



11 May 2021

Recommended acquisition of APN Property Group by Dexus

APN Property Group (ASX:APD, “**APN**”) announces it has entered into a scheme implementation deed with Dexus (ASX:DXS, “**Dexus**”) under which it is proposed that a subsidiary of Dexus will acquire 100% of APN stapled securities for cash consideration of 91.5 cents¹ per stapled security by way of a scheme of arrangement and a trust scheme (“**Schemes**”).

The Schemes value APN’s issued securities at approximately \$320 million on a fully diluted basis².

The cash price of 91.5 cents represents a:

- 50.0% premium over the closing price of APN securities of 61.0 cents on 10 May 2021, the last trading day before this announcement;
- 64.3% premium over the 1 month volume weighted average price³ of 55.7 cents; and
- 65.8% premium over the 3 month volume weighted average price³ of 55.2 cents.

Unanimous Recommendation of APD Directors

In the absence of a superior proposal and subject to the Independent Expert concluding that the Schemes are in the best interests of APN securityholders, the directors of APN and APN RE Limited (the “**APD Directors**”) unanimously recommend that APN securityholders vote in favour of the Schemes. Subject to those same qualifications, each APD Director intends to vote all the securities held or controlled by them in favour of the Schemes. Including APN’s Chairman, Mr Chris Aylward, this represents intentions with respect to 33.0% of APN’s issued securities.

APN’s Chairman, Mr Chris Aylward, stated: “Dexus’ all cash proposal represents compelling value to APN securityholders including a material premium to APN’s trading price. We believe the combination of the two businesses will provide incremental growth opportunities for the APN business as well as its underlying funds, investors and our team members. The APD Directors consider this to be a very attractive offer and unanimously recommend that securityholders vote in favour of the schemes, subject to no superior proposal being made and the independent expert concluding the schemes are in the best interests of APN securityholders.”

“We are very proud of the APN platform and the value it has created not only for APN securityholders but for the investors in our property funds. We look forward to seeing the continued growth of the APN funds and delivery of returns to our investors as part of the Dexus real estate funds management platform. We do not anticipate any disruption to business operations.”

APN CEO, Mr Tim Slattery, commented: “I’m very pleased to see the value of our business built up over many years recognised through this proposal and to recommend it to APN’s securityholders. Dexus’ property and funds management platform is very well regarded and in combination with APN’s capabilities represents an excellent ongoing opportunity for our funds’ investors and our team.”

¹ The cash consideration of 91.5 cents per stapled security will be reduced by the cash amount of any distribution that is declared by APN (in its absolute discretion) on or after the date of this announcement and prior to 30 September 2021, up to 1.5 cents per stapled security.

² Total diluted securities of 349,638,821 includes 20,090,778 unvested employee share options.

³ Volume weighted average security price based on market trading volume and value up to and including 10 May 2021, being the last trading day before this announcement.

Scheme implementation deed

Implementation of the Schemes is subject to certain customary conditions including:

- APN securityholder approval;
- no material adverse change, prescribed occurrence, restraints or material breach of warranty by either APN or Dexus;
- the Independent Expert concluding that the Schemes are in the best interests of APN securityholders; and
- Court approval.

The Schemes are not subject to any financing or due diligence conditions. Dexus has informed APN that it will fund the transaction using existing cash resources and undrawn debt facilities.

A copy of the scheme implementation deed is attached to this announcement and contains customary exclusivity provisions including no shop, no due diligence and no talk restrictions, as well as notification obligations and a matching right.

The scheme implementation deed also details circumstances under which APN may be required to pay Dexus a break fee of \$3 million and circumstances where Dexus may be required to pay APN a reverse break fee of \$3 million.

In addition, Chris Aylward, Chairman of APN, via his related entities, has granted a subsidiary of Dexus a call option over APN securities, in aggregate, equal to 19.9% of APN's issued securities, exercisable in the event that a competing proposal is publicly announced.

Independent Expert

APN has appointed KPMG Corporate Finance as the Independent Expert to determine whether, in its opinion, the Schemes are in the best interests of securityholders. The Independent Expert's report will be provided to securityholders as part of the Scheme Booklet.

Indicative timetable and next steps

APN securityholders do not need to take any action at the present time.

It is expected that APN securityholders will have the opportunity to vote on the Schemes at securityholder meetings, currently expected to be held in mid July 2021.

A Scheme Booklet, containing information relating to the proposed acquisition, further details and reasons for the APD Directors' unanimous recommendation, the Independent Expert's Report and details of the meetings is expected to be sent to APN securityholders in late June 2021. Subject to the conditions of the Schemes being satisfied or (if applicable) waived in accordance with the scheme implementation deed, the Schemes are expected to be implemented in August 2021.

These dates are indicative only and are subject to change.

APN's financial adviser is Grant Samuel and its legal adviser is Gilbert + Tobin.

This announcement was authorised to be given to the ASX by the Board of APN Property Group Limited and the Board of APN RE Limited.

ENDS

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About APN Property Group

APN Property Group (ASX code: APD) is a specialist real estate investment manager. Since 1996, APN has been actively investing in, developing and managing real estate and real estate securities on behalf of institutional and retail investors. APN's focus is on delivering superior investment performance and outstanding service. Performance is underpinned by a highly disciplined investment approach and a deep understanding of commercial real estate.

www.apngroup.com.au

About Dexus

Dexus is an ASX top 50 entity and one of Australia's leading real estate groups, managing a high-quality Australian property portfolio valued at \$36.5 billion. Dexus directly owns office and industrial properties, and manages office, retail, industrial and healthcare properties for third party clients. Dexus employs approximately 500 property professionals with in-house expertise in funds management, property investment, asset management, leasing, development, capital transactions and ESG. Further information on Dexus is available at www.dexus.com.

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Scheme implementation deed

Dexus Nominee Pty Ltd

APN Property Group Limited

APN RE Limited as responsible entity of the APD Trust

Dexus Funds Management Limited

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Parties

- 1 **Dexus Nominee Pty Limited (ACN 650 020 643)** of Level 25, Australia Square, 264-278 George Street, Sydney 2000 NSW, Australia (**Bidder**)
 - 2 **APN Property Group Limited (ACN 109 846 068)** of Level 30, 101 Collins Street, Melbourne 3000 Victoria, Australia (**APN PG**)
 - 3 **APN RE Limited (ACN 627 612 202)** as responsible entity of the **APD Trust (ARSN 629 330 007)** of Level 30, 101 Collins Street, Melbourne 3000 Victoria, Australia (**APN RE**)

(APN PG and APN RE being collectively **APD**)
 - 4 **Dexus Funds Management Limited (ABN 24 060 920 783)** of Level 25, Australia Square, 264-278 George Street, Sydney 2000 NSW, Australia (**Guarantor**)
-

Background

- A APD is a stapled group, comprising APN PG and APD Trust (the responsible entity of which is APN RE) which is listed on ASX.
- B The parties have agreed that Bidder will acquire all of the APD ordinary stapled securities by means of the APN PG Scheme and the Trust Scheme.
- C Bidder and APD have agreed to implement the Schemes on and subject to the terms of this deed.
- D Guarantor has agreed to guarantee the obligations of Bidder under this deed, on and subject to the terms of this deed.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Agreement to proceed with Transaction

2.1 APD to propose Schemes

- (a) APD agrees to propose the Schemes on and subject to the terms of this deed.
- (b) APD must not consent to any modification of, or amendment to, the Schemes, or to the making or imposition by the Court of any condition in respect of the Schemes,

without the prior written consent of Bidder (such consent not to be unreasonably withheld or delayed).

- (c) Bidder and Guarantor agree to assist APD in proposing and implementing the Schemes on and subject to the terms of this deed.

2.2 Scheme Consideration

- (a) Each Scheme Securityholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Securities, on and subject to the terms of the APN PG Scheme and the Trust Scheme.
- (b) Subject to the Schemes becoming Effective, Bidder undertakes and warrants to APD (in APD's own right and separately as trustee for each Scheme Securityholder) that, in consideration of the transfer to Bidder of all Scheme Securities pursuant to the terms of the Schemes, Bidder will:
 - (i) accept that transfer on the Implementation Date; and
 - (ii) pay, or procure the payment of, an amount equal to the Aggregate Scheme Consideration, in cleared funds, into a trust account operated by APD as trustee for the Scheme Securityholders before 12 noon on the Business Day immediately before the Implementation Date.

2.3 APD Board recommendation

APD must use reasonable endeavours to procure that each APD Director:

- (a) unanimously with the other APD Directors, recommends to APD Securityholders that they vote in favour of the resolutions to approve the Schemes; and
- (b) announces their intention to cause any APD Securities in which they have a Relevant Interest to be voted in favour of the resolutions to approve the Schemes,

and does not publicly change, withdraw or modify their recommendation or voting intention unless and until such time as:

- (c) the APD Board determines a Competing Proposal is a Superior Proposal; or
- (d) the Independent Expert concludes that the Schemes are not in the best interests of APD Securityholders (including in any update or revision, supplement or amendment to the Independent Expert's Report),

and the APD Board determines, after receiving written legal advice from its external legal adviser, that the fiduciary or statutory duties of the APD Directors require them to change or withdraw their recommendation.

3 Conditions precedent

3.1 Conditions

Subject to this clause 3, the Schemes will not become Effective until and unless the following Conditions are satisfied or waived in accordance with clause 3.4:

- (a) **ASIC Relief:** ASIC issues or provides all of the following (in each case, to the extent required):

- (i) a modification of item 7 of section 611 of the Corporations Act, allowing Trust Unitholders (other than those excluded from voting because they are Associates of Bidder) to vote in favour of the relevant Trust Scheme Resolutions for the purpose of item 7 of section 611 of the Corporations Act;
- (ii) relief from Division 5A of Part 7.9 of the Corporations Act in relation to any unsolicited offer by Bidder to acquire the APD Trust Units under the Trust Scheme;
- (iii) relief from the requirement for APN RE to provide a financial services guide in respect of any financial services provided in the Scheme Booklet;
- (iv) relief from the requirement for APN PG to hold an Australian Financial Services Licence in relation to any financial product advice provided in the Scheme Booklet; and
- (v) such other consents, waivers and approvals that the parties agree, acting reasonably, are necessary to implement the Schemes,

and none of those consents, waivers or approvals has been withdrawn, revoked or adversely amended before 8:00am on the Second Court Date; and

- (b) **Independent Expert:** The Independent Expert concludes in the Independent Expert's Report that the Schemes are in the best interests of APD Securityholders (and does not change that conclusion).
- (c) **APD Securityholder approval:**
 - (i) APD Shareholders approve the APN PG Scheme at the APN PG Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act; and
 - (ii) Trust Unitholders approve the Trust Scheme Resolutions at the Trust Scheme Meeting by the requisite majorities under section 601GC(1) and item 7 of section 611 of the Corporations Act.
- (d) **Court approval:** The Court:
 - (i) approves the APN PG Scheme in accordance with section 411(4)(b) of the Corporations Act; and
 - (ii) grants the Second Judicial Advice.
- (e) **Restraints:** No restraining order, injunction or other order that would prevent the Schemes made by a court of competent jurisdiction or Government Agency in Australia is in effect as at 8:00am on the Second Court Date.
- (f) **Prescribed Occurrence:** No Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date.
- (g) **Material Adverse Change:** No Material Adverse Change occurs, is announced or becomes known to Bidder between the date of this deed and 8:00am on the Second Court Date.

3.2 Reasonable endeavours

- (a) APD must, to the extent within its power to do so, use reasonable endeavours to procure that the Conditions in clauses 3.1(b), 3.1(f) and 3.1(g) are satisfied.
- (b) Each of APD and Bidder must, to the extent within its power to do so, use reasonable endeavours to procure that:
 - (i) the Conditions in clauses 3.1(a), 3.1(c), 3.1(d) and 3.1(e) are satisfied as soon as practicable after the date of this deed; and
 - (ii) there is no occurrence within its control or the control of any of its Related Bodies Corporate that would prevent any of those Conditions being satisfied.
- (c) APD will not be in breach of its obligations under clause 3.2(a) or 3.2(b) to the extent that it takes or omits to take any action referred to in clause 6.1(b) or 6.1(c).

3.3 ASIC Relief

Without limiting clause 3.2, and except to the extent prohibited by law or a Government Agency, APD must:

- (a) promptly prepare an application for the ASIC Relief and provide to Bidder a copy of that draft application;
- (b) take into account in good faith any reasonable comments on the application provided by or on behalf of Bidder in a timely manner;
- (c) apply for the ASIC Relief and take all steps reasonably required as part of the ASIC Relief process, including responding to requests for information from ASIC at the earliest practicable time;
- (d) if requested in writing, keep Bidder reasonably informed of progress in relation to the ASIC Relief (including in relation to any material matters raised by, or conditions or other arrangements proposed by, or to, ASIC in relation to the ASIC Relief) and consult with Bidder prior to taking any steps to address any material matters raised in relation to the ASIC Relief; and
- (e) provide Bidder with all information reasonably requested in connection with the progress of the ASIC Relief.

3.4 Waiver of Conditions

- (a) The Conditions in clauses 3.1(a), 3.1(b), 3.1(c) and 3.1(d)(i) cannot be waived.
- (b) The condition in clause 3.1(d)(ii) is for the sole benefit of APD and may only be waived by APD in writing.
- (c) The Condition in clause 3.1(e) is for the benefit of Bidder and APD and may only be waived by written agreement between Bidder and APD.
- (d) The Conditions in clauses 3.1(f) and 3.1(g) are for the sole benefit of Bidder and may only be waived by Bidder in writing.
- (e) Waiver of breach or non-fulfilment of a Condition does not constitute:

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

3.5 Failure of Condition

- (a) If:
 - (i) there is a breach or non-fulfilment of a Condition that has not been waived in accordance with clause 3.4 by the time or date specified in this deed for the satisfaction of the Condition;
 - (ii) a Condition becomes incapable of satisfaction by the time or date specified in this deed for the satisfaction of the Condition, and the breach or non-fulfilment of that Condition that has occurred, or would otherwise occur, has not been waived in accordance with clause 3.4; or
 - (iii) the Schemes have not become Effective by the End Date,then APD and Bidder must promptly consult in good faith to determine whether they can reach agreement with respect to:
 - (iv) an extension of the time for satisfaction of the relevant Condition or an extension of the End Date;
 - (v) an adjournment or change to the date of an application to the Court; or
 - (vi) the Transaction proceeding by way of alternative means or methods.
- (b) Subject to clause 3.5(c), if APD and Bidder have not reached agreement under clause 3.5(a) within five Business Days (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date), then either of them may terminate this deed by giving written notice to the other parties, provided that a party may only exercise such termination right if the relevant circumstances did not arise due to a breach of this deed by that party or any of its Related Bodies Corporate.
- (c) If the Condition in clause 3.1(c)(i) is not satisfied only because of a failure to obtain the majority required by section 411(4)(a)(ii)(A) of the Corporations Act, then either APD or Bidder may by written notice to the other within three Business Days after the date of the conclusion of the Scheme Meetings require the approval of the Court to be sought, pursuant to the Court's discretion in section 411(4)(a)(ii)(A), provided the relevant party has, in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If such approval is given, the Condition in 3.1(c)(i) is deemed to be satisfied for all purposes.
- (d) If, prior to the Second Court Hearing:
 - (i) a matter, event or circumstance becomes known to Bidder that Bidder considers, would with the passage of time become a Material Adverse Change after the then scheduled Second Court Date; and
 - (ii) Bidder gives a written notice to APD setting out the relevant matter, event or circumstance,

the parties must promptly consult for at least 3 Business Days as to whether or not the matter, event or circumstance is reasonably likely to become a Material Adverse Change and the best endeavours that each party will undertake to ensure that a Material Adverse Change does not eventuate. If following such consultation, Bidder considers that the matter, event or circumstance would with the passage of time become a Material Adverse Change it may require APD to use all reasonable endeavours, including making or supporting any application, to defer the Second Court Hearing to a date nominated by Bidder which is up to 50 days after the previously scheduled Second Court Date (or to such later date reasonably requested by Bidder) provided at all times the date cannot be deferred beyond the day which is 2 Business Days before the End Date and following such deferral, the Timetable (including the Second Court Date) is to be adjusted accordingly.

- (e) If Bidder requests or requires a deferral or deferrals of the Second Court Hearing under clause 3.5(d) which are, in aggregate, longer than 30 days, APD may terminate this deed by notice in writing to Bidder.

3.6 Certain notices

If a party becomes aware:

- (a) that any Condition has been satisfied; or
- (b) of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
 - (i) a Condition becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms;
 - (ii) a breach of a Warranty provided by that party under this deed or such a Warranty ceasing to be true and correct in all material respects; or
 - (iii) a material breach of this deed by that party,

it must promptly notify the other parties in writing and provide such evidence or details as may be reasonably requested by another party.

4 Implementation steps and Scheme Booklet

4.1 APD obligations

Subject to any change of recommendation by the APD Board that is permitted by clause 2.3, APD must take all steps reasonably necessary to implement the Schemes as soon as is reasonably practicable and use all reasonable endeavours to do so in accordance with the Timetable and otherwise on and subject to the terms of this deed. Without limiting the foregoing, APD must:

- (a) **Independent Expert:** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (including any updates to it);
- (b) **Preparation of Scheme Booklet:**
 - (i) prepare the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) in accordance with applicable laws, including

the Corporations Act and Corporations Regulations, ASIC Regulatory Guide 60, ASIC Regulatory Guide 74, Takeovers Panel guidance notes and the Listing Rules;

- (ii) include in the Scheme Booklet a statement by the APD Board that:
 - (A) the APD Board unanimously recommends to APD Securityholders that they vote in favour of the resolutions to approve the Schemes; and
 - (B) each APD Board member who has a Relevant Interest in any APD Securities intends to cause any such APD Securities to be voted in favour of the resolutions to approve the Schemes,

in each case, subject to the Independent Expert continuing to conclude that the Schemes are in the best interests of APD Securityholders and there being no Superior Proposal; and

- (iii) provide Bidder with successive drafts of the Scheme Booklet, including an advanced draft of the Scheme Booklet within a reasonable time before the draft of the Scheme Booklet is provided to ASIC, and consider in good faith any reasonable comments promptly provided by or on behalf of Bidder in a timely manner, provided that, in respect of the Independent Expert's Report, any such comments must be limited to matters of factual accuracy and APD makes no representation, and gives no assurance, as to the extent to which such comments will be considered or incorporated by the Independent Expert;

(c) **Lodgement of Scheme Booklet:**

- (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet to ASIC for its review for the purposes of section 411(2) of the Corporations Act and ASIC Regulatory Guide 74; and
- (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Scheme Booklet and, where practical to do so, consult with Bidder in good faith prior to taking any steps to address such issues (provided that, where those issues relate to Bidder Information, APD must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld or delayed);

(d) **Approval of Scheme Booklet:** procure that a meeting of the APD Board (or a sub-committee thereof) is convened to consider approving the despatch of the Scheme Booklet to APD Securityholders, subject to orders of the Court under section 411(1) of the Corporations Act and the Scheme Booklet being registered by ASIC;

(e) **No objection statement:** apply to ASIC for:

- (i) a letter stating that ASIC does not intend to appear at the First Court Hearing; and
- (ii) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the APN PG Scheme;

(f) **ASIC Relief:** apply to ASIC for the ASIC Relief to implement the Trust Scheme;

- (g) **First Court Hearing:** apply to the Court for orders under section 411(1) of the Corporations Act directing APD to convene the APN PG Scheme Meeting and seek the First Judicial Advice;
- (h) **Approval and registration of Scheme Booklet:** request that ASIC register the Scheme Booklet in relation to the APN PG Scheme in accordance with section 412(6) of the Corporations Act;
- (i) **Despatch:** as soon as reasonably practicable after:
 - (i) the Court orders APD to convene the APN PG Scheme Meeting and provides the First Judicial Advice; and
 - (ii) the Scheme Booklet is registered by ASIC,despatch the Scheme Booklet to APD Securityholders;
- (j) **Supplementary disclosure:** if, after despatch of the Scheme Booklet, APD becomes aware:
 - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to APD Securityholders under any applicable law but was not included in the Scheme Booklet,promptly consult with Bidder as to the need for, and the form of, any supplementary disclosure to APD Securityholders and make any supplementary disclosure to APD Securityholders that APD considers reasonably necessary in the circumstances (having regard to any reasonable comments provided by Bidder in a timely manner);
- (k) **Promotion of Transaction:** participate in efforts reasonably requested by Bidder to promote the merits of the Transaction, including:
 - (i) meeting with key APD Securityholders (and facilitating meetings between Bidder and these key APD Securityholders); and
 - (ii) in consultation with Bidder, undertaking other reasonable investor engagement and proxy solicitation actions (with what is reasonable for these purposes being determined having regard to investor feedback, proxy results, market circumstances prevailing at the time and any views expressed by APD) to encourage APD Securityholders to vote on the Schemes in accordance with the recommendation of the APD Board, subject to applicable law and ASIC policy;
- (l) **APN PG Scheme Meeting:** convene and hold the APN PG Scheme Meeting to approve the APN PG Scheme in accordance with the orders made by the Court at the First Court Hearing;
- (m) **Trust Scheme Meeting:** convene and hold the Trust Scheme Meeting and put the Trust Scheme Resolutions to the Trust Unitholders;
- (n) **Conditions certificate:** at the Second Court Hearing, provide to the Court (through its counsel) a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(d)) have been

satisfied or waived in accordance with clause 3, a draft of which must be provided to Bidder by 5:00pm on the Business Day prior to the Second Court Date;

- (o) **Second Court Hearing:** subject to the Conditions (other than the Condition in clause 3.1(d)) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the APN PG Scheme and seek the Second Judicial Advice;
- (p) **APD Trust Supplemental Deed:** conditional on the passing of the Trust Scheme Resolutions, execute the APD Trust Supplemental Deed;
- (q) **Court Documents:** prepare the Court Documents, provide drafts of those documents to Bidder and consider in good faith any reasonable comments promptly provided by or on behalf of Bidder;
- (r) **Bidder representation at Court Hearings:** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;
- (s) **Lodgement:** lodge with ASIC:
- (i) for the purposes of section 411(10) of the Corporations Act, an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the APN PG Scheme; and
 - (ii) the duly executed APD Trust Supplemental Deed,
- before 5:00pm on the Business Day immediately following the day on which it receives an office copy of the court orders;
- (t) **Security Register:** close the Security Register as at the Record Date to determine the identity of the APN PG Scheme Participants and the Trust Scheme Participants and to determine their entitlements to the Scheme Consideration in accordance with the Schemes;
- (u) **Instruments of transfer:** if the Schemes become Effective, and subject to Bidder having provided the Aggregate Scheme Consideration in the manner contemplated by clause 2.2(b)(ii):
- (i) execute proper instruments of transfer necessary to effect the transfer of the Scheme Securities to Bidder in accordance with the Schemes; and
 - (ii) register all transfers of Scheme Securities held by APN PG Scheme Participants and Trust Scheme Participants to Bidder in accordance with the Schemes;
- (v) **Quotation of APD Securities and ASX listing:** apply to ASX to have:
- (i) trading in APD Securities suspended from the close of trading on the Effective Date; and
 - (ii) APD removed from the official list of ASX, and quotation of APD Securities on ASX terminated, by the close of trading on the trading day immediately following the Implementation Date, or such later date as may be:
 - (A) requested by Bidder, acting reasonably; and
 - (B) consented to by ASX.

- (w) **Compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this deed and applicable laws.

4.2 Bidder obligations

Bidder must take all steps reasonably necessary to implement the Schemes as soon as is reasonably practicable and use all reasonable endeavours to do so in accordance with the Timetable and otherwise on and subject to the terms of this deed. Without limiting the foregoing, Bidder must:

- (a) **Prepare Bidder Information:** as soon as practicable after the date of this deed:
- (i) prepare the Bidder Information for inclusion in the Scheme Booklet in accordance with all applicable laws, including the Corporations Act and Corporations Regulations, ASIC Regulatory Guide 60, ASIC Regulatory Guide 74, Takeovers Panel guidance notes and the Listing Rules; and
 - (ii) provide APD with drafts of the Bidder Information and consider in good faith any reasonable comments provided by or on behalf of APD in a timely manner;
- (b) **Final form of Bidder Information:** provide to APD the Bidder Information (including drafts thereof) in a form appropriate for inclusion in the Scheme Booklet;
- (c) **Assistance with Scheme Booklet and Court Documents:** provide any assistance or information reasonably requested by APD or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to APD Securityholders) or any Court Documents, including reviewing drafts of the Scheme Booklet and Court Documents provided by or on behalf of APD and promptly providing comments in good faith;
- (d) **Independent Expert's Report:** provide any assistance or information reasonably requested by APD or its Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report;
- (e) **Confirmation of Bidder Information:** prior to 5:00pm on the Business Day prior to the First Court Date, confirm in writing to APD that:
- (i) it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears;
 - (ii) the Bidder Information is accurate and not misleading or deceptive in any material respect (whether by omission or otherwise) and otherwise complies with all applicable laws, ASIC Regulatory Guide 60, ASIC Regulatory Guide 74, Takeovers Panel guidance notes and the Listing Rules; and
 - (iii) the Bidder Information is in a form appropriate for inclusion in the Scheme Booklet;
- (f) **Provide comments promptly:** promptly (having regard to the Timetable) provide comments on documents on which APD and Bidder are required to consult in accordance with clause 4.1(b) or 4.1(q) (including the Scheme Booklet and all Court Documents);
- (g) **Update Bidder Information:** promptly notify APD in writing if it becomes aware:

- (i) of information which should have been but was not included in the Bidder Information, and promptly provide APD with the omitted information; or
 - (ii) that the Bidder Information is or has become misleading or deceptive in any material respect (whether by omission or otherwise), or otherwise does not comply with applicable laws, ASIC Regulatory Guide 60, ASIC Regulatory Guide 74, Takeovers Panel guidance notes and the Listing Rules, and promptly provide APD with all information necessary to ensure the Bidder Information complies with applicable laws and is not false or misleading in any material respect (whether by omission or otherwise);
- (h) **Deed Poll:** execute the Deed Poll (and procure that Guarantor executes the Deed Poll), and deliver the fully executed Deed Poll to APD, in each case before 5:00pm on the date that is two Business Days before the First Court Date, and, if the Schemes become Effective, fully comply with the Deed Poll;
- (i) **Conditions certificate:** before 8:00am on the Second Court Date, provide to APD for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions (other than the Condition in clause 3.1(d)) have been satisfied or waived in accordance with clause 3, a draft of which must be provided to APD by 5:00pm on the Business Day before the Second Court Date;
- (j) **Representation at Court:** ensure that, if requested by APD, it is represented by counsel at the Court Hearings, and (if requested by the Court) undertake, through its counsel, to do all things within its power to ensure the fulfilment of its obligations under this deed and the Deed Poll;
- (k) **Scheme Consideration:** if the Schemes become Effective, pay or procure the payment of the Scheme Consideration in the manner and in the amount contemplated by clause 2.2(b)(ii), the terms of the Schemes and the Deed Poll;
- (l) **Security transfer:** if the Schemes become Effective, accept a transfer of the Scheme Securities as contemplated by clause 2.2(b)(i) and execute instruments of transfer in respect of the Scheme Securities as contemplated by clause 4.1(u);
- (m) **Promotion of Transaction:** participate in efforts reasonably requested by APD to promote the merits of the Transaction, including:
 - (i) meeting with key APD Securityholders and key investors in the Managed Funds or any other investment vehicle or asset managed by a member of the APD Group where requested by APD; and
 - (ii) providing APD with such information and assistance as APD reasonably requests to enable it to promote the merits of the Transaction; and
- (n) **Compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this deed and applicable laws.

4.3 Scheme Booklet

- (a) If Bidder and APD are unable to agree on the form or content of a particular part of the Scheme Booklet (other than the Independent Expert's Report), then:
- (i) if the relevant part of the Scheme Booklet is Bidder Information, APD will make such amendments to that part of the Scheme Booklet as required by Bidder (acting reasonably and in good faith); and
 - (ii) in any other case, APD (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.
- (b) Bidder and APD agree that the Scheme Booklet will contain a responsibility statement to the effect that:
- (i) APD has prepared and is responsible for the APD Information contained in the Scheme Booklet, and none of Bidder or its Related Bodies Corporate or their respective directors, officers or employees assumes any responsibility or liability for the accuracy or completeness of the APD Information;
 - (ii) Bidder has prepared and is responsible for the Bidder Information contained in the Scheme Booklet, and none of APD or its Related Bodies Corporate or their respective directors, officers or employees assumes any responsibility or liability for the accuracy or completeness of the Bidder Information; and
 - (iii) the Independent Expert has prepared and is responsible for the Independent Expert's Report, and none of Bidder or its Related Bodies Corporate or their respective directors, officers or employees, nor APD or its Related Bodies Corporate or their respective directors, officers or employees, assumes any responsibility or liability for the accuracy or completeness of the Independent Expert's Report.

4.4 CGT Withholding

- (a) Notwithstanding any other provision of this deed, if Bidder determines (acting reasonably and in good faith) that an amount is required to be withheld under Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (**Subdivision 14-D**) from the Scheme Consideration payable to an APN PG Scheme Participant or a Trust Scheme Participant, Bidder:
- (i) may withhold and remit to the ATO such amounts of the Scheme Consideration payable to that APN PG Scheme Participant or a Trust Scheme Participant that it is required to withhold and remit to the ATO under Subdivision 14-D (**CGT Withholding Amount**); and
 - (ii) is taken to have paid the CGT Withholding Amount to the APN PG Scheme Participant or a Trust Scheme Participant for the purposes of this document and the Scheme, provided that:
 - (A) the Bidder has given APD, no later than 1 Business Day after the Record Date, information which is to APD's satisfaction (acting reasonably), and which identifies the reasons as to why a liability arises under Subdivision 14-D, and the basis of the calculation of the CGT Withholding Amount;
 - (B) APD has not, at least 2 Business Days prior to the Implementation Date, given information to Bidder which demonstrates that the CGT

Withholding Amount should be nil or such other amount determined under a Valid Variation Notice; and

- (c) Bidder has provided each relevant APN PG Scheme Participant or a Trust Scheme Participant with the payment confirmation received from the Australian Taxation Office in respect of the amount withheld and remitted.
- (b) In determining the amount of the CGT Withholding Amount under clause 4.4(a)(i), Bidder agrees that it will:
 - (i) consult with APD in good faith as to the application of Subdivision 14-D to the Schemes;
 - (ii) take all actions that APD may reasonably request which may include promptly communicating with any relevant APN PG Scheme Participant or a Trust Scheme Participant to obtain a Valid Variation Notice or Withholding Declaration so as to reduce or eliminate the CGT Withholding Amount in respect of the APN PG Scheme Participant or Trust Scheme Participant.

5 Permitted Distribution

5.1 Permitted Distribution

- (a) Notwithstanding any other provision of this deed, APD may:
 - (i) (in its absolute discretion) declare and pay to APD Securityholders an interim distribution of up to 1.5 cents per APD Security in respect of the 6 months ended 30 June 2021 (**Permitted Distribution**); and
 - (ii) if the Schemes have not become Effective by 30 September 2021, declare and pay to APD Securityholders a further interim distribution of up to 0.9 cents per APD Security (**Further Distribution**) subject to there being available distributable earnings to make the payment.
- (b) The Permitted Distribution and any Further Distribution may (in APD's absolute discretion) be partially or fully franked, provided that the APD franking account must not fall into deficit upon payment of the Permitted Distribution and/or any Further Distribution.
- (c) The Scheme Consideration will be reduced by the cash amount of the Permitted Distribution that is declared and paid to APD Securityholders on or before the Implementation Date.
- (d) APN RE shall attribute all of the determined trust components as defined in section 276-255 of the Income Tax Assessment Act 1997 in respect of the income year ending 30 June 2021 to the unitholders of APD during that income year on a fair and reasonable basis with a view to ensuring that APN RE is not liable to tax under Subdivision 276-G of the Income Tax Assessment Act 1997.
- (e) APN RE shall not determine that any amount is payable in respect of the management units held by APN PG and shall not attribute any of the determined trust components as defined in section 276-255 of the Income Tax Assessment Act 1997 in respect of the income year ending 30 June 2021 to APN PG unless otherwise agreed.

5.2 Distribution reinvestment plan

APD agrees that the operation of its distribution reinvestment plan will continue to be suspended.

6 Conduct of business and transitional matters

6.1 Conduct of business

- (a) Subject to clause 6.1(b), from the date of this deed up to and including the Implementation Date, APD must:
- (i) procure that the business of the APD Group is conducted:
 - (A) in the ordinary course substantially consistent with the business plans and Budget disclosed to Bidder; and
 - (B) in a manner substantially consistent with the manner in which such business has been conducted in the 12 months prior to the date of this deed (save to the extent that the business plans and Budget in the Disclosure Material contemplated that the business of the APD Group would be conducted otherwise than in such manner, in which case APD must procure that the business of the APD Group is conducted in a manner which is substantially consistent with such business plans and Budget);
 - (ii) make reasonable efforts to:
 - (A) retain the services of the Key Management Personnel; and
 - (B) maintain and preserve the APD Group's relationships with material customers and suppliers and others with whom the APD Group has material business dealings; and
 - (iii) subject to APD's obligations under clause 6.9, take such reasonable steps as are within its control to maintain the APD Group's management rights in relation to the Managed Funds;
 - (iv) subject to APD's obligations under clause 6.9, not take any action within its control which will, or is reasonably likely to, result in or contribute to any member of the APD Group ceasing to have management rights in relation to the Managed Funds;
 - (v) maintain and, if necessary, take such steps as are within its control to renew, and procure that each other member of the APD Group maintains, and if necessary, take such steps as are within its control to renew:
 - (A) each of their respective insurance policies and promptly notifies Bidder if any renewal proposal is not accepted by the insurer or if the insurer requests a material adjustment to any policy in effect or under negotiation on and from the Implementation Date; and
 - (B) each of the licences, permits, consents, authorisations and approvals necessary to conduct the APD Group's business and promptly notifies Bidder if any renewal proposal is not accepted by the relevant Government Agency or if any relevant Government Agency notifies a

member of the APD Group of an intention not to renew a licence, permit, consent, authorisation or approval necessary for the conduct of its business;

- (vi) procure that no member of the APD Group:
- (A) announces, declares, pays or distributes any distribution or other share of its profits or assets, other than the Permitted Distribution or where the payment or distribution is made to a member of the APD Group to enable the Permitted Distribution and/or Further Distribution to be declared and paid;
 - (B) makes any change to its constitution;
 - (C) takes any action that could reasonably be expected to give rise to a Prescribed Occurrence;
 - (D) accepts as a compromise of a matter less than the full compensation due to a member of the APD Group where the financial impact of the compromise on the APD Group is more than \$1 million;
 - (E) waives any material Third Party or related party default where the financial impact on the APD Group will be in excess of \$1 million (individually or in aggregate);
 - (F) makes any commitment or pays any amount which leads to current or future expenditure that is, in aggregate, in excess of 10% of the amounts specified in the Budget;
 - (G) acquires or disposes of any securities, business or assets having a value in excess of \$2 million, other than to or from another member of the APD Group;
 - (H) makes a commitment to, or incurs, capital expenditure of more than \$2 million in one transaction or a series of related transactions;
 - (I) incurs financial indebtedness by way of new borrowings of an amount exceeding \$10 million (excluding any borrowings advanced by a member of the APD Group and any extension or replacement of an existing debt facility of the APD Group on terms substantially similar to the terms of such debt facility as at the date of this deed, and excluding, for the avoidance of doubt, any indebtedness under or in connection with the APD Group's existing debt facilities or private placement notes, or the APD Group's hedging arrangements);
 - (J) enters into, materially varies or terminates any contract under which the APD Group would receive revenue, or make expenditure, of more than \$1 million on an annual basis;
 - (K) terminates the employment of any Key Management Personnel or materially varies the terms of employment of any Key Management Personnel (other than increases of remuneration as part of remuneration reviews conducted in the ordinary course and consistent with past practice);
 - (L) employs any person having a total fixed annual remuneration of more than \$250,000;

- (M) increases the remuneration of (including with regard to superannuation benefits) or benefits provided to, or pay any bonus (other than in accordance with existing arrangements and in the ordinary course) to, or any pay termination or retention payments to, or issue any securities or options to, or otherwise materially vary the employment agreements with, any directors or employees, other than:
 - (aa) as a result of annual remuneration reviews in accordance with past practice or as a result of promotions in the ordinary course; or
 - (ab) as provided for in a contract or other arrangement Fairly Disclosed to Bidder;
 - (N) causes any APD Rights to vest or become payable other than in accordance with the terms of such APD Rights as at the date of this deed or in accordance with clause 6.5;
 - (O) makes a material change to any accounting method, practice or principle used by it, other than as a result of changes in generally accepted accounting standards or generally accepted accounting principles or the interpretation of any of them;
 - (P) makes any material tax election or settle or compromise any material liability relating to tax;
 - (Q) settles any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount exceeds \$1 million; or
 - (R) agrees to do any of the matters set out in clauses 6.1(a)(vi)(A) to 6.1(a)(vi)(Q) (inclusive).
- (b) Nothing in clause 6.1(a) restricts any member of the APD Group from doing or not doing (or agreeing to do or not do) anything which:
- (i) is required by any applicable law or is a compulsory direction of a Government Agency empowered to make such a direction (such laws and directions including any administrative orders in relation to COVID-19 or other epidemics or pandemics);
 - (ii) is required or permitted by this deed or the Schemes or any transaction contemplated by either;
 - (iii) is required to pay any tax or duty when due from cash reserves or undrawn facilities existing at the date of this deed and/or Fairly Disclosed in the Disclosure Letter or the Disclosure Materials;
 - (iv) in the reasonable opinion of a member of the APD Group, is a necessary and prudent response to any emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
 - (v) has been Fairly Disclosed in the Disclosure Materials or Disclosure Letter, or in any documents lodged with ASX or ASIC by or on behalf of APD in the two years before the date of this deed;
 - (vi) constitutes payment of Transaction costs and expenses incurred by APD including fees payable to external advisers of APD and costs of D&O

insurance under clause 6.8, up to the aggregate amount of such costs and expenses Fairly Disclosed in the Disclosure Letter; or

- (c) has been consented to in writing by Bidder (such agreement not to be unreasonably withheld or delayed, with any rejection following consultation between the Bidder and APD Group. In addition, Bidder must take into account the interests of the APD Group in deciding whether to give or withhold its consent). For the avoidance of doubt, nothing in clause 6.1(a) restricts the ability of APD to respond to a Competing Proposal in accordance with clause 7.
- (d) If APD requests Bidder's consent for the purposes of clause 6.1(c) and Bidder does not notify APD that it will not give the consent requested within two Business Days of the request being made, then Bidder will be deemed to have consented to the relevant matters the subject of the request.

6.2 Access

- (a) Subject to clauses 6.2(a)(iv) to 6.2(c), from the date of this deed until the Implementation Date, APD must use reasonable endeavours to procure that, subject to Bidder providing reasonable notice, Bidder is provided with reasonable access during normal business hours to information, premises and Key Management Personnel where Bidder reasonably requests such access for the sole purpose of:
 - (i) implementation of the Schemes;
 - (ii) facilitating Bidder to develop plans for APD's operations and business following implementation of the Schemes; or
 - (iii) any other purpose agreed with APD in writing,provided that:
 - (iv) information will be made available via a data room; and
 - (v) APD will not be required to provide access under clause 6.2(a) to the extent that doing so would:
 - (A) cause unreasonable disruption to the APD Group's business;
 - (B) result in any member of the APD Group breaching any applicable law or requirement of any Government Agency, or any obligation of confidentiality owed to a Third Party; or
 - (C) prejudice the interests of the APD Group (or any member thereof) or compromise legal privilege.
- (b) Nothing in clause 6.2(a) requires APD to provide any information:
 - (i) concerning its directors' and management's consideration of the Schemes;
 - (ii) any Competing Proposal; or
 - (iii) that is confidential information relating to any fund, trust, scheme or other entity that any member of the APD Group provides any management services to.

- (c) Any information provided by APD pursuant to clause 6.2(a) will be subject to the Confidentiality Agreement.

6.3 Material change of control consents

- (a) As soon as practicable following the date of this deed, APD and Bidder will use reasonable endeavours to identify any change of control or unilateral termination rights (or similar provisions) in any contract or other instrument to which a member of the APD Group is a party or bound and which:
- (i) is material to the business of the APD Group (taken as a whole) and which will or is reasonably likely to be triggered by or exercised in response to the implementation of the Transaction; or
 - (ii) in respect of which either party considers (acting reasonably) that they should approach the relevant person to confirm no change of control consent is required.
- (b) In respect of those contracts or instruments:
- (i) APD and Bidder will agree a proposed approach (which, among other things, will have due regard to applicable legal restrictions) and then APD will initiate contract, including joint discussions if required, with the relevant parties and request that they provide any consents or confirmations required or appropriate (which may include a request for a confirmation that a consent is not required);
 - (ii) Bidder must not, and must procure that its Related Bodies Corporate and Representatives do not, contact or hold discussions with any party from whom a consent or confirmation is required without APD present or without the prior written consent of APD (which is not to be unreasonably withheld, conditioned or delayed); and
 - (iii) APD must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by relevant parties, provided that nothing in this clause 6.3(b)(iii) will require APD to incur any material expense.
- (c) To avoid doubt, a failure to obtain any change of control consent (or similar) or other confirmation contemplated by this clause 6.3 will not of itself constitute a breach of this deed by APD nor a failure of any Condition. Any such failure, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

6.4 Transition Committee

- (a) On and from the date of this deed, APD and Bidder agree to establish a committee (**Transition Committee**) initially comprising the following individuals:
- (i) as representatives of APD, Tim Slattery and Joseph De Rango; and
 - (ii) as representatives of Bidder, Melanie Bourke and Ashlea Borean.
- (b) The role of the Transition Committee will be to act as a forum for discussion and planning (including, where applicable, in relation to communications with key stakeholders), but not decision making, in relation to overseeing the progress of the

Transaction in accordance with this deed and assisting with the eventual transition of the control of APD to Bidder upon the Schemes becoming Effective.

- (c) Without limiting clause 6.4(b), the matters considered by the Transition Committee will include:
- (i) the progress of the parties in implementing the Schemes in the manner contemplated by clauses 4.1 and 4.2;
 - (ii) the manner of the conduct of the business of the APD Group;
 - (iii) the strategy for engagement with employees, APD Securityholders and other key stakeholders (including key investors in the Managed Funds and other investment vehicles or asset managed by a member of the APD Group) Government Agencies and key contractual counterparties);
 - (iv) transition of business operations and functions or processes; and
 - (v) the process for obtaining material change of control consents.
- (d) Any information provided to Bidder or Representatives of Bidder under this clause 6.4 will be subject to the Confidentiality Agreement.
- (e) The Transition Committee will meet:
- (i) up to the date on which an advanced draft of the Scheme Booklet is provided to ASIC for its review, at least weekly; and
 - (ii) from the date referred to in clause 6.4(e)(i), at least fortnightly,
- or on such shorter timeframes as APD and Bidder may agree.
- (f) Meetings may be held via telephone or other forms of technology that provide representatives with an opportunity to participate.
- (g) The members of the Transition Committee may agree to invite other persons to attend meetings of the Transition Committee from time to time (including the parties' respective legal and financial advisers).
- (h) Nothing in this clause 6.4:
- (i) in any way, or to any extent, limits APD's conduct of the business of the APD Group;
 - (ii) requires APD to act at the direction of Bidder or imposes any obligation on APD to conduct the business of the APD Group in accordance with any direction or representation made by Bidder; or
 - (iii) requires any party to act or participate in any forum to the extent that doing so is contrary to law or the requirements of any Government Agency.
- (i) APD and Bidder agree and acknowledge that the respective businesses of the Bidder Group and the APD Group are to continue to operate independently until (and subject to) implementation of the Schemes.

6.5 Employee incentives

- (a) On or before the Implementation Date APD may pay (in the absolute discretion of the APD Board or any other person(s) delegated such authority by the APD Board) the short term incentives and other payments in respect of the financial year ended 30 June 2021 as contemplated by the Disclosure Letter, subject to the aggregate amount of such payments not exceeding the amounts specified in the Disclosure Letter.
- (b) APD must, prior to the Record Date, take such steps as are required (including, as applicable, applying for consents or waivers under the Listing Rules) to arrange that, subject to the Schemes becoming Effective:
- (i) a maximum of 20,090,778 APD Rights vest and become APD Securities which are Scheme Securities;
 - (ii) subject to Bidder making relevant payments as contemplated by clause 6.5(c), the balance of the APD Rights, being no more than 20,090,778 APD Rights less the number of APD Rights vested as contemplated by clause 6.5(b)(ii), are cancelled and cash-settled; and
 - (iii) each outstanding Employee Share Scheme Loan will be repaid in full, which repayment may be made out of the Scheme Consideration in respect of the APD Securities to which such Employee Share Scheme Loan relates.
- (c) Subject to the Schemes becoming Effective, Bidder undertakes and warrants to APD (in APD's own right and separately as trustee for each relevant holder of APD Rights) that Bidder will pay, or procure the payment of, the amount to be paid to relevant holders of APD Rights in consideration for cancellation of such APD Rights as contemplated by clause 6.5(b)(ii), in cleared funds, into a trust account operated by APD as trustee for the relevant holders of APD Rights before 12 noon on the Business Day immediately before the Implementation Date. APD must notify Bidder of such amount no later than 5 Business Days before the Implementation Date.
- (d) To avoid doubt, Bidder acknowledges and agrees that, despite any other provision of this deed:
- (i) the APD Board can exercise such discretions and authorise such actions and take such steps under the rules of the APD Employee Share Schemes and the APD Group's short term incentive plans (or otherwise) as it considers necessary or desirable to give effect to the arrangements and payments contemplated by clause 6.5(a)); and
 - (ii) no action or matter contemplated in this clause 6 will give rise to, or in any way contribute to, any breach of a Condition or any breach of any provision of this deed.

6.6 Resignation of directors

- (a) Subject to implementation of the Schemes in accordance with its terms including the Scheme Consideration having been paid to Scheme Securityholders, APD must procure that, with effect on and from the Implementation Date:
- (i) those persons nominated by Bidder are appointed to the APD Board and/or the boards of other members of the APD Group, subject to:

- (A) such persons having duly signed consents to act as a director of the relevant member(s) of the APD Group; and
- (B) such consents to act having been provided to APD before the Effective Date; and
- (ii) those persons specified by Bidder resign as directors of APD and/or other members of the APD Group and provide written notice to the effect that they have no claim outstanding for loss of office, unpaid remuneration or otherwise in connection with their role as a director against a member of the APD Group.
- (b) Any nomination by Bidder under clause 6.6(a)(i) or 6.6(a)(ii) must be made by written notice to APD, and such notice must be given before the Effective Date.
- (c) Nothing in clause 6.6(a) requires any director of a member of the APD Group to forego any rights he or she may have:
 - (i) under any deed of access, indemnity and insurance or policy of directors' and officers' insurance entered into by any member of the APD Group; or
 - (ii) in his or her capacity as an employee of any member of the APD Group.

6.7 Deeds of access, indemnity and insurance

- (a) Subject to the Schemes becoming Effective, Bidder undertakes in favour of APD and each other person who is an APD Indemnified Party that it will:
 - (i) procure that APD and each member of the APD Group complies with any deeds of indemnity, access and insurance entered into by them in favour of their respective directors and officers from time to time, including to ensure that directors' and officers' run-off insurance cover for such directors and officers obtained in accordance with clause 6.8 is maintained (and APD may, at its election, pay any reasonable amounts necessary to ensure such maintenance upfront and prior to the implementation of the Schemes) for a period of seven years from the retirement date of each director and officer; and
 - (ii) for a period of seven years from the Implementation Date, ensure that the constitutions of APD and each other member of the APD Group continue to contain rules which are no less favourable overall than the rules contained in those constitutions at the date of this deed that provide for each company to indemnify each of its current and previous directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the APD Group.
- (b) The undertakings contained in clause 6.7(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (c) APD and the APD Directors receive and hold the benefit of clause 6.7(a) to the extent it relates to the other APD Indemnified Parties as trustee for them.
- (d) The undertakings contained in clause 6.7(a) are given until the earlier of the end of the relevant period specified in clause 6.7(a) or the relevant member of the APD Group ceasing to be part of the APD Group.

6.8 D&O insurance

Each party acknowledges that, notwithstanding any other provision of this deed, APD may, prior to the Implementation Date, enter into arrangements to secure and place a directors' and officers' or investment managers' run-off insurance policy in respect of any current or former director or officer of any member of the APD Group that applies for no less than a 7 year period following the Implementation Date.

6.9 Managed Funds

The parties agree that:

- (a) to the extent that any proposal is made before the Second Court Date which is likely to result in or contribute to any member of the APD Group ceasing to have management rights in relation to a Managed Fund, Bidder and APD must consult with each other, acting reasonably, for the purposes of preparing a plan to respond to such proposal, and each party must use best endeavours to respond to such proposal in a manner aimed at ensuring that the APD Group retains the relevant management rights; and
- (b) the obligation for the parties to consult in clause 6.9(a) will include APD taking into account any proposals put forward by Bidder for the purposes of assisting in the response to such a proposal; and
- (c) the Bidder will, in a manner and at a time that Bidder determines, acting reasonably, acquire a physical, derivative or other interest in APN Industria REIT (ASX:ADI) (**ADI**) stapled securities so that the Bidder and APD have an aggregate combined economic interest of at least 19.95% (including all securities in which they currently have voting power). Bidder agrees that if this deed is terminated it must offer any ADI stapled securities it holds (but capped at such number APD is permitted by law to acquire) to APD for a price per stapled security that reflects the then prevailing market price before it offers or disposes of those securities to any third party. Any offer must remain open for at least 10 Business Days. If APD does not accept the offer, Bidder must not transfer or otherwise dispose of any securities it holds to a third party for a price and terms which are more favourable to the third party than what it offered to APD.

7 Exclusivity

7.1 No existing discussions

APD represents and warrants that, other than the discussions with Bidder in respect of the Schemes, as at the date of this deed it is not in negotiations or discussions in respect of any Competing Proposal with any person and is not aware of such a Competing Proposal.

7.2 No-shop

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

- (a) solicit, initiate, encourage or invite any Competing Proposal, or any enquiries, discussions, negotiations or proposals in relation to, or which may reasonably be expected to encourage or lead to, a Competing Proposal; or

- (b) communicate to any person any intention to do any of the things referred to in clause 7.2(a).

7.3 No-talk

Subject to clause 7.6, during the Exclusivity Period, APD must not, and must ensure that its Representatives do not:

- (a) participate in any discussions or negotiations, or enter into any agreement, arrangement or understanding, in relation to, or which may reasonably be expected to lead to, a Competing Proposal, even if:
 - (i) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by APD or any of its Representatives; or
 - (ii) the Competing Proposal has been publicly announced; or
- (b) communicate to any person any intention to do any of the things referred to in clause 7.3(a).

7.4 No due diligence

Subject to clause 7.6, without limiting clause 7.3, during the Exclusivity Period, APD must not, and must ensure that its Representatives and agents do not, make available to any Third Party, or permit any Third Party to receive, any non-public information relating to any member of the APD Group in connection with, or which may reasonably be expected to encourage or lead to, such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

7.5 Notification obligation

During the Exclusivity Period, APD must promptly notify Bidder if APD or (to the extent APD is aware) any of its Representatives:

- (a) receives a Competing Proposal, and such notice must set out the material terms and conditions of the Competing Proposal (including the price, the form of funding for the Competing Proposal and any conditions thereto and, subject to clause 7.6, the identity of the Third Party making the Competing Proposal) and any subsequent material modification of any material terms of, and other material details previously notified to Bidder in relation to, the Competing Proposal;
- (b) become aware of any approach or attempt to initiate any negotiations or discussions in relation to, or that may reasonably be expected to lead to, any Competing Proposal, and such notice must disclose the general nature of the approach;
- (c) receives any request for information relating to any member of the APD Group or any of their businesses or operations which APD has reasonable grounds to suspect may lead to a current or future Competing Proposal;

whether direct or indirect, solicited or unsolicited, and in writing or otherwise. If APD determines that the Competing Proposal is a Superior Proposal, APD must separately notify Bidder of that determination as soon as it is reasonably practicable to do so.

7.6 Fiduciary exception

- (a) Clauses 7.3, 7.4 and the obligation to disclose the identity of a Third Party making a Competing Proposal in clause 7.5 do not apply to the extent that they restrict any person from taking or not taking any action with respect to a bona fide Competing Proposal (which was not solicited, invited, encouraged or initiated in breach of clause 7.2) where the APD Board, acting in good faith, determines:
 - (i) after consultation with its financial adviser, that the Competing Proposal is, or could reasonably be expected to become, a Superior Proposal; and
 - (ii) after receiving advice from its external legal adviser, that failing to respond to the Competing Proposal would, or would be likely to, constitute a breach of the APD Directors' fiduciary or statutory duties.
- (b) If clause 7.6(a) applies to APD's obligation to disclose the identity of a Third Party making a Competing Proposal in clause 7.5, APD must instead provide the Bidder with reasonable details of the category or type of Third Party making the Competing Proposal.

7.7 Matching right

- (a) Without limiting clauses 7.2 or 7.3, APD must:
 - (i) not, and must procure that each of its Related Bodies Corporate do not, enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a third party, APD or both proposes or propose to undertake or give effect to a Competing Proposal (other than, for the avoidance of doubt, non-disclosure agreements); and
 - (ii) procure that no APD Director publicly changes or withdraws his or her recommendation in favour of the Schemes to publicly recommend a Competing Proposal (or publicly recommends against the Scheme),

unless:
 - (iii) the APD Board has determined, acting in good faith and after consultation with its financial adviser, that the Competing Proposal is a Superior Proposal;
 - (iv) APD has provided Bidder with the material terms and conditions of the Competing Proposal (including price, the identity of the Third Party making the Competing Proposal, form of consideration, proposed deal protection provisions, any break or reimbursement fee, proposed timing and any conditions precedent) and has confirmed that, subject to the operation of this clause 7.5, it intends to enter into an agreement to give effect to the Competing Proposal; and
 - (v) within five Business Days after the date on which Bidder receives the information referred to in clause 7.7(a)(iv), Bidder does not provide to APD a counterproposal (**Bidder Counterproposal**) that the APD Board determines, acting in good faith and after consultation with its financial adviser, would produce an equivalent or superior outcome for APD Securityholders as compared to the outcome that would be produced by the Competing Proposal, taking into account all of the terms and conditions of the Bidder Counterproposal and the basis on which it was made.

- (b) If Bidder makes a Bidder Counterproposal before the deadline specified in clause 7.7(a)(v), and the APD Board has determined that such Bidder Counterproposal would produce an equivalent or superior outcome for APD Securityholders as compared to the outcome that would be produced by the Competing Proposal, taking into account all of the terms and conditions of the Bidder Counterproposal and the basis on which it was made, then:
 - (i) Bidder and APD must each use reasonable endeavours to agree the transaction documentation required to implement the Bidder Counterproposal as soon as reasonably practicable; and
 - (ii) subject to such transaction document being so agreed, APD must use its best endeavours to procure that each member of the APD Board continues to recommend the Schemes (as modified by the Bidder Counterproposal) to APD Securityholders.
- (c) Any material modification to any Competing Proposal (which will include any modification relating to the price or value of any Competing Proposal or its funding) will be taken to make that proposal a new Competing Proposal in respect of which APD must comply with its obligations under this clause 7.7 again.

7.8 Normal provision of information

Nothing in this clause 7 prevents APD from:

- (a) providing information to:
 - (i) its Representatives or to any Government Agencies; or
 - (ii) its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (b) fulfilling its continuous disclosure obligations; or
- (c) making presentations to, or responding to enquiries from, brokers, portfolio investors, analysts and other Third Parties in the ordinary course of business or for the purpose of promoting the merits of the Transaction.

8 Break Fees

8.1 Background

This clause 8 has been agreed to in circumstances where:

- (a) each party believes it and its securityholders will derive significant benefits from the implementation of the Schemes;
- (b) each party has incurred and will further incur significant costs in connection with the Schemes, which will include significant opportunity costs if the Schemes are not implemented;
- (c) each party has requested that provision be made for the payment outlined in clause 8.2 or 8.3 (as applicable), and would not have entered into this deed had such provision not been made;
- (d) the APD Board believes that:

- For personal use only
- (i) it is reasonable and appropriate to agree to pay the Break Fee to secure Bidder's entry into this deed; and
 - (ii) the Break Fee represents a genuine and reasonable estimate of costs that would be incurred by Bidder if the Schemes are not implemented; and
 - (e) each party has received separate legal advice in relation to this deed and the operation of this clause 8.

8.2 Payment of Break Fee

Subject to clauses 8.5 and 8.6 and provided that APD is not entitled to terminate this deed or give a notice in accordance with clause 11.1 at the time of the relevant event, APD must pay Bidder the Break Fee, without set-off or withholding and within 10 Business Days after receipt of a written demand from Bidder, if any of the following events occur:

- (a) before the Second Court Date, an APD Director:
 - (i) fails to recommend that APD Securityholders vote in favour of the resolutions to approve the Schemes in the manner described in clause 2.3(a);
 - (ii) publicly changes or withdraws his or her recommendation that APD Securityholders vote in favour of the resolutions to approve the Schemes;
 - (iii) publicly withdraws or adversely changes his or her statement that he or she intends to vote (or procure the voting of) all APD Securities in which he or she holds a Relevant Interest in favour of the Schemes; or
 - (iv) publicly recommends a Competing Proposal,

other than where the Independent Expert has concluded that the Schemes are not or are no longer in the best interests of APD Securityholders (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal);

- (b) Bidder terminates this deed in accordance with clause 11.1(b); or
- (c) a Competing Proposal is publicly announced by a Third Party after the date of this deed and before the Second Court Date, and, within 9 months after such announcement, the Third Party making the Competing Proposal acquires all or a majority of the APD Securities or otherwise acquires Control of APD or all or substantially all of APD Group's business and undertakings.

8.3 Payment of Reverse Break Fee

Subject to clause 8.6, Bidder must pay APD the Reverse Break Fee, without set-off or withholding and within 10 Business Days after receipt of a written demand from APD, if APD terminates this deed in accordance with clause 11.1(b).

8.4 Nature of payment

The payment by a party under clauses 8.2 or 8.3 is an amount to compensate the other party for the following costs and expenses:

- (a) external advisory costs (excluding success fees);

- For personal use only
- (b) internal costs such as costs of management and directors' time, risk management costs and capital costs;
 - (c) out-of-pocket expenses; and
 - (d) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which otherwise could have been developed.

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under clause 8.2 or 8.3 (as applicable).

8.5 Qualifications to Break Fee

- (a) No amount is payable by APD under this clause 8 if the Schemes become Effective.
- (b) This clause 8 imposes obligations on APD only to the extent that:
 - (i) the performance of those obligations is not declared by the Takeovers Panel to constitute unacceptable circumstances;
 - (ii) the agreement to pay a Break Fee does not breach the fiduciary or statutory duties of any APD Director; or
 - (iii) the performance of those obligations is not otherwise unlawful or held to be unenforceable by a court.

For the avoidance of doubt, any part of that fee that would not constitute 'unacceptable circumstances', that would not breach the fiduciary or statutory duties of any APD Director or that is not unenforceable or unlawful (as applicable) must be paid by APD.

- (c) If the Break Fee has been paid by APD and clause 8.5(a) or 8.5(b) applies, Bidder must reimburse all or the relevant part of the Break Fee (as the case may be) within 10 Business Days after receipt of a written demand for reimbursement from APD.
- (d) The parties must not make or cause or permit to be made any application to the Takeovers Panel or a court for or in relation to a determination referred to in clause 8.5(b)(i) or 8.5(b)(iii).

8.6 Other claims

- (a) Notwithstanding any other provision of this deed:
 - (i) the maximum aggregate amount which APD may be required to pay in relation to this deed (including in relation to any breach of this deed by APD) is the Break Fee, and in no event will the aggregate liability of APD under or in connection with this deed exceed the Break Fee; and
 - (ii) where the Break Fee is paid to Bidder in accordance with clause 8.2, neither Bidder nor any of its Related Bodies Corporate may make any claim (of whatsoever nature) against APD or any other APD Indemnified Party under or in connection with this deed.

- (b) Subject to clause 8.6(c):
- (i) the maximum aggregate amount which Bidder may be required to pay in relation to this deed (including in relation to any breach of this deed by Bidder) is the Reverse Break Fee, and in no event will the aggregate liability of Bidder under or in connection with this deed exceed the Reverse Break Fee; and
 - (ii) where the Reverse Break Fee is paid to APD in accordance with clause 8.3, neither APD nor any of its Related Bodies Corporate may make any claim (of whatsoever nature) against Bidder or any other Bidder Indemnified Party under or in connection with this deed.
- (c) Clause 8.6(b) does not apply to any claim in respect of, and does not limit the liability of Bidder or Guarantor in connection with, any failure to perform the Deed Poll or to fully discharge the obligations under clause 2.2(b)(ii). For the avoidance of doubt, any amounts paid or payable by Bidder or Guarantor in respect of any such failure shall be disregarded for the purposes of clause 8.6(b).

9 Warranties

9.1 APD Warranties

APD represents and warrants to Bidder each of the APD Warranties.

9.2 APD's indemnity

APD agrees to indemnify Bidder against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the APD Warranties.

9.3 Bidder Warranties

Bidder represents and warrants to APD each of the Bidder Warranties.

9.4 Bidder's indemnity

Bidder agrees to indemnify APD against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that APD or any of the other APD Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Bidder Warranties.

9.5 Guarantor Warranties

Guarantor represents and warrants to APD each of the Guarantor Warranties.

9.6 Guarantor's indemnity

Guarantor agrees to indemnify APD against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that APD or any of the other APD Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Guarantor Warranties.

9.7 Qualifications on APD Warranties

- (a) The APD Warranties and the indemnity in clause 9.2 are each subject to matters that:
- (i) are required or permitted by this deed or the Schemes or any transaction contemplated by either;
 - (ii) have been Fairly Disclosed in the Disclosure Letter or Disclosure Materials, or in any documents lodged with ASX or ASIC by or on behalf of APD in the two years before the date of this deed; or
 - (iii) are within the actual knowledge of Bidder or any of its Related Bodies Corporate as at the date of this deed, or would have been within the actual knowledge of any such person as at the date of this deed had such person made all reasonable enquiries in the circumstances.
- (b) Any APD Warranties that are subject to the awareness, knowledge or belief of APD are given solely by reference to the actual knowledge of the Key Management Personnel as at the date of this deed and the knowledge, belief or awareness that such persons ought to have had at the date of this deed if each such persons had made all reasonable enquiries in the circumstances of those employees of the APD Group who report directly to them.

9.8 Survival of Warranties

Each Warranty:

- (a) is severable;
- (b) survives the termination of this deed; and
- (c) subject to this deed, is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

9.9 Survival of indemnities

Each indemnity in this deed (including those in clauses 9.2, 9.4 and 9.6):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survives the termination of this deed.

9.10 Timing of Warranties

Each Warranty is given:

- (a) at the date of this deed;
- (b) at the date the Scheme Booklet is despatched to APD Securityholders; and

(c) at 8:00am on the Second Court Date,

unless such Warranty is expressed to be given at a particular time, in which case it is given at that time.

10 Releases

10.1 Release of APD Indemnified Parties

- (a) Subject to clause 10.1(b), each of Bidder and Guarantor releases any and all rights that it has or may have or that may otherwise accrue to it after the date of this deed, and agrees with APD that it will not make any claim (of whatsoever nature), against any APD Indemnified Party (other than APD) as at the date of this deed in connection with:
- (i) any breach of any covenant, representation or warranty given by APD under this deed;
 - (ii) any disclosures or information provided in connection with this deed or the Schemes containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information in connection with this deed or Schemes, except where such APD Indemnified Party has engaged in fraud or wilful misconduct.
- (b) The releases in clause 10.1(a) are subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) APD receives and holds the benefit of clause 10.1(a) as trustee for each other APD Indemnified Party.

10.2 Release of Bidder Indemnified Parties

- (a) Subject to clause 10.1(b), APD releases any and all rights that it has or may have or that may otherwise accrue to it after the date of this deed, and agrees with Bidder that it will not make any claim (of whatsoever nature), against any Bidder Indemnified Party (other than Bidder) as at the date of this deed in connection with:
- (i) any breach of any covenant, representation or warranty given by Bidder under this deed;
 - (ii) any disclosures or information provided in connection with this deed or the Schemes containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information in connection with this deed or Schemes, except where such Bidder Indemnified Party has engaged in fraud or wilful misconduct.
- (b) The releases in clause 10.2(a) are subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.

- (c) Bidder receives and holds the benefit of clause 10.2(a) as trustee for each other Bidder Indemnified Party.

11 Termination

11.1 Termination by APD or Bidder

- (a) APD or Bidder may terminate this deed at any time before 8:00am on the Second Court Date in accordance with clause 3.5.
- (b) APD or Bidder may terminate this deed at any time before 8:00am on the Second Court Date if Bidder or Guarantor (where APD is the terminating party), or APD (where Bidder is the terminating party), commits a material breach of this deed (including the Warranties), provided that:
 - (i) the terminating party has given written notice to the other parties setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied to the reasonable satisfaction of the terminating party within 10 Business Days from the date such notice is given (or any shorter period ending at 5:00pm on the Business Day immediately before the Second Court Date).
- (c) Termination under clause 11.1(b) will take effect at the expiry of the period referred to in clause 11.1(b)(ii).

11.2 Termination by Bidder

Bidder may terminate this deed by notice in writing to APD at any time before 8:00am on the Second Court Date if any APD director:

- (a) fails to recommend the Schemes before the Second Court Date;
- (b) publicly withdraws or changes his or her recommendation that APD Securityholders vote in favour of the resolutions to approve the Schemes or publicly recommends a Competing Proposal.

11.3 Termination by APD

APD may terminate this deed by notice in writing to Bidder at any time before 8:00am on the Second Court Date if a majority of the APD Board withdraws its recommendation that APD Securityholders vote in favour of the resolutions to approve the Schemes in the manner permitted by clause 2.3(c) or 2.3(d), provided that, before any such termination APD pays the Break Fee if required under clause 8.2(a)(ii) as a result of such withdrawal.

11.4 Effect of termination

If this deed is terminated in accordance with this clause 11, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 11 and clauses 1, 8, 9, 10 and 12.1 through 18 (inclusive) will survive termination; and

- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination.

12 Public announcements

12.1 Announcement of the Transaction

- (a) Immediately after execution of this deed:
 - (i) APD must issue a public announcement; and
 - (ii) Guarantor must issue a public announcement,in each case in the form set out at Attachment E.

12.2 Other public announcements

- (a) Subject to clause 12.2(b), each party must:
 - (i) prior to making any public announcement or disclosure of or in relation to the Transaction or any other transaction the subject of this deed or the Schemes, to the extent reasonably practicable and lawful, consult with the other party as to the timing, form and content of that announcement or disclosure, including by giving the other party a reasonable opportunity to review the draft and taking into account all reasonable comments from them on the draft; and
 - (ii) not make any such public announcement or disclosure prior to such consultation, except as may be required by applicable law or by the Listing Rules.
- (b) Clause 12.2(a) does not apply in relation to any public announcement relating to termination of this deed or any Competing Proposal.

13 Confidentiality

- (a) APD and Guarantor acknowledge and agree that they continue to be bound by the Confidentiality Agreement, provided that:
 - (i) this deed prevails to the extent of any inconsistency with the Confidentiality Agreement; and
 - (ii) notwithstanding any provision of this deed or the Confidentiality Agreement, APD will not be required to consult with Guarantor in relation to any public announcement relating to termination of this deed or any Competing Proposal.
- (b) The rights and obligations of the parties under the Confidentiality Agreement survive termination of this deed

14 Guarantee and indemnity

14.1 Guarantee

In consideration of APD executing this deed at the request of Bidder and Guarantor, Guarantor unconditionally and irrevocably:

- (a) guarantees to APD the due and punctual performance and observance by Bidder of all of the obligations contained in, or implied under, this deed and the Deed Poll (including the obligation to pay or procure the payment of the Aggregate Scheme Consideration in accordance with clause 2.2(b)(ii)) that must be performed and observed by Bidder (**Guaranteed Obligations**); and
- (b) as a separate and additional liability, agrees to indemnify APD against, and pay to APD on demand the full amount of, any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that APD suffers, incurs or is liable for arising out of any default or delay by Bidder in the due and punctual performance and observance by Bidder of any of the Guaranteed Obligations.

14.2 Extent of guarantee

- (a) Guarantor will be responsible to APD for the performance of the Guaranteed Obligations by Bidder in the same manner as if Guarantor were a party to this deed or the Deed Poll in the place of Bidder.
- (b) The liability of Guarantor under this clause 14 is not affected by any act, omission or other thing which, but for this clause 14.2(b), might otherwise affect it in law or in equity or operate to release or exonerate Guarantor in whole or in part from its obligations, including one or more of the following:
 - (i) any amendment of this deed (other than to the terms of this clause 14.2);
 - (ii) a rule of law or equity to the contrary;
 - (iii) an Insolvency Event affecting a person;
 - (iv) a change in the constituent documents, membership or partnership of a person;
 - (v) the partial performance of the Guaranteed Obligations;
 - (vi) the Guaranteed Obligations not being enforceable at any time;
 - (vii) APD granting any time or other indulgence, waiver, consent or concession to, or reaching any settlement or compromise with, Bidder, Guarantor or any other person from any liability or obligation (other than an obligation under this clause 14.2);
 - (viii) any transaction or arrangement that may take place between any of the parties to this deed or any other person;
 - (ix) APD exercising or refraining from exercising its rights under any security or any other rights, power or remedies against Bidder, Guarantor or any other person;

- For personal use only
- (x) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer of any security held by APD or any other person or the taking of, or failure to take, any security, in each case whether in whole or in part and whether with or without consideration;
 - (xi) the failure or omission or any delay by any party to give notice to Guarantor of any default under this deed;
 - (xii) any legal limitation, disability, incapacity or other circumstances related to a person.
 - (xiii) acquiescence, delay, acts, omissions or mistakes on the part of APD; or
 - (xiv) the occurrence of any other thing which might otherwise release, discharge or affect the obligations of Guarantor under this clause 14.

14.3 Payments

- (a) Guarantor agrees to make payments under this clause 14 in Australian dollars and in full without set-off, counterclaim, deduction or other withholding. If Guarantor is required by law to withhold or deduct any amount so that APD would not actually receive on the due date the full amount, it must ensure that:
 - (i) the amount payable is increased so that, after making that withholding or deduction, APD is entitled to receive and does receive the full amount it would have received if no withholdings or deductions had been required; and
 - (ii) the full amount withheld or deducted is paid to the relevant Government Agency in accordance with applicable law.
- (b) Guarantor has no right to set-off, deduct or withhold any moneys that it may be or become liable to pay under this clause 14 against any moneys that APD or any other member of the APD Group may be or become liable to pay to Guarantor or any of its Related Bodies Corporate (whether under this deed or otherwise).

14.4 Continuing obligation

This clause 14:

- (a) extends to cover this deed as amended, varied, supplemented, renewed or replaced;
- (b) is a principal obligation and is not to be treated as ancillary or collateral to another right or obligation;
- (c) is independent of and not in substitution for or affected by any other security interest or guarantee or other document, deed or arrangement which APD may have the benefit of or be a party to concerning the Guaranteed Obligations; and
- (d) is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Guaranteed Obligations until all of those obligations have been fully discharged.

15 Trustee limitation of liability

- (a) APN RE enters into this deed only in its capacity as responsible entity of the APD Trust and in no other capacity. Each of the parties to this deed acknowledge that the obligations, and any representations and warranties, of APN RE under this deed are incurred or given by APN RE to the parties in its capacity as responsible entity of the APD Trust.
- (b) A liability arising under or in connection with this deed is limited to and can be enforced against APN RE only to the extent to which it can be satisfied out of the property of the APD Trust out of which APN RE is actually indemnified for the liability. This limitation of APN RE's liability applies despite any other provision of this deed and extends to all liabilities and obligations of APN RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this deed.
- (c) Any party to this deed may not sue APN RE in any capacity other than as responsible entity of the APD Trust, including seeking the appointment of a receiver (except in relation to property of the APD Trust), a liquidator, an administrator or any similar person to APN RE or prove in any liquidation, administration or arrangement of or affecting APN RE (except in relation to property of the APD Trust).
- (d) The limitations in this clause 15 do not apply to any obligation or liability of APN RE to the extent that it is not satisfied because under the constitution of the APD Trust, or by operation of law, there is a reduction in the extent of APN RE's indemnification, APN RE has no right to indemnification, out of the assets of the APD Trust as a result of any fraud, breach of trust or breach of duty by APN RE relating to this deed in its capacity as responsible entity of the APD Trust. For the avoidance of doubt, if any of the circumstances in the previous sentence arise, APN RE will be liable both in its personal capacity and, to the maximum extent permitted by law, in its capacity as responsible entity of the APD Trust.
- (e) This clause 15 is not intended to limit any rights which APN RE has to be indemnified out of the assets of the APD Trust.

16 Duty, costs and expenses

16.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any related interest, fines and penalties in respect of this deed, the Transaction, the Schemes or any transaction or steps effected or taken under, or contemplated by, this deed, the Transaction or the Schemes; and
- (b) indemnifies APD against any liability arising from or in connection with any failure by Bidder to comply with clause 16.1(a).

16.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

17 GST

- (a) In this clause 17, a word or expression defined in the GST Law has the meaning given to it in the GST Law.
- (b) Unless otherwise expressly stated, all amounts or other sums payable or consideration to be provided under or in accordance with this deed are exclusive of GST.
- (c) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 17(c) (**GST exclusive consideration**) is increased by an amount (**Additional Amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (d) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 17(c) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (e) A party need not make a payment of the Additional Amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

18 General

18.1 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
 - (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below,and must be:
 - (iv) left at, or sent by commercial courier to, the address set out below; or
 - (v) sent by email to the address set out below.

APD

Attention: Tim Slattery / Joseph De Rango

Address: Level 30
101 Collins Street
Melbourne Vic 3000

Email: tslattery@apngroup.com.au / jderango@apngroup.com.au
with a copy (for information purposes only) to npathak@gtlaw.com.au and
smacknay@gtlaw.com.au

Bidder / Guarantor

Attention: Jonathan Hedger

Address: Level 25, Australia Square
264-278 George Street
Sydney NSW 2000

Email: jonathan.hedger@dexus.com

with a copy (for information purposes only) to daniel.natale@au.kwm.com

- (b) Subject to clause 18.1(c), a Notice is taken to be received:
- (i) if sent by delivery, when it is delivered;
 - (ii) if sent by post, three days after posting; or
 - (iii) if sent by email:
 - (A) when the sender receives an automated message confirming delivery;
or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,
- whichever happens first.
- (c) If a Notice is taken to be received under clause 18.1(b):
- (i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or
 - (ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

18.2 Governing law and jurisdiction

- (a) This deed is governed by the laws of Victoria, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria, Australia and courts competent to hear appeals from those courts.

18.3 No representation or reliance

- (a) Each party acknowledges that no other party (nor any person acting on behalf of another party) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other person, except for any representation or inducement expressly set out in this deed.

18.4 No merger

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

18.5 Waivers and consents

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

18.6 Variation

- (a) Subject to clause 18.6(b), this deed may only be varied by a document signed by or on behalf of APD and the Bidder.
- (b) On and from the Implementation Date, the parties may not amend or vary this deed in a manner that adversely affects any right or benefit conferred on an APD Indemnified Party under this deed without the prior written consent of the majority of directors of APD at the date of this deed.

18.7 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

18.8 Further action

Each of the parties will do all things and execute all further documents necessary to give full effect to this deed.

18.9 Entire agreement

Subject to clause 13, this deed supersedes all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties.

18.10 Severability

- (a) If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other jurisdiction.
- (b) Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.
- (c) This clause 18.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

18.11 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

18.12 Relationship of the parties

- (a) Other than as set out in this clause 18.12 below nothing in this deed:
 - (i) gives a party authority to bind any other party in any way; and
 - (ii) imposes any fiduciary duties on a party in relation to any other party.
- (b) Any rights expressed to be held by APD are held and may be exercised by APD, APN RE and APD Trust severally.
- (c) Obligations and liabilities expressed to be owing by APD under this deed are owed by APD, APN RE and APD Trust jointly and severally.

Schedule 1 Dictionary

1 Dictionary

Additional Amount has the meaning given in clause 17(c).

Aggregate Scheme Consideration means the Scheme Consideration multiplied by the total number of Scheme Securities.

APD Board means the board of directors of APN PG and the board of directors of APN RE (in its capacity as responsible entity of APD Trust).

APD Director means a director of APN PG and/or a director of APN RE.

APD Employee Share Schemes means APD's share incentive plans.

APD Group means, collectively, APD and its Related Bodies Corporate (including APN RE acting in its capacity as responsible entity of the APD Trust).

APD Indemnified Parties means APD and its Related Bodies Corporate and their respective current and former directors, officers, employees and advisers.

APD Information means all the information in the Scheme Booklet other than the Bidder Information and the Independent Expert's Report.

APD Rights means an unlisted contractual right to acquire an APD Security pursuant to the APD Employee Share Schemes.

APD Security means an APD Share stapled to an APD Trust Unit.

APD Securityholder means a holder of one or more APD Securities, as shown in the Security Register.

APD Share means a fully paid ordinary share in the capital of APN PG.

APD Shareholders means each person who is registered in the Security Register as a holder of APD Shares.

APD Trust means the APD Trust (ARSN 629 330 007) whose units are stapled to shares of APN PG.

APD Trust Constitution means the constitution establishing the APD Trust as amended from time to time.

APD Trust Supplemental Deed means a deed poll under which APN RE will amend the APD Trust Constitution to effect the Trust Scheme in the form of Attachment C or such other form as agreed in writing between Bidder and APD.

APD Trust Unit a fully paid ordinary unit in the APD Trust.

APD Warranties means the representations and warranties of APD set out in Schedule 2.

APN PG Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between APN PG and the APN PG Scheme Participants, in the form of Attachment B or such other form as agreed in writing between Bidder and APD.

APN PG Scheme Meeting means the meeting of APD Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act, and includes any adjournment of that meeting.

APN PG Scheme Participants means each person who is registered in the Security Register as at the Record Date as a holder of APD Shares.

ASIC means the Australian Securities and Investments Commission.

ASIC Relief means an approval or consent referred to in clause 3.1(a).

Associate has the meaning given in section 12 of the Corporations Act.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it.

Bidder Counterproposal has the meaning given in clause 7.7(a)(v).

Bidder Group means Bidder and its Related Bodies Corporate.

Bidder Indemnified Parties means Bidder and its Related Bodies Corporate and their respective directors, officers, employees and advisers.

Bidder Information means information regarding Bidder and its Related Bodies Corporate provided by or on behalf of Bidder to APD or its Representatives for inclusion in the Scheme Booklet.

Bidder Warranties means the representations and warranties of Bidder set out in Schedule 3.

Break Fee means \$3,000,000.

Budget means the budget provided at reference 02.03.02 of the Data Room.

Business Day has the meaning given in the Listing Rules.

Competing Proposal means any expression of interest, proposal, offer, agreement, arrangement or transaction which is sufficiently detailed and credible to warrant consideration as such by APD and which, if entered into or completed, would result in a Third Party (either alone or together with one or more Associates) directly or indirectly:

- (a) acquiring a Relevant Interest in, or acquiring or obtaining a right to acquire a legal, beneficial, economic or voting interest in, 20% or more of all APD Securities;
- (b) obtaining a right to acquire, or otherwise obtaining an economic interest in, all or a material part of the assets or business of the APD Group (where a material part means assets representing 50% or more of the value of the APD Group's total assets or business representing 50% or more of the value of the APD Group's total business); or
- (c) acquiring Control of, or merging with, APD, whether by takeover bid, scheme of arrangement, shareholder approved acquisition or other transaction or arrangement.

Condition means a condition set out in clause 3.1.

Confidentiality Agreement means the confidentiality agreement between APD and Guarantor dated 9 April 2021.

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

Corporations Act means the *Corporations Act 2001* (Cth).

Corporations Regulations means the *Corporations Regulations 2001* (Cth).

Court means the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Bidder and APD.

Court Documents means the documents required for the purposes of the Court Hearings, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearings means the First Court Hearing and Second Court Hearing.

Data Room means the "Project E" virtual data room (an index of which has been initialled by the parties' lawyers before execution of this deed for the purposes of identification).

Deed Poll means the deed poll to be entered into by Bidder in the form of Attachment D.

Disclosure Letter means the letter so entitled from APD provided to Bidder on or before the date of this deed.

Disclosure Materials means the Disclosure Letter and the written information, documents and responses disclosed or made available to Bidder or its Representatives by or on behalf of APD before the date of this deed in the Data Room.

EBITDA means the consolidated earnings of the APD Group before interest, tax, depreciation and amortisation (excluding non-recurring items and non-operating items) calculated in accordance with the accounting policies and practices of the APD Group as at the date of this deed.

Effective means:

- (a) the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the APN PG Scheme; and
- (b) the APD Trust Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.

Effective Date means the date on which the Schemes become Effective.

Employee Share Scheme Loan means a loan made by a member of the APD Group to a participant in the APD Employee Share Schemes for the acquisition of APD Securities.

End Date means 6 months after the date of this deed or such later date as Bidder and APD agree in writing.

Exclusivity Period means the period from the date of this deed until the earlier of:

- (a) the termination of this deed in accordance with clause 11; and

(b) the End Date.

Fairly Disclosed means, in relation to a matter, such matter being disclosed in sufficient detail to enable a reasonable and sophisticated person experienced in M&A transactions to identify the nature and scope of the relevant matter.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing APD to convene the APN PG Scheme Meeting is heard and to seek the First Judicial Advice (or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **First Court Hearing**.

First Judicial Advice means confirmation from the Court under Order 54 of the *Supreme Court (General Civil Procedure) Rules 2005 (Vic)* that:

- (a) APN RE would be justified in convening the Trust Scheme Meeting for the purposes of considering the Trust Scheme Resolutions; and
- (b) subject to the Trust Unitholders passing the Trust Scheme Resolutions, APN RE would be justified in proceeding on the basis that amending the APD Trust Constitution as set out in the APD Trust Supplemental Deed would be within the powers of alteration conferred by the APD Trust Constitution and section 601GC of the Corporations Act.

Further Distribution has the meaning given in clause 5.1(a)(ii).

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

GST means goods and services tax, or a similar value added tax, levied or imposed in Australia under the GST Law.

GST exclusive consideration has the meaning given in clause 17(c).

GST Law has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guaranteed Obligations has the meaning given in clause 14.1(a).

Guarantor Warranties means the representations and warranties of Guarantor set out in Schedule 4.

Implementation Date means the fifth Business Day after the Record Date or such other day as Bidder and APD agree in writing.

Independent Expert means the independent expert to be appointed by APD to prepare the Independent Expert's Report in accordance with clause 4.1(a).

Independent Expert's Report means the report prepared by the Independent Expert for inclusion in the Scheme Booklet opining on whether the Scheme is fair and reasonable and in the best interests of APD Securityholders, and includes any update or supplement to that report.

Insolvency Event means, in relation to any entity:

- (a) the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement;
- (d) the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this deed;
- (e) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation);
- (f) the entity being deregistered as a company or otherwise dissolved; or
- (g) something having a substantially similar effect to any of the things described in paragraphs (a) to (f) happens in connection with the entity under the law of any foreign jurisdiction.

Key Management Personnel means the key management personnel of APD (excluding non-executive directors) from time to time. As at the date of this deed, such persons are:

- (a) Tim Slattery;
- (b) Joseph De Rango;
- (c) Chris Brockett;
- (d) Alex Abell; and
- (e) Pete Morrissey.

Listing Rules means the official listing rules of ASX.

Managed Fund means the listed entities that comprise the APN Convenience Retail REIT (ASX:AQR) or the APN Industria REIT (ASX:ADI).

Material Adverse Change means a matter, event or circumstance that occurs or becomes known after the date of this deed which (either individually or when aggregated with other events occurrences or matters of the same or substantially similar nature) has resulted in, or is reasonably likely to result in, EBITDA being reduced by at least \$2.5 million in the 12 month period from the happening of the matter, event or circumstance as compared to what the EBITDA could reasonably be expected to have been in that period but for the relevant matter, event or circumstance, provided that:

- (a) any reduction in EBITDA in the relevant period must be determined after taking into account any matters which offset the impact of the relevant matter, event or circumstance in the relevant period; and
- (b) any matter, event or circumstance shall be disregarded if:

- (i) it is required or permitted by this deed or the Schemes or transactions contemplated by either;
- (ii) it is Fairly Disclosed in the Disclosure Materials or Disclosure Letter, or in any documents lodged with ASX or ASIC by or on behalf of APD in the two years before the date of this deed;
- (iii) it is within the actual knowledge of Bidder or any of its Related Bodies Corporate or Representatives as at the date of this deed;
- (iv) it is it is approved, consented to or requested by Bidder in writing;
- (v) it constitutes payment of Transaction costs and expenses incurred by APD including fees payable to external advisers of APD and costs of D&O insurance under clause 6.8, up to the aggregate amount of such costs and expenses Fairly Disclosed in the Disclosure Letter;
- (vi) it results or arises from or in connection with:
 - (A) any actual or proposed change in any law, regulation or policy, or in any accounting principle or standard, or in the interpretation of any of the foregoing;
 - (B) general economic, business or political conditions or changes in any such conditions (including disruptions to, or fluctuations in, stock markets or other financial markets, or changes in interest rates, foreign currency exchange rates or commodity prices) that impact Australian property fund management businesses and Australian real estate investment trusts generally;
 - (C) any act of terrorism, war (whether or not declared) natural disaster, pandemic, epidemic or the like; and
- (vii) it arises from the COVID-19 virus (or any mutation, variation or derivative), or from any law, order, rule or direction of any Government Agency in relation thereto.

Notice has the meaning given in clause 18.1(a).

Permitted Distribution has the meaning given in clause 5.1(a)(i).

Prescribed Occurrence means the occurrence of any of the matters set out in Schedule 5.

Record Date means 7:00pm on the second Business Day after the Effective Date of the Schemes, or such other time and date as Bidder and APD agree in writing.

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Representative means, in respect of a party, an employee, agent, officer, director, adviser or financier of that party (or of a Related Body Corporate of that party), and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable).

Reverse Break Fee means \$3,000,000.

Scheme Booklet means the explanatory statement in respect of the Schemes, which will contain (among other things) the Independent Expert's Report (or a concise version of that report), a notice of meeting in respect of the APN PG Scheme Meeting and Trust Scheme Meeting and a proxy form.

Scheme Consideration means, in respect of each Scheme Security, 91.5 cents as adjusted in accordance with clause 5.1(c) (if applicable).

Scheme Meetings means the APN PG Scheme Meeting and the Trust Scheme Meeting.

Scheme Security means an APD Security held by a Scheme Securityholder as at the Record Date.

Scheme Securityholder means an APD Securityholder as at the Record Date.

Schemes means the APN PG Scheme and the Trust Scheme.

Second Court Date means the first day on which an application made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme is heard and the Second Judicial Advice is sought (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Second Judicial Advice means confirmation from the Court under Order 54 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic) that, the Trust Unitholders having approved the Trust Scheme Resolutions by the requisite majorities, APN RE would be justified in implementing the Trust Scheme Resolutions, giving effect to the provisions of the APD Trust Constitution (as amended by the APD Trust Supplemental Deed) and in doing all things and taking all necessary steps to put the Trust Scheme into effect.

Security Register means the register of APD Securityholders maintained in accordance with the Corporations Act.

Superior Proposal means a bona fide Competing Proposal (which is not received by APD as a result of a material breach by APD of its obligations under clause 7) which the APD Board, acting in good faith and after taking advice from its legal and financial advisers, determines:

- (a) is reasonably capable of being completed substantially in accordance with its terms, taking into account all aspects of the Competing Proposal, including its conditions; and
- (b) would be more favourable to APD Securityholders than the Transaction if completed substantially in accordance with its terms, taking into account all aspects of the Competing Proposal, including the identity, reputation and financial condition of the person making such proposal and legal, regulatory and financial matters.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Third Party means a person other than Bidder and its Associates.

Timetable means the indicative timetable for the implementation of the Transaction set out in Attachment A.

Transaction means the acquisition of APD by Bidder by means of the Schemes.

Transition Committee has the meaning given in clause 6.4(a).

Trust Property means all of the scheme property of the APD Trust, including all APN RE's rights, property and undertaking which are the subject of the APD Trust:

- (a) of whatever kind and wherever situated; and
- (b) whether present or future.

Trust Scheme means an arrangement under which Bidder acquires all of the APD Trust Units from Trust Scheme Participants facilitated by amendments to the APD Trust Constitution as set out in the APD Trust Supplemental Deed, subject to the requisite approvals of the Trust Unitholders, in the form of Attachment C or such other form as agreed in writing between Bidder and APD.

Trust Scheme Meeting means the meeting of Trust Unitholders convened by APN RE to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.

Trust Scheme Participants means each person registered in the Security Register as a holder of Trust Scheme Units as at the Record Date.

Trust Scheme Resolutions means the resolutions to approve the Trust Scheme including:

- (a) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the APD Trust Constitution as set out in the APD Trust Supplemental Deed; and
- (b) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the APD Trust Units by Bidder.

Trust Scheme Unit means APD Trust Units as at the Record Date.

Trust Unitholder means each person who is registered in the Security Register as a holder of APD Trust Units.

Valid Variation Notice means a means a notice of variation granted by the Commissioner under subsection 14-235(2) of Schedule 1 to the TAA.

Warranty means an APD Warranty, Bidder Warranty or Guarantor Warranty (as applicable).

Withholding Declaration means a declaration under section 14-225 of Schedule 1 to the TAA in respect of the acquisition of any Scheme Securities from an APN PG Scheme Participant or a Trust Scheme Participant.

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including”, “such as”, “for example” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars.
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.

- (i) In determining the time of day where relevant to this deed, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 APD Warranties

- (a) **Validly existing:**
- (i) APN PG is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) APD Trust is duly established, is validly subsisting, has not been terminated and is a registered managed investment scheme;
 - (iii) APN RE is the (and is the only) trustee and responsible entity of APD Trust, has been validly appointed and remains as responsible entity of APD Trust;
 - (iv) as far APN RE is aware, no action has been taken to either:
 - (A) terminate APD Trust; or
 - (B) wind up APD Trust whether under Chapter 5C of the Corporations Act or otherwise,other than any frivolous or vexatious application, or any application that is set aside within 14 days or, if earlier, by the Second Court Date;
 - (v) APN RE has not exercised its powers under the APD Trust Constitution to release, abandon or restrict any power conferred on it by the APD Trust Constitution;
 - (vi) APN RE is not in default under the APD Trust Constitution; and
 - (vii) subject to law and the APD Trust constitution, APN RE has the right to be fully indemnified out of the Trust Property in respect of the obligations incurred by it as responsible entity of APD Trust under the documents to which it is a party, and as far as APN RE is aware there is nothing that would prevent APN RE from being fully indemnified out of the Trust Property for any obligations under or in connection with this deed or any of the transactions contemplated by the deed that it incurs in its capacity as responsible entity of APD Trust.
- (b) **Power:** APD has full corporate power and lawful authority to execute, deliver and perform this deed and the Schemes.
- (c) **Corporate action:** APD has taken the necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Schemes.
- (d) **Binding:** This deed is a valid and binding obligation on APD, enforceable in accordance with its terms.
- (e) **Performance:** The execution and performance of this deed by APD does not and will not violate or breach any provision of:
- (i) any writ, order or injunction, judgment, law, rule or regulation to which APD is party or by which it or any other member of the APD Group is bound; or

(ii) APN PG, APD Trust or APN RE's constitution,

and is not otherwise bound by any agreement, undertaking or instrument that would prevent it from entering into, delivering or performing this deed.

(f) **Capital structure:** As at the date of this deed, there are:

(i) 329,548,043 APD Securities; and

(ii) 20,090,778 APD Rights,

on issue, and APD has not issued or agreed to issue any other securities which are still outstanding and may convert into APD Securities.

(g) **APD Information:** The APD Information included in the Scheme Booklet and any supplementary disclosure made to APD Securityholders pursuant to clause 4.1(j) (excluding any information provided by Bidder) has been prepared in good faith and, as at the date of the Scheme Booklet or supplementary disclosure (as applicable):

(i) is not misleading or deceptive in any material respect (whether by omission or otherwise); and

(ii) complies in all material respects with the requirements of the Corporations Act and Corporations Regulations, Listing Rules, Takeovers Panel guidance notes, ASIC Regulatory Guide 60 and ASIC Regulatory Guide 74 (as applicable).

(h) **Information provided to Independent Expert:** The information provided to the Independent Expert by APD has been provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.

(i) **Solvency or regulatory action:** No member of the APD Group is the subject of an Insolvency Event, nor is APD aware of any regulatory action having been taken in relation to any member of the APD Group that would prevent or restrict its ability to fulfil its obligations under this deed.

(j) **Disclosure:** As at the date of this deed:

(i) APD is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1; and

(ii) except for Bidder's proposal to acquire APD, APD is not withholding from disclosure to ASX any material information in reliance on Listing Rule 3.1A.

(k) **Licences:** APD has complied in all material respects with all Australian laws and regulations applicable to it and the APD Group has all material licences and permits necessary for it to conduct its business as presently being conducted.

(l) **Encumbrances:** There is no material Encumbrance of all or any of APD's assets or revenues.

(m) **Contracts:** No member of the APD Group is in material breach of any contract that is material to the business of the APD Group (taken as a whole) where such breach would give the counterparty the right to terminate the relevant contract.

- (n) **Litigation:** No member of the APD Group is engaged in any prosecution, litigation or arbitration proceedings for which a resulting liability may reasonably be expected to be in excess of \$200,000 and APD is not aware of any threatened litigation or circumstances which are likely to give rise to such a prosecution, litigation or arbitration.

- (o) **Disclosure Materials:** The Disclosure Materials were compiled and made available to Bidder and its Representatives in good faith and APD has not, prior to the date of this deed, intentionally withheld material information from the Disclosure Materials for the purpose of securing the agreement of Bidder and Guarantor to proceed with the Transaction on the terms of this deed and the Schemes.

Schedule 3 Bidder Warranties

- (a) **Validly existing:** Bidder is a validly existing corporation registered under the laws of its place of incorporation.
- (b) **Power:** Bidder has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll.
- (c) **Corporate action:** Bidder has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll.
- (d) **Binding:** This deed is a valid and binding obligation on Bidder, enforceable in accordance with its terms.
- (e) **Performance:** The execution and performance by Bidder of this deed did not and will not violate or breach any provision of:
- (i) any writ, order or injunction, judgment, law, rule or regulation to which Bidder is party or by which it is bound; or
 - (ii) Bidder's constitution or other constituent documents.
- (f) **Bidder Information:** The Bidder Information included in the Scheme Booklet, and any other information provided by Bidder pursuant to clause 4.2(f), has been prepared in good faith and, as at the date of the Scheme Booklet or the date on which such information is so provided (as applicable):
- (i) is not misleading or deceptive in any material respect (whether by omission or otherwise); and
 - (ii) complies in all material respects with the requirements of the Corporations Act and Corporations Regulations, Listing Rules, Takeovers Panel guidance notes and ASIC Regulatory Guide 60 and ASIC Regulatory Guide 74 (as applicable).
- (g) **Information provided to Independent Expert:** The information provided to the Independent Expert by Bidder has been provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.
- (h) **Insolvency Event or regulatory action:** Neither Bidder nor any of its Related Bodies Corporate is the subject of an Insolvency Event, nor has any regulatory action of any nature of which Bidder is aware been taken or threatened that may prevent or in any way restrict its ability to fulfil its obligations under this deed.
- (i) **No other regulatory approvals:** no approval, consent, waiver, clearance, concession, allowance, notification or authorisation is required to be obtained from, or made to, any Government Agency in order for Bidder to execute and perform this deed.
- (j) **No dealings with APD Securityholders:** Neither Bidder nor any of its Associates has any agreement, arrangement or understanding with any APD Securityholder under which:

- (i) that APD Securityholder (or an Associate of that APD Securityholder) would or may be or become entitled to receive:
 - (A) consideration for their APD Securities that is different from the Scheme Consideration; or
 - (B) any benefit in connection with the Schemes that is not also offered to all other APD Securityholders on the same terms; or
- (ii) that APD Securityholder agrees to vote in favour of the Schemes or against any Competing Proposal.
- (k) **No dealings with APD directors or employees:** Neither Bidder nor any of its Associates has any agreement, arrangement or understanding with any director, officer or employee of APD or any other member of the APD Group relating in any way to the Transaction or the business or operations of the APD Group after the Effective Date.
- (l) **Reasonable basis:** As at the date of this deed, Bidder has a reasonable basis to expect that it will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements) to satisfy its obligations to pay the Scheme Consideration in accordance with this deed and the Deed Poll.
- (m) **Availability of funding on Second Court Date:** By 8:00am on the Second Court Date, Bidder will have available to it on an unconditional basis (other than conditions relating to the Schemes becoming Effective or procedural matters or documentary requirements which, by their terms or nature, can only be satisfied or performed after the Schemes become Effective) sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to ensure that the Scheme Consideration is paid in accordance with this deed and the Deed Poll.
- (n) **Availability of funding on Implementation Date:** On the Business Day immediately before the Implementation Date, Bidder will have available to it on an unconditional basis sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy Bidder's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.

Schedule 4 Guarantor Warranties

- (a) **Validly existing:** Guarantor is a validly existing corporation registered under the laws of its place of incorporation.
- (b) **Power:** Guarantor has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll.
- (c) **Corporate action:** Guarantor has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll.
- (d) **Binding:** This deed is a valid and binding obligation on Guarantor, enforceable in accordance with its terms.
- (e) **Performance:** The execution and performance by Guarantor of this deed did not and will not violate or breach any provision of:
- (i) any writ, order or injunction, judgment, law, rule or regulation to which Bid Guarantor is party or by which it is bound; or
 - (ii) Guarantor's constitution or other constituent documents.
- (f) **Bidder Information:** The Bidder Information included in the Scheme Booklet, and any other information provided by Bidder pursuant to clause 4.2(f), has been prepared in good faith and, as at the date of the Scheme Booklet or the date on which such information is so provided (as applicable):
- (i) is not misleading or deceptive in any material respect (whether by omission or otherwise); and
 - (ii) complies in all material respects with the requirements of the Corporations Act and Corporations Regulations, Listing Rules and relevant ASIC regulatory guides (as applicable).
- (g) **Information provided to Independent Expert:** The information provided to the Independent Expert by Bidder has been provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report.
- (h) **Insolvency Event or regulatory action:** Neither Bidder nor any of its Related Bodies Corporate is the subject of an Insolvency Event, nor has any regulatory action of any nature of which Guarantor is aware been taken or threatened that may prevent or in any way restrict its ability to fulfil its obligations under this deed.
- (i) **No other regulatory approvals:** no approval, consent, waiver, clearance, concession, allowance, notification or authorisation is required to be obtained from, or made to, any Government Agency in order for Guarantor to execute and perform this deed.
- (j) **No dealings with APD Securityholders:** Neither Guarantor nor any of its Associates has any agreement, arrangement or understanding with any APD Securityholder under which:
- (i) that APD Securityholder (or an Associate of that APD Securityholder) would or may be or become entitled to receive:

- For personal use only
- (A) consideration for their APD Securities that is different from the Scheme Consideration; or
 - (B) any benefit in connection with the Schemes that is not also offered to all other APD Securityholders on the same terms; or
- (ii) that APD Securityholder agrees to vote in favour of the Schemes or against any Competing Proposal.
- (k) **No dealings with APD directors or employees:** Neither Guarantor nor any of its Associates has any agreement, arrangement or understanding with any director, officer or employee of APD or any other member of the APD Group relating in any way to the Transaction or the business or operations of the APD Group after the Effective Date.
- (l) **Deed Poll:** Guarantor will execute the Deed Poll, and procure that the fully executed Deed Poll is delivered to APD, in each case before 5:00pm on the date that is two Business Days before the First Court Date, and if the Schemes become Effective, Guarantor will fully comply with the Deed Poll.
- (m) **Reasonable basis:** As at the date of this deed, Guarantor has a reasonable basis to expect that it will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements) to satisfy its obligations to pay the Scheme Consideration in accordance with this deed and the Deed Poll.
- (n) **Availability of funding on Second Court Date:** By 8:00am on the Second Court Date, Guarantor has access to, and will ensure that the Bidder has available to it, on an unconditional basis (other than conditions relating to the Schemes becoming Effective or procedural matters or documentary requirements which, by their terms or nature, can only be satisfied or performed after the Schemes become Effective) sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to ensure that the Scheme Consideration is paid in accordance with this deed and the Deed Poll.
- (o) **Availability of funding on Implementation Date:** Guarantor has access to, and will ensure that, on the Business Day immediately before the Implementation Date, Bidder has available to it on an unconditional basis, sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy Bidder's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- (p) **No shareholder approvals:** No approvals are required from shareholders of Guarantor (or any class of them) in connection with the execution or performance of this deed.

Schedule 5 Prescribed Occurrences

- (a) APN PG or APD Trust (where applicable, through its responsible entity) converting all or any of its shares or units (as applicable) into a larger or smaller number of shares or units;
- (b) APD resolving to reduce its capital in any way or another member of the APD Group resolving to reduce its capital in way which would result in a payment outside the APD Group;
- (c) APD or another member of the APD Group:
- (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act,
- other than, in the case of another member of the APD Group, where the proposed buy-back does not and would not result in a payment outside the APD Group;
- (d) a member of the APD Group issuing securities, or granting a performance right or an option over its securities, or agreeing to make such an issue or grant such a performance right or an option other than:
- (i) on vesting of up to 20,090,778 APD Rights existing as at the date of this deed as contemplated by clause 6.5; or
 - (ii) to a member of the APD Group;
- (e) any member of the APD Group issuing, or agreeing to issue, securities convertible into securities or debt securities other than where the securities are issued, or agreed to be issued, to a member of the APD Group;
- (f) APD declaring, paying or distributing, or announcing an intention to declare, pay or distribute, any distribution, bonus or other share of its profits or assets, other than the Permitted Distribution and/or the Further Distribution;
- (g) any of the following occurs:
- (i) APN RE ceases to be the responsible entity of the APD Trust;
 - (ii) the Trust Unitholders resolve to remove or replace APN RE as responsible entity of the APD Trust;
 - (iii) an order is made by any court, or any application being made in any court, for the appointment of a temporary responsible entity of APN RE in accordance with the Corporations Act;
 - (iv) APN RE effects or facilitates a termination of APD Trust; or
 - (v) APN RE effects or facilitates the resettlement of any of the Trust Property;
- (h) a member of the APD Group disposing, or agreeing to dispose, of (either by way of a single transaction or series of related transactions):
- (i) the whole, or a substantial part, of the APD Group's business or property; or

- (ii) a member of the APD Group's interest in a Managed Fund;
- (i) a member of the APD Group granting, or agreeing to grant, an encumbrance over the whole, or a substantial part, of the APD Group's business or property;
- (j) a member of the APD Group resolving that it be wound up or an order is made for the winding up or dissolution of any member of the APD Group;
- (k) a liquidator or provisional liquidator of a member of the APD Group being appointed;
- (l) a court making an order for the winding up of a member of the APD Group;
- (m) an administrator of a member of the APD Group being appointed under the Corporations Act;
- (n) a member of the APD Group making any change to its constitution, except pursuant to the APD Trust Supplemental Deed or as is necessary to implement the Schemes;
- (o) a member of the APD Group executing a deed of company arrangement;
- (p) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the APD Group's business or property; or
- (q) any member of the APD Group is deregistered as a company or registered managed investment scheme (as applicable), or is otherwise dissolved;

but does not include any occurrence:

- (r) required or permitted by this deed or the Schemes or any transaction contemplated by either;
- (s) Fairly Disclosed in the Disclosure Materials or Disclosure Letter, or in any documents lodged with ASX or ASIC by or on behalf of APD in the two years before the date of this deed;
- (t) within the actual knowledge of Bidder or any of its Related Bodies Corporate or Representatives as at the date of this deed; or
- (u) approved, consented to or requested by Bidder in writing.

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED)
by **DEXUS NOMINEE PTY LIMITED**)
(ACN 650 020 643) by its joint attorneys)
under power of attorney dated)
16 MAY 2021 in the presence of:)

[Handwritten Signature])
Signature of witness)

FENCIM BEU)
Name of witness (block letters))

[Handwritten Signature])
Signature of witness)

FENCIM BEU)
Name of witness (block letters))

By executing this document each joint attorney states that the joint attorney has received no notice of revocation of the power of attorney

[Handwritten Signature])
Signature of joint attorney

SCOTT DOMINIC MAHONY)
Name of joint attorney (block letters)

[Handwritten Signature])
Signature of joint attorney

RACHEL BIANCA CARALIS)
Name of joint attorney (block letters)

Signed, sealed and delivered for **APN Property Group Limited (ACN 109 846 068)** by its attorney under power of attorney dated 7 May 2021 who has no notice of revocation of that power of attorney in the presence of:

Signature of witness

Signature of attorney

Name of witness (print)

Name of attorney (print)

For personal use only

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED)
by DEXUS NOMINEE PTY LIMITED)
(ACN 650 020 643) by its joint attorneys)
under power of attorney dated)
_____ in the presence of:)

By executing this document each joint attorney states that the joint attorney has received no notice of revocation of the power of attorney

.....)
Signature of witness)

.....)
Signature of joint attorney

.....)
Name of witness (block letters))

.....)
Name of joint attorney (block letters)

.....)
Signature of witness)

.....)
Signature of joint attorney

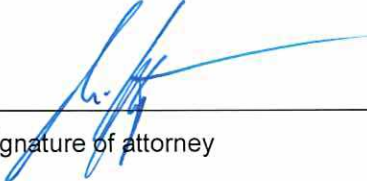
.....)
Name of witness (block letters))

.....)
Name of joint attorney (block letters)

Signed, sealed and delivered for **APN Property Group Limited (ACN 109 846 068)** by its attorney under power of attorney dated 7 May 2021 who has no notice of revocation of that power of attorney in the presence of:



Signature of witness



Signature of attorney

SWANNAH MACKEN

Name of witness (print)

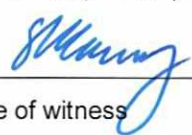
TIM SLATTERY


Name of attorney (print)

For personal use only

For personal use only

Signed, sealed and delivered for **APN RE Limited (ACN 617 612 202)** as responsible entity of the **APD Trust (ARSN 629 330 007)** by its attorney under power of attorney dated 7 May 2021 who has no notice of revocation of that power of attorney in the presence of:


Signature of witness


Signature of attorney

SUSANNAH MACKINAY
Name of witness (print)

TIM SCATTERY
Name of attorney (print)

SIGNED, SEALED AND DELIVERED)
for and on behalf of **Dexus Funds**)
Management Limited (ABN 24 060)
920 783) under power of attorney dated)
1 August 2019 in the presence of:)

By executing this document each attorney states that the attorney has received no notice of revocation of the power of attorney.

.....)
Signature of witness)

.....)
Signature of attorney)

.....)
Name of witness (block letters))

.....)
Name of attorney (block letters))

.....)
Signature of witness)

.....)
Signature of attorney)

.....)
Name of witness (block letters))

.....)
Name of attorney (block letters))

Signed, sealed and delivered for **APN RE Limited (ACN 617 612 202)** as responsible entity of the **APD Trust (ARSN 629 330 007)** by its attorney under power of attorney dated 7 May 2021 who has no notice of revocation of that power of attorney in the presence of:

Signature of witness


Signature of attorney

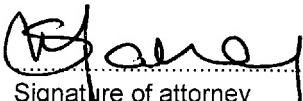
Name of witness (print)

Name of attorney (print)

SIGNED, SEALED AND DELIVERED)
for and on behalf of **Dexus Funds**)
Management Limited (ABN 24 060)
920 783) under power of attorney dated)
1 August 2019 in the presence of:)

By executing this document each attorney states that the attorney has received no notice of revocation of the power of attorney.

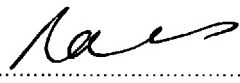

Signature of witness)


Signature of attorney)

FELICITY BELL
Name of witness (block letters))

SCOTT DOMINIC MAHONY
Name of attorney (block letters))


Signature of witness)


Signature of attorney)

FELICITY BELL
Name of witness (block letters))

RACHEL BIANCA CARALIS
Name of attorney (block letters))

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Attachment A Indicative Timetable

Event	Date
Draft Scheme Booklet provided to ASIC	By late May 2021
First Court Hearing	By mid June 2021
Scheme Meetings	By mid July 2021
Second Court Hearing	By late July 2021
Effective Date	By end July 2021
Record Date	Effective Date + 2 Business Days
Implementation Date	Record Date + 5 Business Days

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Scheme of arrangement

APN PG

APN Property Group Limited

Each person registered as a holder of APD Shares as at the Record Date

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Date: [●] 2021

This scheme of arrangement is made under section 411 of the Corporations Act.

Parties

- 1 **APN Property Group Limited (ACN 109 846 068)** of Level 30, 101 Collins Street, Melbourne 3000 Victoria, Australia (**APN PG**)
- 2 Each APD Shareholder as at the Record Date (**Scheme Shareholders**)

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

2 Preliminary matters

2.1 APD

In respect of APD:

- (a) APN PG is a public company incorporated in Australia, registered in Victoria and is a company limited by shares.
- (b) APD Trust is a registered managed investment scheme. APN RE is the responsible entity of the APD Trust.
- (c) APN RE is a public company incorporated in Australia, registered in Victoria and is a company limited by shares.
- (d) APD is a stapled group, comprising APN PG and APD Trust, which is listed on the ASX.
- (e) As at the date of the Implementation Deed, 329,548,043 APD Securities were on issue. Each APD Security comprises one APD Share stapled to one APD Trust Unit, and they trade together as a stapled security on ASX.

2.2 Bidder

In respect of Bidder:

- (a) Bidder is an unlisted proprietary company limited by shares registered in New South Wales, Australia.
- (b) Guarantor is a public company limited by shares registered in Western Australia, Australia.

2.3 If Scheme becomes Effective

- (a) If this Scheme becomes Effective:
 - (i) in consideration of the transfer of the Scheme Shares and Scheme Trust Units to Bidder, Bidder must provide or procure the provision of the Scheme Consideration to APD on behalf of the Scheme Securityholders in accordance with this Scheme and the Deed Poll; and
 - (ii) all the Scheme Securities, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Bidder; and
 - (iii) APD will enter the name of Bidder in the Security Register in respect of all the Scheme Securities.
- (b) Bidder, Guarantor and APD have entered into the Implementation Deed in respect of (among other things) the implementation of this Scheme and the Trust Scheme.
- (c) This Scheme attributes certain actions to Bidder but does not itself impose any obligations on Bidder to perform those actions. By executing the Deed Poll, Bidder has agreed to perform the actions attributed to it under this Scheme and the Trust Scheme, and Guarantor has agreed to guarantee the performance of those obligations by Bidder, including the provision or procuring the provision of the Scheme Consideration to the Scheme Securityholders.
- (d) This Scheme attributes certain actions to APN RE (as responsible entity of the APD Trust) but does not itself impose any obligations on APN RE to perform those actions. Pursuant to the APD Trust Supplemental Deed, APN RE agrees to do all things that it considers necessary or desirable to give effect to the Trust Scheme and Implementation Deed (including implementing the Trust Scheme in a manner which is consistent with this Scheme).

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will not become Effective until and unless the following conditions precedent are satisfied:

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in the Implementation Deed relating to Court approval of this Scheme and the Court granting the Second Judicial Advice) are satisfied or waived in accordance with the terms of the Implementation Deed by 8:00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll is terminated in accordance with its terms before 8:00am on the Second Court Date;
- (c) this Scheme is approved by the Court having made orders under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to APD and Bidder (each acting reasonably);
- (d) unless APD waives the relevant condition in the Implementation Deed, the Court grants the Second Judicial Advice;
- (e) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to APD and Bidder are satisfied or waived; and

- (f) both:
- (i) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme becoming Effective; and
 - (ii) the APD Trust Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.

3.2 Certificates

- (a) Each of APD and Bidder will provide a certificate (or such other evidence as the Court may require) to the Court at the Second Court Hearing confirming (in respect of matters within their knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) of this Scheme have been satisfied or waived (but in the case of the condition precedent in clause 3.1(a) only in respect of those conditions in clause 3.1 of the Implementation Deed (other than the condition relating to Court approval of this Scheme and the Court granting the Second Judicial Advice) included for that party's benefit).
- (b) The certificates given by APD and Bidder under clause 3.2(a) constitute conclusive evidence that the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.

3.3 End Date

Without limiting any rights under the Implementation Deed, this Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms,

unless Bidder and APD otherwise agree in writing (and if required, as approved by the Court).

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

APN PG must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as practicable and in any event before 5:00pm on the Business Day immediately following the day on which it receives an office copy of the court orders or such later date as APN PG and Bidder agree in writing.

4.2 Transfer of Scheme Shares

Subject to this Scheme becoming Effective, on the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 5.1, 5.2(b) and 5.2(c), all of the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by APN PG (or any of APN PG's directors, officers, or secretaries) as attorney and agent for Scheme Shareholders under clause 8.5), by:

- For personal use only
- (i) APN PG, in its capacity as the attorney and agent of the Scheme Shareholders, duly completing and executing the Scheme Transfer on behalf of the Scheme Shareholders (as transferors), and delivering it to Bidder; and
 - (ii) Bidder duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to APN PG for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a), APD must enter, or procure the entry of, the name of Bidder in the Security Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

The transfer of all of the Scheme Shares to Bidder in accordance with this clause 4.2 must occur simultaneously with the transfer to Bidder of all of the Trust Scheme Units under the Trust Scheme.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Securities, each Scheme Securityholder will be entitled to the Scheme Consideration for each Scheme Security held by that Scheme Securityholder, subject to the terms of this Scheme and the Trust Scheme.

5.2 Provision of Scheme Consideration

- (a) Bidder's obligation to provide the Scheme Consideration will be satisfied by Bidder depositing (or procuring the deposit) in cleared funds an amount equal to the Aggregate Scheme Consideration less any amounts deducted in accordance with clause 5.2(f) into the Trust Account before 12 noon on the Business Day immediately before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) (**Accrued Interest**) will accrue for the benefit of Bidder), such amount to be held by APD for the purposes of paying the Scheme Consideration to Scheme Securityholders in accordance with clause 5.2(b).
- (b) Subject to Bidder providing the Aggregate Scheme Consideration in accordance with clause 5.2(a), APD must, on the Implementation Date and from the Trust Account, pay (or procure the payment to each Scheme Securityholder of) the proportion of the Aggregate Scheme Consideration attributable to that Scheme Securityholder based on the number of Scheme Securities held by that Scheme Securityholder as at the Record Date, which obligation will be satisfied by APD:
 - (i) where a Scheme Securityholder has, before the Record Date, made an election in accordance with the requirements of the Registry to receive distribution payments from APD by electronic funds transfer to a bank account nominated by the Scheme Securityholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank in Australian currency for the relevant amount to the Scheme Securityholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Securityholder (or, in the case of joint holders, in accordance with clause 5.3).

- (c) If:
- (i) either:
 - (A) a Scheme Securityholder does not have a Registered Address; or
 - (B) APD as the trustee for the Scheme Securityholders believes that a Scheme Securityholder is not known at the Scheme Securityholder's Registered Address,and no account has been notified in accordance with clause 5.2(b)(i) or a deposit into such an account is rejected or refunded; or
 - (ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.5(a),

APD as the trustee for the Scheme Securityholders may credit the amount payable to the relevant Scheme Securityholder to a separate bank account of APD (**Separate Account**) to be held until the Scheme Securityholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Securityholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic).

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic), APD must hold the amount for the relevant Scheme Securityholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Securityholder when credited to the Separate Account or Trust Account (as applicable). APD must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (d) To the extent that there is a surplus in the amount held by APD as the trustee for the Scheme Securityholders in the Trust Account, that surplus may be paid by APD as the trustee for the Scheme Securityholders to Bidder following the satisfaction of APD's obligations as the trustee for the Scheme Securityholders under this clause 5.2.
- (e) APD must pay any Accrued Interest to any account nominated by Bidder following satisfaction of APD's obligations under clause 5.2(b).
- (f) If Bidder is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) to pay amounts to the ATO in respect of the payment of Scheme Consideration to certain Scheme Securityholders, the parties agree that:
 - (i) Bidder is permitted to deduct the relevant amounts from the Aggregate Scheme Consideration before depositing the Aggregate Scheme Consideration in the Trust Account in accordance with clause 5.2(a), and remit such amounts to the ATO;
 - (ii) the Scheme Consideration payable to those Scheme Securityholders for whom a payment to the ATO has been made shall not be increased to reflect the deduction, and the net Scheme Consideration payable to those Scheme Securityholders shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Securityholders; and

- (iii) Bidder must pay any amount so deducted from the Aggregate Scheme Consideration under 5.2(f)(i) to the ATO within the time permitted by law, and, if requested in writing by the relevant Scheme Securityholder, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Scheme Securityholder.

5.3 Joint holders

In the case of Scheme Securities held in joint names:

- (a) any cheque required to be sent under this Scheme and the Trust Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Security Register as at the Record Date; and
- (b) any other document required to be sent under this Scheme and the Trust Scheme will be forwarded to the holder whose name appears first in the Security Register as at the Record Date.

5.4 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Securityholder would result in the Scheme Securityholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

5.5 Cancellation and re-issue of cheques

- (a) APD may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to APD; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Securityholder to APD (or the Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.5(a) must be reissued.

5.6 Unclaimed monies

- (a) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008* (Vic)).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

5.7 Orders of a court or Government Agency

If written notice is given to APD (or the Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Securities held by a particular Scheme Securityholder, which sum would otherwise be payable to that Scheme Securityholder by APD in accordance with this clause 5, then APD will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or

- (b) prevents APD from making a payment to a particular Scheme Securityholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, APD will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by APD will constitute full discharge of APD's obligations under clause 5.2(b) with respect to the amount so paid or retained until, in the case of clause 5.7(b), it is no longer required to be retained.

6 Dealings in APD Securities

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in APD Securities or other alterations to the Security Register will only be recognised if:

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

and APD must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

6.2 Register

- (a) APD must register, or cause to be registered, registrable transmission applications or transfers of Scheme Securities in accordance with clause 6.1(b) at or before the Record Date, provided that nothing in this clause 6.2(a) requires APD to register a transfer that would result in an APD Securityholder holding a parcel of APD Securities that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If this Scheme becomes Effective, a Scheme Securityholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Securities or any interest in them after the Record Date otherwise than pursuant to this Scheme and the Trust Scheme, and any attempt to do so will have no effect and APD will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, APD must maintain the Security Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Securityholders. The Security Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for Scheme Securities (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those securities and, as from that date, each entry current at that date on the Security Register (other than entries in respect of Bidder) will cease to

have effect except as evidence of entitlement to the Scheme Consideration in respect of the APD Securities relating to that entry.

- (e) As soon as practicable after the Record Date, and in any event within one Business Day after the Record Date, APD will ensure that the details of the names, Registered Addresses and holdings of APD Securities for each Scheme Securityholder as shown in the Security Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

7 Quotation of APD Securities

- (a) APD will apply to ASX to suspend trading in APD Securities with effect from the close of trading on the Effective Date.
- (b) APD will apply:
 - (i) for termination of the official quotation of APD Securities on the ASX; and
 - (ii) to have itself removed from the official list of ASX,in each case with effect on and from the close of trading on the trading day immediately following the Implementation Date, or such later date as may be:
 - (A) requested by Bidder, acting reasonably; and
 - (B) permitted by ASX.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) APD may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented (such consent not to be unreasonably withheld or delayed); and
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel for APD has consented.

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (i) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares (other than any right to receive the Permitted Distribution and, if relevant, the Further Distribution) in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) agrees to, on the direction of Bidder, destroy any share certificates relating to their Scheme Shares; and
 - (iv) acknowledges that this Scheme binds APN PG and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting),

without the need for any further act by the Scheme Shareholder.

- (b) Each Scheme Shareholder is taken to have warranted to APD and Bidder, and appointed and authorised APN PG as its attorney and agent to warrant to Bidder, that:
- (i) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind;
 - (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights attaching to those Scheme Shares; and
 - (iii) as at the Record Date, they have no existing right to be issued any other Scheme Shares or any other form of APD securities.

8.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:
- (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind.
- (b) On the provision of the Scheme Consideration in the manner contemplated by clause 5, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by APD of Bidder in the Security Register as the holder of the Scheme Shares. Bidder's entitlement to be registered in the Security Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

8.4 Appointment of sole proxy

On the provision of the Scheme Consideration in the manner contemplated by clause 5 and until APD registers Bidder as the holder of all Scheme Securities in the Security Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
- (b) must not attend or vote at any securityholders' meetings or sign any securityholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and

- (d) acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.5 Authority given to APN PG

On and from the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints APN PG and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purposes of:

- (a) enforcing the Deed Poll against Bidder and Guarantor; and
- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and APN PG accepts such appointment. APN PG, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or secretaries (jointly, severally or jointly and severally).

8.6 Binding effect of this Scheme

This Scheme binds APN PG and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of APN PG.

9 General

9.1 Stamp duty

Bidder will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable in respect of the Schemes and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with the Schemes and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

9.2 Consent

Each Scheme Shareholder consents to APN PG doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it, whether on behalf of the Scheme Shareholders, APN PG or otherwise.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to APN PG, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at APN PG's registered office or at the office of the Registry.

- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an APD Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law and jurisdiction

- (a) This Scheme and any dispute arising out of or in connection with the subject matters of this document is governed by the laws in force in Victoria, Australia.
- (b) Each party irrevocably:
- (i) submits to the non-exclusive jurisdiction of the courts of Victoria, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 9.4(b)(i).

9.5 Further action

APD must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

Schedule 2 Dictionary

1 Dictionary

Accrued Interest has the meaning given in clause 5.2(a).

Aggregate Scheme Consideration means the Scheme Consideration multiplied by the total number of Scheme Securities.

APD means APN PG and/or APN RE, as the context requires.

APD Security means an APD Share stapled to an APD Trust Unit.

APD Securityholder means a holder of one or more APD Securities, as shown in the Security Register.

APD Share means a fully paid ordinary share in the capital of APN PG.

APD Shareholders means each person who is registered in the Security Register as a holder of APD Shares.

APD Trust means the APD Trust (ARSN 629 330 007) whose units are stapled to shares of APN PG.

APD Trust Constitution means the constitution establishing the APD Trust as amended from time to time.

APD Trust Supplemental Deed has the meaning given in the Implementation Deed.

APD Trust Unit means a fully paid ordinary unit in the APD Trust.

APN RE means APN RE Limited (ACN 627 612 202) as responsible entity of the APD Trust (ARSN 629 330 007).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it.

ATO means the Australian Taxation Office.

Bidder means Dexus Nominee Pty Limited (ACN 650 020 643).

Business Day has the meaning given in the Listing Rules.

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

Corporations Act means the *Corporations Act 2001* (Cth).

Court means the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Bidder and APD.

Deed Poll means the deed poll dated [•] 2021 under which, among other things, Bidder covenants in favour of Scheme Securityholders to provide the Scheme Consideration in accordance with the Schemes.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

End Date means 6 months after the date of the Implementation Deed or such later date as Bidder and APD agree in writing.

Further Distribution has the meaning given in the Implementation Deed.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

Guarantor means Dexus Funds Management Limited (ABN 24 060 920 783).

Implementation Date means the fifth Business Day after the Record Date or such other day as Bidder and APD agree in writing.

Implementation Deed means the scheme implementation deed dated 11 May 2021 between APD, Bidder and Guarantor relating to, among other things, the implementation of the Schemes.

Listing Rules means the official listing rules of ASX.

Notice has the meaning given in the Implementation Deed.

Permitted Distribution has the meaning given in the Implementation Deed.

Record Date means 7:00pm on the second Business Day after the Effective Date of the Schemes, or such other time and date as Bidder and APD agree in writing and ASX may allow.

Registered Address means, in relation to a Scheme Securityholder, the address shown in the Security Register as at the Record Date.

Registry means Link Market Services Limited (ACN 083 214 537).

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Scheme means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by APD and Bidder.

Scheme Consideration means, in respect of each Scheme Security, 91.5 cents as adjusted in accordance with clause 5.1(c) of the Implementation Deed (if applicable).

Scheme Meeting means the meeting of APD Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Security means an APD Security held by a Scheme Securityholder as at the Record Date.

Scheme Securityholder means an APD Securityholder as at the Record Date.

Scheme Share means an APD Share held by a Scheme Shareholder as at the Record Date.

Scheme Shareholder means a holder of one or more APD Shares recorded in the Security Register as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Schemes means this Scheme and the Trust Scheme.

Second Court Date means the first day on which an application made to the Court for orders under section 411(4)(b) of the Corporations Act approving this Scheme is heard and the Second Judicial Advice is sought (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Second Judicial Advice has the meaning given in the Implementation Deed.

Security Register means the register of APD Securityholders maintained in accordance with the Corporations Act.

Separate Account has the meaning given in clause 5.2(c).

Trust Account means an Australian dollar denominated trust account which is operated by APD as trustee for the Scheme Securityholders.

Trust Scheme has the meaning given in the Implementation Deed.

Trust Scheme Unit means APD Trust Units as at the Record Date.

2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

- (a) The words “include”, “including”, “such as”, “for example” and similar expressions are not words of limitation and do not limit what else might be included.
- (e) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
 - (vi) this Scheme includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars.
- (b) An agreement on the part of two or more persons binds them jointly and severally.
- (c) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (d) In determining the time of day where relevant to this Scheme, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this Scheme, the time of day in the place where the party required to perform an obligation is located.
- (e) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Scheme or any part of it.

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Constitution of APD Trust Amending Deed

APN RE Limited ACN 109 846 068

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Parties

- 1 **APN RE Limited (ACN 627 612 202)** of Level 30, 101 Collins Street, Melbourne VIC 3000 (**Responsible Entity** or **APN RE**)
-

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Preliminary matters

2.1 APD

In respect of APD:

- (a) APD Trust is a registered managed investment scheme. The Responsible Entity is the responsible entity of APD Trust.
- (b) APN RE is a public company incorporated in Australia, registered in Victoria and is a company limited by shares.
- (c) APD Trust is governed by a trust deed dated 11 October 2018 as amended from time to time (APD Trust Constitution) and lodged with ASIC.
- (d) APN PG is a public company incorporated in Australia, registered in Victoria and is a company limited by shares.
- (e) APD is a stapled group, comprising APN PG and APD Trust, which is listed on the ASX.
- (f) As at the date of the Implementation Deed, 329,548,043 APD Securities were on issue. Each APD Security comprises one APD Share stapled to one APD Trust Unit, and they trade together as a stapled security on ASX.

2.2 Bidder

In respect of Bidder:

- (a) Bidder is an unlisted proprietary company limited by shares registered in New South Wales, Australia.
- (b) Guarantor is a public company limited by shares registered in Western Australia, Australia.

2.3 If Schemes become Effective

- (a) If the Schemes become Effective, Bidder will acquire the Scheme Securities under the APN PG Scheme and the Trust Scheme.

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- (b) Bidder, Guarantor and APD have entered into the Implementation Deed in respect of (among other things) the implementation of the APN PG Scheme and the Trust Scheme.
 - (c) The APD Trust Constitution must be amended in the manner set out in this deed to facilitate the Trust Scheme.
 - (d) Section 601GC(1)(a) of the Corporations Act provides that the APD Trust Constitution may be modified by special resolution of the Trust Unitholders.
 - (e) At a meeting of Trust Unitholders held on [•] 2021, Trust Unitholders approved the Trust Scheme Resolutions, including a special resolution to make the amendments to the APD Trust Constitution contained in this deed.
-

3 Conditions

This deed is conditional upon, and will have no force or effect until, the satisfaction of each condition precedent in clause 3.1 of the APN PG Scheme in accordance with the terms of the APN PG Scheme other than (to the extent relevant) the coming into effect of the amendments made by this deed.

4 Operation of this deed

With effect on and from the Effective Date, the APD Trust Constitution is amended in the manner set out in Schedule 2 and Schedule 3.

5 Amendment of the APD Trust Constitution

5.1 Amendment

- (a) The APD Trust Constitution as it applies to the APD Trust is amended by:
 - (i) inserting as a new clause 28A in the APD Trust Constitution the text contained in Schedule 2 of this deed; and
 - (ii) amending the definitions in clause 1.1 of the APD Trust Constitution as set out in Schedule 3 of this deed, including (where relevant) replacing any existing definition in the APD Trust Constitution with the definition as set out in Schedule 3 of this deed.
 - (b) The Responsible Entity confirms that it is not by this deed intending to:
 - (i) declare, resettle or re-declare the trust declared under the APD Trust Constitution; or
 - (ii) cause the transfer, vesting or accruing of any property comprising the assets of the APD Trust in any person; or
 - (iii) terminate the trust declared under the APD Trust Constitution.
 - (c) The APD Trust Constitution as it applies to the APD Trust and as amended by this deed is the constitution of the APD Trust.
-

5.2 Binding conditions

This deed is binding on the Responsible Entity, each Trust Unitholder and any other person claiming through any of them as if each was a party to this deed.

6 Governing law and jurisdiction

- (a) This deed and any dispute arising out of or in connection with the subject matters of this deed is governed by the laws in force in Victoria, Australia.
- (b) Each person bound by this deed irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Victoria, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 6(b)(i) of this deed.

Schedule 1 Dictionary

1 Dictionary

In this deed:

APD means APN PG and/or APN RE, as the context requires.

APD Security means an APD Share stapled to an APD Trust Unit.

APD Securityholder means a holder of one or more APD Securities, as shown in the Security Register.

APD Share means a fully paid ordinary share in the capital of APN PG.

APD Trust means the APD Trust (ARSN 629 330 007) whose units are stapled to shares of APN PG.

APD Trust Constitution has the meaning given in paragraph 2.1(b) of clause 2.

APD Trust Unit means a fully paid ordinary unit in the APD Trust.

APN PG means APN Property Group Limited (ACN 109 846 068).

APN PG Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between APN PG and the APN PG Scheme Participants, the form of which is attached as Attachment B of the Implementation Deed, or such other form agreed in writing between Bidder and APD.

APN PG Scheme Participants has the meaning given in the Implementation Deed.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, where the context requires, the financial market operated by it.

Bidder means Dexus Nominee Pty Limited (ACN 650 020 643).

Business Day has the meaning given in the Listing Rules.

Corporations Act means *the Corporations Act 2001* (Cth).

Deed Poll means the deed poll dated [•] under which, among other things, Bidder covenants in favour of Scheme Securityholders to provide the Scheme Consideration in accordance with the Schemes.

Effective Date means the date on which a copy of this amending deed is lodged with ASIC under section 601GC(2) of the Corporations Act.

Guarantor means Dexus Funds Management Limited (ABN 24 060 920 783).

Implementation Deed means the scheme implementation deed dated 11 May 2021 between APD, Bidder and Guarantor relating to, among other things, the implementation of the Schemes.

Listing Rules means the official listing rules of ASX.

Notice has the meaning given in the Implementation Deed.

Record Date means 7:00pm on the second Business Day after the Effective Date of the Schemes, or such other time and date as Bidder and APD agree in writing and ASX may allow.

Scheme Security means an APD Security held by a Scheme Securityholder as at the Record Date.

Scheme Securityholder means an APD Securityholder as at the Record Date.

Scheme Unitholder means a person who is registered in the Security Register as holder of APD Trust Units as at the Record Date.

Schemes means the Trust Scheme and the APN PG Scheme.

Security Register means the register of APD Securityholders maintained in accordance with the Corporations Act.

Trust Scheme means an arrangement under which Bidder acquires all of the APD Trust Units from the Trust Scheme Participants facilitated by amendments to the APD Trust Constitution as set out in Schedule 2 and Schedule 3 of this deed, subject to the requisite approvals of the Trust Unitholders.

Trust Scheme Participants means each person registered in the Security Register as a holder of Trust Scheme Units as at the Record Date.

Trust Scheme Resolutions means the resolutions to approve the Trust Scheme including:

- (a) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the APD Trust Constitution as set out in this deed; and
- (b) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all of the APD Trust Units by Bidder.

Trust Scheme Unit means APD Trust Units as at the Record Date.

Trust Unitholder means each person who is registered in the Security Register as a holder of APD Trust Units.

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears:

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

- (a) The words “include”, “including”, “such as”, “for example” and similar expressions are not words of limitation and do not limit what else might be included.
- (e) A reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
 - (vi) this deed includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars.
- (b) An agreement on the part of two or more persons binds them jointly and severally.
- (c) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (d) In determining the time of day where relevant to this deed, the time of day is:
 - (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (e) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 **New clause 28A of the APD Trust Constitution**

28A Trust Scheme

28A.1 Implementation of the Trust Scheme

- (a) Each Scheme Unitholder and the Responsible Entity must do all things and execute all deeds, instruments, transfers or other documents as the Responsible Entity considers are necessary or desirable to give full effect to the terms of the Trust Scheme and the transactions contemplated by it.
- (b) Without limiting the Responsible Entity's other powers under this clause 28A, the Responsible Entity has power to do all things that it considers necessary or desirable to give effect to the Trust Scheme and the Implementation Deed.
- (c) The Trust Scheme is intended to, in a manner consistent with the APN PG Scheme, result in the transfer of the Scheme Securities to Bidder in return for the Scheme Consideration being received by the Scheme Securityholders. If there is any inconsistency between the Trust Scheme and the APN PG Scheme, the Responsible Entity is authorised to take, and must take any steps required, to implement the Schemes in a manner which is consistent with the APN PG Scheme.

28A.2 Transfer of Trust Scheme Units

Subject to the Trust Scheme becoming Effective, on the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 28A.3, 28A.4(b) and 28A.4(c), all of the Trust Scheme Units, together with all rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Unitholder (other than acts performed by the Responsible Entity (or any of the Responsible Entity's directors, officers, or secretaries) as attorney and agent for Scheme Unitholders under clause 28A.16), by:
 - (1) the Responsible Entity, in its capacity as the attorney and agent of the Scheme Unitholders, duly completing and executing the Scheme Transfer on behalf of the Scheme Unitholders (as transferors), and delivering it to Bidder; and
 - (2) Bidder duly executing the Scheme Transfer (as transferee), attending to the stamping of the Scheme Transfer (if required) and delivering it to the Responsible Entity for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 28A.2(a), APD must enter, or procure the entry of, the name of Bidder in the Security Register in respect of all the Trust Scheme Units transferred to Bidder in accordance with the Trust Scheme.

The transfer of all of the Trust Scheme Units to Bidder in accordance with this clause 28A.2 must occur simultaneously with the transfer to Bidder of all of the Scheme Shares under the APN PG Scheme.

28A.3 Entitlement to Scheme Consideration

- (a) On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Securities, each Scheme Securityholder will be entitled to the Scheme Consideration for each Scheme Security held by that Scheme Securityholder, subject to the terms of the APN PG Scheme and the Trust Scheme.

28A.4 Provision of Scheme Consideration

- (a) Bidder's obligation to provide the Scheme Consideration will be satisfied by Bidder depositing (or procuring the deposit) in cleared funds an amount equal to the Aggregate Scheme Consideration less any amounts deducted in accordance with clause 28A.4(f) into the Trust Account before 12 noon on the Business Day immediately before the Implementation Date (provided that any interest on the amount so deposited (less bank fees and other charges) (**Accrued Interest**) will accrue for the benefit of Bidder), such amount to be held by APD for the purposes of paying the Scheme Consideration to Scheme Securityholders in accordance with clause 28A.4(b).
- (b) Subject to Bidder providing the Aggregate Scheme Consideration in accordance with clause 28A.4(a), APD must, on the Implementation Date and from the Trust Account, pay (or procure the payment to each Scheme Securityholder of) the proportion of the Aggregate Scheme Consideration attributable to that Scheme Securityholder based on the number of Scheme Securities held by that Scheme Securityholder as at the Record Date, which obligation will be satisfied by APD:
 - (i) where a Scheme Securityholder has, before the Record Date, made an election in accordance with the requirements of the Registry to receive distribution payments from APD by electronic funds transfer to a bank account nominated by the Scheme Securityholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank in Australian currency for the relevant amount to the Scheme Securityholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Securityholder (or, in the case of joint holders, in accordance with clause 28A.5).
- (c) If:
 - (i) either:
 - (A) a Scheme Securityholder does not have a Registered Address; or
 - (B) APD as the trustee for the Scheme Securityholders believes that a Scheme Securityholder is not known at the Scheme Securityholder's Registered Address,and no account has been notified in accordance with clause 28A.4(b)(i) or a deposit into such account is rejected or refunded; or
 - (ii) a cheque issued under this clause 28A.4 has been cancelled in accordance with clause 28A.7,

APD as the trustee for the Scheme Securityholders may credit the amount payable to the relevant Scheme Securityholder to a separate bank account of APD

(Separate Account) to be held until the Scheme Securityholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Securityholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic).

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic), APD must hold the amount for the relevant Scheme Securityholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Securityholder when credited to the Separate Account or Trust Account (as applicable). APD must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (d) To the extent that there is a surplus in the amount held by APD as the trustee for the Scheme Securityholders in the Trust Account, that surplus may be paid by APD as the trustee for the Scheme Securityholders to Bidder following the satisfaction of APD's obligations as the trustee for the Scheme Securityholders under this clause 28A.4.
- (e) APD must pay any Accrued Interest to any account nominated by Bidder following satisfaction of APD's obligations under clause 28A.4(b).
- (f) If Bidder is required by Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth) to pay amounts to the ATO in respect of the payment of Scheme Consideration to certain Scheme Securityholders, the parties agree that:
 - (i) Bidder is permitted to deduct the relevant amounts from the Aggregate Scheme Consideration before depositing the Aggregate Scheme Consideration in the Trust Account in accordance with clause 28A.4(a), and remit such amounts to the ATO;
 - (ii) the Scheme Consideration payable to those Scheme Securityholders for whom a payment to the ATO has been made shall not be increased to reflect the deduction, and the net Scheme Consideration payable to those Scheme Securityholders shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Securityholders; and
 - (iii) Bidder must pay any amount so deducted from the Aggregate Scheme Consideration under clause 28A.4(f)(i) to the ATO within the time permitted by law, and, if requested in writing by the relevant Scheme Securityholder, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Scheme Securityholder.

28A.5 Joint holders

In the case of Scheme Securities held in joint names:

- (a) any cheque required to be sent under the APN PG Scheme and the Trust Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Security Register as at the Record Date; and

- (b) any other document required to be sent under the APN PG Scheme and the Trust Scheme will be forwarded to the holder whose name appears first in the Security Register as at the Record Date.

28A.6 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Securityholder would result in the Scheme Securityholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent.

28A.7 Cancellation and re-issue of cheques

- (a) APD may cancel a cheque issued under this clause 28A if the cheque:
- (i) is returned to APD; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Securityholder to APD (or the Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 28A.7(a) must be reissued.

28A.8 Unclaimed monies

- (c) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008* (Vic)).
- (d) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

28A.9 Orders of a court or Government Agency

If written notice is given to APD (or the Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Securities held by a particular Scheme Securityholder, which sum would otherwise be payable to that Scheme Securityholder by APD in accordance with this clause 28A, then APD will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents APD from making a payment to a particular Scheme Securityholder in accordance with clause 28A.4(b) or such payment is otherwise prohibited by applicable law, APD will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 28A is permitted by that order or direction or otherwise by law,

and the payment or retention by APD will constitute full discharge of APD's obligations under clause 28A.4(b) with respect to the amount so paid or retained until, in the case of clause 28A.9(b), it is no longer required to be retained.

28A.10 Determination of Scheme Unitholders

To establish the identity of the Scheme Unitholders, dealings in APD Securities and other alterations to the Security Register will only be recognised if:

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

and APD must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to the Trust Scheme and any subsequent transfer by Bidder or its successors in title), any transfer or transmission application or other request received after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

28A.11 Register

- (a) APD must register, or cause to be registered, registrable transmission applications or transfers of Scheme Securities in accordance with clause 28A.10(b) at or before the Record Date, provided that nothing in this clause 28A.11(a) requires APD to register a transfer that would result in an APD Securityholder holding a parcel of APD Securities that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If the Trust Scheme becomes Effective, a Scheme Securityholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Securities or any interest in them after the Record Date otherwise than pursuant to the APN PG Scheme and the Trust Scheme, and any attempt to do so will have no effect and APD will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, APD must maintain the Security Register in accordance with the provisions of this clause 28A.11 until the Scheme Consideration has been paid to the Scheme Securityholders. The Security Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for Scheme Securities (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those securities and, as from that date, each entry current at that date on the Security Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the APD Securities relating to that entry.
- (e) As soon as practicable after the Record Date, and in any event within one Business Day after the Record Date, APD will ensure that the details of the names, Registered Addresses and holdings of APD Securities for each Scheme Securityholder as shown in the Security Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

28A.12 Quotation of APD Securities

- (a) APD will apply to ASX to suspend trading in APD Securities with effect from the close of trading on the Effective Date.

- (b) APD will apply:
- (i) for termination of the official quotation of APD Securities on the ASX; and
 - (ii) to have itself removed from the official list of the ASX,

in each case with effect on and from the close of trading on the trading day immediately following the Implementation Date, or such later date as may be:

- (A) requested by Bidder, acting reasonably; and
- (B) permitted by ASX.

28A.13 Scheme Unitholders' agreements and warranties

- (a) Each Scheme Unitholder:
- (i) agrees to the transfer of their Trust Scheme Units together with all rights and entitlements attaching to those Trust Scheme Units (other than any right to receive the Permitted Distribution and, if relevant, the Further Distribution) in accordance with the Trust Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Trust Scheme Units constituted by or resulting from the Trust Scheme;
 - (iii) agrees to, on the direction of Bidder, destroy any unit certificates relating to their Trust Scheme Units; and
 - (iv) acknowledges that the Trust Scheme binds the Responsible Entity and all Scheme Unitholders (including those who do not attend the Trust Scheme Meeting and those who did not vote, or voted against the Trust Scheme, at the Trust Scheme Meeting),

without the need for any further act by the Scheme Unitholder.

- (b) Each Scheme Unitholder is taken to have warranted to APD and Bidder, and appointed and authorised the Responsible Entity as its attorney and agent to warrant to Bidder, that:
- (iii) all their Trust Scheme Units (including any rights and entitlements attaching to their Scheme Securities) which are transferred under the Trust Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind;
 - (iv) they have full power and capacity to transfer their Trust Scheme Units to Bidder together with any rights attaching to those Trust Scheme Units; and
 - (v) as at the Record Date, they have no existing right to be issued any other Trust Scheme Units or any other form of APD securities.

The Responsible Entity undertakes that it will provide such warranties to Bidder as agent and attorney of each Scheme Unitholder.

28A.14 Title to and rights in Trust Scheme Units

- (a) To the extent permitted by law, the Trust Scheme Units (including all rights and entitlements attaching to the Trust Scheme Units) transferred under the Trust Scheme will, at the time of transfer of them to Bidder, vest in Bidder free from all:
 - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind.
- (b) On the provision of the Scheme Consideration in the manner contemplated by clause 28A.4, Bidder will be beneficially entitled to the Trust Scheme Units to be transferred to it under the Trust Scheme pending registration by APD of Bidder in the Security Register as the holder of the Trust Scheme Units. Bidder's entitlement to be registered in the Security Register as the holder of the Trust Scheme Units arises on the Implementation Date in accordance with clause 28A.2.

28A.15 Appointment of sole proxy

On the provision of the Scheme Consideration in the manner contemplated by clause 28A.4 and until APD registers Bidder as the holder of all Scheme Securities in the Security Register, each Scheme Unitholder:

- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend unitholders' meetings, exercise the votes attaching to the Trust Scheme Units registered in their name and sign any unitholders' resolution whether in person, by proxy or by corporate representative;
- (b) must not attend or vote at any securityholders' meetings or sign any securityholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 28A.15(a));
- (c) must take all other actions in the capacity of a registered holder of Trust Scheme Units as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 28A.15(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Trust Scheme Units.

28A.16 Authority given to the Responsible Entity

On and from the Effective Date, each Scheme Unitholder, without the need for any further act, irrevocably appoints the Responsible Entity and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purposes of:

- (a) enforcing the Deed Poll against Bidder and the Guarantor; and
- (b) executing any document, or doing or taking any other act necessary, desirable or expedient to give effect to the Trust Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and the Responsible Entity accepts such appointment. The Responsible Entity, as attorney and agent of each Scheme Unitholder, may sub-delegate its functions, authorities or powers under this clause 28A.16 to all or any of its directors, officers or secretaries (jointly, severally or jointly and severally).

28A.17 Binding effect of this clause

From the Effective Date:

- (a) this clause 28A binds the Responsible Entity and all Scheme Unitholders (including those who did not attend the Trust Scheme Meeting and those who did not vote, or voted against the Trust Scheme, at the Trust Scheme Meeting) and, to the extent of any inconsistency, overrides any other part of this deed;
- (b) the Responsible Entity and, so far as is relevant, the Scheme Unitholders, must give effect to the Trust Scheme in accordance with its terms; and
- (c) the Responsible Entity may amend the terms of the Trust Scheme if such amendment is not inconsistent with the approval given by the Scheme Unitholders under the Trust Scheme Resolutions and this clause 28A shall apply to the Trust Scheme as amended.

28A.18 Stamp duty

Bidder will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable in respect of the Schemes and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with the Schemes and the Deed Poll; and
- (b) indemnify each Scheme Unitholder against any liability arising from failure to comply with clause 28A.18(a).

28A.19 Consent

Each Scheme Unitholder consents to the Responsible Entity doing all things necessary or incidental to give full effect to the implementation of the Trust Scheme and the transactions contemplated by it, whether on behalf of the Scheme Unitholders, the Responsible Entity or otherwise.

28A.20 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in the Trust Scheme is sent by post to the Responsible Entity, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at the Responsible Entity's registered office or at the office of the Registry.
- (b) The accidental omission to give notice of the Trust Scheme Meeting or the non-receipt of such notice by a Member will not, unless so ordered by the Court, invalidate the Trust Scheme Meeting or the proceedings of the Trust Scheme Meeting.

28A.21 Cessation of operation

Clause 28A ceases to have any force or operation if the Implementation Deed or Deed Poll is terminated in accordance with its terms or the APN PG Scheme lapses in accordance with clause 3.3 of the APN PG Scheme.

28A.22 Limitation of liability

Without limiting clause 17 but subject to the Corporations Act, the Responsible Entity will not have any liability of any nature whatsoever to Members, beyond the extent to which the Responsible Entity is actually indemnified out of the Assets, arising, directly or indirectly, from the Responsible Entity doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the Trust Scheme.

Schedule 3 Amendments to clause 1.1 of the APD Trust Constitution

The following new definitions are inserted into the definitions contained in clause 1.1 of the APD Trust Constitution in alphabetical order having regard to the existing definitions:

Aggregate Scheme Consideration means the Scheme Consideration multiplied by the total number of Scheme Securities.

APD means APN PG and/or APN RE, as the context requires.

APD Security means an APD Share stapled to an APD Trust Unit.

APD Securityholder means a holder of one or more APD Securities, as shown in the Security Register.

APD Share means a fully paid ordinary share in the capital of APN PG.

APD Trust means the APD Trust (ARSN 629 330 007) whose units are stapled to shares of APN PG.

APD Trust Supplemental Deed has the meaning given in the Implementation Deed.

APD Trust Unit means a fully paid ordinary unit in the APD Trust.

APN PG means APN Property Group Limited (ACN 109 846 068).

APN PG Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between APN PG and the APN PG Scheme Participants, the form of which is attached as Attachment B of the Implementation Deed, or such other form agreed in writing between Bidder and APD.

APN PG Scheme Participants has the meaning given in the Implementation Deed.

APN RE means APN RE Limited (ACN 627 612 202) as responsible entity of the APD Trust.

ATO means the Australian Taxation Office.

Bidder means Dexus Nominee Pty Limited (ACN 650 020 643).

Business Day has the meaning given in the Listing Rules for the purposes of clause 28A.

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

Court means the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Bidder and APD.

Deed Poll means the deed poll dated [•] 2021 under which, among other things, Bidder covenants in favour of Scheme Securityholders to provide the Scheme Consideration in accordance with the Schemes.

Effective means the APD Trust Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.

Effective Date means is the date on which a copy of the APD Trust Supplemental Deed is lodged with ASIC under section 601GC(2) of the Corporations Act.

Further Distribution has the meaning given in the Implementation Deed.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel).

Guarantor means Dexu Funds Management Limited (ABN 24 060 920 783).

Implementation Date means the fifth Business Day after the Record Date or such other day as Bidder and APD agree in writing.

Implementation Deed means the scheme implementation deed dated 11 May 2021 between APD, Bidder and Guarantor relating to, among other things, the implementation of the Schemes.

Permitted Distribution has the meaning given in the Implementation Deed.

Record Date means 7:00pm on the second Business Day after the Effective Date of the Schemes, or such other time and date as Bidder and APD agree in writing and ASX may allow.

Registered Address means, in relation to a Scheme Securityholder, the address shown in the Security Register as at the Record Date.

Registry means Link Market Services Limited (ACN 083 214 537).

Scheme Consideration means, in respect of each Scheme Security, 91.5 cents as adjusted in accordance with clause 5.1(c) of the Implementation Deed (if applicable).

Scheme Security means an APD Security held by a Scheme Securityholder as at the Record Date.

Scheme Securityholder means an APD Securityholder as at the Record Date.

Scheme Share means APD Shares as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Trust Scheme Units for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Trust Scheme Units.

Scheme Unitholder means a person who is registered in the Security Register as holder of the APD Trust Units as at the Record Date.

Schemes means the Trust Scheme and the APN PG Scheme.

Security Register means the register of APD Securityholders maintained in accordance with the Corporations Act.

Trust Account means an Australian dollar denominated trust account which is operated by APD as trustee for the Scheme Securityholders.

Trust Scheme means an arrangement under which Bidder acquires all of the APD Trust Units from the Trust Scheme Participants facilitated by amendments to this Constitution as set out in Schedule 2 and Schedule 3 of the APD Trust Supplemental Deed, subject to the requisite approvals of the Members.

Trust Scheme Meeting means meeting of the Members convened by APN RE to consider the Trust Scheme Resolutions, and include any adjournment of that meeting.

Trust Scheme Participants means each person registered in the Security Register as a holder of Trust Scheme Units as at the Record Date.

Trust Scheme Resolutions means the resolutions to approve the Trust Scheme including:

- (a) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to this Constitution as set out in the APD Trust Supplemental Deed; and
- (b) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all of the APD Trust Units by Bidder.

Trust Scheme Unit means APD Trust Units as at the Record Date.

Execution page

Executed as a deed poll.

Signed, sealed and delivered by **APN RE Limited (ACN 617 612 202)** as responsible entity of the **APD Trust (ARSN 629 330 007)** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

For personal use only

For personal use only

Deed poll

Dexus Nominee Pty Limited

Dexus Funds Management Limited

In favour of each person registered as a holder of APD Securities as at the Record Date

For personal use only

For personal use only

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Parties

- 1 **Dexus Nominee Pty Limited (ACN 650 020 643)** of Level 25, Australia Square, 264-278 George Street, Sydney 2000 NSW, Australia (**Bidder**)
 - 2 **Dexus Funds Management Limited (ABN 24 060 920 783)** of Level 25, Australia Square, 264-278 George Street, Sydney 2000 NSW, Australia (**Guarantor**)
In favour of each person registered as a holder of APD Securities as at the Record Date (**Scheme Securityholders**)
-

Background

- A Bidder, Guarantor and APD have entered into the Implementation Deed, under which:
 - (i) Bidder and APD have agreed to implement the Schemes; and
 - (ii) Bidder has agreed to:
 - (A) enter into, and procure that Guarantor enters into, this deed poll; and
 - (B) pay or procure the provision of the Scheme Consideration to each Scheme Securityholder, in accordance with the Schemes.
 - B Bidder is entering into this deed poll for the purpose of covenanting in favour of the Scheme Securityholders to undertake the actions attributed to Bidder under the Schemes.
 - C Guarantor is entering into this deed poll for the purpose of guaranteeing that Bidder undertakes such actions.
-

1 Defined terms and interpretation

1.1 Defined terms

Unless the context otherwise requires:

- (a) **Implementation Deed** means the scheme implementation deed dated 11 May 2021 between Bidder, Guarantor and APD relating to (among other things) the implementation of the Schemes; and
- (b) terms defined in the Implementation Deed have the same meaning when used in this deed poll.

1.2 Interpretation

Clause 2 of Schedule 1 of the Implementation Deed applies to the interpretation of this deed poll, except that references to 'this deed' are to be read as references to 'this deed poll'.

1.3 Nature of deed poll

Bidder and Guarantor acknowledges and agree that:

- (a) this deed poll may be relied on and enforced by any Scheme Securityholder in accordance with the terms of this deed poll even though the Scheme Securityholders are not party to it; and

- (b) under the Schemes, each Scheme Securityholder irrevocably appoints APD and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Bidder and Guarantor.
-

2 Conditions

2.1 Conditions

This deed poll and the obligations of Bidder and Guarantor under this deed poll are subject to the Schemes becoming Effective.

2.2 Termination

The obligations of Bidder and Guarantor under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Schemes do not become Effective by the End Date, unless Bidder, Guarantor and APD otherwise agree in writing.

2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) each of Bidder and Guarantor is released from their obligations to further perform this deed poll except those obligations under clause 6.1; and
- (b) each Scheme Securityholder retains the rights they have against Bidder and Guarantor in respect of any breach of this deed poll which occurred before it was terminated.

3 Schemes obligations

3.1 Bidder undertakings

Subject to clause 2, Bidder undertakes in favour of each Scheme Securityholder to:

- (a) deposit or procure the deposit of the Aggregate Scheme Consideration into a trust account operated by APD as trustee for the Scheme Securityholders in cleared funds before 12 noon on the Business Day immediately before the Implementation Date (it being noted that, in accordance with the Implementation Deed, any interest on the amount so deposited, less bank fees and other charges, will accrue for the benefit of Bidder); and
- (b) provide or procure the provision of the Scheme Consideration in accordance with the terms of the Schemes; and
- (c) undertake or procure the undertaking of all other actions attributed to it under the Schemes, as if named as a party to the Schemes,

in each case subject to and in accordance with the terms of the Schemes.

3.2 Guarantor undertakings

Subject to clause 2, Guarantor undertakes in favour of each Scheme Securityholder that it will procure that Bidder observes and performs all obligations contemplated of it under clause 3.1.

4 Warranties

Each of Bidder and Guarantor represents and warrants in favour of each Scheme Securityholder that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the legal right and full corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets (or any event under any law which is analogous to, or which has a substantially similar effect to, any of the events referred to in this paragraph);
- (e) this deed poll is valid and binding on it and is enforceable against it in accordance with the terms of this deed poll; and
- (f) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder and Guarantor have each fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6 General

6.1 Stamp duty

Bidder must, and Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in connection with the transfer by the Scheme Securityholders of the Scheme Securities to Bidder pursuant to the Schemes and this deed poll; and
- (b) indemnify each Scheme Securityholder against any liability arising from failure to comply with clause 6.1(a).

6.2 Notices

- (a) Any notice or other communication to Bidder or Guarantor in connection with this deed poll must be:
 - (i) in legible writing in English;
 - (ii) signed by the person making the communication or that person's duly authorised agent; and
 - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Attention: Jonathan Hedger
Address: Level 25, Australia Square
264-278 George Street
Sydney NSW 2000
Email: jonathan.hedger@dexus.com

with a copy (for information purposes only) to daniel.natale@au.kwm.com

- (b) Subject to clause 6.2(c), any notice or other communication given in accordance with clause 6.2(a) will be deemed to have been duly given as follows:
 - (i) if delivered by hand, on delivery;
 - (ii) if sent by pre-paid post, on receipt; and
 - (iii) if sent by email:
 - (A) when the sender receives an email from the recipient confirming receipt of the email; or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,whichever happens first.
- (c) Any notice or other communication that, pursuant to clause 6.2(b), would be deemed to be given:
 - (i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or
 - (ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day,where references to time are to time in the place the recipient is located.

6.3 Cumulative rights

The rights, powers and remedies of Bidder, Guarantor and each Scheme Securityholder under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

6.4 Waiver

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of:
 - (i) any right, power or remedy provided by law or under this deed poll; or
 - (ii) any right, power, authority, discretion or remedy created or arising upon default under this deed poll,

by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.

6.5 Variation

A provision of this deed poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by APD in writing; or
- (b) if on or after the First Court Date, the variation is agreed to by APD in writing and the Court indicates that the variation would not of itself preclude approval of the Schemes,

in which event Bidder and Guarantor must enter into a further deed poll in favour of the Scheme Securityholders giving effect to the variation.

6.6 Governing law and jurisdiction

- (a) This deed poll is governed by the laws in force in Victoria, Australia.
- (b) Each of Bidder and Guarantor irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Victoria, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to the Schemes; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 6.6(b)(i).

6.7 Assignment

- (a) The rights created by this deed poll are personal to Bidder, Guarantor and each Scheme Securityholder, and must not be dealt with at law or in equity.
- (b) Any purported dealing in contravention of clause 6.7(a) is invalid.

6.8 Further action

Each of Bidder and Guarantor must, at its own expense, promptly do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

Execution page

Executed as a deed.

SIGNED, SEALED AND DELIVERED)
for and on behalf of **Dexus Nominee**)
Pty Limited (ACN 650 020 643) under)
power of attorney dated)
_____ in the presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....)
Signature of witness)

.....)
Name of witness (block letters))

By executing this document each)
attorney states that the attorney has)
received no notice of revocation of the)
power of attorney.)

.....)
Signature of attorney)

.....)
Name of attorney (block letters))

.....)
Signature of attorney)

.....)
Name of attorney (block letters))

SIGNED, SEALED AND DELIVERED)
for and on behalf of **Dexus Funds**)
Management Limited (ABN 24 060)
920 783) under power of attorney dated)
1 August 2019 in the presence of:)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....)
Signature of witness)

.....)
Name of witness (block letters))

By executing this document each)
attorney states that the attorney has)
received no notice of revocation of the)
power of attorney.)

.....)
Signature of attorney)

.....)
Name of attorney (block letters))

.....)
Signature of attorney)

.....)
Name of attorney (block letters))

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11 May 2021

Recommended acquisition of APN Property Group by Dexus

APN Property Group (ASX:APD, “**APN**”) announces it has entered into a scheme implementation deed with Dexus (ASX:DXS, “**Dexus**”) under which it is proposed that a subsidiary of Dexus will acquire 100% of APN stapled securities for cash consideration of 91.5 cents¹ per stapled security by way of a scheme of arrangement and a trust scheme (“**Schemes**”).

The Schemes value APN’s issued securities at approximately \$320 million on a fully diluted basis².

The cash price of 91.5 cents represents a:

- 50.0% premium over the closing price of APN securities of 61.0 cents on 10 May 2021, the last trading day before this announcement;
- 64.3% premium over the 1 month volume weighted average price³ of 55.7 cents; and
- 65.8% premium over the 3 month volume weighted average price³ of 55.2 cents.

Unanimous Recommendation of APD Directors

In the absence of a superior proposal and subject to the Independent Expert concluding that the Schemes are in the best interests of APN securityholders, the directors of APN and APN RE Limited (the “**APD Directors**”) unanimously recommend that APN securityholders vote in favour of the Schemes. Subject to those same qualifications, each APD Director intends to vote all the securities held or controlled by them in favour of the Schemes. Including APN’s Chairman, Mr Chris Aylward, this represents intentions with respect to 33.0% of APN’s issued securities.

APN’s Chairman, Mr Chris Aylward, stated: “Dexus’ all cash proposal represents compelling value to APN securityholders including a material premium to APN’s trading price. We believe the combination of the two businesses will provide incremental growth opportunities for the APN business as well as its underlying funds, investors and our team members. The APD Directors consider this to be a very attractive offer and unanimously recommend that securityholders vote in favour of the schemes, subject to no superior proposal being made and the independent expert concluding the schemes are in the best interests of APN securityholders.”

“We are very proud of the APN platform and the value it has created not only for APN securityholders but for the investors in our property funds. We look forward to seeing the continued growth of the APN funds and delivery of returns to our investors as part of the Dexus real estate funds management platform. We do not anticipate any disruption to business operations.”

APN CEO, Mr Tim Slattery, commented: “I’m very pleased to see the value of our business built up over many years recognised through this proposal and to recommend it to APN’s securityholders. Dexus’ property and funds management platform is very well regarded and in combination with APN’s capabilities represents an excellent ongoing opportunity for our funds’ investors and our team.”

¹ The cash consideration of 91.5 cents per stapled security will be reduced by the cash amount of any distribution that is declared by APN (in its absolute discretion) on or after the date of this announcement and prior to 30 September 2021, up to 1.5 cents per stapled security.

² Total diluted securities of 349,638,821 includes 20,090,778 unvested employee share options.

³ Volume weighted average security price based on market trading volume and value up to and including 10 May 2021, being the last trading day before this announcement.

Scheme implementation deed

Implementation of the Schemes is subject to certain customary conditions including:

- APN securityholder approval;
- no material adverse change, prescribed occurrence, restraints or material breach of warranty by either APN or Dexus;
- the Independent Expert concluding that the Schemes are in the best interests of APN securityholders; and
- Court approval.

The Schemes are not subject to any financing or due diligence conditions. Dexus has informed APN that it will fund the transaction using existing cash resources and undrawn debt facilities.

A copy of the scheme implementation deed is attached to this announcement and contains customary exclusivity provisions including no shop, no due diligence and no talk restrictions, as well as notification obligations and a matching right.

The scheme implementation deed also details circumstances under which APN may be required to pay Dexus a break fee of \$3 million and circumstances where Dexus may be required to pay APN a reverse break fee of \$3 million.

In addition, Chris Aylward, Chairman of APN, via his related entities, has granted a subsidiary of Dexus a call option over APN securities, in aggregate, equal to 19.9% of APN's issued securities, exercisable in the event that a competing proposal is publicly announced.

Independent Expert

APN has appointed KPMG Corporate Finance as the Independent Expert to determine whether, in its opinion, the Schemes are in the best interests of securityholders. The Independent Expert's report will be provided to securityholders as part of the Scheme Booklet.

Indicative timetable and next steps

APN securityholders do not need to take any action at the present time.

It is expected that APN securityholders will have the opportunity to vote on the Schemes at securityholder meetings, currently expected to be held in mid July 2021.

A Scheme Booklet, containing information relating to the proposed acquisition, further details and reasons for the APD Directors' unanimous recommendation, the Independent Expert's Report and details of the meetings is expected to be sent to APN securityholders in late June 2021. Subject to the conditions of the Schemes being satisfied or (if applicable) waived in accordance with the scheme implementation deed, the Schemes are expected to be implemented in August 2021.

These dates are indicative only and are subject to change.

APN's financial adviser is Grant Samuel and its legal adviser is Gilbert + Tobin.

This announcement was authorised to be given to the ASX by the Board of APN Property Group Limited and the Board of APN RE Limited.

ENDS

For further information, please contact:

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About APN Property Group

APN Property Group (ASX code: APD) is a specialist real estate investment manager. Since 1996, APN has been actively investing in, developing and managing real estate and real estate securities on behalf of institutional and retail investors. APN's focus is on delivering superior investment performance and outstanding service. Performance is underpinned by a highly disciplined investment approach and a deep understanding of commercial real estate.

www.apngroup.com.au

About Dexus

Dexus is an ASX top 50 entity and one of Australia's leading real estate groups, managing a high-quality Australian property portfolio valued at \$36.5 billion. Dexus directly owns office and industrial properties, and manages office, retail, industrial and healthcare properties for third party clients. Dexus employs approximately 500 property professionals with in-house expertise in funds management, property investment, asset management, leasing, development, capital transactions and ESG. Further information on Dexus is available at www.dexus.com.

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Dexus (ASX: DXS)

ASX release



11 May 2021

Acquisition of APN Property Group to further strengthen Funds Management business

Dexus today announces that following the completion of due diligence, it has entered into a binding Scheme Implementation Deed ('SID') with APN Property Group ('APN') in relation to a proposal for Dexus to acquire all of the stapled securities in APN (the 'Proposal') for an all-cash consideration of 91.5 cents per security ('Offer Price')¹. The SID is provided in **Annexure A**.

In the absence of a superior proposal and subject to the Independent Expert concluding that the Proposal is in the best interests of APN securityholders, the directors of APN and APN RE Limited (the "APD Directors") unanimously recommend that APN securityholders vote in favour of the Proposal. Subject to those same qualifications, each APD Director intends to vote all of the securities held or controlled by them in favour of the Proposal. Including APN's Chairman, Mr Chris Aylward, this represents intentions with respect to 33.0% of APN's issued securities.

In addition, APN's Chairman and largest securityholder, Chris Aylward, via his related entities, has granted a call option to Dexus over APN securities equivalent to 19.9% of issued capital, at the Offer Price ('Call Option Agreement'), exercisable in certain circumstances.

APN Property Group

APN Property Group is listed on the Australian Securities Exchange ('ASX') (ASX: APD) and is a specialist real estate investment manager of two ASX-listed Real Estate Investment Trusts ('REITs'), APN Industria REIT (ASX: ADI) and APN Convenience Retail REIT (ASX: AQR), and also manages direct unlisted property and securities funds. As at 31 December 2020, APN had \$2.9 billion of Funds Under Management ('FUM') and \$134 million of co-investments in its managed vehicles.

Investment rationale

On completion of the transaction, Dexus will have a funds management portfolio comprising \$23.9 billion² that includes institutional wholesale capital, listed REITs, real estate securities and a direct unlisted property business.

The Proposal is underpinned by a strong investment rationale for Dexus:

- Access to a complementary and scalable business with a high-quality team and like-minded investment philosophy;
- Ability to utilise Dexus's market leading funds and property management platform to drive growth and performance for new and existing APN funds;
- Provides Dexus with a range of new growth opportunities via access to new investor groups and products;
- Adds \$2.9 billion of incremental FUM which will be immediately accretive to Adjusted Funds From Operations (AFFO) per security on completion of the transaction in FY22; and
- Potential to realise cost and revenue synergies and achieve margin expansion across the platform

Dexus Chief Executive Officer, Darren Steinberg said: "This transaction supports our strategic initiative of expanding and diversifying our funds management business, increasing our suite of funds on offer outside of wholesale funds into listed REITs, real estate securities funds and unlisted direct property funds. The transaction also expands our investor network to include retail and high net worth capital.

"We believe APN is a high quality real estate funds management business that complements our existing platform, and we look forward to APN's executives joining and strengthening the Dexus team while continuing to deliver strong results for investors".

APN's Chairman and largest securityholder, Chris Aylward said: "Dexus's proposal represents compelling value to APN securityholders including a material premium to APN's trading price. We believe the combination of the two platforms will provide incremental growth opportunities for the APN business as well as its underlying funds, investors and team members."

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Consideration

Dexus proposes an all-cash Offer Price of 91.5 cents per APN security. The Offer Price will be reduced by the value of any distributions declared by APN on or after the date of this announcement and prior to 30 September 2021, up to 1.5 cents per security.

Total consideration payable by Dexus represents an equity value of \$320 million³ and enterprise value of \$308 million.

Dexus expects that on completion of the transaction in FY22 it will be immediately accretive to its Adjusted Funds From Operations (AFFO) per security.

Implementation

Implementation of the Proposal will be via a company and trust scheme. The Proposal is subject to approval by APN securityholders as well as other conditions including obtaining court approval and judicial advice in relation to the Proposal, no court or other government agency-ordered restraints, no material adverse change or prescribed occurrence in APN, regulatory approvals and other customary conditions.

The obligations of Dexus and APN regarding the implementation of the Proposal are governed by the SID. This includes customary “no shop, no talk” provisions, notification and matching rights, a break fee, a reverse break fee and the conditions to implementation of the Proposal.

The Proposal relates only to the acquisition by Dexus of 100% of the securities in APN. The Proposal does not involve the removal of the responsible entity of the funds managed by APN or any change in the management arrangements of those funds.

Next steps and indicative timetable

All APN securityholders will receive a Notice of Meeting and an Explanatory Memorandum (which will include an Independent Expert’s report) to enable them to assess the merits of the Proposal.

APN securityholders who are entitled to vote will then vote on the Proposal at the APN securityholder meeting (in person or by proxy) to approve the Proposal. The APN securityholder meeting is expected to be held in July 2021.

Existing Dexus Security holders do not need to take any action in relation to this Proposal.

The expected key dates relevant to this Proposal include:

Key milestone	Date
First Court Hearing	Mid June 2021
Scheme booklet dispatched to APN securityholders	Late June 2021
APN securityholder meetings to approve the Proposal	Mid July 2021
Second Court Hearing	Late July 2021
Scheme becomes effective	Late July 2021
Record date for participating in Scheme	Early August 2021
Scheme implementation date	Early August 2021

Dexus has appointed Macquarie Capital as financial adviser and King & Wood Mallesons as legal adviser.

Attachments

- Annexure A – Scheme Implementation Deed

Authorised by Brett Cameron, General Counsel and Company Secretary of Dexus Funds Management Limited

For further information please contact:

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About Dexus

Dexus is one of Australia's leading real estate groups, managing a high-quality Australian property portfolio valued at \$36.5 billion. We believe that the strength and quality of our relationships will always be central to our success and are deeply committed to working with our customers to provide spaces that engage and inspire. We invest only in Australia, and directly own \$15.5 billion of office and industrial properties. We manage a further \$21.0 billion of office, retail, industrial and healthcare properties for third party clients. The group's \$11.5 billion development pipeline provides the opportunity to grow both portfolios and enhance future returns. Dexus is a Top 50 entity by market capitalisation listed on the Australian Securities Exchange (trading code: DXS) and is supported by more than 29,000 investors from 24 countries. With 36 years of expertise in property investment, development and asset management, we have a proven track record in capital and risk management, providing service excellence to tenants and delivering superior risk-adjusted returns for investors. www.dexus.com

Dexus Funds Management Ltd ABN 24 060 920 783, AFSL 238163, as Responsible Entity for Dexus (ASX: DXS)
Level 25, 264 George Street, Sydney NSW 2000

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- 1 The Offer Price will be reduced by the value of any distributions declared by APN on or after the date of this announcement and prior to 30 September 2021, up to 1.5 cents per security.
 - 2 Figures are as at 31 December 2020, pro forma to include new APN funds, the merger of ADPF and DWPF (prior to circa \$2 billion of redemptions) as well as the previously announced sales of Grosvenor Place, Sydney, 60 Miller Street, North Sydney, 10 Eagle Street, Brisbane, acquisition of an interest in 1 Bligh Street, Sydney, and previously announced industrial and healthcare acquisitions.
 - 3 Equity value calculated based on Offer Price of 91.5 cents per security and total diluted securities of 349,638,821 including 20,090,778 unvested performance rights.