person shall not be counted more than once in determining whether or not a quorum is present. An alternate director may be removed at any time by the body which appointed him and, subject thereto, the office of alternate director of the Company or the Trustee-Manager, as the case may be, shall continue until the next annual election of directors of the Company or the Trustee-Manager, as the case may be, or, if earlier, the date on which the relevant director of the Company or the Trustee-Manager, as the case may be, ceases to be a director of the Company or the Trustee-Manager, as the case may be. Any appointment or removal of an alternate director of the Company or the Trustee-Manager, as the case may be, shall be effected by notice signed by the appointor and delivered to the registered office or head office of the Company or the Trustee-Manager, as case may be, or tendered at a meeting of the board of directors of the Company or the Trustee-Manager, as the case may be. An alternate director of the Company or the Trustee-Manager, as the case may be, may also be a director of the Company or the Trustee-Manager, as the case may be, in his own right and may act as alternate to more than one director of the Company or the Trustee-Manager, as the case may be.

- (i) An alternate Director shall (except when absent from Hong Kong) be entitled to receive and waive (in lieu of his appointor) notices of meetings of the board of directors of the Company or the Trustee-Manager, as the case may be, or of committees of the board of directors of the Company or the Trustee-Manager, as the case may be, to the same extent as and in addition to the director of the Company or the Trustee-Manager, as the case may be, appointing him and shall be entitled to such extent to attend and vote as a director and be counted in the quorum at any such meeting at which the director of the Company or the Trustee-Manager, as the case may be, appointing him is not personally present and generally at such meeting to exercise and discharge all the functions, powers and duties of his appointor as a director of the Company or the Trustee-Manager, as the case may be. For the purposes of the proceedings at such meeting, the provisions of the Articles or the articles of association of the Trustee-Manager, as the case may be, shall apply as if he were a director of the Company or the Trustee-Manager, as the case may be, save that if he is himself a director of the Company or the Trustee-Manager, as the case may be, or is an alternate for more than one director of the Company or the Trustee-Manager, as the case may be, his voting rights shall be cumulative and he need not use all his votes or cast all the votes in the same way.
- (j) Every person acting as an alternate director of the Company or the Trustee-Manager, as the case may be, shall have one vote for each director of the Company or the Trustee-Manager, as the case may be, for whom he acts as alternate (in addition to his own vote if he is also a director of the Company or the Trustee-Manager, as the case may be). If his appointor is for the time being absent from Hong Kong or otherwise not available or unable to act (as to which a certificate by the alternate director shall, in the absence of actual notice to the contrary to the other directors of the Company or the Trustee-Manager, as the case may be, be conclusive), his signature to any resolution in writing of the board of directors of the Company or the Trustee-Manager, as the case may be, or a committee of the board of directors of the Company or the Trustee-Manager, as the case may be, of which his appointor is a member shall, unless the notice of his appointment provides to the contrary, be as effective as the signature of his appointor.
- (k) An alternate director of the Company or the Trustee-Manager, as the case may be, shall *ipso facto* cease to be an alternate Director if his appointor ceases for any reason to be a director of the Company or the Trustee-Manager, as the case may be, however, such alternate director of the Company or the Trustee-Manager, as the case may be, or any other person may be re-appointed by the directors of the Company or the Trustee-Manager, as the case may be, to serve as an alternate director of the Company or the Trustee-Manager, as the case may be, provided always that, if at any meeting any director of the Company or the Trustee-Manager, as the case may be, retires but is re-elected at the same meeting, any appointment of such alternate director pursuant to the Articles or the articles of association of the Trustee-Manager, as the case may be, which were in force immediately before his retirement shall remain in force as though he had not retired.

- (l) An alternate director of the Company or the Trustee-Manager, as the case may be, shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a director of the Company or the Trustee-Manager, as the case may be, but he shall not be entitled to receive from the Company or the Trustee-Manager, as the case may be, in respect of his appointment as alternate director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company or the Trustee-Manager, as the case may be, from time to time direct.
  
- (m) At each Annual General Meeting of the Company and the Trust, one-third of the directors of the Company and the Trustee-Manager for the time being (including directors appointed for a specific term and directors who may be required to retire at the same Annual General Meeting under other provisions of this Deed), or if their number is not three or a multiple of three, then the number nearest to but no less than one-third, shall retire from office by rotation, provided that (i) every director of the Company and the Trustee-Manager shall be subject to retirement by rotation at least once every three years and (ii) the directors of the Company retiring at the Annual General Meeting of the Company must be the same directors of the Trustee-Manager retiring at the Annual General Meeting of the Trust. The directors of the Company and the Trustee-Manager to retire by rotation shall include (so far as necessary to ascertain the number of directors to retire by rotation) any director who wishes to retire and not offer himself for re-election. Any further directors so to retire shall be those of the other directors who have been longest in office since their appointment or last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree between themselves) be determined by lot. The number of directors to retire on each occasion shall be determined by reference to the composition of the board of directors of the Company and the Trustee-Manager at the date of the notice convening the relevant Annual General Meeting and no director shall be required to retire by rotation pursuant to this **Clause 29.2(m)** or be relieved from retiring by reason of a change in the number of directors after the date of such notice but before the close of the relevant Annual General Meeting. A retiring director shall be eligible for re-election and shall continue to act as a director throughout the meeting at which the director retires.

### **29.3 Duties of Directors of the Trustee-Manager**

- (a) A director of the Trustee-Manager shall:
  - (i) act honestly and in good faith and exercise such degree of skill, care and diligence as may reasonably be expected of a person of his knowledge and experience holding his office with the Trustee-Manager in the discharge of the duties of his office and, in particular, shall take all reasonable steps to ensure that the Trustee-Manager discharges his duties under **Clause 2.6**;
  - (ii) give priority to the interest of all the Registered Holders of Units as a whole over the interest of the Trustee-Manager in the event of a conflict between the interest of all the Registered Holders of Units as a whole and the interest of the Trustee-Manager;
  - (iii) act for proper purpose;

- (iv) be answerable to the Trustee-Manager and the Registered Holders of Units for the application or misapplication of any Trust Property;
  - (v) avoid actual and potential conflicts of interest and duty; and
  - (vi) disclose fully and fairly his interest in contracts with the Trustee-Manager and/or the Group at the earliest meeting of the board of directors of the Trustee-Manager at which it is practicable for the director to do so, either specifically or by way of a general notice stating that, by reason of facts specified in the notice, the director is to be regarded as interested in any contracts of a specified description which may subsequently be made by the Trustee- Manager.
- (b) An officer or agent of the Trustee-Manager shall not make improper use of any information acquired by virtue of his position as an officer or agent of the Trustee-Manager to gain, directly or indirectly, an advantage for himself or for any other person to the detriment of the Registered Holders of Units.
  - (c) The duty of a director of the Trustee-Manager under **Clause 29.3(a)** shall be paramount and override any conflicting duty of such director to the shareholders of the Trustee-Manager. The memorandum of association and articles of association of the Trustee-Manager shall contain provisions to that effect and a company shall not be eligible to be appointed, or to continue, as a trustee-manager of the Trust if either its memorandum of association or articles of association do not contain those provisions.

#### **29.4 Loans by Trustee-Manager to its Directors Prohibited**

The Trustee-Manager shall not directly or indirectly:

- (a) make a loan to a director of the Trustee-Manager or his associates or a director of any holding company of the Trustee-Manager;
- (b) enter into any guarantee or provide any security in connection with a loan made by any person to a director of the Trustee-Manager or such a director; or
- (c) if any one or more of the directors of the Trustee-Manager hold (jointly or severally or directly or indirectly) a controlling interest in another company, make a loan to that other company or enter into any guarantee or provide any security in connection with a loan made by any person to that other company.

#### **29.5 Authorised Representatives Required Under the Listing Rules**

The Trustee-Manager and the Company shall appoint the same persons as their authorised representatives (as defined in the Listing Rules) under Rule 3.05 of the Listing Rules.

### **30. COMPANY SECRETARY**

- (a) The Trustee-Manager shall have a secretary, as required by Section 474 of the Companies Ordinance. The Company Secretary shall have the roles and functions in relation to the Trustee-Manager as prescribed by the Companies Ordinance and all the provisions of the Companies Ordinance which are applicable to a Company Secretary shall apply in respect of the Company Secretary of the Trustee-Manager.
- (b) The Company Secretary may be appointed, removed and replaced by a resolution of the board of directors of the Trustee-Manager.

### **31. AUDIT COMMITTEE**

- (a) The board of directors of the Trustee-Manager shall establish an Audit Committee comprising non-executive directors only.
- (b) The Audit Committee shall comprise a minimum of three members, at least one of whom is an independent non-executive director with appropriate professional qualifications or accounting or related financial management expertise as required under the Listing Rules.
- (c) The majority of the Audit Committee members must be independent non-executive directors of the Trustee-Manager.
- (d) The Audit Committee must be chaired by an independent non-executive director of the Trustee-Manager.
- (e) The membership of the Audit Committee must be the same as the membership of the audit committee of the board of directors of the Company.

### **32. NO ACCEPTANCE OF AN OFFER FOR THE ORDINARY SHARES OR OTHER DISPOSAL OF ORDINARY SHARES**

- (a) Subject to **Clauses 12 and 25**, the Trustee-Manager shall not be permitted to accept any offer to sell the Ordinary Shares which are held by the Trustee-Manager upon and subject to the terms and conditions of this Deed, or to otherwise dispose of those Ordinary Shares.
- (b) Any offer made under the Hong Kong Takeovers Code in respect of the securities of the Trust and/or the Company must be made, and may only be accepted, in respect of the Share Stapled Units and (if applicable) any Convertible Instruments (and shall not be made, or accepted, only in respect of the Ordinary Shares).

### **33. MATTERS REQUIRING THE APPROVAL OF REGISTERED HOLDERS OF UNITS AND MODIFICATION OF CLASS RIGHTS**

#### **33.1 Matters Requiring the Approval of an Ordinary Resolution of Registered Holders of Units**

The following matters may only be effected with prior approval by an Ordinary Resolution of Registered Holders of Units:

- (a) pursuant to **Clause 3.9(b)**, the listing of the Share Stapled Units on an Alternative Stock Exchange;

- (b) pursuant to **Clause 5.2(a)**, offers of new Share Stapled Units and/or Convertible Instruments on a *pro rata* basis as a Rights Issue where any such issue together with such Convertible Instruments (assuming full conversion), would increase the total number of issued Share Stapled Units by more than 50% (or such other percentage as may, from time to time, be prescribed by the Listing Rules);
- (c) pursuant to **Clause 5.3(d)**, the grant of a general mandate to the directors of the Company and the Trustee-Manager to issue new Share Stapled Units (whether directly or pursuant to any Convertible Instrument) other than on a *pro rata* basis not exceeding 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) of the Share Stapled Units in issue as at the date of the passing of such Ordinary Resolution;
- (d) pursuant to **Clause 5.4**, any issue of or any agreement to issue new Share Stapled Units or Convertible Instruments other than on a *pro rata* basis;
- (e) pursuant to **Clause 5.5**, adoption of a Share Stapled Units Option Scheme pursuant to which Share Stapled Units and/or Convertible Instruments are to be issued;
- (f) pursuant to **Clause 5.6**, any issue of Share Stapled Units or Convertible Instruments to a Connected Person (other than (i) pursuant to a Rights Issue on a *pro rata* basis or (ii) where the Connected Person receives a *pro rata* entitlement to Share Stapled Units and/or Convertible Instruments in its capacity as a Registered Holder of Share Stapled Units) which does not fall within the exempted issues under **Clauses 5.6(a) to 5.6(f)**, **Clause 5.7**, **Clause 5.8** or **Clause 5.9**;
- (g) pursuant to **Clauses 6.2(a)** and **6.2(b)**, issue of new Share Stapled Units at an Issue Price that is at a discount of more than 20% (or such other percentage as may, from time to time, be prescribed by the Listing Rules) to the Market Price;
- (h) pursuant to **Clause 8.2(a)**, sub-division or consolidation of Units/Preference Shares;
- (i) pursuant to **Clause 14.6**, declaration by the Trustee-Manager of a Distribution to the Registered Holders of Units other than in cash (for the avoidance of doubt, Distributions are only declared in respect of the Units and no Distributions may be declared in respect of the Preference Shares except in the case of the winding up of the Company);
- (j) pursuant to **Clauses 22.1(d)** and **22.1(e)** the appointment and removal of an auditor;
- (k) pursuant to **Clause 22.1(f)(ii)**, the fixing of the Auditor's remuneration;
- (l) pursuant to **Clauses 23.1(b)** and **23.1(e)**, removal and appointment of the Trustee-Manager;
- (m) pursuant to **Clause 25.1(a)(i)**, termination of the Trust in the event that any law is passed which renders the Trust illegal or, in the reasonable opinion of the Trustee-Manager, impracticable or inadvisable to continue the Trust;

- (n) a transaction which is a connected transaction for the Trust or the Company under the Listing Rules and which is not exempt from the independent shareholders' approval requirement under the Listing Rules; and
- (o) a transaction which is a major transaction, very substantial disposal or very substantial acquisition under the Listing Rules,

provided that in the case of **Clauses 33.1(n)** and **33.1(o)**, if the Listing Rules permit approval for the transaction to be given by written shareholders' approval from a shareholder or closely allied group of shareholders who together hold more than 50% in nominal value of the securities giving the right to attend and vote at a general meeting to approve the transaction (in lieu of holding a general meeting of shareholders), the transaction can be effected with the written approval from a Registered Holder of Units or a closely allied group of Registered Holders of Units together holding more than 50% of the total number of Units in issue at the relevant time, provided further that any other applicable requirements imposed under the Listing Rules in order for the transaction to be approved in that manner are also satisfied.

### **33.2 Matters Requiring the Approval of an Extraordinary Resolution of Registered Holders of Units**

The following matters may only be effected with prior approval by an Extraordinary Resolution of Registered Holders of Units:

- (a) change of name of the Trust under **Clause 2.1(a)**;
- (b) exchange of Share Stapled Units for Ordinary Shares pursuant to the Exchange Right under **Clause 12**;
- (c) termination of the Trust by the Trustee-Manager under **Clause 25.1(a)(ii)**; and
- (d) modification of this Deed under **Clause 26(c)**.

### **33.3 Modification of Class Rights**

If at any time the Units in the Trust are divided into different classes of Units, rights attached to any class of Units in the Trust may only be modified with prior approval by an Extraordinary Resolution of Registered Holders of Units of the relevant class passed at a separate meeting of the Registered Holders of Units of that class. The rights conferred upon the Registered Holders of Units of any class shall not, unless otherwise expressly provided in the rights attaching to or the terms of issue of such Units, be deemed to be varied by the creation or issue of further Units ranking *pari passu* therewith. Notwithstanding anything to the contrary in **Schedule 1**, the quorum for a separate meeting of Registered Holders of Units of a class of Units is the holders of at least one-third of the issued Units of that class.

## **34. POWER TO COMPULSORILY ACQUIRE SHARE STAPLED UNITS OF REGISTERED HOLDERS OF SHARE STAPLED UNITS**

### **34.1 In Respect of a General Offer**

- (a) Where a scheme or contract involving the transfer of Share Stapled Units to another person (the *Transferee*) has, within four months after the making of the offer in that behalf by the Transferee, been approved by the holders of not less than 90% in value of Share Stapled Units affected, the Transferee may, at any time within two months after the expiration of the said four months, give notice to any Registered Holder of Share Stapled Units who has not assented to the scheme or contract and any Registered Holder of Share Stapled Units who has failed or refused to transfer his Share Stapled Units to the Transferee in accordance with the scheme or contract (each, a *Dissenting Holder*) that the Transferee desires to acquire the Dissenting Holder's Share Stapled Units, and where such notice is given the Transferee shall, unless on application made to the courts in Hong Kong (in respect of the Units) and/or the courts in the Cayman Islands (in respect of the Preference Shares) by the Dissenting Holder within one month from the date on which the notice was given, the relevant court thinks fit to order otherwise, be entitled and bound to acquire those Share Stapled Units on the terms on which under the scheme or contract the Share Stapled Units of the approving Registered Holders of Share Stapled Units are to be transferred to the Transferee.
- (b) Where a notice has been given by the Transferee in accordance with **Clause 34.1(a)** and the relevant court(s) has or have not, on an application made by Dissenting Holders, ordered to the contrary, the Transferee shall, on the expiration of one month from the date on which the notice was given, or if an application to the court(s) by the Dissenting Holder is then pending after that application has been disposed of, transmit a copy of the notice to the Company and the Trustee-Manager and pay or transfer to the Trustee-Manager the amount or other consideration representing the price payable by the Transferee for the Share Stapled Units which by virtue of this **Clause 34.1** the Transferee is entitled to acquire, and the Company and the Trustee-Manager shall thereupon register the Transferee as the Registered Holder of those Share Stapled Units.
- (c) Any sums received by the Trustee-Manager under this **Clause 34.1** shall be paid into a separate bank account, and any such sums and other consideration so received shall be held by the Trustee-Manager on trust for the several persons entitled to the Share Stapled Units in respect of which the said sum or other consideration was respectively received.

### **34.2 In Respect of a Scheme of Arrangement**

Where a scheme of arrangement proposed between the Company and the Shareholders (a) has been approved by a majority in number representing 75% in value (or such other approval as may be required by the Cayman Companies Law from time to time) of the Shareholders and sanctioned by the Grand Court of the Cayman Islands in accordance with the Cayman Companies Law and (b) has been approved by an Extraordinary Resolution of Registered Holders of Units, subject to compliance with the provisions of the Relevant Laws and Regulations and the Hong Kong Takeovers Code, such scheme of arrangement shall, upon delivery to the Registrar of Companies in the Cayman Islands of a copy of the order sanctioning the same, be binding on all Shareholders and Unitholders (including the Registered Holders of Share Stapled Units) and also on the Company and the relevant Ordinary Shares, Preference Shares and Units (as components of the Share Stapled Units) shall be transferred to the Transferee, cancelled or otherwise dealt with (as the case may be) in accordance with the terms of such scheme of arrangement.

### **35. INSPECTION OF TRUST DEED AND ARTICLES**

The Trustee-Manager shall ensure that this Deed and the Articles shall be made available for inspection at the place of business of the Trustee-Manager during the hours of 9:00 a.m. to 5:00 p.m. on each Business Day to any Unitholders and to any other persons, without charge, and that copies of such documents shall be provided upon request by any person upon the payment of a reasonable fee.

### **36. GOVERNING LAW**

This Deed shall in all respects be governed by, and construed in accordance with, the laws of Hong Kong. The Trustee-Manager, the Company, each Unitholder and each Holder of Share Stapled Units hereby submit to the non-exclusive jurisdiction of the courts of Hong Kong.

### **37. APPLICATIONS TO THE COURTS OF HONG KONG**

#### **37.1 Inherent Jurisdiction of the Hong Kong Courts**

- (a) The courts of Hong Kong have inherent jurisdiction to govern the operation of the Trust and any other matter arising out of or in connection with the Trust and/or this Deed.
- (b) Registered Holders of Share Stapled Units or the Trustee-Manager may make an application to the courts of Hong Kong in respect of any matter concerning the operation of the Trust or any other matter arising out of or in connection with the Trust or this Deed, under the courts' inherent jurisdiction.

#### **37.2 Applications to the Hong Kong Courts by Registered Holders of Share Stapled Units**

- (a) Without prejudice to the generality of **Clause 37.1**, a Registered Holder of Share Stapled Units may:
  - (i) make an application to the court to make an order to compel the Trustee-Manager to perform its duties as set out in this Deed, and the court may either make the order on such terms as it considers appropriate or dismiss the application;
  - (ii) if the Trustee-Manager or any of its directors or the Company or any of its directors is or are engaging, or if the Registered Holder of Share Stapled Units has reasonable grounds to believe that any of the foregoing is proposing to engage, in conduct that constitutes or would constitute a breach of this Deed, make an application to the court to order an injunction (including an interim injunction) restraining that person from engaging in the conduct or an order for specific performance compelling him to do an act or thing, and the court may either make the order on such terms as it considers appropriate or dismiss the application.

- (b) Without prejudice to the generality of **Clause 37.1**, any Registered Holder of Units may apply to the Hong Kong courts for an order on the ground that:
- (i) the affairs of the Trust are being conducted by the Trustee- Manager or its directors, or the powers of the Trustee-Manager or its directors are being exercised, in a manner oppressive to one or more Registered Holders of Units including himself or in disregard of his or their interests as Registered Holders of Units; or
  - (ii) some act of the Trustee-Manager, carried out in its capacity as trustee-manager of the Trust, has been done or is threatened or that some resolution of the Registered Holders of Units has been passed or is proposed which unfairly discriminates against or is otherwise prejudicial to one or more of the Registered Holders of Units including himself.

Any order to be made by the court under this **Clause 37.2(b)** shall be made on such terms as the court considers appropriate, but may include an order to:

- (1) direct or prohibit any act or cancel or vary any transaction or resolution;
- (2) regulate the future conduct of the affairs of the Trustee-Manager;
- (3) authorise civil proceedings against the directors of the Trustee-Manager to be brought in the name of or on behalf of all Registered Holders of Share Stapled Units;
- (4) provide for the purchase of Share Stapled Units held by the applicant by other Registered Holders of Share Stapled Units;
- (5) provide that the Trust be terminated; or
- (6) provide that the costs and expenses of and incidental to the application for the order are to be paid out of the Trust Property or paid in such manner as the court deems fit.

### **37.3 Applications to the Hong Kong Courts by the Trustee-Manager**

If an amendment to this Deed has been made under **Clause 26(c)** which aggrieves the Trustee-Manager, it may within 21 days of the passing of the Extraordinary Resolution of Registered Holders of Units making such amendment, make an application to the court to make an order to cancel the amendment. The court may either make the order on such terms as it considers appropriate or dismiss the application.

### **37.4 Applications to the Hong Kong Courts for Winding Up on the Just and Equitable Ground**

The Trustee-Manager, a director of the Trustee-Manager or a Registered Holder of a Unit may make an application to the Hong Kong courts for an order to terminate and wind up the Trust if the court thinks it just and equitable to do so. The court may make an order (whether for the termination and winding up of the Trust or otherwise) on such terms as it considers appropriate, or may dismiss the application.

## SCHEDULE 1

### MEETINGS OF REGISTERED HOLDERS OF UNITS AND PROCEEDINGS AT MEETINGS

#### **1. CONVENING OF MEETINGS AND CONDUCT OF MEETING**

- 1.1 The Trustee-Manager shall at least once in every calendar year convene a general meeting of the Registered Holders of Units as the Annual General Meeting thereof in addition to any other meetings in that year and shall specify the meeting as such in the notice calling it. The Annual General Meeting shall be held at such time and place as the Trustee-Manager shall appoint and not less than 21 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) in writing thereof shall be given to the Registered Holders of Units.
- 1.2 The Trustee-Manager may (and the Trustee-Manager shall at the request in writing of Registered Holders of Units holding not less than one-tenth of the Units for the time being in issue and outstanding) at any time convene a meeting of Registered Holders of Units at such time or place in Hong Kong (subject as hereinafter provided) as the party convening the meeting may think fit and propose resolutions for consideration at such meeting.
- 1.3 The following provisions of this **Schedule 1** shall apply both to Annual General Meetings and other meetings of Registered Holders of Units.
- 1.4 At any meeting of Registered Holders of Units, the Trustee-Manager or a person nominated by the Trustee-Manager shall be the Chairman of the meeting.
- 1.5 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.

#### **2. NOTICE OF MEETINGS**

- 2.1 The Trustee-Manager shall be entitled to receive notice of and to attend at any such meeting. Any director or other duly authorised representative and the solicitors of the Trustee-Manager (and any other person authorised in that behalf by the Trustee-Manager) may attend and speak at the meeting.
- 2.2 At least 14 days' notice (exclusive 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 meeting shall be given to the Registered Holders of Units in the manner provided in this Deed, except that at least 21 days' notice (exclusive 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 the meeting shall be given to the Registered Holders of Units where an Extraordinary Resolution of Registered Holders of Units is proposed for consideration at such meeting. The notice shall specify the place, day and time of meeting and the terms of any resolution to be proposed thereat. The accidental omission to give notice to or the non-receipt of notice by any of the Registered Holders of Units shall not invalidate any resolution passed or any proceedings at any meeting.

- 2.3 Notwithstanding that a meeting of Registered Holders of Units is called by shorter notice than that referred to in **paragraph 2.2**, it shall be deemed to have been duly called if it is so agreed:
- (a) in the case of a meeting called as an Annual General Meeting, by all the Registered Holders of Units entitled to attend and vote thereat or their proxies; and
  - (b) in the case of any other meeting, by a majority in number of the Registered Holders of Units having a right to attend and vote at the meeting, being a majority together holding not less than 95% in nominal value of the Units giving that right.

### **3. QUORUM AND VOTING**

- 3.1 At any meeting of Registered Holders of Units, two or more Registered Holders of Units present in person, by corporate representative or by proxy, shall be a quorum. No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business. Split proxies (whereby a Registered Holder of Units may vote some of the Units registered in his name in favour of a resolution and some of them against) shall, for the avoidance of doubt, be permitted, provided that the provisions of **Clause 4.7(f)** of the Deed are complied with (if they are applicable).
- 3.2 Where any Registered Holder of Units is, under the Listing Rules, required to abstain from voting on any particular resolution or restricted to voting only for or only against any particular resolution, any votes cast by or on behalf of such Registered Holder of Units in contravention of such requirement or restriction shall not be counted.
- 3.3 All Registered Holders of Units are entitled to vote their Units on an Ordinary Resolution of Registered Holders of Units to remove the Trustee-Manager and/or appoint any replacement trustee-manager of the Trust, and be counted in the quorum for the purposes of passing such Ordinary Resolution of Registered Holders of Units.
- 3.4 Subject to **paragraph 3.5** below, at any meeting a resolution put to the meeting shall be decided on a poll and the result of the poll shall be deemed to be the resolution of the meeting. A poll shall be taken in such manner (including the use of ballot or voting papers or tickets) as the Chairman may direct and the result of the poll shall be deemed to be the resolution of the general meeting at which the poll was demanded. The Chairman may (and if so directed by the meeting shall) appoint scrutineers and may adjourn the meeting to some place and time fixed by him for the purpose of declaring the result of the poll. A poll shall be taken at such time and place as the Chairman directs. 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.

- 3.5 (a) The Chairman of a meeting may in good faith allow a resolution which relates purely to a procedural or administrative matter to be voted on by a show of hands in which case every Registered Holder of Units present in person, by corporate representative or by proxy shall have one vote provided that where more than one proxy is appointed by a Registered Holder of Units which a clearing house (or its nominee(s)), each such proxy shall have one vote on a show of hands. For the purposes of this **paragraph 3.5**, procedural and administrative matters are those prescribed under the Listing Rules to be voted on by a show of hands.
- (b) Where a show of hands is allowed, before or on the declaration of the result of the show of hands, a poll may be demanded:
- (i) by the Chairman; or
  - (ii) by at least three Registered Holders of Units present in person or by proxy for the time being entitled to vote at the meeting; or
  - (iii) by any Registered Holder(s) of Units present in person or by proxy and representing not less than one-tenth of the total voting rights of all the Registered Holders of Units having the right to vote at the meeting; or
  - (iv) by any Registered Holder(s) of Units present in person or by proxy and holding Units conferring a right to vote at the meeting being Units on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the Units conferring that right.

Unless a poll be so demanded and the demand is not withdrawn, a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the meeting, 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. The demand for a poll may be withdrawn.

- 3.6 On a vote permitted by way of show of hands, every Registered Holder of Units present in person (or in the case of a Registered Holder of Units being a corporation, by its duly authorised representative) shall have one vote and on a poll every Registered Holder of Units who is present in person, by corporate representative or by proxy shall have one vote for every Unit of which he is the Registered Holder provided such Units are fully paid up. Votes cast by a Registered Holder of Units in contravention of the applicable provisions of the Listing Rules shall not be counted.
- 3.7 In the case of Joint Registered Holders of Units, any one of such persons may vote at any meeting, either personally or by proxy, in respect of such Unit, but if more than one of such joint holders be present at any meeting personally or by proxy, the vote of the Joint Registered Holder so present being the most, or as the case may be more, senior, whether tendered in person or by proxy, shall be accepted to the exclusion of the votes of the other Joint Registered Holders; and for this purpose seniority shall be determined by the order in which the names of the Joint Registered Holders of Units stand in the Units Register in respect of the relevant joint holding. Several executors or administrators of a deceased member in whose name any Unit stands shall for the purposes of this **paragraph 3.7** be deemed joint holders thereof.

- 3.8 On a poll, votes may be given either personally, by corporate representative or by proxy.
- 3.9 An instrument of proxy may be in a usual common form or in any other form which the Trustee-Manager shall approve. The use of two-way proxy forms is not precluded.
- 3.10 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. The Trustee-Manager shall have the right to reject an instrument appointing a proxy which has not been properly completed. In determining the rights to vote and other matters in respect of a completed instrument of proxy submitted to it, the Trustee-Manager shall have regard to any instructions and/or notes set out in the instrument of proxy.
- 3.11 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 power of attorney or other authority under which the proxy was signed) 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 Registrar) at least two hours before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 3.12 Any Registered Holder of Units being a corporation may by resolution of its directors (or other governing body) authorise any person to act as its representative at any meeting of Registered Holders of Units and a person so authorised shall at such meeting be entitled to exercise the same powers on behalf of the corporation as the corporation could exercise if it were an individual Registered Holder of Units.
- 3.13 A Registered Holder of Units shall have the right to speak at any meeting of Registered Holders of Units and may appoint any number of proxies to attend and vote at the same meeting. A proxy need not be a Unitholder and a proxy so appointed shall have the same right as the Registered Holder of Units to speak at the meeting.
- 3.14 Where a Registered Holders of Units is a recognised clearing house (within the meaning of the Securities and Futures Ordinance) or its nominee(s), it may authorise such person or persons as it thinks fit to act as its representative(s) or proxy(ies) at any meeting of Registered Holders of Units or any class of Registered Holders of Units provided that, if more than one person is so authorised, the authorisation or proxy form must specify the number and class of Units in respect of which each such person is so authorised. The person so authorised will be deemed to have been duly authorised without the need of producing any documents of title, notarised authorisation and/or further evidence for substantiating the fact that it is duly authorised. Each person so authorised will be entitled to exercise the same power on behalf of the recognised clearing house or its nominee(s) as that clearing house or its nominee(s) could exercise if it were an individual Registered Holder of Units holding the number of Units specified in such authorisation including, where a show of hands is allowed, the right to vote individually on a show of hands.

- 3.15 The instrument appointing a proxy and (if required by the Trustee-Manager) 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 the place specified in the notice convening the meeting or in any notice of any adjournment or, in each case, in any document sent therewith (or, if no such place is specified, at the registered office of the Registrar) not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, not less than 48 hours before the time appointed for the taking of the poll, 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 stated in it as the date of its execution. Delivery of any instrument appointing a proxy shall not preclude a Registered Holder of Units from attending and voting in person at the meeting or poll concerned and, in such event, the instrument appointing a proxy shall be deemed to be revoked. A person appointed to act as a proxy need not be a Registered Holder of Units.
- 3.16 No Registered Holder of Units shall, unless the Trustee-Manager otherwise determines, be entitled in respect of Units held by him to vote at a meeting either personally or by proxy or to exercise any other right conferred by his holding of Units in relation to meetings if any call or other sum presently payable by him in respect of such Units remains unpaid.
- 3.17 An Extraordinary Resolution of Registered Holders of Units or an Ordinary Resolution of Registered Holders of Units, as the case may be, shall be binding on all Registered Holders of Units whether or not present at the relevant meeting and each of the Registered Holders of Units and the Trustee-Manager shall, subject to the provisions relating to indemnity in this Deed, be bound to give effect thereto accordingly.

#### **4. ADJOURNED MEETINGS**

- 4.1 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 15 days thereafter and to such place as may be appointed by the Trustee-Manager and, at such adjourned meeting, the Registered Holders of Units present in person or by proxy shall be a quorum (irrespective of the number of Registered Holders of Units present or number of Units they hold) for transaction of business and any proxy for the original meeting shall be valid for twelve months from the date named in it as the date of its execution (unless the relevant proxy otherwise specifies).
- 4.2 Notice of the adjourned meeting shall be given in the same manner as for an original meeting. Such notice shall state that the Registered Holders of Units present at the adjourned meeting whatever their number and the value of the Units held by them will form a quorum thereat.
- 4.3 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.

**5. MINUTES OF MEETINGS**

- 5.1 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 or on behalf of the Trustee-Manager at the Trust's expense and any such minute as aforesaid if purporting to be signed by the Chairman of the meeting shall be conclusive evidence of the matters therein stated. 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 convened and held and all resolutions passed thereat to have been duly passed.
- 5.2 The Trustee-Manager shall make the minutes of meetings of Registered Holders of Units referred to in **paragraph 5.1** above available for inspection by any Registered Holder of Units, during the hours of 9:00 a.m. to 5:00 p.m. on each Business Day, without charge. The Trustee-Manager shall, within 14 days after any Registered Holder of Units has made a request in writing for a copy of any of those minutes, furnish that Registered Holder of Units with a copy of the minutes without charge.

## SCHEDULE 2

### EXPENSES

- (a) All costs, expenses and Liabilities incurred by the Trustee-Manager in connection with: all stamp and other duties, Taxes, governmental charges, brokerages, commissions, exchange costs and commissions, bank charges, transfer fees and expenses, registration fees and expenses, co-custodian, sub-custodian and proxy fees and expenses, expenses of the custodian, collection fees and expenses, insurance and security costs, and any other costs, charges or expenses payable in respect of the acquisition, holding and realisation of any Trust Property, including costs, charges and expenses incurred in connection with claiming or collection of income or other rights in respect thereof;
- (b) fees and expenses of the Auditor and costs of insurance in relation to the liabilities of the directors and officers of the Trustee-Manager;
- (c) expenses in connection with the management and trusteeship of the Trust authorised by this Deed;
- (d) all costs, fees and expenses of any brokers, accountants, financial advisers, legal advisers, tax advisers, consultants, experts or other professional or independent advisers engaged by the Trustee-Manager;
- (e) out-of-pocket expenses wholly and exclusively incurred in the performance of duties of the Trustee-Manager pursuant to this Deed;
- (f) expenses in relation to the establishment of the Trust (which expenses may be amortised by being written off against the Trust in such period determined by the Trustee-Manager), and provided that:
  - (i) such period may be reviewed annually by the Trustee-Manager; and
  - (ii) any unamortised balance relating solely to the establishment of the Trust shall be (when termination of the Trust is proposed) written off against the assets of the Trust in their entirety prior to the date of termination;
- (g) fees and expenses of the Registrar;
- (h) complying with all legislation, regulations, and conditions imposed by regulatory authorities applicable to the Trust in Hong Kong and overseas (including annual fees payable in respect of the Trust to the Hong Kong Stock Exchange);
- (i) bank charges incurred in connection with the payment of amounts due to Holders of Units pursuant to this Deed;
- (j) the fees and expenses of the banks with which the segregated Distributions Account, Custody Account and Subscriptions Account are held;
- (k) pricing or valuation of any Trust Property or any Liability of the Trust;
- (l) preparation of deeds supplemental to this Deed;
- (m) preparing printing and up-dating any Offering Circular;

- (n) preparing and sending cheques, warrants, statements, circulars and notices (as applicable) to Registered Holders of Units and holders of Convertible Instruments;
- (o) obtaining and maintaining and, where relevant, cancelling or suspending a listing (if any) for the Share Stapled Units on the Hong Kong Stock Exchange and/or any Alternative Stock Exchange or the authorisation of the Trust under any other law or regulation in any part of the world or in complying with any undertaking given, conditions imposed or agreement entered into in connection with, or any rules governing such listing, authorisation or approval;
- (p) obtaining and maintaining:
  - (i) authorisation or registration for the distribution of the Share Stapled Units in any jurisdiction; and
  - (ii) any registration in any jurisdiction necessary to protect or improve the taxation status of the Trust or any Trust Property held directly or indirectly by the Trustee-Manager;
- (q) preparing, printing and distributing all statements, financial statements and reports pursuant to the provisions of this Deed;
- (r) complying with or in connection with any change in or introduction of any law or regulation or directive (whether or not having the force of law) of any governmental or other regulatory authority or with the provisions of the Relevant Laws and Regulations;
- (s) publishing prices of Share Stapled Units, including the creation and maintenance of a website (if any) which will have posted on it, *inter alia*, the most recent annually audited financial statements and such other information which the Trustee-Manager, in its discretion, determines to be appropriate or which is required by the Listing Rules or other Relevant Laws and Regulations;
- (t) terminating the Trust;
- (u) operating of the Trust (including the filing of annual returns and other statutory information required to be filed with any regulatory authority having jurisdiction over the Trust);
- (v) costs incurred in connection with any court proceedings, arbitration or other dispute concerning the Trust including proceedings against the Trustee-Manager, except to the extent that the Trustee-Manager is found by a court of competent jurisdiction to be in breach of trust and/or in breach of this Deed or to have been fraudulent, in wilful default or negligent, in which case related costs paid or reimbursed must be repaid;
- (w) all costs, fees and expenses in connection with any offering or issue of Share Stapled Units and/or Convertible Instruments (including but not limited to the Initial Public Offering), including but not limited to (i) those incurred in relation to roadshows, advertising, promotions, marketing, press conferences, luncheons, dinners, presentations and public relations (including but not limited to engagement of agents, contractors and consultants in connection with any of the above activities); and (ii) all issuing fees, costs and expenses, underwriting fees and expenses, placement fees and expenses and brokerage in connection with any subscription or sale of Share Stapled Units and/or Convertible Instruments incurred by or payable to any issue manager, underwriter or placement agent;

- (x) all fees, charges and expenses incurred in connection with the adoption, implementation, administration, operation and maintenance of any Share Stapled Units Option Scheme or other scheme for the benefit of directors, officers and employees of the Group, including but not limited to those related to the issue of new Share Stapled Units and/or Convertible Instruments pursuant to any such Share Stapled Unit Options Scheme or other scheme;
- (y) all fees, charges and expenses incurred in relation to the assigning and maintaining of a credit rating to the Trust;
- (z) registering and maintaining domain names and the development, maintenance and upgrading of a website (if any); and
- (aa) all fees, costs and expenses (including, but not limited to, those incurred in relation to roadshows, advertising, promotions, marketing, press conferences, luncheons, dinners, presentations and public relations (including, but not limited to, engagement of agents, contractors and consultants in connection with any of the above activities)) incurred in connection with:
  - (i) the convening or holding of Meetings of Registered Holders of Share Stapled Units, meetings of Registered Holders of Units, meetings of holders of Convertible Instruments and meetings with stakeholders or potential investors of the Trust; or
  - (ii) investor or analyst briefings or meetings.

## SCHEDULE 3

### CERTIFICATES

#### **1. FORM AND EXECUTION OF CERTIFICATES**

Certificates shall be prepared by or on behalf of the Registrar or, where there is no Registrar, the Trustee-Manager in such form and manner as may be authorised by the Registrar or the Trustee-Manager, as appropriate. Certificates may be issued in any denomination of one or more whole Share Stapled Units. Each Certificate shall bear a serial number, shall be dated, shall specify the number of Share Stapled Units evidenced thereby and the name of the Registered Holder of Share Stapled Units and shall be under seal. The seal and the signature of the Trustee-Manager to be inserted on each Certificate shall either be autographic, facsimile or affixed by some mechanical means under the control of the Registrar or the Trustee-Manager or its duly authorised agent. No Certificate shall be of any force or effect until so executed. Certificates so executed shall be valid and binding notwithstanding that the person whose signature appears thereon as a duly authorised signatory of the Registrar or the Trustee-Manager may have ceased to be so authorised.

#### **2. DELIVERY OF CERTIFICATES**

The Registrar or, where there is no Registrar, the Trustee-Manager shall sign and deliver Certificates in such denominations as may be required for Share Stapled Units which have been agreed to be issued and for which one or more Certificates have been requested by the relevant Registered Holder of Share Stapled Units and for such purpose shall be entitled to rely on a declaration in writing by or on behalf of the Trustee-Manager as to the Share Stapled Units from time to time agreed to be issued and the request for Certificates (if appropriate). Notwithstanding this, the Registrar or, where there is no Registrar, the Trustee-Manager shall deliver any such Certificates only against payment or transfer to the Registrar or the Trustee-Manager of the cash or other consideration (if any) received by the Trust in respect of the issue of the Share Stapled Units concerned. The Registrar shall also from time to time sign and deliver Certificates required to be issued pursuant to any provision of this Deed upon due compliance with the conditions applicable thereto. Notwithstanding the foregoing provisions, Certificates may also be issued in such other manner, at such other time or subject to such conditions as may be specified in any Offering Circular.

#### **3. ISSUE, EXCHANGE, CANCELLATION AND REPLACEMENT OF CERTIFICATES**

- 3.1 The Registrar or, where there is no Registrar, the Trustee-Manager shall not be obliged to issue more than one Certificate to each Registered Holder of Share Stapled Units. Nevertheless, and upon paying such fee as the Registrar (or, where there is no Registrar, the Trustee-Manager) may from time to time determine, any Registered Holder of Share Stapled Units may apply to the Registrar (or, where there is no Registrar, the Trustee-Manager) to exchange his Certificate (if any) or all of his Certificates for one or more Certificates of such authorised denominations as he may require representing the same aggregate number of Share Stapled Units. Before any such exchange as aforesaid is carried out, the Registered Holder of Share Stapled Units shall surrender to the Registrar or, where there is no Registrar, the Trustee-Manager for cancellation the Certificate or Certificates to be exchanged and shall pay to or to the order of the Registrar or the Trustee-Manager all monies (if any) payable hereunder in respect of the issue of the new Certificate or Certificates.

- 3.2 In case any Certificate shall become mutilated or defaced, the Registrar or, where there is no Registrar, the Trustee-Manager may in its discretion issue to the person entitled thereto in exchange for and upon surrendering for cancellation the mutilated or defaced Certificate a new Certificate. In case any Certificate shall be lost, stolen or destroyed, the Registrar or, where there is no Registrar, the Trustee-Manager, may in its discretion issue to the person entitled thereto a new Certificate in lieu thereof. No such new Certificate shall be issued unless the applicant shall previously have:
- (a) (in the case of loss, theft or destruction) furnished to the Registrar or, where there is no Registrar, the Trustee-Manager evidence satisfactory to the Registrar or, where there is no Registrar, the Trustee-Manager of the loss, theft or destruction of the original Certificate;
  - (b) paid all expenses incurred in connection with the investigation of the facts by the Registrar or, where there is no Registrar, the Trustee-Manager;
  - (c) (in the case of defacement or mutilation) produced and surrendered to the Registrar or, where there is no Registrar, the Trustee-Manager for cancellation the defaced or mutilated Certificate; and
  - (d) (if required by the Trustee-Manager or the Registrar so to do) furnished to the Trustee-Manager or the Registrar such indemnity or bond as the Trustee-Manager or the Registrar may require.

The Registered Holder of Share Stapled Units shall pay such fee as the Registrar (or, where there is no Registrar, the Trustee-Manager) may from time to time determine for the issuance of a new Certificate under this **paragraph 3.2**. The Trustee-Manager shall not incur any liability for any action by the Trustee-Manager or the Registrar which is taken in accordance with this **Schedule 3** (other than any liability resulting from the fraud, wilful default or negligence, by the Trustee-Manager or its Officers).

- 3.3 Every Certificate issued under the provisions of this **paragraph 3** shall be in the name of the Registered Holder of the Share Stapled Units represented by the Certificate surrendered, lost, stolen or destroyed.
- 3.4 All mutilated or defaced Certificates surrendered pursuant to this **paragraph 3** shall be cancelled forthwith by the Registrar or the Trustee-Manager, as appropriate.
- 3.5 Upon a transfer of Share Stapled Units or upon exchange or upon a distribution in respect of any Share Stapled Unit, the Trustee-Manager and the Registrar may (in their absolute discretion) dispense with production of any Certificate which has been lost, stolen or destroyed upon compliance by the Registered Holder with the like requirements as are set out in **paragraph 3.2** above.

#### **4. STAMP DUTY, TAX AND OTHER CHARGES**

Before procuring the issue of any Certificate under the provisions of this **Schedule 3**, the Trustee-Manager or the Registrar may require from the applicant for the Certificate the payment to it of a sum sufficient to cover any stamp duty or other Taxes or charges or other charges that may be payable in connection with the issue of such Certificate.

**IN WITNESS WHEREOF** this Deed has been executed the day and year first above written.

**THE TRUSTEE-MANAGER**

The Common Seal of )  
**LHIL MANAGER LIMITED** )  
was hereunto affixed )  
in the presence of: )

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director

**THE COMPANY**

The Common Seal of )  
**LANGHAM HOSPITALITY** )  
**INVESTMENTS LIMITED** )  
was hereunto affixed )  
in the presence of: )

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director