

- (ii) all or a substantial part or a material part of the assets or business of the members of the Australand Property Group,

including by way of a takeover bid, informal trust scheme, capital or income distribution, sale of assets, sale of units or joint venture, but not as a custodian, nominee or bare trustee;

- (b) acquiring Control of a member of the Australand Property Group or a Controlled Entity of a member of the Australand Property Group; or
- (c) otherwise acquiring or merging with (including by a reverse takeover bid or dual listed entity structure), or being stapled to, a member of the Australand Property Group.

Confidential Information means all information (regardless of its form) disclosed on or after the date of this agreement by the Discloser to the Recipient for the Proposed Transaction, unless it is Excluded Information.

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

Control has the meaning it has in the Corporations Act but ignoring section 50AA(4).

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

Cross-Holdings means the units of APT4 and the units of APT5 that are not stapled components of Australand Property Group Securities but are held separately by AHL (in the case of the APT4 units) and by AHL and APT (in the case of the APT5 units).

Discloser means a party who provides or discloses Confidential Information.

Due Diligence Index means the list of due diligence information set out in Schedule 2.

Due Diligence Information means information which:

- (a) is set out in the Due Diligence Index; or
- (b) Australand Property Group has agreed to provide following a reasonable request by FCL.

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

Excluded Information means information:

- (a) which is in or becomes part of the public domain, except information that is or becomes so because it has been disclosed in violation of this agreement;
- (b) which is lawfully known to it before the date of this agreement;
- (c) which is or becomes available to it from another person who is not known to the Recipient to be in possession of it unlawfully or to have made the disclosure in violation of any confidentiality obligations; or
- (d) which was or is independently developed by the Recipient or a Third Party Recipient without the use of the Confidential Information.

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Exclusivity Period means a period of four weeks commencing on the date that FCL has been provided with access to all of the information set out in the Due Diligence Index.

Expected Australand Property Group Distribution means a distribution per Australand Property Group Security of no more than 12.75 cents for the half year period ending 30 June 2014 and an amount no more than an amount of 12.75 cents distribution per Australand Property Group Security for the half year ending 31 December 2014 pro rata for the period from 1 July 2014 until the Offer becomes unconditional.

FCL Shareholder Meeting means the meeting of FCL shareholders to approve the Offers.

FIRB means the Foreign Investment Review Board.

Implementation Agreement has the meaning given in clause 2.2(a).

Independent Expert means the independent expert to be engaged by the independent directors of the Australand Property Group in relation to the Offer.

Listing Rules means the listing rules of ASX.

Offer means each offer to acquire Australand Property Group Securities to be made by FCL to each Australand Property Group Securityholder under the Proposed Transaction on terms consistent with this agreement.

Offer Period means the period during which the Offer is open for acceptance.

Prescribed Occurrence means any of the events listed in section 652C of the Corporations Act.

Proposed Transaction means the proposal by FCL to acquire all Australand Property Group Securities pursuant to an off-market takeover bid pursuant to Chapter 6 of the Corporations Act, on the key terms referred to in clause 2.3.

Recipient means a party who receives Confidential Information, and includes the Related Bodies Corporate of that party.

Regulatory Authority includes:

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

Related Bodies Corporate has the meaning given to that term in the Corporations Act except that the term "body corporate" in that meaning includes any entity or trust and the term "subsidiary" in that meaning has the meaning given to it in the Corporations Act, but so that:

- (a) an entity will also be taken to be a subsidiary of another entity if it is controlled by that entity pursuant to section 50AA of the Corporations Act;

- (b) a trust may be a subsidiary, for the purposes of which a unit or other beneficial interest will be regarded as a share; and
- (c) an entity may be a subsidiary of a trust if it would have been a subsidiary if that trust were a corporation.

For the avoidance of any doubt, "entity" in this context includes a trust and the trustee of a trust.

Relevant Interest has the meaning given in the Corporations Act.

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

- (a) APL as a party means Australand Property Limited solely in its capacity as responsible entity of APT; and
- (b) AIL as a party means Australand Investments Limited solely in its capacity as responsible entity of each of APT4 and APT5.

SGX means the Singapore Exchange.

Standstill Period has the meaning given in clause 4.2

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means:

- (a) a Competing Transaction which following consideration of advice from their Advisers is believed by the Australand Property Group Directors, in good faith and acting reasonably, to be:
 - (i) reasonably capable of being completed taking into account all aspects of the Competing Transaction; and
 - (ii) more favourable to Australand Property Group Securityholders than the Proposed Transaction, taking into account all terms and conditions of the Competing Transaction; or
- (b) any Competing Transaction involving consideration including securities traded on a stock exchange where the value of the consideration based on the volume weighted average price over five consecutive trading days exceeds \$4.48 per Australand Property Group Security and the Australand Property Group Directors consider that Competing Transaction to be a Superior Proposal.

TCCA means TCCA Assets Ltd.

TCCA Commitment means an irrevocable undertaking by TCCA to vote in favour of the Offers at the FCL Shareholder Meeting, in terms reasonably acceptable to Australand Property Group.

Third Party Recipients means, in respect of a Recipient, the directors, officers, employees, attorneys, accountants, financing sources, consultants, agents or financial advisers of that Recipient.

1.2 Interpretation

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

- (a) **(variations or replacement)** a document (including this agreement) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this agreement;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(singular includes plural)** the singular includes the plural and vice versa;
- (e) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any Regulatory Authority;
- (f) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) **(2 or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (h) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (i) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (j) **(calculation of time)** a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (k) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (l) **(time of day)** time is a reference to Sydney time.

1.3 Consents and approvals

If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this agreement specifies otherwise).

2 Proposed Transaction

2.1 Australand Property Group Directors' recommendation

Subject to clause 6, Australand Property Group undertakes that the Australand Property Group Directors (other than those Australand Property Group Directors who consider they cannot do so for reasons of conflict or who are otherwise unavailable) unanimously recommend that Australand Property Group Securityholders accept the Offer, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Proposed Transaction is fair and reasonable to Australand Property Group Securityholders.

2.2 Conditions

- (a) Subject to clause 2.2(c) and clause 6, Australand Property Group and FCL agree during the Exclusivity Period to negotiate in good faith with a view to finalising an implementation agreement to implement the Proposed Transaction ("**Implementation Agreement**"), which will contain the key terms set out in clause 2.3 and other customary terms and conditions to be agreed by the parties.
- (b) Australand Property Group will provide a first draft of the Implementation Agreement to FCL as soon as practicable after the date of this agreement.
- (c) Entry into the Implementation Agreement by FCL is conditional on the completion of the due diligence referred to in clause 5 to the satisfaction of FCL (which is to be completed within the Exclusivity Period).
- (d) FCL agrees that it will use reasonable endeavours and negotiate in good faith in order to satisfy the condition in clause 2.2(c).
- (e) Subject to clause 2.2(c) and clause 6, FCL agrees to procure that TCCA enters into the TCCA Commitment prior to entry into the Implementation Agreement.

2.3 Key terms

The parties agree that the Implementation Agreement will incorporate the following:

- (a) (**Consideration**) The consideration to be provided by FCL under the Proposed Transaction is a cash payment equal to A\$4.48 for every Australand Property Group Security.
- (b) (**Distribution**) Unless otherwise agreed, Australand Property Group will not pay or determine to pay a distribution between the date of this agreement and 31 December 2014 in excess of the Expected Australand Property Group Distribution.
- (c) (**Australand Property Group Directors' recommendation and acceptances**) Subject to clause 6, provisions relating to the Australand Property Group Directors (other than those Australand Property Group Directors who consider they cannot do so for reasons of conflict or who are otherwise unavailable) unanimously:
 - (i) stating that the Australand Property Group Directors are in favour of the Offer;
 - (ii) recommending that Australand Property Group Securityholders accept the Offer; and
 - (iii) announcing their intention to accept the Offer in respect of any Australand Property Group Securities which they own or control,in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Proposed Transaction is fair and reasonable to Australand Property Group Securityholders.
- (d) (**Conditions**) The Proposed Transaction and corresponding Offers will be subject to the satisfaction of the conditions set out in Schedule 1.

- (e) **(Conduct of business)** Each member of the Australand Property Group must conduct its business in a manner to be agreed to in the Implementation Agreement which will include a requirement to conduct its business in the ordinary course and consistent with past practice, with certain exceptions including for matters which have previously been disclosed to ASX or to FCL.
- (f) **(FCL Shareholder Meeting)** FCL must use its best endeavours to convene the FCL Shareholder Meeting as soon as practicable and support and have its directors recommend approval of shareholders at that meeting as being in the best interests of FCL shareholders, unless SGX does not require (or otherwise waives the requirement for) FCL shareholder approval to be a condition to the Offer.
- (g) **(Exclusivity and break fee arrangements)** Customary exclusivity arrangements for a period that is no longer than is reasonable having regard to relevant regulatory policies, and in the form set out in clause 3. A break fee of 1% of the aggregate value of the Offers is payable by Australand Property Group if:
- (i) a majority of the Australand Property Group Directors recommend a Competing Transaction;
 - (ii) a Competing Transaction substantially completes on or before 31 March 2015; or
 - (iii) the Implementation Agreement is terminated because Australand Property Group is in material breach of its terms.
- (h) **(Sunset date)** Each party to have the right to terminate the Implementation Agreement if Offers have not been made under the Proposed Transaction by 15 August 2014 (or by a later date as may be agreed).

3 Exclusivity

3.1 No existing discussions

Australand Property Group represents and warrants that it has:

- (a) ceased negotiations and/or discussions in respect of any Competing Transaction with any other person; and
- (b) withdrawn any access to any other person to undertake due diligence investigations on the Australand Property Group for the purposes of obtaining, or which may reasonably be expected to lead to, or in respect of, any Competing Transaction.

3.2 No-shop

During the Exclusivity Period, each member of the Australand Property Group must ensure that neither it nor any of its Representatives directly or indirectly:

- (a) solicits, invites, encourages or initiates any enquiries, negotiations or discussions; or
- (b) communicates any intention to do any of these things,

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with a view to obtaining any offer, proposal or expression of interest from any person in relation to a Competing Transaction.

3.3 Presentations

Nothing in clause 3.2 prevents a member of the Australand Property Group from continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the ordinary course in relation to the Proposed Transaction or its business generally.

3.4 No due diligence

Subject to clause 3.7, during the Exclusivity Period, each member of the Australand Property Group must ensure that neither it nor any of its Representatives solicits or enables any person without the prior written consent of FCL to undertake due diligence investigations on the Australand Property Group for the purposes of obtaining, or which may reasonably be expected to lead to, or in respect of any Competing Transaction.

3.5 Notification of Competing Transaction

Subject to clause 3.7, during the Exclusivity Period, Australand Property Group must:

- (a) promptly inform FCL if Australand Property Group or any Australand Property Group Director receives any approach with respect to any actual or potential Competing Transaction and must disclose to FCL:
 - (i) the fact that the approach has been made;
 - (ii) subject to any obligation of confidentiality, the identity of the relevant person or persons involved and the nature of any Competing Transaction (to the extent known); and
 - (iii) all reasonable details of the Competing Transaction, including details of the value of the Competing Transaction, to allow FCL to properly exercise its right under clause 3.6; and
- (b) as soon as practicable notify FCL if Australand Property Group proposes to provide confidential information of Australand Property Group to any third party in relation to any Competing Transaction, and in any event no later than one Business Day after the Australand Property Group Directors resolve to consider the proposal,

but nothing in this clause 3.5 limits the obligations of Australand Property Group under clauses 3.2 and 3.4.

3.6 FCL's opportunity to match

If Australand Property Group or any of its Representatives is in receipt of a Superior Proposal during the Exclusivity Period, FCL may (in its sole discretion) either itself match, or procure a Controlled Entity of FCL to match, that Superior Proposal by giving written notice to Australand Property Group of the offer by the date which falls 3 Business Days after:

- (a) the notification under clause 3.5; or
- (b) in the absence of such notification under clause 3.5, the end of the Exclusivity Period.

3.7 Exceptions

Clauses 3.4 and 3.5 do not apply to the extent that they restrict a member of the Australand Property Group or the Australand Property Group Directors from taking or refusing to take any action with respect to a bona fide Competing Transaction (which was not solicited, invited, encouraged or initiated by Australand Property Group in contravention of clause 3.2) provided that:

- (a) the Australand Property Group Directors have determined:
 - (i) in good faith; and
 - (ii) acting reasonably; and
 - (iii) after consultation with its Advisers,

that failing to respond to that bona fide Competing Transaction would be reasonably likely to constitute a breach of the Australand Property Group Directors' fiduciary or statutory obligations; and
- (b) in the case of clause 3.4:
 - (i) for the purpose of determining whether the Competing Transaction is a Superior Proposal under this clause 3.7(b), the parties agree to ignore the existence of a reasonable condition of satisfactory completion of due diligence;
 - (ii) FCL has been provided with an opportunity to match a Superior Proposal in accordance with clause 3.6;
 - (iii) due diligence investigations do not commence prior to expiry of the 3 Business Day period referred to in clause 3.6; and
 - (iv) in circumstances where FCL has matched a Superior Proposal pursuant to clause 3.6, this clause 3.7 would cease to apply to that Competing Transaction.

Australand Property Group acknowledges that as at the date of this agreement, the Australand Property Group Directors do not consider that the Stockland Proposal that was the subject of the ASX announcement made by Australand Property Group on 28 May 2014 to be a Competing Transaction to which this clause 3.7 would apply.

3.8 Equal access to information

If at any time after the date of this agreement Australand Property Group provides any information relating to Australand Property Group or any of its businesses or operations to any person in connection with or for the purposes of a current or future Competing Transaction (which for the avoidance of doubt, includes the Stockland Proposal that was the subject of the ASX announcement made by Australand Property Group on 28 May 2014), it must promptly provide FCL with access to, or a copy of, that information.

3.9 Legal advice

Each member of the Australand Property Group acknowledges that it has received legal advice on this agreement and the operation of this clause 3.

4 Standstill

4.1 Current holding

FCL represents and warrants to each member of the Australand Property Group that, as at the date of this agreement, FCL and its Associates do not have a Relevant Interest in any Australand Property Group Securities.

4.2 Standstill obligation

Subject to clause 4.3, FCL must not, and must procure that each of its Related Bodies Corporate does not, until the expiry of 12 months from the date of this agreement ("**Standstill Period**"):

- (a) subscribe for, acquire, purchase or agree to acquire or purchase any Australand Property Group Securities (including any Relevant Interest in Australand Property Group Securities), any rights, warrants or options to acquire any Australand Property Group Securities or which may convert into Australand Property Group Securities;
- (b) enter into any agreement or arrangement which confers on it rights, the economic effect of which are equivalent or substantially equivalent to the acquisition or holding of Australand Property Group Securities (including cash settled derivatives, contracts for difference or other derivatives);
- (c) announce, procure or induce any other person to announce any offer for Australand Property Group Securities, or enter into any agreement, arrangement or understanding (whether legally binding or not), or do anything as a result of which it may become obliged (whether under the Corporations Act or otherwise) to announce an offer for Australand Property Group Securities;
- (d) solicit proxies from holders of Australand Property Group Securities or otherwise try, or act in concert with any other person to try, to influence or control the management or policies of Australand Property Group ; or
- (e) assist, counsel, procure or induce any other person in doing any of the things in clauses 4.2(a), 4.2(b), 4.2(c) or 4.2(d).

4.3 Exceptions

Clause 4.2 does not apply:

- (a) to the Proposed Transaction;
- (b) in respect of anything done with the prior written consent or agreement of Australand Property Group; or
- (c) after any Superior Proposal in relation to Australand Property Group is announced after the date of this agreement.

4.4 Notification obligation

A party must immediately notify Australand Property Group if it becomes aware of a breach of clause 4.2.

4.5 Association

It is acknowledged by the parties to this agreement that:

- (a) FCL is not an Associate of any member of the Australand Property Group as a result of the obligations under this agreement or otherwise; and
- (b) it is not intended at any stage that FCL would become an Associate of any member of the Australand Property Group as a result of the obligations under this agreement or otherwise.

4.6 Other obligation

Nothing in this clause 4 in any way modifies the operation of clause 9.8.

5 Due Diligence

5.1 Provision of information

- (a) Australand Property Group will provide FCL with access to:
 - (i) all of the information set out in the Due Diligence Information as soon as reasonably practicable after the date of this agreement; and
 - (ii) members of the Australand Property Group senior management team for due diligence interviews.
- (b) Without limiting clause 5.1(a)(i), Australand Property Group will use reasonable endeavours to procure consents from relevant third parties to the provision of any information set out in the Due Diligence Information.

5.2 Conduct of Due Diligence

FCL will conduct due diligence enquiries on Australand Property Group and its assets. The parties acknowledge that this will be completed within the Exclusivity Period.

6 Termination

6.1 Timing of termination

This agreement, and the parties' obligations under it, will terminate upon the earliest of the following to occur:

- (a) the end of the Exclusivity Period, provided that in the event that subclause 3.6 applies in respect of a notification that is given on the last day of the Exclusivity Period or if no notification is given at all, such date shall be extended to 3 Business Days after the end of the Exclusivity Period (or a later date as may be agreed between the parties);
- (b) the entry by the parties into an Implementation Agreement;
- (c) FCL provides written notice that it wishes to terminate the agreement in circumstances in which Australand Property Group is in material breach of it;
- (d) FCL does not procure the TCCA Commitment as required by clause 2.2(e) by the time of entry into of the Implementation Agreement;

- (e) a member of the Australand Property Group provides written notice that it wishes to terminate the agreement in circumstances in which FCL is in material breach of it; or
- (f) a member of the Australand Property Group provides written notice that it does not wish to proceed with the Proposed Transaction in circumstances where FCL does not match a Superior Proposal pursuant to clause 3.6.

7 Announcements

7.1 Initial announcement

As soon as reasonably practicable after the entry into this agreement, Australand Property Group and FCL must release to ASX and FCL must release to SGX the forms of announcement initialled by both of them for identification on or around the date of this agreement.

7.2 Further announcements

Where a party is required by law, the Listing Rules or a memorandum of understanding with a Regulatory Authority to make any announcement relating to a matter the subject of the Proposed Transaction, it may do so only after it has given the other party as much notice as practically possible and has consulted to the fullest extent practically possible in the circumstances with the other party and its legal advisers.

8 Warranties

Each party represents and warrants to the other that, at the date of this agreement:

- (a) **(status)** it is validly existing under the laws of its place of incorporation;
- (b) **(power)** it has the power to enter into and comply with all of the terms and conditions of this agreement;
- (c) **(authorisations)** all approvals and authorities that may be required to permit the party to enter into this agreement and to perform its obligations under this agreement in accordance with its terms have been obtained and remain valid and subsisting; and
- (d) **(validity of obligations)** this agreement is a valid and binding obligation on the party.

9 Confidentiality

9.1 Disclosure of Confidential Information

None of the parties may disclose:

- (a) the Confidential Information to third parties except in accordance with the relevant terms of this agreement;
- (b) the existence or terms of this agreement; or