



# Sequoia Deferred Purchase Agreements (Fully Funded)

## Master Information Memorandum

Wholesale Investors Only  
14 March 2024



This Master IM is for the offer of an agreement to purchase the shares ("**Delivery Assets**") specified in the relevant Term Sheet IM on certain terms including deferred delivery ("**the Offer**"). This Master IM is dated 14 March 2024 and is issued by Sequoia Specialist Investments Pty Ltd (ACN 145 459 936 ) ("**the Issuer**") and arranged by Sequoia Asset Management Pty Ltd (ACN 135 907 550, AFSL 341506) ("**the Arranger**") pursuant to Section 911A(2)(b) of the Corporations Act. Pursuant to Section 911A(2)(b), the Issuer will issue the Units in accordance with the offer made by the Arranger.

All fees in this IM are stated inclusive of any GST (unless stated otherwise).

All monetary amounts referred to in this IM are given in Australian dollars (unless stated otherwise). All references to legislation in this IM are to Australian legislation. Explanations as to tax treatment and other features of the Offer have been provided for Australian investors.

## Investments in the Units

This IM (including the Term Sheet IM for a Series of Units) is an important document which should be read before making a decision to acquire the Units. The information in this IM and the Term Sheet IM for a Series of Units is general information only and does not take into account an individual's investment objectives, financial situation or particular needs or circumstances.

Nothing in this IM is a recommendation by the Issuer or its related bodies corporate or by any other person concerning investment in the Units or the Reference Asset or any specific taxation consequences arising from an investment in the Units. Potential investors should also obtain independent financial and taxation advice as to the suitability of this investment to them having regard to their investment objectives, financial situation and particular needs. No cooling off rights apply to investments in the Units.

**Potential Investors should note that the Issuer retains discretion to amend the closing date of the offer for a Series and move the Commencement Date (and all other consequential dates) for a Series, or not to continue with the issue of a Series of Units on the Commencement Date and terminate any Units in that Series already issued, including where there is a significant change in the Issuer's cost of hedging between the date of the relevant Term Sheet IM and the Commencement Date for that Series. In particular, the Issuer will not continue with the issue of a Series of Units if it considers that it and its affiliates have not completed sufficient arrangements for management of their respective obligations in respect of that Series of Units. If a decision is made not to issue a Series of Units or to terminate Units in a Series that have already been issued, the Issuer will return any applicable Fees that have been paid upfront to applicants without interest within 10 Business Days of the scheduled Commencement Date.**

## Eligible investors and electronic IM

This IM (including any Term Sheet IM) and the Offer are available only to Australian resident investors receiving this IM (including electronically) in Australia. Applications from outside Australia will not be accepted. If anyone prints an electronic copy of this IM they must print all pages including the Application Form. If anyone makes this IM available to others, they must give them the entire electronic file or printout, including the Application Form and any additional documents that the Issuer may require such as identification forms for the purpose of satisfying Australian anti-money laundering legislation.

This document is not a product disclosure statement under the Corporations Act and has been prepared for use by Wholesale Clients only, as defined in section 761G and 761GA of the Corporations Act. This document is not required to be and has not been lodged with ASIC under the Corporations Act. Accordingly, this Information Memorandum is not required to, and does not include, all of the information that would be required to be included in a product disclosure statement. Nor is an applicant provided with the protections afforded to an investor in a managed investment scheme that has been registered under the Corporations Act.

Furthermore, this IM does not purport to provide all of the information the recipient may require in order to evaluate an investment in the Funds. Recipients should make their own enquiries and evaluations they consider appropriate to verify the information contained in the Information Memorandum and to determine the suitability of an investment in the Funds (including regarding their personal investment objectives, financial situation, and particular needs) and should seek all necessary financial, legal, tax and investment advice.

The Units have not been and will not be registered under the United States Securities Act of 1933, as amended (the "Securities Act"), and may not be offered or sold in the United States or to, or for the benefit of U.S. persons unless the Units are registered under the Securities Act or an exemption from the registration requirements of the Securities Act is available.

## Updated information

Information set out in this IM is subject to change from time to time. Information not materially adverse to Investors in the Units may be amended without issuing an updated or supplementary IM. Investors can find this updated information at any time at [www.sequoiasi.com.au](http://www.sequoiasi.com.au).

A copy of this Master IM and any Term Sheet IM (and any supplementary documents) can be obtained on request by contacting Sequoia Specialist Investments. Sequoia Specialist Investments can be contacted on (02) 8114 2222 or at PO Box R1837 Royal Exchange NSW 1225.

If an Investor establishes that information is not accurate, complete, and up-to-date, the Issuer must take reasonable steps to correct it.

## Making an investment

Units can only be issued if potential investors use an Application Form (including relevant attachments) attached to either a paper or electronic copy of the relevant Term Sheet IM.

## Returns not guaranteed

Returns on the Units are not guaranteed. Neither the Issuer, the Security Trustee, the Custodian, the Arranger, the Lead Distributor, the Acceptor nor any of their associates or subsidiaries guarantees the return on an investment in the Units or any gain. Investors may not recoup the total amount of any amounts outlaid as there is no guarantee that returns on the Units will be in excess of these amounts paid by Investors. Please refer to Section 2 "Risks" in this Master IM and the relevant Term Sheet IM for the risks specific to the particular Series.

## Superannuation fund investors

Superannuation funds can invest in Units in either Series. Superannuation fund investors should take note of the representations and warranties they make when investing – see clause 13.2 of the Terms in this IM.

## Definitions

Capitalised terms used in this IM have the meaning given in Section 10 "Definitions" and as defined in the relevant Term Sheet IM.



## Nature of the Units

The Units are “Securities” for the purposes of Chapter 7 of the Corporations Act.

Please note “Unit” or “Units”, when used in this IM means an agreement to buy the Delivery Assets between the Issuer, Custodian and the Investor pursuant to the Deferred Purchase Agreement. The Units are not units in a trust or managed investment scheme.

This investment carries risk. Before investing, potential investors should read this entire Master IM and the relevant Term Sheet IM for a Series of Units to make sure they fully understand the risks of investing in the Units and having exposure to the relevant Reference Asset, and speak to their financial, legal and tax advisers. This document does not take into account a potential investor’s own financial needs, investment goals or financial circumstances.

Investors should seek professional advice which considers their individual objectives, financial situation and needs before making any investment decision.



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# 1. The Units



The Units are interests in Deferred Purchase Agreements issued by the Issuer from time to time, on the terms contained in this Master IM and the relevant Term Sheet IM for an individual Offer or Series. The Units are designed to deliver at the Settlement Date a Delivery Parcel which has a value equivalent to the Final Value at the Maturity Date. During the Investment Term and at Maturity there may be the potential for Coupons to be paid, calculated by reference to a Reference Asset as described in the relevant Term Sheet IM.

## 1.1 Issue of Units

### Initial Offer Period

During the Initial Offer Period, the Units are acquired through the Investor's payment of the Issue Price per Unit to the Issuer and completing and submitting a valid Application Form. The Issuer will not finance the issue of Units offered under this Master IM.

### Secondary Offer Period

The Issuer may specify in the Term Sheet IM for a Series that a secondary offer period is applicable. During the secondary offer period the Units will be offered at the market price calculated by the Issuer. Upon payment of the Application Monies, an Investor will receive the number of Units calculated as follows:

$$\text{Number of Units} = \frac{\text{Application Monies}}{\text{Market Price}}$$

The market price at which such units are offered during the secondary offer period will be determined by the Issuer at its own discretion and influenced by many factors. These include:

- prevailing interest rates in Australia or offshore depending on the currency denomination of the underlying Units;
  - the remaining time to Maturity; and
  - general market risks and movements.
- Investors should be aware the Units are designed to be held to Maturity and are not designed to be a trading instrument.

## 1.2 What do Investors receive at Maturity?

At Maturity, an Investor (or the Custodian on behalf of the relevant Investor) will receive the Delivery Parcel. The number of Delivery Assets in the Delivery Parcel which an Investor receives is calculated by taking the Final Value of the Units divided by the purchase price of the Delivery Assets. The calculation for the Final Value will be detailed in the relevant Term Sheet IM.

The Term Sheet IM for a Series may also specify Coupons to be paid in relation to Units in that Series. Unless the Term Sheet IM for that Series specifies otherwise, the Coupon will be paid in cash to Investors on the Settlement Date.

At Maturity, the Delivery Parcel will be transferred to Investors, unless an Investor asks the Issuer to sell it under the Agency Sale Option. If an Investor elects the Agency Sale Option the Investor will be deemed to direct the Issuer to direct the Custodian (or its nominee) to hold the Delivery Parcel on its behalf and to authorise and direct the Issuer (or its nominees) to sell or procure the sale of them on the Investor's behalf. For more information please refer to Section 1.7 "Agency Sale Option" below.

## 1.3 How is the Delivery Parcel calculated?

The size of the Delivery Parcel delivered to investors is calculated by reference to the Final Value per Unit at Maturity, multiplied by the number of Units held by an Investor. The value of the Delivery Parcel you receive at Settlement will be reduced by an amount equal to the Delivery Costs and subject to rounding of the number of Delivery Assets. As at the date of this IM, the Issuer does not expect there to be any Delivery Costs.

Investors should be aware that market movements from the Maturity Date to the Settlement Date will affect the value of the

Delivery Parcel, that is, after the Maturity Date, the value of the security will be determined by the price of the security as traded on the ASX. The Issuer will transfer the Delivery Assets to Investors as soon as practical but there is a risk they may fall in value by the time they are transferred to Investors.

Should Investors prefer to receive their investment return in cash at Maturity, Investors can elect (in the Notice of Maturity) to use the Agency Sale Option and for the Issuer (or its nominee) to sell or procure the sale of their Delivery Parcel and pay them the cash Sale Monies (which includes a deduction for any Delivery Costs) instead.

The Units can mature early if an Early Maturity Event occurs or if an Investor requests (and the Issuer accepts) an Issuer Buy-Back. For further information, see section 1.10 "Early Maturity" of this Term Sheet IM and Clause 5 "Early Maturity" of the Terms in the IM.

Delivery of the Delivery Parcel relies on the Issuer meeting its obligations and the Hedge Counterparty's ability to meet its obligations under the Hedge. A relevant factor for the assessment of counterparty risk is the financial strength of the Issuer and Hedge Counterparty. You should refer to "Counterparty risk of Issuer, Hedge Counterparty and Security Trustee" in Section 2 "Risks" of the Master IM.

## An example of how the Delivery Parcel is calculated is set out below:

### Example

If the Final Value at Maturity was \$1.00 per Unit and assuming you held 50,000 Units, the Final Value for your entire holding will be \$50,000.

The value of the Delivery Parcel would be \$50,000 less any Delivery Costs and subject to rounding of the number of Delivery Assets.

Therefore the number of Delivery Assets that would be received by an Investor (i.e. the Delivery Parcel) would be calculated as follows: (Final Value per Unit x Number of Units held by Investor – Delivery Costs) / Delivery Asset Price.

For example, assuming that the Delivery Asset is ordinary shares in Telstra Group Ltd and assuming that the Delivery Asset Price is \$3.30, the number of Delivery Assets in the Delivery Parcel for an Investor with 50,000 Units will be 15,531 (i.e.  $(\$1.00 \times 50,000) / \$3.99 = 12,531$ ) (assuming no Delivery Costs).

Delivery Asset	Delivery Asset Price	Number of Delivery Assets
Telstra Group Ltd	\$3.99	12,531

The Delivery Asset Price used for the purpose of this example is indicative and is provided for illustrative purposes only. The above figures were calculated on the assumption that there were no Delivery Costs applicable (as at the date of this IM, it is not anticipated that the Delivery Costs will apply).

In the above example, the number of Delivery Assets has been rounded down to the nearest whole number and is valued at \$49,998.69. Therefore there is a difference of \$1.31 (i.e. \$50,000 less \$49,998.30). As this amount is less than A\$20, you will not receive this amount. If the fractional amount were greater than A\$20, it would be paid to your Nominated Account within 10 Business Days of the Settlement Date.

## 1.4 Delivery Parcel and substitution

You should note that the Issuer has the right to delay or substitute the Delivery Asset if the nominated Delivery Asset is unable to be delivered due to any legal or regulatory restriction relating to the Delivery Asset (including cessation or Suspension from listing) or the Issuer, including but not limited to trade limitations resulting from internal conflict arrangements, or if it is not reasonably



practicable or economically viable for the Issuer, in its discretion, to deliver the nominated Delivery Assets.

In these circumstances, the Issuer may delay delivery of the Delivery Parcel or substitute another security (other than the nominated Delivery Asset) listed on the ASX and which is a constituent of the S&P/ASX 200 Index as the Delivery Asset. Please refer to clause 4.7 “Substitution of the Delivery Assets” in Section 6 “Terms of the Deferred Purchase Agreement” below.

### 1.5 Maturity

Prior to the Maturity Date you will be sent a Notice of Maturity informing you that Maturity of the Units is approaching. Upon Maturity you can either:

- accept physical delivery of the Delivery Parcel; or
- use the Agency Sale Option and receive the Sale Monies (which includes a deduction for any Delivery Costs).

If you wish to use the Agency Sale Option and receive Sale Monies (which includes a deduction for any Delivery Costs), you need to make this election in the Notice of Maturity.

### 1.6 Physical delivery

At Maturity, if you have not elected to use the Agency Sale Option, you will not be delivered the Reference Assets. Instead, you will hold a parcel of ASX listed securities (the Delivery Asset). You will need to carefully consider whether an investment in those shares will be a suitable investment for you to hold beyond Maturity. More information about the relevant Delivery Assets will be provided in the relevant Term Sheet IM.

The Issuer will purchase the Delivery Asset constituting your Delivery Parcel and register those securities on the issuer-sponsored sub register (i.e. as an issuer sponsored holding) in your name. You may at a later stage transfer the securities into your own CHESS account by providing your broker with your Sponsor Reference Number.

The Issuer or its nominee will deliver the Delivery Parcel comprising the Delivery Assets (less any Delivery Costs) on the Settlement Date. As at the date of this IM, the Issuer does not expect any Delivery Costs to be associated with the delivery.

### 1.7 Agency Sale Option

If you form the view that you do not wish to hold the Delivery Assets after the Maturity Date, you can elect for the Issuer (or its nominee) to sell or procure the sale of the Delivery Assets on your behalf and receive Sale Monies (which includes a deduction for any Delivery Costs) via the Agency Sale Option.

If you have elected to use the Agency Sale Option, then the Custodian (or its nominee) will accept physical delivery of the Delivery Assets on your behalf and the Issuer (or its nominee) will sell or procure the sale of them on your behalf. The Issuer (or its nominee) will then pay you the Sale Monies (which includes a deduction for any relevant Delivery Costs associated with the sale). As at the date of this Master IM, the Issuer does not expect any Delivery Costs to be associated with the Agency Sale Option.

To use the Agency Sale Option and receive the Sale Monies (which includes a deduction for any Delivery Costs), or balance of Sale Monies, (if any) you must return the Notice of Maturity to the Issuer at least 10 Business Days prior to the Maturity Date.

In circumstances where you have elected to use the Agency Sale Option, Sale Monies (if any) will be paid to your Nominated Account within 10 Business Days of the Settlement Date or as soon as reasonably practicable thereafter.

See clause 4.4 of the Terms “Delivery through the Agency Sale Option” in this IM for further details about the Agency Sale Option.

### 1.8 Fractions

If the Delivery Parcel includes a fraction of a Delivery Asset which is valued at more than A\$20.00, the Issuer will transfer the AUD fractional amount into your Nominated Account within 10 Business Days after the Settlement Date or as soon as reasonably practicable thereafter. This amount is in effect a reimbursement of a portion of your Investment Amount.

### 1.9 Can I sell my Units prior to Maturity? Issuer Buy-Back

Investors may request the Issuer buy-back their Units (“**Issuer Buy-Back**”). If an Investor elects to participate in an Issuer Buy-Back, the Investor will be entitled to the market value of the Units as determined by the Issuer.

You may request that the Issuer Buy-Back some of your Units by requesting from the Issuer, completing and then lodging an Issuer Buy-Back Form.

The Issuer may also offer to all Investors to enter into an Issuer Buy-back for all of their Units prior to the Maturity Date through an Issuer Buy-Back Offer. Investors may elect to participate in the Issuer Buy-Back Offer or hold the Units until the Maturity Date.

The Issuer will pay the Investor the Buy-Back Price in cash. Delivery Assets shall not be provided in the event of an Issuer Buy-Back. Instead, settlement will be in cash.

### 1.10 Early Maturity

The Units can mature early if an Early Maturity Event occurs or if an Investor requests an Issuer Buy-Back which is accepted by the Issuer.

Early Maturity Events generally arise in circumstances which prevent the Issuer being able to hedge or deliver on its obligations under the Terms of the Units. Early Maturity Events could include (but are not limited to) for example, where the relevant Reference Asset ceases to be calculated or exist, circumstances where a Change of Law occurs that prevents the normal operation of the Units or results in the Issuer having to pay additional amounts in relation to the Units. Please refer to the Master IM Section 2 “Risks” of the Master IM which sets out the Early Maturity Events and clause 5.1 “Early Maturity by the Issuer” of Section 6 “Terms of the Deferred Purchase Agreement” below.

If an Early Maturity Event occurs the Issuer may reasonably determine whether to call Early Maturity or allow the Units to continue. An Early Maturity Event may occur on the Maturity Date, in which case the Units will mature in accordance with the Early Maturity mechanism in clause 5.4 “Early Maturity Mechanism” of Section 6 “Terms of the Deferred Purchase Agreement” below.

An Early Maturity may lead to Investors suffering losses and bearing various costs associated with the Early Maturity. Where the Issuer calls an Early Maturity, Investors will either receive the Termination Payment or a Delivery Parcel with value equal to the Early Maturity Value. In calculating the Termination Payment and the Early Maturity Value, the Issuer may deduct any costs it reasonably incurs acting in a commercially reasonable manner in relation to the Early Maturity, including Break Costs and the costs of unwinding any hedge. The amount the Issuer achieves on the unwinding of its hedge position may be minimal or zero and Investors may receive nothing. However, a minimum Early Maturity Value or Termination Payment per Unit may apply. Please refer to the relevant Term Sheet IM to see if a minimum Early Maturity Value or Termination Payment applies.

In an Early Maturity Event occurs, Investors will not be entitled to a refund on any Fees paid. Investors should also note that even if



the Reference Asset is above the Reference Asset Starting Level (or such other conditions as specified in a Term Sheet IM regarding payments to be made to Investors have been met), if there is an Early Maturity Event no further Coupons (or other payments as specified in a Term Sheet IM) will be payable.

Please see clause 5 “Early Maturity” of Section 6 “Terms of the Deferred Purchase Agreement” for more details about Early Maturity.

### **1.11 Derivatives**

The Issuer obtains exposure to the Reference Asset(s) through the use of derivatives or other financial instruments rather than a direct investment in the Reference Asset or securities comprising the Reference Asset.

### **1.12 Fees & Costs**

The Fees & Costs applicable to a Series will be set out in the Term Sheet IM.

In addition to Fees & Costs charged by the Issuer, if you agree to pay an upfront and/or ongoing fee to your adviser for financial product advice given by them to you in relation to your investment in the Units (“Adviser Fee”), you should insert the agreed amount of the Upfront Adviser Fee and Ongoing Adviser Fee payable on the Application Form attached to the relevant Term Sheet IM.

By signing the Application Form you irrevocably authorise the Issuer to collect the Upfront and Ongoing Adviser Fees (if any) specified on your Application Form at the same time as the other payments are direct debited and irrevocably direct the Issuer to pay the Upfront and Ongoing Adviser Fees (if any) to your adviser, or a service provider of the Adviser nominated by you, on your behalf.

## 2. Risks



An investment in the Units carries risk. This is a summary of the specific risks applicable to the Units. Before investing, potential investors should make sure they understand the risks. Investors should read all of the Term Sheet IM and this Master IM and should consult their financial, legal and tax adviser. This document does not take into account a potential investor's own financial needs, investment goals or financial circumstances.

### 2.1 The Units

Investors may not receive any returns (in particular, no Coupons may be payable) on the Units and therefore they may not recoup any of the amount they paid upfront for the Units. The returns may not be sufficient to recover any applicable Fees set out in the relevant Term Sheet IM.

#### Performance of the Reference Asset

Historical prices of the Reference Asset should not be taken as an indication of the future performance of the Reference Asset during the Investment Term. It is impossible to determine with certainty whether the Reference Asset will rise or fall.

#### Coupons

Some Series may have the potentials to pay Coupons (or other payments) either during the Investment Term or at Maturity or both. Where a Coupon is determined based on the performance of the Reference Asset and/or the Strategy Value, there will not be a Coupon if the performance of the Reference Asset and/or the Strategy Value is not higher than the level described in the relevant Term Sheet IM.

For example, a particular Series may pay a final Coupon of 20%, provided that the Performance of the Reference Asset is greater than a specified percentage (for example a Series may have a Hurdle set at 10%). Investors need to refer to the relevant Term Sheet IM for detailed calculations of Coupons.

Investors should note that if the Coupon cannot be set to a level satisfactory to the Issuer for a particular Series, for example if there is a significant movement in its cost of hedging prior to the Commencement Date, then the Issuer may use its discretion to not proceed with the offer of Units in that particular Series.

For some Series, the Coupons may be determined in a foreign currency before being converted to Australian Dollars. Even if a Coupon is payable, it may not be sufficient to cover the costs such as any applicable Fees.

Further information and worked examples on the Coupons and how they are calculated can be found the relevant Term Sheet IM.

#### Applicable Fees

The Investment Amount and any other applicable Fees for the Investment Term must be prepaid by Investors by the relevant Application Payment Date and/or such other date as set out in the relevant Term Sheet IM. Investors must provide direct debit details with their Application. Cleared funds must be received by the Issuer by the Application Payment Date or such other date specified in the Term Sheet IM.

There is no guarantee that the Units will generate returns in excess of the Fees. Additionally, in the event of an Investor requested Issuer Buy-Back, an Early Maturity Event, they will not receive a refund of any Fees.

#### Averaging risk

Some Series may use an averaging technique to attempt to reduce the effect of volatility of the Reference Asset or Strategy Value when calculating the Initial Strategy Value / Initial Reference Asset Value and the Final Strategy Value / Final Reference Asset

Value at Maturity. This averaging at Maturity would be expected to decrease the impact of a fall in the value of the Strategy Value / Reference Asset Value during that period. This averaging at the Commencement of the Investment Term would be expected to decrease the impact of an increase in the value of the Strategy Value / Reference Asset Value during that period on the value of your Units.

#### Foreign exchange risk (if Applicable)

Units in some Series may have exposure to a foreign currency/exchange rate. Additionally the Reference Asset may be listed on a foreign exchange and denominated in a currency other than Australian dollars. Investor's returns from the Coupons and Final Value in these Series may be subject to movements in the relevant exchange rate. If this is the case, this may significantly affect the performance of the investment. For example, if a Series has exposure to the AUD/USD and the AUD/USD exchange rate has increased between the Commencement Date and a Coupon Determination Date, the Coupon payable will decrease. Conversely, if the AUD/USD exchange rate decreases, the Coupon payable will increase. Any Coupons payable will be converted to Australian dollars using the relevant Currency spot exchange rate at the relevant Coupon Determination Date.

In the event of Early Maturity or Issuer Buy-Back, the Early Maturity Value or Buy-Back Price may also be affected by adverse movements in foreign currencies

#### Exposure and Volatility risk

A particular Series may have varying levels of exposure to the Reference Asset (the "Participation Rate") depending on the volatility. The relevant Term Sheet IM will state whether a Participation Rate applies with respect to a Series. The Participation Rate is a mechanism designed to manage market risk associated with the performance of the Reference Asset. It operates by varying the exposure that the Units will have to the Reference Asset depending on the volatility of the Reference Asset and the Target Volatility. Target Volatility is generally the level of volatility that would provide a Participation Rate of 100%.

The higher the volatility, the lower the Participation Rate (and hence the lower the exposure to the Reference Asset) and vice versa.

The Participation Rate may present an investment risk as a Participation Rate above 100% represents an exposure of more than 100% to the Reference Asset. This has the potential to magnify both gains and losses. Investors should also be aware that where there is a Participation Rate of less than 100%, Investors may not gain the full benefits of an increase of the value of the Reference Asset. Conversely, where the Participation Rate is higher than 100% investors will have a magnified exposure to the Reference Asset. Where the level of the Reference Asset drops in these circumstances, the Participation Rate of more than 100% will result in Investors' losses being magnified. The minimum Participation Rate may be 0%, which means Investors have no exposure to the Reference Asset. Please note that historical performance is not a reliable indicator of future performance.

Investors should note that if the Target Volatility for a Series cannot be set to a level satisfactory to the Issuer, for example if there is a significant movement in its cost of hedging prior to the Commencement Date, then the Issuer may use its discretion not to proceed with the offer.

Finally, Investors should note that there is a lag in measuring the volatility of the Reference Asset. The Participation Rate is based on the realised volatility of the Reference Asset over number of Scheduled Business Days (e.g. a Series may use the 60 Scheduled





Business Days prior to the day that the Participation Rate is calculated). This means that where there has been a period of high volatility, the Investor's exposure to the Reference Asset will be low, regardless of whether the Reference Asset is performing positively or negatively and regardless of the then prevailing level of volatility. Where historical volatility has been very low, the exposure to the Reference Asset will be high, again regardless of whether the Reference Asset is performing positively or negatively and regardless of the then prevailing level of volatility.

### **An early termination of the Hedge will constitute an Early Maturity Event or an Adjustment Event under the Units.**

Any event as a result of which the Hedge Counterparty cannot make physical delivery of the relevant assets (or otherwise results in the early termination of the Hedge) will constitute either an Early Maturity Event or an Adjustment Event under the Units.

### **Reference Asset Risk**

The value of the Reference Asset may change substantially over the life of your investment. The Reference Asset gives exposure to various underlying securities via the relevant index. The returns on the Reference Asset are subject to the performance of the individual equities or assets included in the relevant Reference Asset. Therefore, all factors likely to affect the performance of the securities which comprise the Reference Asset are important and Investors should consider all appropriate publicly available information in relation to the Reference Asset (and the securities which comprise it). These factors may include movements in international financial markets, interest rates, currency rates and global economic, political, technological and environmental factors.

For a Reference Asset that is an index, the securities comprising the Reference Asset may change substantially over the life of the investment. In particular, it is possible that the initial constituent securities will increase substantially in value prior to the Maturity Date but that the Reference Asset will decline in value during such period. Investors should have regard to this when considering the importance of the identity of the initial securities comprising the Reference Asset.

In addition you should note that you will not have an actual investment in the Reference Asset, or any of the securities comprising the Reference Asset.

### **Foreign tax legislation risks**

Foreign tax legislation may impose taxes on payments made by the Hedge Counterparty, to the Hedge Counterparty, or in relation to payments made under the Hedge Agreement. These taxes may impact the value of your Units.

### **Payment disruptions under the Hedge**

There is a risk an event may occur that:

- prevents, restricts or delays the relevant Hedge Counterparty from converting or delivering relevant currencies under the Hedge Agreement;
- imposes capital controls in relation to a Hedge Agreement; or
- implements changes to laws relating to foreign investments that impact the Hedge Agreement.

Such an event may lead to a delayed and/or reduced payment under the Hedge. In such circumstances, the Hedge Counterparty's obligation to make a payment may be postponed to a date falling 20 Business Days (or longer) after the date at which the payment disruption event is no longer occurring. No accrued interest will be payable in respect of any such postponement. This may lead to an Early Maturity Event or an Adjustment Event under the Units.

### **Price Return Index**

Where the Reference Assets are price return indices, the performance of the Reference Assets reflect the movements in the price of the shares in the indices and do not take into account dividends, interest or other income paid on those shares.

### **Unit value before the Maturity Date**

The market value of the Units will be determined by many factors before the Maturity Date. These include:

- prevailing interest rates in Australia;
- the remaining time to Maturity; and
- general market risks and movements.

Investors should be aware the Units are designed to be held to Maturity and are not designed to be a trading instrument.

### **Time Value of Money Risk**

The present value of \$1.00 is not the same as a Final Value of \$1.00 at a future time. The level of actual inflation will impact on the value of \$1.00 in terms of purchasing power, therefore, a Final Value of \$1.00 per Unit would be worth less than \$1.00 at the date of issue of the Units or any other time prior to the Maturity Date.

### **Delivery Assets**

The Delivery Assets are subject to market risks and other risks inherent in owning listed instruments. For example, the market value of the Delivery Assets could fall between the date the Issuer buys them for the Investors and the date they are transferred to Investors or sold on the Investor's behalf.

The Delivery Assets might not be very liquid so Investors may not be able to sell when they would like to.

The Delivery Asset can be substituted by the Issuer or delivery of the Delivery Assets may be delayed. Although the Issuer does not intend to substitute the Delivery Assets, the Issuer might need to make a substitution because they are not able to, or it is not reasonably practicable or economically viable, to deliver the nominated Delivery Assets.

### **Adjustment Events and Market Disruption Events**

Unexpected events can occur which can impact the Units in a way the Issuer had not anticipated, often adversely. The Issuer has certain powers under Section 6 "Terms of the Deferred Purchase Agreement" in relation to how it can deal with such events, referred to as Adjustment Events and Market Disruption Events. Examples of these are changes in the Reference Asset or in laws and regulations that would in turn affect the Units. For example, if the Reference Asset (or a component of the Reference Asset) was an index and was amended, replaced, terminated or otherwise stopped and stopped being calculated and published then Units would be affected because there is no longer a Reference Asset (or a component of the Reference Asset is missing). In this case, the Issuer might, amongst other options, consider replacing the Reference Asset or, where the Reference Asset has more than one component, replacing the affected component or determining to continue using the unaffected components only. Another example is if the Reference Asset was a security and was consolidated, restructured, sub-divided or replaced with some other form of security or property then the Units would be affected as the Reference Asset has been changed. In this case, the Issuer might, amongst other options, consider replacing the Reference Asset.

Other Adjustment Events include where the Issuer is unable to perform its obligations or it would be illegal to do so, or there is a disruption or material increase in costs in the Issuer's management arrangements. A full list of Adjustment Events is set out in Section 10 "Definitions" of this IM.



If there is a Market Disruption Event affecting the Reference Asset, Delivery Parcel or a component of them on certain dates for working calculations during the Investment Term (such as the Maturity Date) then the Issuer may determine to take action to take account of the disruption, or can delay the calculation to the next Scheduled Business Day on which there is no Market Disruption Event. However, if the next 10 Scheduled Business Days are all affected by a Market Disruption Event, then the Issuer will make a good faith determination, acting in a commercially reasonable manner, of the calculation which would have applied for the original date. The Issuer will notify you of a Market Disruption Event as soon as practicable and in any event within 5 Business Days. Please refer to clause 6.2 "Market Disruption Events" of the Terms of this IM.

In some circumstances these events could also be classified as Early Maturity Events and lead to Early Maturity of the Units. Please refer to clause 6 "Adjustment Events and Market Disruption Events" of the Terms.

### **Early Maturity**

The Issuer can determine an Early Maturity Date for specific events for example disruptions to the Issuer's management arrangements such as where the management arrangements are suspended or terminated (whether due to the Hedge Counterparty's insolvency or any other reason). Other examples of Early Maturity Events include, where tax costs increase, a Change of Law occurs, it becomes illegal for the Issuer to perform its obligations, an Investor Insolvency occurs, or there is an Adjustment Event or Market Disruption Event which the Issuer nominates as an Early Maturity Event under clause 6 "Adjustment Events and Market Disruption Events" of the Terms.

The Issuer will determine the Early Maturity Value, acting in good faith and a commercially reasonable manner. Investors could receive returns that are lower than the performance of the Reference Asset.

### **Withdrawals and liquidity**

There is no established market for trading the Units.

The Issuer can reject an Investor's Issuer Buy-Back Request or restrict when they withdraw. Generally, the Issuer would only reject or defer an Issuer Buy-Back Request if it is unable to adequately unwind its own hedging arrangements. The Issuer determines the Buy-Back Price, acting in good faith and a commercially reasonable manner. Investors could receive returns that are lower than the performance of the Reference Asset.

Investors can contact the Issuer for estimates of the Buy-Back Price in the few weeks prior to each Buy-Back Date.

### **Counterparty risk of Issuer, Hedge Counterparty and Security Trustee**

If the Issuer goes into liquidation or receivership or statutory management or is otherwise unable to meet its debts as they fall due, the Investor could receive none, or only some, of the amount invested. The Issuer is a special purpose vehicle established to issue Deferred Purchase Agreements and other structured products. Investors' should not seek to rely on the creditworthiness of the Issuer.

However, the Issuer has put in place a corporate structure which is designed to give Investors security over the Issuer's rights against the relevant Hedge Counterparty (through the Hedge Security Deed and Security Trust Deed) in the event of the Issuer becoming insolvent.

The Issuer will enter into the Hedge Agreements with the relevant Hedge Counterparties. Therefore, a relevant factor for the

assessment of counterparty risk relevant to the Units is the financial strength of the Issuer and the relevant Hedge Counterparty (as Investors will have credit exposure to the creditworthiness of a Hedge Counterparty through the relevant Hedge).

Investors can assess the ability of the Issuer to meet its counterparty obligations by reviewing its financial information. As of 5 January 2015, the Issuer is a 100% owned subsidiary of the listed entity Sequoia Financial Group Ltd (SEQ.ASX) and as a publicly listed company, the financials are available from the ASX. The Issuer will ensure that all Hedge Counterparties have a credit rating of at least investment grade. The Issuer will select Hedge Counterparties that are willing to enter into the Hedge on terms which support the structure described in this IM and provide competitive pricing.

A credit rating of investment grade is a medium to high credit rating, and is generally accepted to mean that there is relatively low to moderate credit risk associated with the entity or obligation being rated. Investors should note that a credit rating is merely an opinion by a credit rating agency as to the likelihood of the entity or obligations being rated experiencing an event of default. It is not a recommendation or opinion in relation to the particular Hedge Agreement or the Units, and investors should not rely on the credit rating in making a decision to buy, sell or hold the Units.

The Hedge Counterparty may be a U.S. entity which means that U.S. bankruptcy law may apply if the Hedge Counterparty goes bankrupt.

The Issuer will also grant a security interest in respect of each Series to the Security Trustee by way of the Hedge Security Deed which is enforceable in the event of the Issuer becoming insolvent or failing to meet its obligations under the IM. For more information please refer to Section 3 "Security Arrangements".

Investors should note that the Issuer maintains only one trust account and all money relating to all Units on issue is paid into that trust account, subject to the Security Interest under the Hedge Security Deed. The Issuer has appointed an external service provider to account for the funds held in the trust account. Should there be an Event of Default and the external service provider is unable to be or has not been paid, this may result in the Security Trustee not being able to determine who the funds held in the trust account belong to. In these circumstances, the Security Trustee will not be required to take any action and will not be responsible for determining who the funds held in the trust account belong to.

The Hedge Agreement for each Series may be a derivative (or a number of derivatives) entered into under an ISDA Master Agreement between the Issuer and the relevant Hedge Counterparty. Under the terms of the Hedge Agreement, the Issuer will pay an upfront payment to enter into the transaction and will ensure there is never a net amount owing from the Issuer to the Hedge Counterparty under the Hedge Agreement.

Prior to payment of a Coupon, the Issuer will receive, depending on the performance of the Reference Asset, a payment from the Hedge Counterparty of a Series equivalent to the Coupon (if any) due to be paid to Investors for that Series. This amount received from the Hedge Counterparty can be paid to Investors of that Series.

If the Issuer defaults under the DPA of a Series, this may also be a default under the Hedge (for example, if the Issuer is insolvent). If this is the case, the Hedge Counterparty will have the right (but not the obligation) to terminate the Hedge and calculate the termination value of the Hedge. This termination value may be significantly less than the Issue Price and may be zero. This means that Investors may receive zero and lose their total Investment Amount and any fees paid even if the Hedge Security Deed is enforced.



There is also the risk that the Security Trustee may be unable to perform its obligations under the Security Trust Deed and the Hedge Security Deed.

Under the terms of the Security Trust Deed, the Security Trustee only acts on the instructions of the Issuer and has no liability to Investors for acting, or not acting, in accordance with such instructions. Therefore, the structure does not address the risk of the Issuer improperly instructing the Security Trustee under the terms of the Security Trust Deed.

Please refer to Section 3 “Security Arrangements” for more details on the Security Trust Deed and Hedge Security Deed.

### **Custodian risk**

The Custodian is a related party to the Issuer. The Custodian holds assets (including the Units, Sale Monies and Delivery Assets) on behalf of Investors. There is a risk that the Custodian may be unable to perform its obligations under the Custody Deed and that Investors may not receive the Sale Monies, Delivery Assets or other amounts or assets due to them when due under the Terms.

The Custodian may resign or be removed. No resignation or removal of the Custodian takes effect until a successor Custodian has been appointed.

### **Default under the Hedge for another Series**

There is a separate Hedge for each Series and, except in the case of an insolvency event, the right to set off and net payments applies separately to the Hedge for each Series. However, if there is an insolvency event (in relation to either the Issuer or the Hedge Counterparty) under a Hedge, then the Hedges for all Series may terminate and the relevant Hedge Counterparty and the Issuer will have the right to set off and net the amounts payable on termination across the Hedges for all Series (where the Hedge Counterparty is the counterparty). The Issuer will ensure that there will never be a net amount owing from the Issuer to the Hedge Counterparty under the Hedge. The Hedge Counterparty's right to set off and net will apply before the rights that an investor has under the Hedge Security Deed and therefore may adversely affect the amount that is recoverable by enforcing the Hedge Security Deed. This means that Investors may receive zero and lose their total Investment Amount and any fees paid even if the Hedge Security Deed is enforced. If the Security Trustee receives money that is not directly referable to a particular Series, the Security Trustee may allocate the money between the different Series based on valuations of the Hedge or Units for each Series. For further information please see “Remaining cross-liability risks” in Section 3 “Security Arrangements”.

The Issuer may have a number of different Hedges (i.e. for a number of different Series) with one Hedge Counterparty. In this case, if the Issuer defaults under one of the Hedges only and the relevant default is a default under the other Hedges with that Hedge Counterparty, the Hedge Counterparty has the ability to elect whether to terminate all the outstanding Hedges, or whether to suspend any payment or delivery obligations the Hedge Counterparty owes. Although the Hedge Counterparty cannot net across all the Hedges (unless the Issuer is insolvent), the early termination or payment suspension of all Hedges outstanding with that Hedge Counterparty may adversely impact the return Investors in those affected Series may receive. The Issuer will ensure that there will never be a net amount owing from the Issuer to the Hedge Counterparty under the Hedge, which reduces the risk of such cross default. Similarly, if the Hedge Counterparty defaults under one Hedge only, the Issuer has the ability to elect to terminate all outstanding Hedges with that Hedge Counterparty or suspend its obligations to the Hedge Counterparty.

### **Risk relating to enforcement of the Hedge Security Deed and appointment of administrator**

There is a single Hedge Security Deed which encompasses each Series. Certain amounts, including fees, are not subject to, or are released from, the Hedge Security Deed. As a result, the Security Trustee (through the Hedge Security Deed) may not have a Security Interest over the whole, or substantially the whole, of the Issuer's property and, following the appointment of an administrator to the Issuer, may be unable to enforce the Hedge Security Deed unless the administrator's consent is obtained or otherwise with the leave of the court. The Security Trustee has a single Security Interest (being the Hedge Security Deed) over what is intended to be substantially the whole of the assets of the Issuer.

### **Termination of the Trust or the Security Trust Deed and removal and replacement of Security Trustee**

A single Trust is created under the Security Trust Deed that encompasses each Series. The Trust will only terminate in a number of circumstances including on the Business Day on which the Security Trustee notifies the Issuer that it is satisfied that the Issuer has irrevocably and unconditionally satisfied in full its Secured Obligations in respect of the Trust and the Trust Fund is distributed in full. Given that the intention of the Trust is for it to be used on a continual basis for each new Series, this is not expected to occur. The Security Trustee may also resign or be removed. No resignation or removal of the Security Trustee takes effect until a successor Security Trustee has been appointed.

### **Event of Default under the Hedge Security Deed**

There is an overlap between the Events of Default under the Hedge Security Deed and under the Hedge of that Series. If an Event of Default under the Hedge Security Deed occurs, it is very likely that it will also constitute an Event of Default under the Hedge of that Series. If the defaulting party is the Issuer then the Hedge Counterparty will have the right (but not the obligation) to terminate the Hedge of that Series. If the Hedge is terminated, it will be an early unwind and the value derived will be the early termination value of the Hedge. This may be significantly less than the value that the relevant Investors could expect on Maturity, and may be zero. Therefore, even though the Secured Property of that Series is secured for the benefit of Investors of that Series, if an Event of Default occurs and the Hedge Security Deed is enforced, Investors may receive nothing, depending upon the value of the Secured Property of that Series at the time of enforcement.

### **Tax Neutrality**

Any tax liabilities incurred by the Issuer could impair the Issuer's ability to satisfy its obligations under the Units. As at the date of this IM, the Issuer expects that it will be in a position to pay all tax debts as and when they fall due, without adversely affecting the Issuer's ability to satisfy its obligations under the Units.

The Issuer is a member of a tax consolidated group of which Sequoia Financial Group Ltd (SEQ.ASX) is the head company. The head company is primarily responsible for the income tax liabilities of the group, however if the head company defaults on any such tax liability, all members of the group, including the Issuer, could become jointly and severally liable for that tax liability.

### **Recourse by Investors is limited to each Series**

Investors in any one Series are limited in their recourse against the Issuer (for example, if the Issuer defaults under the Units or the IM) to only the Secured Property in proportion to the performance of their Series relative to each other Series (including the Hedge) subject to their Hedge Security Deed. Otherwise, Investors have no right of recourse against the Issuer whatsoever. If the Issuer



and the Hedge Counterparty for a Series are both in default then the performance of the relevant Series will be determined to be the greater of the amount actually received from the Hedge Counterparty (if any) and zero. This means there is a risk that if both the Hedge Counterparty for a Series and the Issuer are both in default then Investors may lose their entire investment.

### **No Investigation**

No investigation or review of the Reference Asset or, where the Reference Asset is an index or has exposure to an index, the underlying securities comprised in the Reference Asset from time to time or the issuers of such securities, including without limitation, any public filings made by the issuers of the underlying securities have been made by any person for the purposes of forming a view as to the merits of an investment referenced to the Reference Asset. Where the Reference Asset is an index or has exposure to an index, there is no guarantee or express or implied warranty in respect of the selection of the underlying securities comprised within the Reference Asset or the methodology of calculating the Reference Asset made. Investors should not conclude that the sale by the Issuer of the Units is any form of investment recommendation by it or any of its affiliates.

You will not receive any dividends or distributions on the Delivery Assets or the securities making up the Reference Asset during the Investment Term. In addition you will not have voting rights or any other rights that you may otherwise have if you were the holder of the Delivery Assets, Reference Asset or the securities making up the Reference Asset during the Investment Term.

## **2.2 General Risks**

### **General market risk**

The performance of the Reference Asset will largely determine the market price of the Units. The volatility of the Reference Asset, and, where the Reference Asset is an index, the market price of the securities or commodities that comprise the Reference Asset and other interrelated and complex factors and general risks applicable to financial markets on which those securities or commodities will be traded (such as investor confidence and present and expected future global economic conditions) will be relevant as well.

### **Conflicts of interest**

Sequoia Specialist Investments Pty Ltd, may face possible conflicts of interest in connection with its roles as Issuer and any other role as described in this IM. A related company of Sequoia may have the role of Lead Distributor from time to time as described in this IM. Sequoia and its affiliates may also face possible conflicts, given that some of the directors of Sequoia have shareholdings in third party dealer groups that distribute the Units. For example a conflict may arise where Sequoia and/or its affiliates engage in other financial service activities in relation to the Units, the Reference Assets, or the Underlying Assets. Sequoia Nominees No.1 Pty Ltd, a related company of Sequoia, has the role of Acceptor and Custodian as described in this IM.

The Issuer has a conflicts of interest policy to ensure that it identifies and appropriately manages all conflicts of interest. The Issuer's conflicts of interest policy relates to its monitoring, prevention and other compliance measures related to the management of conflicts of interests. At all times the Issuer attempts to prevent or manage conflicts of interest in accordance with its policy.

### **Change of Issuer**

Under the Terms of the Units, the Issuer has the right to transfer its rights and obligations under this IM and the Terms provided it is not unfair to Investors (as defined in Section 12BG of the ASIC Act).

### **Tax Risk**

The expected tax implications of entering into and exiting of the Units at Maturity may change as a result of changes in the taxation laws or changes in interpretation of them by the ATO. Please refer to Section 4 "Taxation" of this IM for a more detailed description of the taxation of the Units and obtain independent advice that takes into account your specific circumstances.

### **No claim against underlying asset**

You do not have any interest in or rights to the Reference Asset to which the Units relate. Any claim against the Delivery Assets only arises after Maturity and upon taking physical delivery of them.

### **Interest Rate Risk**

You are exposed to the movement of interest rates whenever you redeem, transfer or sell your Units prior to the Maturity Date. Movements in interest rates will have an impact upon the value of Units. As interest rates move upwards, the value of the Units generally fall.

### **Settlement Risk**

Upon purchasing the Units, you assume settlement risks relating to the Issuer failing to deliver the Delivery Assets. The Issuer believes this risk is remote however a delay in delivering the Delivery Parcel and/or Sale Monies could occur.

### **Compounding of risks**

An investment in the Units involves risks and should only be made after assessing the direction, timing and magnitude of potential future changes in the value of the Reference Asset, and the terms and conditions of the Units as contained in the IM.

More than one risk factor may have simultaneous effects with regard to the Units such that the effect of a particular risk factor may not be predictable. In addition, more than one risk factor may have a compounding effect which may not be predictable. No assurance can be given as to the effect that any combination of risk factors may have on the value of the Units.

### **Break Costs**

The Issuer may deduct Break Costs in relation to Early Maturity (whether following an Early Maturity Event or Issuer Buy-Back). The Break Costs will form part of the calculation of the amount you will receive if your Issuer Buy-Back request is permitted or if an Early Maturity Event occurs. Break Costs include all costs, expenses and losses reasonably incurred by the Issuer as a result of the determination of an Early Maturity Date, Buy-Back Date or other early termination, unwinding of any hedge position entered into in connection with the Units, or any loss of bargain. Break Costs could be significant and may not be in your favour. Break Costs will depend on the economic value the Issuer achieves on the unwinding of its hedge position (i.e. the amount it achieves on the sale or unwind of the options that underlie the Units). The economic value the Issuer achieves will be reliant on several factors including but not limited to market liquidity, volatility, interest rates, market prices, foreign exchange rates, and the time to Maturity. The economic value that the Issuer achieves may be minimal or nothing.

The impact of these factors is largely unknown and is dependent on movements in financial markets. Investors and their advisers can contact the Issuer and request an estimate of the Buy-Back Price (including Break Costs) that would apply to Units in the few weeks leading up to each Buy-Back Date. The Issuer will provide estimates of Buy-Back Prices (which will include Break Costs) to Investors when it is able to accurately value the Units to enable them to determine the likely Buy-Back Price if the Investor requests



an Issuer Buy-Back. However, the actual Buy-Back Price at which the Issuer will buy-back your Units will not be known at the time an Issuer Buy-Back request is made and may be significantly less than the estimate provided.

A minimum Early Maturity Value and/or minimum Buy-Back Price may apply in respect of a Series. Please refer to the relevant Term Sheet IM.

### **Derivatives risk**

Derivatives (such as swap agreements, deferred purchase agreements, options, futures, forward rate agreements and forward foreign exchange contracts) may be utilised by the Issuer to manage risk or to gain exposure to individual securities, currencies and investment markets. Risks associated with using derivatives include the value of the derivative failing to move in line with the underlying asset, potential illiquidity, and counterparty risk (this is where the counterparty to the derivative contract cannot meet its obligations under the contract). Any such risk occurring is likely to adversely impact on the value of your Units prior to Maturity.

### **Regulatory risk**

The following risks may apply when investing in the Units:

- characteristics of the Units may change;
- taxation, superannuation and other laws and their interpretation are subject to continual change and may affect the tax implications or other characteristics of your investment;
- Investors, particularly superannuation fund trustees must be satisfied that the Units are a permissible investment and suitable for their superannuation fund;
- there may be different tax consequences for different Investors compared to investing directly in underlying investments;
- there may be different tax consequences for Investors investing directly in the Reference Asset and those investing through an Investor Directed Portfolio Service operator;
- the Units could be, by regulation, deemed not to be securities but another class of financial product;
- the Reference Asset could be terminated or cease to exist; and
- the Issuer's hedging arrangements could be adjusted, amended or terminated.

### **Managing your risks**

You can always help manage risks. Importantly, you can manage risk by:

- obtaining professional investment advice to determine whether the Units suit your investment objectives, financial situation and particular needs;
- reading all the information in this IM and the relevant Term Sheet IM before investing in the Units and making sure you understand what it is you are investing into;
- obtaining professional investment advice concerning a suggested minimum investment timeframe for the Units.

Please note, however, that investing for the suggested minimum investment timeframe does not entirely eliminate the risk of loss. You should note that the amount of the Investment Amount and any Fees are at risk as there is no guarantee that returns on the Units will be in excess of these amounts. You should consider your investments in light of your investment objectives, financial situation and particular needs.

# 3. Security Arrangements



## 3.1 Arrangements to protect Investors in each Series

Protection is provided to Investors in each Series by ensuring that, in the case of default by the Issuer under the terms of the Units, the Secured Property is only available to Investors in proportion to the performance of each Series in order to limit the effect of any defaults in relation to other Series or financial products (other than in limited circumstances). This is achieved in a number of ways:

- a) each Investor of a Series is limited in their recourse against the Issuer to the Secured Property in proportion to the performance of each Series relative to each other Series;
- b) the Issuer granting the Hedge Security Deed over the Secured Property of each Series (including the Hedge) in favour of Investors in each Series; and
- c) the Hedge for each Series is (generally) separate and distinct from other Hedges and that set-off and netting across the Hedges for all Series entered into by the Issuer with a Hedge Counterparty applies only on the insolvency of the Issuer or the Hedge Counterparty. Although, the Issuer will ensure that there will never be a net amount owing from the Issuer to the Hedge Counterparty under the Hedge.

### Limited recourse by Investor

Investors in each Series are limited in recourse against the Issuer to only the Secured Property which is the subject of the Hedge Security Deed described below and Investors have no other right of recourse against the Issuer. Therefore, Investors in the Units have limited recourse to the Issuer. Please refer to "Recourse by Investors is limited to each Series" in Section 2 "Risks" for more information.

### The Hedge

Each Hedge entered into for a particular Series is treated, other than in limited circumstances, as a separate and distinct transaction from any other Hedge. Under the terms of the Hedges as negotiated with the Hedge Counterparties, amounts due under a Hedge in respect of the Units in a Series are not netted during the term of that Hedge against amounts due under a Hedge entered into with the same Hedge Counterparty in respect of the Units in any other Series, except on insolvency (see below under "Remaining cross-liability risks"). All Hedge Counterparties have acknowledged the Hedge Security Deed and the Security Trust Deed and acknowledged that the Security Trustee has the power to enforce the Issuer's rights under the Hedge if the Hedge Security Deed is enforced.

### The Hedge Security Deed

Sequoia Specialist Investments Pty Ltd (**Grantor**) grants a Security Interest under the Hedge Security Deed and Trust over the Secured Property of each Series (which includes Application monies received from Investors of each Series, all the present and future rights, title, benefit and interest of Sequoia in the Hedge, any proceeds from the Hedge and any Delivery Assets or other investments purchased with proceeds from the Hedge, but excluding the Beneficial Interest in the Portion of the Delivery Assets, any fees, costs, charges or similar which are due to the Issuer) to the Security Trustee to secure the satisfaction of the Secured Obligations in respect of each Series (including the performance of the Issuer's obligations under the IM and the Terms of the Deferred Purchase Agreement).

The Security Trustee holds the Hedge Security Deed on trust for Investors and itself pursuant to the Security Trust Deed. A detailed description of the Security Trust Deed is included below.

The Security Interest under the Hedge Security Deed is subject to any prior, permitted Security Interests in the Transaction Documents, such as the credit support annex in the Hedge, and subject to any rights of set off and close out netting that apply under the Hedge on the occurrence of a bankruptcy of a party to the Hedge. That is, any rights of set off and netting that a counterparty to the Hedge may have on the bankruptcy of either the Issuer or that Hedge Counterparty will operate notwithstanding that the Issuer has granted a Security Interest over its rights under the Hedge in favour of the Security Trustee.

The security interest under the Hedge Security Deed may be a circulating security interest under the PPS Law and as a result Investors will rank behind any money owed to any employees of the Grantor. Investors should be aware that their Security Interest under the Hedge Security Deed may not have priority if any other person has perfected control of the Secured Property in any way and that a transferee of assets (e.g. a buyer of the Delivery Assets) will buy the asset free of any Security Interest.

Part of the Secured Property under the Hedge Security Deed will be automatically released to the extent that the Secured Property (or any part of it) is delivered or paid to the Investors in that Series in accordance with the Terms (e.g. in the case of Early Maturity following an Issuer Buy-Back request), when paid to the Hedge Counterparty in respect of the Hedge or when due and payable to the Issuer, third party dealer groups or other person in respect of any fees, costs and expenses payable to them. The Security Trustee can rely on a certificate of the Issuer as to the amount of Secured Obligations owing at any time.

Investors should note that the Secured Property does not include the Sale Monies if an Investor elects the Agency Sale Option. This is because the Sale Monies belong to the Investor and the Issuer cannot grant a Security Interest over this amount. Instead, the Issuer will hold the Sale Monies in an ADI trust account just prior to paying it to Investors following Maturity of the Series.

Upon the occurrence of an Event of Default, the Security Trustee has the power to enforce the Hedge Security Deed in accordance with its terms and the Security Trust Deed. The Security Trustee may directly enforce the rights of the Issuer under the Hedge in accordance with the Hedge Security Deed.

Events of Default under the Hedge Security Deed include, by way of summary (for a full list see Section 8 "Definitions"):

- the Hedge Counterparty becoming insolvent;
- the Grantor failing to make a payment or delivery under a Transaction Document on its due date (for example, the Grantor failing to perform a payment or delivery obligation under the Terms of the Deferred Purchase Agreement);
- the Grantor failing to perform or observe any other obligation under a Transaction Document, and the Security Trustee considers (acting on the instructions of the Majority Investors) that (i) the failure is materially adverse to the interests of the Investors and the Security Trustee and the failure cannot be remedied, or (ii) the failure is materially adverse to the interests of the Investors and the Security Trustee, the failure can be remedied and the failure is not remedied within 5 business days of the Security Trustee providing written notice to the Grantor;
- an Event of Default (as defined in the Hedge) occurs with respect to the Grantor;
- a Termination Event (as defined in the Hedge) with respect to which the Grantor is the Affected Party (as defined in the Hedge) occurs; or
- a representation or warranty made or deemed to be made by the Grantor in, or in connection with, the Transaction



- Documents is untrue or misleading (by omission or in any other way) in any material respect when made or repeated; and
- a proceeding is commenced against the Grantor or in relation to any Secured Property which does or may threaten the Grantor's entitlement to any Secured Property.

If an Event of Default occurs, the Security Trustee has the power to do all acts and things and exercise all rights, powers and remedies that the Grantor could do or exercise in relation to the Secured Property of the Series, including the power to:

- take possession and assume control of that Secured Property and collect and give receipts for the Secured Property;
- dispose of, retain or otherwise deal with the Secured Property and do everything necessary to register the Secured Property in the name of the Security Trustee;
- give instructions (including instructions to debit any securities account) to any intermediary in relation to any intermediated security forming any part of the Secured Property and to any bank with which the charged bank account is maintained;
- receive all dividends or other distributions made or to be made in respect of the Secured Property;
- sell, close out, terminate, unwind or agree to sell, closeout, terminate or unwind the Secured Property on terms that the Security Trustee thinks fit;
- grant to any person an option to purchase any Secured Property on terms that the Security Trustee thinks fit;
- carry on business or concur in carrying on any business of the Grantor in respect of the Secured Property;
- do anything to maintain, protect or improve the Secured Property;
- make any agreement to compromise the Secured Money which the Security Trustee thinks fit;
- surrender or transfer the Secured Property of the Series to any Government Agency (whether or not for fair compensation);
- exchange any part of the Secured Property for any other property, for fair value and the property so acquired by the Security Trustee shall be treated as if it were part of the Secured Property and, for that purpose, the Security Trustee may create a Security Interest over that property in favour of the Security Trustee;
- delegate to any person at any time as the Security Trustee approves any or all of the powers of the Security Trustee on terms that the Security Trustee thinks fit;
- give effective receipts for all money and other assets that come into the hands of the Security Trustee;
- carry out and enforce, or refrain from carrying out or enforcing, agreements entered into or held by the Grantor in relation to the Secured Property or entered into in exercise of the rights, powers or remedies of the Security Trustee under the Hedge Security Deed;
- institute, conduct, defend, discontinue, settle, arrange or compromise any proceedings, including proceedings relating to insurance of the Secured Property;
- execute and deliver documents on behalf of the Grantor under seal or under hand;
- exercise any voting rights or powers in respect of any part of the Secured Property; and
- do or cause to be done any other act or thing which the Security Trustee considers necessary or incidental to the exercise of any right, power or remedy of the Security Trustee.

Following an Event of Default of the Series, unless the Security Trustee is expressly required to seek the instructions of the Majority Investors (e.g. as set out above), the Security Trustee may request the instructions of the Majority Investors and act in accordance with those instructions or act as it considers is in the best interests

of the Investors and itself as a whole or as it determines in its reasonable discretion.

Subject to the terms of the Security Trust Deed, the Security Trustee must, if instructed to do so by the Majority Investors, make demands under and declare any security constituted by the Hedge Security Deed to be enforceable. The Security Trustee must then, subject to the terms of the Security Trust Deed, take reasonable steps to exercise its powers under, and enforce, the Hedge Security Deed.

Anything which must be done by the Grantor under the Hedge Security Deed, whether or not at the request of the Security Trustee, must be done at the cost of the Grantor. Where the Grantor fails to act in accordance with the Hedge Security Deed or to the satisfaction of the Security Trustee, the Security Trustee may do or cause to be done things which must be done by the Grantor under the Hedge Security Deed, but is under no obligation to do so.

If the Issuer defaults under the DPA of a Series, this may also be a default under the Hedge (for example, if the Issuer is insolvent). If this is the case, the Hedge Counterparty will have the right (but not the obligation) to terminate the Hedge and calculate the termination value of the Hedge. This termination value may be significantly less than the Issue Price and may be zero. This means that Investors may receive zero and lose their total Investment Amount and any fees paid even if the Hedge Security Deed is enforced.

There are risks involved with the enforcement of the Security Interest, please refer to "Risk relating to enforcement of the Hedge Security Deed and appointment of administrator" in Section 2 "Risks".

This structure is designed to offer protection to Investors, to some extent, from a default by the Issuer in the performance of its obligations in respect of the Units of a Series. However, there is the risk that either (or both) of the Security Trustee and the Hedge Counterparty will be unable to meet their obligations under the Security Trust Deed and Hedge, respectively. Please refer to "Creditworthiness of the Issuer, Hedge Counterparty and Security Trustee" in Section 2 "Risks".

A copy of the Hedge Security Deed is available upon request. Please contact Sequoia Specialist Investments on 02 8114 2222.

### Security Trust Deed

The Security Trust Deed is entered into by Sequoia Specialist Investments Pty Ltd (**Sequoia**) and the Security Trustee. Under the Security Trust Deed, the Security Trustee is appointed as trustee of the Trust and enters into the Security (including the Hedge Security Deed) in that capacity.

Sequoia grants a Security Interest over the relevant Secured Property for each Series in favour of the Security Trustee under the Hedge Security Deed (explained above). The Security Trustee will then hold a security interest in respect of the relevant Secured Property of each Series on trust for itself and each Investor (in proportion to the number of Units an Investor holds and the performance of each Series) on the terms of the Security Trust Deed until such a time as the Secured Obligations for a Series are satisfied.

The primary function of the Security Trustee is to exercise any right, power or remedy under the Security and enforce the Security of each Series on behalf of the Investors. Investors of a Series are not allowed to exercise these rights or have any direct recourse to the security constituted by the Security except through the Security Trustee. In exercising these powers, the Security Trustee may request the instructions of the Majority Investors (by way of



convening a meeting of Investors) and act in accordance with them or may act as it considers is in the best interests of the Investors and itself as a whole or as it determines in its reasonable discretion. However, where the Majority Investors have instructed the Security Trustee to exercise a right, power, authority, discretion, or remedy of, or conferred on, the Security Trustee and the Security Trustee fails to do so within 5 Business Days, the Majority Investors may act on behalf of the Security Trustee to exercise the right, power, authority, discretion, or remedy.

The Security Trustee can resign as trustee of the Trust at any time by giving at least 30 days' written notice. However, it is a term of the Security Trust Deed that the resignation of the Security Trustee does not take effect until a successor Security Trustee is appointed.

The liability of the Security Trustee in respect of each Series and the Trust is limited under the terms of the Security Trust Deed.

In particular, the Security Trustee (and its directors, specified persons acting on its behalf, employees, agents or attorneys) are not liable for any loss or damage occurring as a result of it exercising, failing to exercise or purporting to exercise any powers under the Security Trust Deed or in relation to the Transaction Documents, any failure of the Issuer or a Hedge Counterparty to comply with its obligations or for acting or not acting in accordance with the instructions of the Investors or Majority Investors.

Additionally, the Security Trustee's liability in respect of each Series and the Trust is limited to and can be enforced against the Security Trustee only to the extent to which it can be satisfied out of any property held by the Security Trustee in respect of the Trust out of which the Security Trustee is actually indemnified for the liability. This limitation of the Security Trustee's liability applies despite any other provision of the Transaction Documents and extends to all liabilities and obligations of the Security Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to the Transaction Documents and the Trust.

Sequoia and the Investors may not sue the Security Trustee in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any other similar person to the Security Trustee or prove in any liquidation of or affecting the Security Trustee (exception in relation to the property of the Trust).

Sequoia and the Investors waive their rights and release the Security Trustee from any personal liability in respect of any loss or damage which any of them may suffer as a consequence of a failure of the Security Trustee to perform its obligations under or in connection with the Transaction Documents, which cannot be paid or satisfied out of any property held by the Security Trustee in respect of the Trust.

The limitation of liability does not, under the terms of the Security Trust Deed, apply to any obligation or liability of the Security Trustee to the extent arising as a result of the Security Trustee's fraud, gross negligence or wilful default.

The Security Trustee is not obliged to take any action or exercise any of its powers until it is first indemnified to its reasonable satisfaction. Investors will receive payment only after the fees, costs, expenses or other sums incurred or payable by or to the Security Trustee have been paid. This includes any fees payable to the Security Trustee by the Issuer.

A copy of the Security Trust Deed is available upon request. Please contact Sequoia Specialist Investments on 02 8114 2222.

## Cross-liability risks

There are some circumstances in which events in relation to one Series will impact on other Series. These are as follows:

1. if there is an event of default or potential event of default in respect of the Issuer or the Hedge Counterparty under the contract between the Issuer and one particular Hedge Counterparty which establishes the Hedge ("Hedge Agreement"), then the obligations of the other party under the Hedge Agreement can be suspended until the event of default or potential event of default ceases to exist. If an event of default or potential event of default occurs with respect to the Issuer under the Hedge Agreement, the Hedge Counterparty may be entitled to suspend its obligations under that Hedge Agreement for an indefinite period of time.  
An event of default relating to the Issuer under one Hedge Agreement may be of a type that triggers an event of default or potential event of default relating to the Issuer under another Hedge Agreement and some events of default and potential events of default relating to the Issuer may be of a type that affects more than one Hedge Agreement, where this occurs, the Hedge Counterparty may be entitled to suspend its obligations under more than one Hedge Agreement with the Issuer. In particular, if a bankruptcy event of default occurs with respect to the Issuer, then this will be an event of default under all the Hedges with a Hedge Counterparty and each Hedge Counterparty may suspend its obligations under all its Hedge Agreements or if a Default under Specified Transaction with a Hedge Counterparty occurs with respect to the Issuer, then this will be an event of default under all the Hedges with that particular Hedge Counterparty and such Hedge Counterparty may suspend its obligations under all its Hedge Agreements with the Issuer.  
Any such suspension of the obligations of a Hedge Counterparty could materially adversely affect Investors.
2. a Hedge Agreement between the Issuer and a particular Hedge Counterparty can be terminated, if there is an event of default in respect of the Issuer or the Hedge Counterparty or if certain specified termination events occur— payment obligations in relation to all transactions governed by that Hedge Agreement between those two parties are terminated, and a single net amount is calculated as due from one party to the other. Under the arrangements with the Hedge Counterparties, each Hedge Agreement will be deemed to be a separate Hedge Agreement for each transaction (corresponding to each Series) and therefore each separate Hedge Agreement may be terminated only if an event of default or termination event occurs under that particular Hedge Agreement. As noted in point 1 above, some events of default and termination events relating to the Issuer may be of a type that affects more than one Hedge Agreement at the same time, or an event of default relating to the Issuer under one Hedge Agreement may be of a type that triggers an event of default relating to the Issuer under another Hedge Agreement. Where this occurs, the Hedges for all Series (where the Issuer and the particular Hedge Counterparty are counterparties) and, depending on the type of the event of default, the Hedges for all Series with other Hedge Counterparties may be terminated by one or more Hedge Counterparties.  
If there is an event of default in respect of the Issuer, the Hedge Counterparty is not under any obligation to terminate any of the Hedges.





3. If a bankruptcy event of default occurs relating to the Issuer, the Hedge Counterparty may set off any obligations of the Issuer owing to that Hedge Counterparty (under the Hedge Agreement or otherwise) against any obligations of the Hedge Counterparty owing to the Issuer (including under other Hedge Agreements in respect of other Series). This right of set-off may be effected before or after termination of the Hedge Agreement. These rights of set off are in addition to statutory rights of set off of the Hedge Counterparty in the case that the Issuer is an insolvent company that is being wound up. Should such set-off occur following a termination of more than one Hedge Agreement with a particular Hedge Counterparty, a single amount will be received by the Security Trustee on behalf of Investors in relation to a number of Series.

If a Hedge Agreement is terminated then one single termination amount (called the close-out amount) will be calculated as due from one party to the other under that Hedge Agreement. If a particular Hedge Counterparty elects to terminate more than one Hedge i.e. Hedges for more than one Series (where the Issuer and the particular Hedge Counterparty are counterparties) across all or more than one outstanding transaction between the Issuer and that Hedge Counterparty, a close-out amount would be calculated as due from one party to the other separately under each Hedge Agreement. If a bankruptcy event of default occurs in respect of the Issuer, the Hedge Counterparty has the right to set off any amounts it owes to the Issuer against any other amounts the Issuer owes the Hedge Counterparty whether under one or more Hedge Agreements for one or more Series. However, the Issuer will ensure that there will never be a net amount owing from the Issuer to the Hedge Counterparty under the Hedge Agreement.

The close-out amount calculation in respect of the Hedge for a particular Series is likely to be less than the Final Value for that Series, may be less than the Issue Price for that Series and may even be zero.

The Security Trust Deed sets out a method for allocating amounts received by the Security Trustee where those amounts are not directly referable to any particular Series. Investors have no recourse to the Security Trustee if they disagree with how any such amounts are allocated by the Security Trustee.

If a single amount is received from a Hedge Counterparty in respect of a number of Series, each Series will be entitled to an amount by reference to:

- (a) the last individual valuation of the Hedge for each Series provided by the calculation agent under the Hedge;
  - (b) where the Security Trustee is unable to obtain the last individual valuation of the Hedge for any Series, the most recent valuation of the Units for that Series as published by the Issuer multiplied by the number of Units on issue in that Series;
  - (c) where the Security Trustee is unable to obtain or rely on the most recent valuation of the Units for that Series, the valuation of the Hedge for each Series are determined by an independent leading dealer in the relevant market mutually appointed by the Security Trustee and the Issuer. The cost of obtaining the valuations of the Hedge for a Series is to be paid out of the Trust Fund in respect of that Series. The Security Trustee must then allocate the amounts received to one or more Series proportionally by reference the valuations provided;
  - (d) if the Security Trustee and the Issuer are unable to mutually appoint an independent leading dealer in accordance with paragraph (c) above, the Security Trustee may allocate the amount received to one or more Series based on its estimate, made to achieve a commercially reasonable outcome, on the value of the Hedge or Units for that Series.
  - (e) where an independent leading dealer is not appointed, the amount received may be allocated by the Security Trustee based on their estimate, made to achieve a commercially reasonable outcome, of the value of the Hedge or Units for the Series.
4. The security interests created under the Hedge Security Deed may be security interests over “circulating assets” under the PPSA Law and in such circumstances Investors will rank behind the claims of certain creditors, such as employees of the Grantor, preferred by law. Under PPSA Law a security interest in personal property that is perfected by “control” under the PPSA Law has priority over a security interest in the same personal property perfected by other means. The Security Interest under the Hedge Security Deed will be perfected by registration not control. Investors should be aware that their Security Interest under the Hedge Security Deed may not have priority if any other person obtains a security interest over the assets the subject of the Hedge Security Deed and perfects such security interest by control. Investors should also be aware that under PPSA Law in certain circumstances a transferee of personal property such the Delivery Assets may buy the asset free of any Security Interest.
5. Investors should note that the Issuer maintains only one trust account and all money relating to all Units on issue is paid into that trust account. The Issuer has appointed an external service provider to account for the funds held in the trust account. Should there be an Event of Default and the external service provider is unable to be or has not been paid, this may result in the Security Trustee not being able to determine who the funds held in the trust account belong to. In these circumstances, the Security Trustee will not be required to take any action and will not be responsible for determining who the funds held in the trust account belong to.

Please refer to the description of the Security Trust Deed in Section 5 “Additional Information”. This risk is also described further in “Default under the Hedge for another Series” in Section 2 “Risks”.



## 4.1 Overview

This summary provides a general outline of the main Australian income tax, goods and services tax, and stamp duty implications arising for an Investor in a Series of Units who:

1. intends to hold the Units until Maturity and to take delivery of the Delivery Assets which are related to their Units post Maturity (i.e., without using the Agency Sale Option);
2. will hold the Units and the Delivery Assets in their own capacity as capital investments;
3. is a permanent Australian resident operating from Australia for the purposes of this investment; and
4. has quoted their Tax File Number at the time of lodgement of their Application Form, or is exempt from doing so.

Investors who:

1. are engaged in a business of trading or investment in securities who acquire the Units for the purpose of resale at a profit; or
2. are banks, financial institutions, insurance companies, tax exempt organisations or superannuation funds,

may be subject to special or different tax consequences peculiar to their circumstances which are not discussed in this section.

Additionally, the tax discussion outlined here does not cover the consequences if an Investor assigns their Units to a third party prior to Maturity or does not intend to receive delivery of the Delivery Assets.

The taxation of Investors who invest in the Units through a platform will be affected by the arrangements governing the platform. Such Investors should refer to the information provided by that platform provider in relation to the tax implications of investing through the platform.

The following discussion is based on Australian law and administrative practice as at the date of this IM. Investors should be aware that the ultimate interpretation of taxation law rests with the Courts and that the law, and the way the Federal Commissioner of Taxation ("Commissioner") and State and Territory revenue authorities administer the law, may change at any time. As noted below, the ATO has been reviewing products with various features similar to those set out in this product. At this time it is not clear whether the ATO will agree with the treatment set out in this summary.

This statement is necessarily general in nature and does not take into account the specific taxation circumstances of each individual Investor. The ATO actively encourages issuers of financial products to apply for a product ruling before offering products to the public. A product ruling was not sought for this product. It is also possible for Investors to obtain certainty regarding the tax treatment of this product by applying for a private ruling from the ATO.

Investors should seek independent professional advice in relation to their own particular circumstances before making any investment decision.

References in this section to the "1936 Act" and the "1997 Act" are references to the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*, respectively.

Baker & McKenzie is not involved in the marketing of Units and its role should not be interpreted to mean that it encourages any party to invest.

## 4.2 Coupon Payment

Any coupon payment received should be characterised as ordinary income and should be included in the Investor's assessable income in the income year it is received by an Investor.

## 4.3 Delivery of Delivery Assets

In making an investment in Units, an Investor has contracted to purchase from the Issuer the Delivery Assets.

In *Taxation Determination TD 2008/22*, the Commissioner states that an Investor's rights under a deferred purchase agreement constitute a discrete CGT asset and the delivery of the Delivery Assets on Maturity triggers CGT event C2 for the Investor. Based on this interpretation of the CGT rules, an Investor in Units makes a capital gain on Maturity equal to the difference between the market value of the Delivery Assets (determined at that time) less the Investor's cost base in the Units.

An Investor's cost base in a Unit should include:

1. the money the Investor pays to acquire the Unit (i.e. the Issue Price);
2. the incidental costs of acquisition and disposal; and
3. the costs of ownership of the Unit (e.g., interest which an Investor incurs as a result of borrowing funds to acquire the Unit where the interest is not otherwise allowable as a tax deduction).

Alternatively, Investors may make a capital loss equal to the difference between the Investor's reduced cost base in the Units and the market value of the Delivery Assets (determined at that time). The reduced cost base of a Unit should include 1 and 2, but not 3 (refer above).

In light of the terms of the Units, it is unlikely that a capital gain will be made on the Units.

## CGT discount provisions

Capital gains made by individuals or trusts regarding assets held for at least 12 months that are assessed under the CGT provisions in Part 3-1 of the 1997 Act can qualify for CGT discount treatment, under which any capital gain is discounted by 50%. For complying superannuation funds the discount is 33 1/3%. Companies do not qualify for this discount.

An Investor is required to first apply any prior year or current year capital losses against the full capital gain before applying this CGT discount to the remaining net amount.

For these purposes, an Investor is considered to have acquired their rights in a Unit on the day they acquire the Unit (i.e. when the Deferred Purchase Agreement is entered into). CGT event C2 happens when the Delivery Assets are received. As such, an Investor that holds the Unit for its term should satisfy this 12 month holding period.

## 4.4 Holding of Delivery Assets

**The usual consequences of share ownership apply in respect of holding the Delivery Assets. For example:**

1. Dividends paid on the Delivery Assets (grossed up for any franking credits) are assessable, and Investors may, depending on their personal circumstances, be entitled to tax offsets for any franking credits attached to the dividends.
2. Tax File Number ("TFN") withholding (currently imposed at a rate of 47% and expected to increase to 47.5% from 1 July 2019) will be required to be deducted from the unfranked portion of dividends paid on the Delivery Assets unless Investors quote their TFN or, where applicable, their Australian Business Number ("ABN") or exemption details.

## 4.5 Disposal of Delivery Assets

The Delivery Assets are also CGT assets. Any subsequent disposal of the Delivery Assets by an Investor should constitute a CGT event at the time the contract for disposal is executed.



An Investor should be assessed on any capital gain made from the CGT event. The capital gain should be the difference between the capital proceeds received on disposal less the cost base which the Investor has in the Delivery Assets. If the capital proceeds received by an Investor are less than the reduced cost base that the Investor has in the Delivery Assets, then the Investor should make a capital loss. Capital losses can be offset against taxable capital gains made by an Investor but not against other types of income.

The capital proceeds which an Investor receives will be the cash or other property the Investor receives or is entitled to receive when the Investor disposes of the Delivery Assets.

If the delivery of the Delivery Assets is a CGT event (as per TD 2008/22), then the Investor's cost base in the Delivery Assets should be their market value at the time of delivery.

#### **CGT discount provisions**

An Investor that is an individual may claim the benefit of the CGT discount (as described above) on any capital gain made on the disposal of the Delivery Assets where they have held the Delivery Assets for more than 12 months (excluding the acquisition and disposal dates). In TD 2008/22 the Commissioner has stated that for CGT purposes an Investor acquires the Delivery Assets at the time of delivery. Accordingly, the Commissioner's view is that the 12 month holding requirement will be counted from this date, and will not include the period during which the Units were held.

#### **4.6 Agency Sale Option**

At Maturity, if the Investor elects the Agency Sale Option the Delivery Parcel will be delivered to the Custodian or its nominee on the Investor's behalf. The capital gains tax consequences of an Investor using the Agency Sale Option are the same as outlined above in relation to the consequences of an Investor selling Delivery Assets which they received on Maturity, except that the Delivery Assets will have been sold in very short succession after taking delivery.

#### **4.7 Investments on revenue account**

If an Investor purchases a Unit and does not have an intention to hold the Unit, and the Delivery Assets which they may acquire under the Unit, on capital account, then an Investor may be required to treat any gain or loss made (e.g. from using the Agency Sale Option) as arising on revenue account and brought to account as ordinary income or a deductible loss, rather than under the CGT provisions as described above. In such a situation the Investor would not be entitled to the CGT discount on any gain.

An established pattern of investing in deferred purchase agreements without taking delivery of the delivery assets may be relevant to the determination of the Investor's purpose.

#### **4.8 Early termination**

In the case of Early Maturity, Issuer Buy-Back or Annual Walk Away there is a risk that any gain will be assessed as ordinary income in which case the Investor will not qualify for the concessional CGT rules. This will depend on the circumstances in which these events occur.

#### **4.9 Security**

A Unit should not be characterised as either a "qualifying security" for the purposes of Division 16E of the 1936 Act or a "traditional security" for the purposes of sections 26BB and 70B of the 1936 Act. This is because a Unit is a contract for the delivery of the Delivery Assets and is not therefore a "security" as defined for the purposes of these provisions. The ATO's view is that a deferred purchase agreement that has sufficient "debt-like" obligations may qualify as a "security", however, the ATO has nevertheless ruled

that capital protected deferred purchase agreements that pay coupons are not sufficiently debt-like. Accordingly, those provisions should not apply to a Unit acquired by an Investor.

#### **4.10 Fees**

Fees charged in connection with the Units such as any Application Fee, Currency Management Fee or Adviser Fee may be regarded as incidental costs of acquiring the Units and included in an Investor's tax cost base in the Units for the purposes of calculating the Investor's capital gain or loss on Maturity and delivery of the Delivery Assets.

#### **4.11 Foreign currency**

Units in some Series may have exposure to a foreign currency/exchange rate. For example, the Reference Asset may be listed on a foreign exchange and denominated in a currency other than Australian dollars.

Where foreign currency impacts the *calculation* of the return to be provided to the Investors, the Investor's return will still be provided in Australian dollars, and it is the Australian dollar amount or value that the Investor should use for tax purposes. The Investor should not be required to separately bring to account any foreign exchange gains or losses.

However, if an amount payable to the Investor is denominated in a foreign currency, then the Investor may be required to bring to account foreign exchange gains or losses. The relevant Term Sheet IM for a foreign currency denominated Series will provide further information on the tax consequences for Investors.

#### **4.12 Income of the Trust**

A proportion of the net taxable income (if any) of the Trust created for each Series may be included in the assessable income of the relevant Investors on 30 June each year. Whether or not the Trust will have net taxable income in a year of income will be dependent on whether the Hedge Security Deed is enforced by the Security Trustee.

Each Investor's proportion of the net taxable income (if any) of the Trust will be determined by the number of Units held by the Investor in a particular Series.

Should the Hedge Security Deed be enforced by the Trustee it is recommended that Investors should seek independent taxation advice.

#### **4.13 Part IVA of the 1936 Act**

Part IVA of the 1936 Act includes the general anti-avoidance regime for income tax. Broadly, Part IVA can apply to an Investor's investment if any party has entered into this arrangement for the dominant purpose of enabling the Investor to obtain a tax benefit. A tax benefit can include deferring the recognition of assessable income to a later year of income, or converting non-deductible cost into deductible costs.

An Investor in this product may obtain a tax benefit. Part IVA may apply where, viewed objectively, an Investor would be taken to have borrowed money or invested in this product with the dominant purpose of obtaining a tax benefit. This depends on the circumstances of each Investor. Depending on the profile of the Investor, the Commissioner may need to weigh the commercial advantages of investing in the Unit—including those set out in this IM—against any tax benefits obtained.

Investors should discuss the potential application of Part IVA with their own tax adviser.

The tax treatment of DPAs remains described as an on-going area of focus for the ATO.



#### **4.14 Taxation of Financial Arrangements**

Division 230 of the 1997 Act provides for the tax treatment of gains and losses on financial arrangements (referred to as the “TOFA” rules). There are a number of exclusions from TOFA. Specifically, the TOFA rules should not apply to superannuation entities with assets of less than \$100 million or individuals that hold a Unit since the Unit is not regarded as a ‘qualifying security’ (refer to the above discussion under ‘Security’), unless the Investor elects otherwise. The Australian Government recently announced major reforms to the TOFA rules, which are intended to apply to income years commencing on or after 1 January 2018. Other Investors should seek their own advice as to the possible application of the TOFA regime (including the potential application of the proposed amendments) to their investment in a Unit.

#### **4.15 Income tax treatment of bare trusts**

The tax treatment of bare trust arrangements in general is currently undergoing review. Investors should seek independent tax advice regarding the application of potential changes. Special rules apply to the tax treatment of certain arrangements known as instalment warrants, however, those rules do not affect the tax treatment of deferred purchase agreements.

#### **4.16 Stamp Duty**

Stamp duty will not be payable on the issue or transfer of the Delivery Assets or on the issue or transfer of a Unit provided that at all times the Delivery Assets are interests in local ASX listed companies that are quoted on the Australian Securities Exchange and/or shares in overseas companies that are exchange-traded funds at all relevant times (including for example the dates of issue of the Units and transfer of the Delivery Assets) and the Delivery Assets will not represent 90% or more of the issued capital of any of the issuing companies.

Notwithstanding the above, if stamp duty becomes payable by the Issuer in connection with the terms of this IM or as a consequence of, or in connection with the purchase, sale or transfer of, or the Maturity of the purchase and sale of the Delivery Assets or the Units, then the Issuer can under the terms of this IM require an Investor to pay such stamp duty.

#### **4.17 Goods and Services Tax (“GST”)**

The sale and acquisition of shares (including a right to acquire shares) is likely to be an input taxed financial supply and as a result no GST should be payable in respect of the acquisition of the Delivery Assets or the Units.

If GST becomes payable by the Issuer in connection with the terms of this IM or as a consequence of, or in connection with the purchase, sale or transfer of, or the Maturity of the purchase and sale of the Delivery Assets or the Units, then the Investor can be required to pay an additional amount on account of such GST.

An Investor may not be entitled to input tax credits for GST paid on the acquisition of goods and services (for example, financial advisory services or brokerage) relating to the issue of the Units and acquisition and / or subsequent sale of the Delivery Assets. This will depend on the Investor’s personal circumstances.

#### **4.18 Tax Agent Service**

The Issuer does not give taxation advice and the provision of this tax section is not intended to constitute a “tax agent service” for the purposes of the *Tax Agent Services Act 2009*. Investors should seek their own advice on taxation implications of making an investment in the Units, and cannot rely on this summary.

# 5. Additional Information



## 5.1 What are the Units?

Each Unit is a separate right to receive the Delivery Parcel and certain related rights under a deferred purchase agreement as described in this IM. A Unit is not an interest in a trust or other type of managed investment scheme, and the investment is not a direct investment in the Reference Asset or, for a Reference Asset that is an index, the securities making up the Reference Asset.

## 5.2 Preparation of this IM

You should also note that no person is authorised by the Issuer to give any information to Investors or to make any representation not contained in this IM. In particular, none of the Issuer, the Security Trustee, Custodian, Arranger or any of their affiliates takes any responsibility for statements or actions of the Lead Distributor or any other distributor of the product or any financial adviser of an Investor. None of the Issuer, the Security Trustee, Custodian, Arranger, or any of their affiliates accepts any liability or responsibility for, and makes no representation or warranty, express or implied, as to the adequacy, accuracy or completeness of such information.

No representation as to future performance of the Reference Asset, the Delivery Assets or as to the future performance of assets, dividends or other distributions of any of the Reference Asset or Delivery Assets are made in this IM or in any offer or invitation to subscribe for, sell or issue Units. The Issuer does not take into account labour standards or environmental, social or ethical considerations.

## 5.3 Obligations of the Issuer

The Units will constitute direct obligations of the Issuer. Please refer to Section 2 "Risks" under the heading "Creditworthiness of Issuer and Hedge Counterparty" for more details.

Applications can be lodged at any time during the Offer Period for the Units, subject to the right of the Issuer to close the offer at an earlier date without prior notice. No cooling-off rights apply in respect of a purchase of the Units.

## 5.4 Self Managed Superannuation Funds

Self managed superannuation funds (SMSFs) are eligible to apply for the Units. SMSF trustees should note that SMSFs may be subject to restrictions on types of investments under the Superannuation Industry (Supervision) Act 1993 (SIS Act).

The SMSF trustee must ensure that it complies with investment restrictions, such as restrictions on in-house assets and acquiring certain assets from a related party of the SMSF. The SMSF trustee must also ensure that the investment in the Units is appropriate and complies with their investment strategy. **Trustees of SMSFs should seek their own advice as to whether an investment in the Units is an appropriate investment for their SMSF.**

In addition to the general taxation treatment discussed in Section 4 "Taxation", complying superannuation funds must also consider the rules contained in the *Superannuation Industry (Supervision) Act 1993 (Cth)* and the *Superannuation Industry (Supervision) Regulations 1994 (Cth)* if they are considering borrowing to purchase the Units.

## 5.5 Privacy Policy

Should you apply for Units by lodging an Application Form with the Issuer, you acknowledge and agree that:

- (a) The Issuer (and or any of its nominees) may collect your personal information for the purpose of processing your Application for the Units, issuing the Units, managing your investment and complying with relevant laws. If you do not

provide the personal information as the Issuer requires, your Application may not be processed; and

- (b) The Issuer may be required to disclose all or some of your personal information to:
  - (i) related bodies corporate that might not be governed by Australian laws for the purpose of account maintenance and administration;
  - (ii) the Custodian or the Security Trustee;
  - (iii) share registries, custodians and certain software providers related to the operational management and settlement of the Units;
  - (iv) other third parties for the purpose of account maintenance and administration, marketing research or acquiring any interest in any part of the business of your adviser; and
  - (v) regulatory authorities such as the ASX.

All personal information collected from you will be collected, used and stored by the Issuer in accordance with the Issuer's Privacy Policy, a copy of which can be made available to you on request. To obtain a copy, please contact the Issuer as per the details in the directory at the back of this IM.

You can access the personal information the Issuer holds about you. The Issuer and/or its associates may wish to communicate with you in the future about other investment opportunities which may be of interest to you. If you do not wish to be contacted for these purposes, please contact the Issuer. If you establish that information is not accurate, complete, and up-to-date, the Issuer must take reasonable steps to correct it.

Information provided to Sequoia Nominees No.1 Pty Ltd (the "Security Trustee") is primarily used for the purpose of providing security trustee services to the Issuer and for ancillary purposes detailed in the Privacy Policy. The Security Trustee may disclose your personal information, such as, your name and contact details, along with your account information to its related bodies corporate, the Issuer, professional advisers, the land titles office and/or as otherwise instructed by the Issuer. The Security Trustee is also permitted to collect and disclose your personal information when required or authorised to do so by law. The Security Trustee is not likely to disclose your personal information to overseas recipients. Your personal information will be used in accordance with the Security Trustee's Privacy Policy. The Privacy Policy contains information about how you may access or correct your personal information held by the Security Trustee and how you may complain about a breach of the Australian Privacy Principles. You may obtain a copy of the Security Trustee's Privacy Policy on request.

## 5.6 Dispute resolution

The Corporations Act requires the Issuer to have procedures in place for dispute resolution. The Issuer's process for dispute resolution is available by contacting the Issuer.

If a Holder has an enquiry or concern about their Units, they should contact Sequoia Specialist Investments on 02 8114 2222 or by writing to:

Sequoia Specialist Investments  
PO Box R1837  
Royal Exchange NSW 1225

If you have a complaint and it is not addressed to your satisfaction by Sequoia Specialist Investments complaints department, you can then direct your complaint to the Head of Compliance using the addresses above.



Sequoia Compliance will acknowledge receipt of your complaint in writing. Your complaint will be investigated in accordance with the Sequoia Specialist Investments Complaints Policy and will be responded to within 30 days. The Issuer will take all steps necessary to investigate any complaint and seek a resolution. You will be informed in writing of the result of the Compliance investigation into your complaint.

If you are not satisfied with Sequoia's response to your complaint, then eligible persons may contact the Australian Financial Complaints Authority ("**AFCA**") at:

Australian Financial Complaints Authority Limited  
GPO Box 3  
Melbourne, VIC 3001  
Telephone: 1800 931 678  
Email: [info@afca.org.au](mailto:info@afca.org.au)

AFCA is a free independent dispute resolution scheme.

### **5.7 Potential Conflicts of Interest**

The Issuer and other related companies may conduct transactions as principal and agent in various securities including the Reference Asset and the Delivery Assets. These trading activities may impact the price at which the Reference Asset and Delivery Assets trade or the level of the Units at any point in time. Please see the Section 2 "Risks" for more details of conflicts of interest.

### **5.8 Confirmations**

Generally within 10 Business Days of the Commencement Date, the Issuer will send to you a Confirmation Notice acknowledging either the acceptance or rejection of your Application.

Investors will receive confirmation of any other transactions affecting their Units.

# 6. Terms of the Deferred Purchase Agreement



These Terms form the terms and conditions between the Issuer, the Custodian and each Investor on which the Custodian agrees to hold the Units and Delivery Parcel and the Investor agrees to purchase the Delivery Parcel from the Issuer.

Capitalised words have the meaning given to them in the 'Definitions' section of this IM.

## 1. Applications and Acceptance

### 1.1 Offer by the Investor

An Investor may make an offer to the Issuer to acquire the beneficial interest in a Unit, and its corresponding Delivery Parcel from the Issuer on a deferred basis (and to have the Units issued to the Custodian to hold on trust for the Investor on the terms of the Custody Deed) in accordance with these Terms:

- (a) by completing and returning a valid Application Form (including direct debit details) contained in the relevant Term Sheet IM to the Issuer by the Offer Closing Date; and
- (b) ensuring that any Fees or other amounts as described in the relevant Term Sheet IM are received by the Issuer in cleared funds by the applicable Application Payment Date and/or such other date as set out in the relevant Term Sheet IM or as otherwise accepted by the Issuer in its absolute discretion.

### 1.2 Investor bound

- (a) By signing the Application Form and lodging it with the Issuer, the Investor agrees to be bound by these Terms including any variation to these Terms advised to Investors in a supplementary IM, Term Sheet IM or otherwise and the terms of the Security Trust Deed and Hedge Security Deed.
- (b) By signing the Application Form and lodging it with the Issuer, the Investor also agrees and acknowledges that the Custodian will be appointed pursuant to the terms of the Custody Deed. The Investor acknowledges the terms of the Custody Deed and agrees that these are the terms upon which the Custodian will act and to be bound by its terms. Each Unit issued by the Issuer will be subject to the terms of the Custody Deed, as varied pursuant to its terms. A summary of the Custody Deed is included in "Custody Deed" in Section 3 "Security Arrangements" and a copy of the Custody Deed is available by contacting Sequoia Specialist Investments on 02 8114 2222.

### 1.3 Acceptance of the offer by the Issuer

- (a) The Issuer may decide in its absolute discretion whether or not it will accept an Investor's offer to acquire the Delivery Parcel from the Issuer and whether or not to issue the Units to the Custodian on behalf of the Investor.
- (b) The Issuer may decide to accept an Application in part and issue a lesser number of Units than the number applied for. In this case, the Investment Amount and any Fees paid for the unissued Units will be returned without interest within 10 Business Days of the Commencement Date. No part of the Adviser Fee (if any) will be returned in these circumstances.
- (c) If the Issuer decides that they will accept an Application and provided that the Issuer has received the Investment Amount and any Fees as per the relevant Term Sheet IM in cleared funds by the Application Payment Date and/or such other date as set out in the relevant Term Sheet IM or if otherwise accepted by the Issuer in its discretion (the direct debit details must be provided with the Application by the Offer Closing Date), acceptance of the Investor's offer will take place, and the parties' rights and obligations under these Terms and the terms of the Custody Deed will commence on the date the Units

are issued by entry in the Register, provided that the Investor acknowledges that the economic exposure for the Units commences on the Commencement Date.

- (d) Within 10 Business Days of the Commencement Date, the Issuer will send to the Investor a Confirmation Notice acknowledging either the acceptance or rejection of an Investor's offer and setting out any relevant details of the Units.

For each multiple of the Issue Price and any Fees paid in respect of a Series, and as set out in the Term Sheet IM (after deducting the Adviser Fee, if any), the Investor will be deemed to apply for one Unit in that particular Series.

### 1.4 Payment of the Adviser Fee

- (a) An Adviser Fee may be payable in addition to the Investment Amount and any Fees, as agreed between an Investor and their financial adviser for financial product advice given in relation to the Units. The amount of the Adviser Fee (if any) will be indicated on the Application Form and will be direct debited by the Issuer on behalf of the Adviser.
- (b) By signing the Application Form and applying for Units, the Investor:
  - i. agrees to pay the Adviser Fee specified in their Application Form to their adviser;
  - ii. irrevocably authorises the Issuer to collect the Adviser Fee;
  - iii. irrevocably directs the Issuer to deduct the Adviser Fee from their total application monies and to pay the Adviser Fee to their adviser, or a service provider nominated by the Investor, on their behalf as soon as reasonably practicable following issue of the Units; and
  - iv. indemnifies the Issuer against any claim from an adviser to recover the Adviser Fee once the investment has commenced and Units have been issued.

By signing the Application Form, the adviser agrees to and consents to the payment of the Adviser Fee in the manner set out in paragraph (b) above.

### 1.5 Issue of Units

The Units will be issued if the Issuer accepts an Application under clause 1.3(a). Units are issued within one month of the receipt of application monies, provided the Issuer has accepted the Application. Economic exposure for the Units commences on the Commencement Date.

Each Unit will be issued by the Issuer to the Custodian to hold on trust for you on the terms of the Custody Deed.

If the Issuer is unable to achieve the economic exposure described in the IM on the Commencement Date due to any condition set out in the IM not being satisfied (e.g. the Issuer being unable to hedge its obligations), or otherwise determines in its absolute discretion not to proceed with the issue for any reason, then the Issuer will terminate any Units already issued, return the Investment Amount and any Fees without interest.

### 1.6 Offer Period

The Issuer may, in its discretion, extend or shorten the Offer Period for a Series without prior notice. If this happens, the Commencement Date and one or more consequential dates for the Series may vary. The Issuer may also defer the Commencement Date for a Series, in which case the Maturity Date, Coupon Determination Date(s), and other consequential dates for the Series may vary. If the Issuer varies the Offer Period or the Commencement Date for a Series it will post a notice on its website informing applicants of the change at [www.sequoiasi.com.au](http://www.sequoiasi.com.au).



## 2. Appointment of Registrar

- (a) The Issuer will appoint the Registrar set out in the IM. The Issuer will ensure that there is always a Registrar appointed.
- (b) The Registrar will be responsible for establishing and maintaining a Register for the Units issued by the Issuer during the term of the Registrar's appointment. The Register will be established and maintained in Sydney (or any other place in Australia as the Issuer and the Registrar may agree).
- (c) The Investor acknowledges and agrees that the Register will be conclusive evidence of legal and beneficial ownership of interests in the Units. The Issuer is not required to recognise any interest in Units not recorded in the Register.

## 3. Deferred purchase of Delivery Assets

### 3.1 Purchase of Delivery Assets

The Investor agrees to purchase from the Issuer the Delivery Parcel for the amounts set out in the Term Sheet IM (including any Investment Amount or Fees) which are to be paid by the Investor in accordance with clause 3.2. The Issuer will deliver the Delivery Parcel to the Investor or to the Custodian on behalf of the Investor in accordance with clause 4.

### 3.2 Payment of the Investment Amount

- (a) The Investor must pay the Investment Amount and any Fees to the Issuer in cleared funds by the Application Payment Date and/or such other date as set out in the relevant Term Sheet IM or if otherwise accepted by the Issuer in its discretion including any secondary offer period.
- (b) The Investor must ensure that the Issuer receives the Investment Amount and any Fees in cleared funds by the commencement date (or such other time if otherwise accepted by the Issuer in its discretion).
- (c) The Minimum Investment Amount for which an Application will be accepted by the Issuer under these Terms is the minimum amount set out in the relevant Term Sheet IM.

### 3.3 Coupons and payments

- (a) The Issuer will pay the Coupons (if any) to the Investor as described in the relevant Term Sheet IM.
- (b) The Coupons (if any) will be paid on the relevant payment date set out in, and subject to such conditions as specified in the relevant Term Sheet IM.
- (c) The Custodian directs (and the Investor agrees that the Custodian will direct) the Issuer to pay Coupons directly to the Investor as beneficiary of the Investor Trust. Subject to clause 3.3, the Issuer will pay any Coupons to the Investor directly, in accordance with the Custodian's instructions.
- (d) In the event the Issuer or Custodian is required by law to make any deduction or withholding from the payment of the Coupons, the Issuer will make the required deduction or withholding and pay Coupons (if any) to the Investor after such deduction or withholding or will direct the Custodian to do so.

## 4. Maturity and Settlement

### 4.1 Notice of Maturity

The Issuer will give a Notice of Maturity to each Investor not less than 20 Business Days prior to the Maturity Date, unless otherwise specified in the relevant Term Sheet IM.

### 4.2 Effecting Maturity

Physical delivery of the Delivery Parcel will occur in accordance with clause 4.3, unless:

- (a) the Investor wishes to use the Agency Sale Option and validly elects to do so by:
  - (i) returning a Notice of Maturity to the Issuer at least 10 Business Days before the Maturity Date; and
  - (ii) clearly specifying in the Notice of Maturity that the Investor will use the Agency Sale Option.

### 4.3 Physical delivery of the Delivery Assets to the Investor

- (a) The Issuer (either itself or through a nominee) will procure the performance of all acts required of a transferor of marketable securities under the ASX Settlement Operating Rules for ASX listed Delivery Assets to enable the Delivery Assets to be transferred to the Investor on the Settlement Date or as soon as possible thereafter, free from any security interest or third party interest or restriction on transfer;
- (b) In respect of ASX listed Delivery Assets, the Investor irrevocably authorises the Issuer and any of their nominees, at the option of the Issuer to act as the Investor's agent to do all things required to be done, including but not limited to supplying the Investor's HIN, to effect the delivery of Delivery Assets to the Investor (or the Investor's nominee); and
- (c) Investors will have their Delivery Parcel delivered to an issuer sponsored subregister CHESS account of the Delivery Asset issuer.

### 4.4 Delivery through the Agency Sale Option

If the Investor elects to use the Agency Sale Option, then:

- (a) the Investor irrevocably authorises and directs the Issuer to direct the Custodian (or its nominee) to hold the Delivery Parcel and to accept physical delivery of the Delivery Parcel for and on behalf of the Investor, on the terms of the Custody Deed;
- (b) the Issuer (either itself or through a nominee) will procure the performance of all acts required of a transferor of marketable securities under the ASX Settlement Operating Rules for ASX listed Delivery Assets to enable the Delivery Parcel to be transferred to the Custodian (or its nominee) on behalf of the Investor on the Settlement Date or as soon as possible thereafter, free from any security interest or third party interest or restriction on transfer;
- (c) the Investor irrevocably authorises and directs the Custodian or its nominees to sell or procure the sale, and irrevocably authorises and directs the Custodian or any of its nominees to take all actions necessary or desirable to effect the sale, or procure the sale, of the Delivery Parcel for and on behalf of the Investor and/or the Custodian, including, without limitation, directing the Custodian (or its nominee) to sell or procure the sale of the Delivery Assets;
- (d) the Custodian or its nominees will pay or procure payment of the Sale Monies (which includes a deduction for any Delivery Costs) to the Investor's Nominated Account, within 10 Business Days of the Settlement Date or as soon as reasonably practicable thereafter. As at the date of this IM, it is anticipated that no Delivery Costs will apply; and
- (e) the Investor acknowledges and agrees that:
  - (i) the Custodian or its nominees agree to sell, or procure the sale of, the Delivery Parcel on behalf of the Investor and/or the Custodian as soon as reasonably practicable on or after the Settlement Date for an amount per Delivery Asset equal to the Delivery Asset Price;
  - (ii) to the maximum extent permitted by law, the Custodian and its nominees are not responsible for any loss, costs or





expense incurred by the Investor as a result of the Agency Sale Option, except to the extent that such loss, cost or expense arises as a direct result of the Custodian's or the nominee's negligence, wilful default, fraud or dishonesty;

- (iii) if, for any reason whatsoever, the Custodian and its nominees are unable to sell or procure the sale of the relevant Delivery Parcel at the Delivery Asset Price, the Investor irrevocably authorises the Custodian and its nominees to sell or procure the sale of, the relevant Delivery Parcel as soon as reasonably practicable for the market price applicable at the time of sale.

#### 4.5 Satisfaction of obligations

Upon delivery of the Delivery Assets to the Investor in accordance with clause 4.3 or payment of Sale Monies (if any) to an Investor in accordance with clause 4.4, or if no Sale Monies or Delivery Assets are payable or deliverable, the Issuer's and the Custodian's obligations to the Investor under these Terms are satisfied in full and discharged.

In addition, in such circumstances the Issuer's and the Custodian's obligations to the Investor under the terms of the Custody Deed are satisfied in full and discharged.

#### 4.6 Delivery of a whole number of Delivery Assets only

The Issuer or its nominee will not transfer a fractional Delivery Asset or parts of a Delivery Asset. If after aggregating all Delivery Assets transferred to an Investor or the Custodian (or its nominee) on behalf of an Investor on the Settlement Date, and if any fractional unit would be transferable by the Issuer on the Settlement Date, the Issuer will cause to be paid to the Investor (within 10 Business Days of the Settlement Date or as soon as reasonably practicable thereafter) an amount equal to the value of the fraction of the unit forgone based on the Delivery Asset Price provided that such amount exceeds twenty Australian Dollars (A\$20.00). If the amount does not exceed A\$20.00, the Issuer is under no obligation to the Investor to make any payment for the fractional unit. Upon payment of the amount under this clause, the Issuer is discharged of its obligation to deliver the fraction of the unit forgone.

#### 4.7 Substitution of Delivery Assets

If the Delivery Asset is unable to be delivered due to any legal or regulatory restriction relating to the Delivery Asset (including but not limited to cessation, illiquidity or Suspension from listing) or the Issuer, including but not limited to trade limitations resulting from internal conflict arrangements or where it is not reasonably practicable or economically viable, in the Issuer's discretion, to deliver the nominated Delivery Asset(s), then the Issuer shall either:

- (a) delay delivery of the Delivery Asset(s);
- (b) substitute the affected Delivery Asset with any other security listed on the ASX and which is a constituent of the S&P/ASX 200 Index and deliver that substituted security in accordance with these Terms as if the definition of "Delivery Asset" was amended to refer to the substituted security; or
- (c) if a basket of Delivery Assets is to be delivered, the Issuer may substitute the affected Delivery Asset with any other security listed on the ASX and which is a constituent of the S&P/ASX 200 Index or deliver only the remaining unaffected Delivery Assets in the basket.

### 5. Early Maturity

#### 5.1 Early Maturity by the Issuer

The Issuer may, acting reasonably, at any time nominate (including on the Maturity Date) any of the following events as an Early Maturity Event:

- (a) any arrangements entered into by the Issuer in order to hedge the Issuer's obligations in respect of the Units in whole or in part are terminated, redeemed, suspended, ended or cannot reasonably be acquired, established, maintained, substituted or re-established;
- (b) the Issuer does not receive any of the amounts due to the Issuer under any arrangements entered into by the Issuer in order to hedge the Issuer's obligations in respect of the Units (including the Hedge);
- (c) the Issuer has or will become obliged to pay additional amounts as a result of any change in, or amendment to, the laws or regulations of or any political subdivision or any authority thereof or therein having power to Tax, or any change in the application of official interpretation of such laws or regulations, which change or amendment becomes effective on or after the date of this IM;
- (d) a Change of Law occurs;
- (e) if the Issuer determines in good faith that the performance of its obligations in relation to or under these Terms has or will become, in circumstances beyond the reasonable control of the Issuer, impossible, unlawful, illegal or otherwise prohibited or that the Units or investment returns provided by the Units are or will be substantially different from those described this IM as a result of one or more Adjustment Events;
- (f) if the Issuer receives written notice from the Lender that the Investor has failed to pay interest in full and that the failure has not been remedied within 7 Business Days of the Lender's notice to the Investor to do so;
- (g) an Investor Insolvency occurs in respect of an Investor;
- (h) the Reference Asset is terminated or ceases to exist for any reason whatsoever;
- (i) any actual or proposed event that may reasonably (in the Issuer's opinion) be expected to lead to any of the events referred to in paragraphs (a) to (h) above occurring.

If any event occurs which constitutes both an Adjustment Event and an Early Maturity Event as defined in this clause, the Issuer may, acting in good faith and a commercially reasonable manner, treat that event as either an Adjustment Event or Early Maturity Event and notify Investors accordingly.

#### 5.2 Determination that there will be an Early Maturity

Where the Issuer has nominated an event as an Early Maturity Event, the Issuer may reasonably determine that there will be an Early Maturity and may specify a date as the Early Maturity Date.

#### 5.3 Investor Requested Issuer Buy-Back

Unless specified otherwise, an Investor may request the Issuer to buy back their Units (including if those Units are held by the Custodian) on any Business Day by giving a completed Issuer Buy-Back Form to the Issuer. An Issuer Buy-Back can only be requested in respect of the Minimum Buy-Back Amount of Units. Once lodged the request for an Issuer Buy-Back is irrevocable. It is in the Issuer's absolute discretion to accept or reject or hold over the request for an Issuer Buy-Back. If the Issuer accepts:

- (a) The Issuer will as soon as practicable after the request is received and accepted, execute the Issuer Buy-Back on the Buy-Back Date. The Investor acknowledges that the Buy-Back Date will depend, in part, upon the Issuer's ability to liquidate its hedging arrangement (if any), and may require the Issuer to delay and holdover an Issuer Buy-Back request.



- (b) The Issuer will in its reasonable discretion determine the Buy-Back Price for the purchase of the Investor's Units. The Buy-Back Price will be calculated by reference to the fair market value of the Units on the Buy-Back Date less any Delivery Costs, Break Costs and any bid-offer spread charged by the Issuer. The Issuer may provide an Investor with an estimate of the Buy-Back Price before effecting the buy-back but is not obliged to do so. The Investor acknowledges this is an estimate only and the actual Buy-Back Price on the Buy-Back Date may be significantly less than the estimate.
- (c) Settlement of an Issuer Buy-Back will take place by payment of the Buy-Back Price to the Investor in cash.
- (d) Upon settlement of the Issuer Buy-Back, the Issuer will arrange for an Investor's name and details as beneficial owner of the Units that have been bought back to be removed from the Register. If all the Units of an Investor have been bought back, the relevant Investor Trust will terminate.
- (e) If the Term Sheet IM states that a minimum Buy-Back Price is applicable to a Series, then the minimum Buy-Back Price for the Units in respect of that Series will be the minimum Buy-Back Price specified in the relevant Term Sheet IM.

## 5.4 Early Maturity Mechanism

- (a) If the Issuer determines that there will be an Early Maturity, the Early Maturity will take place as follows:
  - (i) The Issuer will, before the Early Maturity Date, notify the Investor that Early Maturity will occur on the Early Maturity Date in accordance with clause 5 of these Terms. The Issuer will specify in the Early Maturity Notice whether Early Maturity will occur by the Maturity process in accordance with clause 5.4(a)(ii) or by Termination Payment in accordance with clause 5.4(a)(iii).
  - (ii) If specified in the Early Maturity Notice and subject to clause 5.4(b), Early Maturity will take place in accordance with the procedures set out in clauses 4.2 to 4.5 of these Terms.
  - (iii) If specified in the Early Maturity Notice, Early Maturity will occur by the Issuer or its nominees paying or procuring payment to the Investor the Termination Payment on the Early Maturity Date to the Investor's Nominated Account by the Settlement Date or as soon as practicable thereafter.
  - (iv) After the Delivery Parcel is delivered to the Investor under clause 4.3 or the Issuer or its nominees pays or procures payment to the Investor the Termination Payment in accordance with clause 5.4(a)(iii) as a result of an Early Maturity Event occurring, all obligations of the Issuer and the Custodian to the Investor under these Terms are satisfied in full and discharged. This clause does not discharge the Issuer of its obligations under the Privacy Act or the terms of its privacy policy.  
The Issuer's and the Custodian's obligations to the Investor under the terms of the Custody Deed are satisfied in full and discharged.

- (b) If an Early Maturity is nominated by the Issuer, for the purposes of determining the Delivery Parcel, the definition of "Delivery Parcel" in the Definitions section of the IM and in the Term Sheet IM is amended by replacing "Final Value" with "Early Maturity Value".

## 5.5 Early Maturity Value, Termination Payment and Buy-Back Price

In determining the "Early Maturity Value", "Termination Payment" or the Buy-Back Price the Issuer may deduct any costs, losses or expenses that it reasonably incurs acting in a commercially

reasonable manner in relation to the Early Maturity or Issuer Buy-Back, including without limitation, Delivery Costs, Break Costs, administrative costs, costs of unwinding any hedge put in place for the purposes of meeting its obligations under these Terms, and any cost of funding or any loss of bargain.

If the Term Sheet IM states that a minimum Early Maturity Value, Termination Payment or Buy-Back Price is applicable to a Series, then the minimum Early Maturity Value, Termination Payment or Buy-Back Price for the Units in respect of that Series will be the minimum Early Maturity Value, Termination Payment or Buy-Back Price specified in the relevant Term Sheet IM.

## 5.6 Possible reduction of value on Early Maturity

If there is an Early Maturity, the Issuer does not guarantee to deliver a Delivery Parcel based on the Final Value per Unit. For the avoidance of doubt, when there is an Early Maturity (and the Issuer elects to apply the Maturity process in accordance with clause (ii)) the Delivery Parcel will only be determined in accordance with clause 5.4(b).

## 5.7 Adjustments to this clause

Subject to clause 14, where the Issuer determines that any of the provisions of this clause 5 are not appropriate in any particular circumstances, or that any event which is not dealt with in clause 5 should have been dealt with, it may make any alterations to the effect of this provision or any other Term that it considers to be appropriate provided that the alteration is not unfair (as defined in Section 12BG of the ASIC Act).

## 6. Adjustment Events and Market Disruption Events

### 6.1 Adjustment Events

If an Adjustment Event occurs or is proposed to occur on or before the Maturity Date, the Issuer may in its reasonable discretion elect to do any or all of the following:

- (a) substitute part or all of the affected Reference Asset with any other asset (including an index) or withdraw part or all of the affected Reference Asset; and/or
- (b) substitute the affected Delivery Asset with any other security quoted and trading on the ASX which is a constituent of the S&P/ASX 200 Index or, where the Delivery Asset is a basket of securities, determine to withdraw the affected Delivery Asset and deliver only the unaffected Delivery Assets in the basket; and/or
- (c) adjust or amend any variable, formula, amount or calculation as set out or used in these Terms (including the IM and the relevant Term Sheet IM); and/or
- (d) adjust, amend or substitute the definition of Reference Asset or Delivery Asset, Final Value, Coupons, Investment Term and/or vary, adjust, amend or replace any of the terms referred to in the IM, however, any amendment in respect of the rights and obligations of the Custodian may not be made unless consented to by the Custodian; and/or
- (e) determine to suspend, delay, defer or bring forward any of the necessary calculations or any date which a calculation, valuation or payment is due to be made referred to in these Terms as appropriate until reliable values can be obtained;

either: (i) in a manner consistent with any adjustment or change made to the Issuer's hedging arrangement, and, where appropriate, using similar data as referred to in the Hedge or (ii) as the Issuer otherwise determines, provided that in the reasonable opinion of the Issuer the adjustment is appropriate to put both the Issuer and the Investor in as substantially similar and economic position as



possible to what the Investor and the Issuer would have been in had the Adjustment Event not occurred.

If in the reasonable opinion of the Issuer it is not possible or desirable to deal with the occurrence of the Adjustment Event in accordance with this clause 6, the Issuer may nominate the event as an Early Maturity Event and may deal with that event in accordance with clause 5. The Issuer will notify Investors of any adjustment that it proposes to make under this clause before the adjustment occurs or, if it is not possible to notify before the adjustment, as soon as reasonably practicable after the adjustment occurs and the Issuer will reasonably determine and notify Investors of the effective date of that adjustment.

## 6.2 Market Disruption Events

- (a) If there is a Market Disruption Event affecting the Reference Asset on the Commencement Date, Maturity Date, Early Maturity Date, Settlement Date, any Buy-Back Date, Final Value Determination Date, the Final Value Payment Date, Coupon Determination Date or Coupon Payment Date, (together, the “Relevant Dates”), or any other date on which a payment, calculation, adjustment or amendment is to be made or a level is to be observed then the Issuer may reasonably determine in its discretion to either:
- take any action required to reflect any adjustment, change, substitution, delay, Suspension or other action taken in relation to its hedging arrangements: or
  - to determine that such date is to be the first following Scheduled Business Day on which there is no Market Disruption Event. However, if there is a Market Disruption Event affecting the Reference Asset on each of the 10 Scheduled Business Days immediately following the original date that, but for the Market Disruption Event, would have been the Relevant Date, then (A) that 10th Scheduled Business Day is to be taken to be the Relevant Date (as applicable), despite the Market Disruption Event; and (B) the Issuer must on that 10th Scheduled Business Day in good faith and acting in a commercially reasonable manner determine the observation to be recorded for the calculation of the level of the Reference Asset, Strategy Value, Coupon, Final Value or any other formulae or calculation required to be determined, that would have prevailed on the original date but for that Market Disruption Event.
- (b) The Issuer must, as soon as practicable (and, in relation to the Maturity Date, in no event later than 5 Business Days after the original date that, but for the occurrence or existence of a Market Disruption Event, would have been the Maturity Date) notify Investors of the existence or occurrence of a Market Disruption Event.
- (c) If there is a Market Disruption Event affecting a Delivery Asset on the Settlement Date, then the Settlement Date for the affected Delivery Asset is to be the first following Business Day on which there is no Market Disruption Event.
- (d) If an event is both a Market Disruption Event and an Adjustment Event, the Issuer may, acting in good faith and a commercially reasonable manner, determine whether to treat the event as either a Market Disruption Event or an Adjustment Event or both (if possible).

## 7. Accretions

These Terms do not confer on the Investor any right or interest in respect of Accretions to the Delivery Assets arising prior to delivery of the Delivery Assets. Accretions to the Delivery Assets or the Reference Asset may lead to adjustments as provided for in clause 6 of these Terms.

## 8. Issuer’s obligations

- (a) The Issuer’s obligations under these Terms (including in relation to the deferred purchase of the Delivery Assets) are direct obligations of the Issuer.

## 9. Beneficial Interest in Delivery Asset

- (a) Upon the issue of Units, the Investor receives, in respect of their total Investment Amount, a Beneficial Interest in a Portion of the Delivery Assets on the Commencement Date. The Investor holds the Beneficial Interest in the Portion of the Delivery Assets until the earlier of the Maturity Date or transfer of their Units in accordance with these Terms.
- (b) An Investor may deal with the Beneficial Interest only in accordance with these Terms.
- (c) The Beneficial Interest held by the Investor may not be severed from the balance of the rights in connection with those Units or dealt with separately in any way from the Investor’s interest in the Units.
- (d) When an Investor deals with its interest in the Units in any way, then without the need for any additional writing or action, the same dealing between the same parties shall occur in respect of the corresponding Beneficial Interest. When an Investor deals with a Beneficial Interest in any way, then without the need for any additional writing or action, the same dealing between the same parties shall occur in respect of the corresponding interest in the Units. For example, when an Investor (the “old holder”) transfers its interest in the Units to another person (the “new holder”):
- all the rights and obligations that attach to those Units, including the Beneficial Interest are transferred from the old holder to the new holder;
  - the old holder’s legal or beneficial interest in the Units will be removed from the Register and the new holder will be added to the Register as a legal or beneficial owner; and
  - the old holder ceases to have any rights in relation to those Units or the Beneficial Interest.
- (e) If any Investor purports to deal with its interest in the Units without an equivalent dealing in the corresponding Beneficial Interest, or if any Investor purports to deal with a Beneficial Interest without an equivalent dealing in the corresponding interest in the Units, or if any Investor purports to contract out of this clause in any way, any such dealing will be void and the interest in the Units and the Beneficial Interest will remain with the Investor recorded on the Register of holders.
- (f) The Issuer or its nominee will hold the Portion of the Delivery Assets from the Commencement Date until the Maturity Date for the relevant Investor and will be entitled to retain any distributions made in connection with those assets, exercise all voting rights and will not be required to pass on any notice of meeting or other material in connection with those assets to the Investor. On the Maturity Date, the Issuer will sell the Portion of the Delivery Assets and the Sale Monies from this sale will be included in the Final Value.
- (g) The Investor agrees and acknowledges that the agreement to purchase the Delivery Assets as set out in these Terms and the payment of the total Investment Amount does not transfer the legal or beneficial interest in the Delivery Assets to the Investor other than the Beneficial Interest in a Portion of the Delivery Assets. The parties agree and acknowledge that the legal or beneficial interest in the balance of the Delivery Assets will transfer to the Investor only on the Settlement Date. If the Issuer fails to deliver the balance of the Delivery Parcel to the Investor



in accordance with these Terms, the Investor agrees that it will not be entitled to an injunction, specific performance or any other equitable rights or remedies and will be entitled only to damages.

## 10. Security Trust Deed

Investors agree and acknowledge that pursuant to the Security Trust Deed and an Hedge Security Deed for the relevant Series, the Security Trustee holds a security interest in respect of the Secured Property in relation to each Series of the Units on trust for and on behalf of Investors in the relevant Series and the Security Trustee on the terms of the Security Trust Deed and the relevant Hedge Security Deed.

## 11. Investor Acknowledgments of the Hedge Security Deed and Security Trust Deed Arrangements

- (a) Investors agree and acknowledge that pursuant to a Hedge Security Deed for a Series, the Issuer as legal and beneficial owner grants a Security Interest over the Secured Property of the Series to the Security Trustee as security for the due and punctual payment and satisfaction of the Secured Obligations of the Series.
- (b) Each Investor of a Series:
- acknowledges that they are entitled to the benefit of the Security Trust Deed and the Hedge Security Deed of the Series even though they are not a party to it, or were not Investors at the time of execution and delivery of the Security Trust Deed and the Hedge Security Deed;
  - is taken to have notice of the Security Trust Deed and the Hedge Security Deed of the Series;
  - is bound by the terms of the Security Trust Deed and the Hedge Security Deed of the Series;
  - must perform all of the obligations and comply with all restrictions and limitations applicable to it under the Security Trust Deed and the Hedge Security Deed of the Series; and
  - acknowledges that the liability of the Security Trustee is limited under the Security Trust Deed to the amount the Security Trustee can obtain as a final reimbursement from the Trust, being the Secured Property.
- (c) Investors agree and acknowledge that the Security Trustee's and the Investor's recourse against the Issuer in respect of a Series is limited to the amount the Security Trustee can obtain by enforcing the Security Trustee's rights in respect of the Secured Property under the Hedge Security Deed and otherwise they can take no action against the Issuer.
- (d) Each Investor of a Series is taken to acknowledge for the benefit of the Security Trustee and its Related Body Corporates (as defined in the Corporations Act) that the Investor has:
- entered into the transactions contemplated by the Transaction Documents of the Series;
  - made, or will make, its own independent investigations of the financial condition and affairs of the Issuer;
  - made its own appraisal of the credit worthiness of the Issuer and each other party to a Transaction Document; and
  - made its own assessment of the returns to be obtained under and in connection with the Transaction Documents, without relying on the Security Trustee (in whatever capacity) or its Related Bodies Corporate (as defined in the Corporations Act) or any representation made by any of them.
- (e) Investors agree and acknowledge that the Security Trustee's liability in respect of a Series and the Trust is limited to and can be enforced against the Security Trustee only to the extent to

which it can be satisfied out of any property held by the Security Trustee in respect of the Trust out of which the Security Trustee is actually indemnified for the liability. This limitation of the Security Trustee's liability applies despite any other provision of the Transaction Documents and extends to all liabilities and obligations of the Security Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to the Transaction Documents and the Trust.

- (f) Investors acknowledge and agree that the Security Trustee is not responsible or liable for the value of or any change in the value of the Units or the Secured Property of a Series or for the sale price of the Secured Property provided that the Security Trustee acts in accordance with the Hedge Security Deed and the Security Trust Deed.
- (g) Investors acknowledge that they will receive payment only after the fees, costs, charges, expenses or other sums incurred or payable by or to the Security Trustee in relation to its appointment as Security Trustee and in connection with the exercise or enforcement of rights relating to the Security Trust Deed and Hedge Security Deed have been paid. This includes any fees, costs and expenses payable to the Security Trustee and to any controller or receiver appointed in connection with the Hedge Security Deed. This may include the fees payable by the Issuer to the Security Trustee in relation to the appointment of the Security Trustee.

## 12. Taxes and indemnity

- (a) The Issuer, its nominee and the Custodian are not liable for any Taxes or other charges:
- payable by the Investor in connection with these Terms or in connection with an Investor Trust; or
  - payable by the Issuer, its nominee, or the Custodian (or its nominee) or any other person arising in any way in connection with the Transaction Documents (other than any Tax payable by the Issuer on its own taxable income (as defined under in the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*) or any Tax payable by the Custodian on any fees payable to it under the Custody Deed);
- and are not liable to pay the Investor any additional amount on account of any Taxes or other charges.
- (b) The Investor:
- must pay all Taxes (including GST) and other charges for which the Investor becomes liable in connection with these Terms and an Investor Trust; or
  - must pay an additional amount to the Issuer and the Custodian on demand equal to any applicable Taxes (including GST) and other charges arising in any way in connection with the Transaction Documents (other than any Tax payable by the Issuer on its own taxable income (as defined under in the *Income Tax Assessment Act 1936 (Cth)* and the *Income Tax Assessment Act 1997 (Cth)*) or any Tax payable by the Custodian on any fees payable to it under the Custody Deed ) for which the Issuer or the Custodian or any other person becomes liable and indemnifies the Issuer and the Custodian on demand for any such amounts;
  - indemnifies the Custodian on demand against all liabilities, losses, costs and expenses howsoever characterised which are incurred by the Custodian in connection with the Transaction Documents to the extent that the Custodian is not fully indemnified under the Custody Deed, provided that the Custodian has not been guilty of fraud, wilful default or gross negligence in respect of the Custody Deed; and



- (iv) acknowledges that the indemnities are continuing obligations, independent of the Investor's other obligations and continue, without limitation, after this agreement ends, the delivery of the Delivery Parcel to the Investor or the termination of the relevant Investor Trust. It is not necessary for the Issuer or the Custodian to incur any expense or make any payment before enforcing a right of indemnity.

### 13. Investor's representations and warranties

#### 13.1 General

By signing the Application Form and lodging it with the Issuer the Investor represents and warrants to the Custodian and the Issuer in its capacity as Issuer and Lender (as a continuing representation and warranty) that:

- (a) the Investor has full legal capacity to make the Application and be bound by these Terms and has taken all actions that are necessary to authorise the Application and be bound by these Terms;
- (b) the Investor has reviewed these Terms and the IM and has made its own independent investigations and appraisals of the taxation, legal, commercial and credit aspects associated with the purchase of the Delivery Assets;
- (c) the Investor has not relied in any way on any statements made by the Issuer, the Custodian, the Security Trustee or their related entities or their servants, agents, employees or representatives in relation to these Terms, the deferred purchase of the Delivery Assets or the IM and the Investor acknowledges that neither the Issuer, the Custodian nor the Security Trustee has made any representations to the Investor regarding the suitability or appropriateness of the deferred purchase of Delivery Assets pursuant to these Terms or the relevant transactions in connection with them;
- (d) the Investor understands that nothing in these Terms, IM, Term Sheet IM or any marketing material associated with these Terms can be considered investment advice or a recommendation to acquire the Delivery Assets;
- (e) the Investor has obtained all consents which may be required by law to enable the Investor, as the case may be, to acquire the Delivery Assets and to become registered as the holder of the Delivery Assets and the registration of the Investor as the holder of the Delivery Assets will not contravene any law, regulation or ruling or the constitution of the issuer of the Delivery Assets;
- (f) the Units being applied for will not breach or result in a breach of any exchange controls, fiscal, securities or other laws or regulations for the time being applicable the Investor and the Investor is not a resident or national of any jurisdiction where Application for or the Maturity of the Units is prohibited by any law or regulation or where compliance with the relevant laws or regulations would require filing or other action by the Issuer or any of its related bodies corporate;
- (g) the Investor acknowledges that the section in the IM entitled "Taxation" is provided only for the benefit of the Issuer and is necessarily general in nature and does not take into account the specific taxation circumstances of each Investor; and
- (h) the Investor has the power to enter into and perform its obligations under the Terms and that its obligations under the Terms constitute valid and binding obligations of the Investor.

For the avoidance of doubt, "Terms" in this clause 13.1 refers to this Section 6 "Terms of the Deferred Purchase Agreement".

#### 13.2 Superannuation Funds and Trusts

By signing the Application Form and lodging it with the Issuer an Investor which is the trustee of a trust or fund ("Fund") (including, without limitation, one which is a regulated superannuation fund) (as that term is defined in the Superannuation Industry (Supervision) Act 1993 ("SIS Act")) ("Governing Rules") also represents and warrants to the Issuer (as a continuing representation and warranty) that:

- (a) the Fund has been validly constituted (and where necessary, the relevant documents have been duly stamped according to the laws of the relevant state or territory) and the Fund is continuing at the date of this agreement;
- (b) where the trustee is a body corporate, the trustee has been validly constituted;
- (c) the trustee has been properly appointed as trustee of the Fund and the trustee is not in breach of the Trust;
- (d) the terms of the Governing Rules or the constitution for other trusts empower and authorise the Trustee (i) to invest in the Units; and (ii) to borrow as permitted by the SIS Act and (iii) to enter into and be bound by the Deferred Purchase Agreement;
- (e) the terms of the Governing Rules or constitution do not restrict the right of the Trustee to be fully indemnified out of the assets of the Fund to satisfy a liability to any party which is properly incurred by the trustee as trustee of the Fund under the Units;
- (f) investing in Units will be for the benefit and in the best interests of the Fund and its beneficiaries; and
- (g) if investing as joint trustees, each applicant declares that the applicants are all trustees of one Fund and there are no other trustees of the Fund and that each joint trustee has the authority to act as agent for all of the joint trustees to give instructions or to receive notices on behalf of all of the joint trustees.

#### 13.3 Set off Rights

- (a) All monetary obligations imposed on the Investor under these Terms are absolute, free of any right to counterclaim or set off and may only be satisfied once the payment has cleared.
- (b) The Issuer may at any time (including without limitation during the Investment Term or at Maturity) set off any amount payable to it by the Investor against any amount payable by the Issuer to the Investor or the Custodian (on the Investor's behalf) whether payable under these Terms or otherwise. The Issuer may withhold any amount payable by it to the Investor (or the Custodian on behalf of the Investor) in satisfaction of any amount payable to it by the Investor.

#### 13.4 Notices

- (a) The Investor agrees that any notice or statement to be given or demand to be made on the Investor under these Terms or required by the Corporation Act:
  - (i) will be effectively signed on behalf of the Issuer or the Custodian if it is executed by the Issuer or Custodian (as the case may be), any of its officers, its solicitor or its attorney;
  - (ii) the Issuer will give all notices required to be given by the Issuer to the Custodian as holder of the Investor's Units directly to the Investor (with a copy to the Custodian);
  - (iii) may be served by being delivered personally to, by being left at, by being e-mailed to, or by being posted in a prepaid envelope or wrapper to the Investor's address (or e-mail address) notified to the Issuer or the Investor's registered office, place of business, or residence last known to the Issuer, or by being sent to the Investor by facsimile transmission; and



- (iv) may be posted on the Issuer's website or an announcement made in an Australian newspaper with national coverage, provided that providing notice in such a manner is not prohibited by the Corporations Act or any ASIC policy.
- (b) A demand or notice if:
  - (i) posted will be deemed served two Business Days after posting;
  - (ii) sent by facsimile or electronic transmission will be deemed served on conclusion of transmission;
  - (iii) posted on a website or published in a newspaper will be given the date of posting or publishing.
- (c) Service by any of these methods will be valid and effectual even if the Investor does not receive the document or if the document is returned to the Issuer or Custodian unclaimed.

## 14. Amendment of Terms

The Issuer may from time to time with the consent of the Custodian or the Investor by notice sent to the Investor make any modification, variation, alteration or deletion of, or addition to these Terms ("**Change**") where:

- (a) the Change is one reasonably determined by the Issuer as being required under either of clause 5 or clause 6 of these Terms provided that the change is not unfair (as defined in Section 12BG of the ASIC Act);
- (b) the Change is necessary or desirable in the reasonable opinion of the Issuer to comply with any statutory or other requirement of law; or
- (c) the Change is desirable to correct an inconsistency or error in these Terms (but only if such is not unfair (as defined in Section 12BG of the ASIC Act)).

The Issuer will give the Investor notice of any Change to these Terms and the Investor will be bound by any such Change at the time the Investor is given such notice.

## 15. General provisions

### 15.1 Currency

All amounts payable by either party under these Terms will be paid in the denomination specified in the relevant Term Sheet IM. All calculations will be performed in the currency specified in the relevant Term Sheet IM.

### 15.2 No merger

The Issuer's rights under these Terms are additional to and do not merge with or affect and are not affected by any mortgage, Security Interest, charge or other encumbrance held by them or any other obligation of the Investor to the Issuer, despite any rule of law or equity or any other statutory provision to the contrary.

### 15.3 Rounding

All calculations made by the Issuer for the purposes of these Terms will be made to not fewer than two decimal places. Other than as provided in these Terms, rounding of numbers will not occur until the final calculation of a relevant amount or number at which time the Investor's entitlements will be aggregated and that aggregate will be rounded so that all money amounts are rounded down to the nearest whole cent and all numbers of Delivery Assets are rounded down to the nearest whole number.

### 15.4 Certificates

Any document or thing required to be certified by the Investor or the Issuer must be certified by the Investor (if an individual) or a director, secretary or authorised officer of the Investor (if a company) or the Issuer, as the case requires, or in any other manner that the Issuer may approve.

## 15.5 Execution by attorneys

Each attorney executing an Application Form which binds the Investor to these Terms states that he, she or it has no notice of revocation or suspension of the power of attorney under which the attorney executes that form.

## 15.6 Appointment of Agent

The Investor irrevocably appoints the Issuer, and their nominees and any of their directors, secretaries and officers whose title includes the word "director" from time to time jointly and severally as their agent to do (either in the name of the Investor or the agent) all acts and things:

- (a) necessary to bind the Investor to the Terms, give effect to the Terms, including without limitation, completing or amending any Application Forms (if the Issuer, in its absolute discretion, has accepted the Application Form);
- (b) necessary to give effect to, execute, amend, register or enforce the Custody Deed and to bind the Investor to the terms of the Custody Deed;
- (c) that the Investor is obliged to do under these Terms;
- (d) which, in the opinion of the Issuer are necessary in connection with:
  - (i) payment of any moneys to the Investor;
  - (ii) the Maturity process, including without limitation, if an Early Maturity Event occurs;
  - (iii) any Issuer Buy-Back;
  - (iv) the Delivery Assets, including without limitation the delivery or sale of the Delivery Assets.

For the avoidance of doubt, "Terms" in this clause 15.6 means this Section 6.

## 15.7 Invalid or unenforceable provisions

If a provision of these Terms is invalid or unenforceable in a jurisdiction, it is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability, and that fact does not affect the validity or enforceability of that provision in another jurisdiction or the remaining provisions.

## 15.8 Waiver and exercise of rights

A single or partial exercise of a right by the Issuer or the Custodian does not preclude another exercise or attempted exercise of that right or the exercise of another right by the Issuer or the Custodian. Failure by the Issuer or Custodian to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.

## 15.9 Assignment and transfer of interests

- (a) Each of the Issuer and the Lender may transfer its rights and obligations, under these Terms at any time by giving notice to the holder of the Units provided that the transfer is not to the detriment of the Investor and is otherwise not unfair within the meaning of Section 12BG of the ASIC Act. Any transfer or novation of rights or obligations must be notified to the Registrar and the Custodian.
- (b) Subject to clause 1.3, the rights and obligations under these Terms (including the legal ownership of or beneficial interest in the Units) may be transferred or novated by an Investor in whole only, not in part, with the prior consent of the Issuer. Any transfer or novation of rights or obligations must be notified to the Registrar and the Custodian.
- (c) If an Investor wishes to transfer their Units, they should contact the Issuer in relation to the transfer, mechanics of transfer and any relevant forms required.



- (d) When an Investor deals with a Unit in a manner that does not involve the transfer of legal ownership of the Unit or a change of the person identified on the Register as the beneficial holder, the Issuer has no duty to record, or procure the recording of, the dealing on the Register. Each Beneficial Interest corresponding to the Units will pass to a new Investor upon registration of the transfer of the beneficial owner of those Units in the Register.
- (e) If an Investor acquires legal title to their Units or all of an Investor's Units are bought back following an Issuer Buy-Back, the Issuer will instruct the Registrar to remove the Custodian from the Register as legal owner of Units.

### 15.10 Recording conversations

The Investor acknowledges that conversations between the Investor and the Issuer and the Custodian (or any officer of the Issuer or Custodian or an adviser) may be tape-recorded. The Investor consents to the tape-recording and its use (or any transcript of the recording) in any proceedings that may be commenced in connection with these Terms.

### 15.11 Calculations and references to dates and times

Calculations or determinations which are to be made on or by reference to a particular day, are to be made on or by reference to that day in the place and time zone of the Relevant Exchange to which that calculation or determination relates.

### 15.12 Payments by the Issuer

All amounts payable by the Issuer under these Terms will be paid to the Investor's Nominated Account and on doing so the Issuer is discharged of their obligations under these Terms. Electronic Funds Transfer are the only method that monies will be paid to an Investor.

### 15.13 Governing law and jurisdiction

These Terms are governed by the laws of New South Wales. The Investor irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

### 15.14 Terms of Deferred Purchase Agreement prevail

If there is an inconsistency between the terms and conditions of the Deferred Purchase Agreement and statements made in the IM or the relevant Term Sheet IM, the terms and conditions of the Deferred Purchase Agreement prevail.

### 15.15 Time is of the essence

Time is of the essence in respect of the obligations of the Investor under these Terms.

### 15.16 Discretions

Any determination made by the Issuer will be made by acting in good faith and in a commercially reasonable manner and will be conclusive and binding on all parties, except in the case of manifest error.

### 15.17 Interpretation

- (a) In these Terms, unless the context requires another meaning, a reference:
- (i) to the singular includes the plural and vice versa;
  - (ii) to a document (including these Terms) is a reference to that document (including any schedules and annexures) as amended, consolidated, supplemented, novated or replaced;

- (iii) to a person (including a party) includes an individual, company, other body corporate, association, partnership, firm, joint venture, trust or Government Agency, and it also includes the person's successors, permitted assigns, substitutes, executors and administrators;
  - (iv) to a law is a reference to that law as amended, consolidated, supplemented or replaced and it includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law, or any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange;
- (b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) Headings are for convenience only and do not affect interpretation.
- (d) If a payment or other act must (but for this clause) be made or done on a day that is not a Business Day, then it must be made or done on the next Business Day.
- (e) If a period occurs from, after or before a day or the day of an act or event, it excludes that day.
- (f) These Terms may not be construed adversely to a party only because that party was responsible for preparing them.
- (g) Any term not defined in these Terms and which is defined in the IM has the same meaning as the IM unless the context otherwise requires.
- (h) All references to time are to time in Sydney, Australia (unless otherwise stated).

# 7. Parties to the Offer



## 7.1 Issuer

The Issuer was incorporated in Australia in 2010 for the purpose of issuing deferred purchase agreements (including the Units under this IM) and other financial products (it has no other business activities). In January 2015, it was acquired and became a wholly owned subsidiary of Sequoia Financial Group Ltd (SEQ.ASX).

All major administration functions, such as registry are outsourced to third party providers.

The Issuer has set up a corporate structure which involves:

- a Hedge Counterparty, who provides the Hedge;
- an Hedge Security Deed which is granted by the Issuer over the Secured Property of each Series (including the Hedge). There is a single Hedge Security Deed covering all Series; and
- a Security Trustee who holds the Hedge Security Deed on trust for Investors and itself pursuant to the Security Trust Deed.

This structure is intended to reduce the significance of the exposure of Investors to the creditworthiness of the Issuer.

In the event that the Issuer defaults on its obligations under the DPA of a Series, the Security Trustee has the power to enforce the Hedge Security Deed for and on behalf of Investors of that Series and the Security Trustee and may exercise and have the benefit of the rights of the Issuer under the relevant Hedge.

## 7.2 Arranger & Lead Distributor

Sequoia Asset Management Ltd has been appointed as the Arranger and may be appointed as the Lead Distributor from time to time for each Offer. Sequoia Asset Management is an investment advisory company established in 2009 and is the holder of an Australian Financial Service License No. 341506. In January 2015, it was acquired and became a wholly owned subsidiary of Sequoia Financial Group Ltd (SEQ.ASX). As a publicly listed company, Sequoia Financial Group Ltd's financial reports are available from the ASX.

As Lead Distributor, Sequoia Asset Management will market the Units. Sequoia Asset Management deals and advises on securities, derivatives, portfolio analysis and superannuation.

## 7.3 Security Trustee

Sequoia Nominees No.1 Pty Ltd (ACN 147 097 078) is appointed under the Security Trust Deed to act as Security Trustee. The primary role of the Security Trustee is to enforce the Hedge Security Deed of a Series on behalf of the Investors if the Issuer defaults on its obligations under the DPA of that Series. The role of the Security Trustee is set out in the Security Trust Deed and Hedge Security Deed of a Series which are available on request from Sequoia. Please refer to Section 3 "Security Arrangements" for summaries of the Security Trust Deed and Hedge Security Deed.

## 7.4 Registrar

Registry Direct Pty Limited (ABN 35 160 181 840) ("Registry Direct") is a provider of share registry software and services to listed and unlisted companies, fund managers and product issuers. Their services include: pre-IPO and IPO registers; proxy solicitation and meeting management; corporate actions; dividends and distribution of payments; investor reporting and management; employee share plans management; security holder communication; and security holder enquiry services. The Issuer has appointed Registry Direct to provide services including investor interface, registry and investment statements. The Issuer maintains strict controls, including detailed and regular reporting processes.



## 8. Definitions



Capitalised words have the following meaning given to them, unless the context requires otherwise. All references to clauses are to clauses in the Terms.

**Accretions** means all rights, accretions and entitlements attaching to any Reference Assets or Delivery Assets after the Commencement Date including without limitation, all voting rights, all dividends and all rights to receive dividends and other distributions or shares, notes, options, units or other financial products exercisable, declared, paid or issued in respect of the Delivery Asset;

**Adjustment Event** means any of the following in respect of the Units, Hedge, Reference Asset, and where relevant, in respect of one or more of the Assets:

- (a) where the Asset is a security or interest in a managed investment scheme:
  - (i) any event which results in the Asset being consolidated, reconstructed, sub-divided or replaced with some other form of security or property;
  - (ii) the issuer of the Asset reduces its share capital through either a cash return of share capital, capital distribution or otherwise (whether or not resulting in the cancellation of securities in the Delivery Parcel);
  - (iii) the issuer of the Asset declares a rights issue or restructures its share capital in any manner;
  - (iv) a scheme of arrangement, quasi-scheme of arrangement or merger in the nature of a scheme of arrangement occurs in relation to the issuer of the Asset;
  - (v) the issuer of the Asset makes a buy-back offer in relation to all or any of the Assets;
  - (vi) the issuer of the Asset issues bonus shares, units or other property to holders of the Asset;
  - (vii) a takeover bid is made or announced for all or any of the Assets;
  - (viii) any part of the Asset is or becomes subject to compulsory acquisition under the Corporations Act or otherwise;
  - (ix) the issuer of the Asset declares or makes a non-cash Dividend or Special Dividend;
  - (x) any event occurs which constitutes a Disposal Event; or
  - (xi) the issuer of the Asset is insolvent by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting the issuer of the Asset.
- (b) where the Asset is an index:
  - (i) the Asset is suspended or ceases to be published for a period of 24 hours or more;
  - (ii) the Asset is terminated or ceases to exist for any reason whatsoever;
  - (iii) the Asset is not calculated and announced by the index sponsor, but is calculated and announced by a successor to the index sponsor;
  - (iv) the Asset is replaced by a successor index using the same or a substantially similar formula for and method of calculation; or
  - (v) there is a Suspension or material limitation on trading of securities generally on a Relevant Exchange or a Related Exchange for a period of 24 hours or more;
  - (vi) the index sponsor or any successor makes a material change in the formula for or the method of calculating the Asset or the basket constituents of the index or in any way materially modifies that Asset;
- (c) where the Asset is a futures contract:
  - (i) the temporary or permanent discontinuance or unavailability of the Price Source;
  - (ii) the failure to obtain at least three quotations as requested from relevant dealers, if pricing is determined by reference to dealer quotes;
  - (iii) the permanent discontinuation of trading in the relevant futures contract on the relevant exchange;
  - (iv) the disappearance of, or of trading in, the relevant asset underlying the futures contract;
  - (v) the disappearance or permanent discontinuation or unavailability of a price for the relevant futures contract notwithstanding the availability of the Price Source;
  - (vi) the occurrence of a material change (as determined by the Issuer in its discretion) in the formula for or the method of calculating the relevant futures contract price; and
  - (vii) the occurrence of a material change (as determined by the Issuer in its discretion) in the content, composition or constitution of the relevant futures contract, or the asset underlying the futures contract.
- (d) any Force Majeure Event occurs, or any other event occurs which Issuer determines in good faith results in the performance of its obligations having become or becoming, in circumstances beyond its reasonable control, impossible, unlawful, illegal or otherwise prohibited;
- (e) a Change of Law occurs;
- (f) the Issuer is unable, on or after the date of this IM up to and including the Settlement Date (which includes the Maturity Date) or any other relevant date, after using commercially reasonable efforts, to (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the Units, or (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s);
- (g) the Issuer would, on or after the date of this IM up to and including the Settlement Date (which includes the Maturity Date) or any other relevant date, incur a materially increased (as compared with circumstances existing on the date of this IM) amount of tax, duty, expense or fee (other than brokerage commissions) to:
  - (i) acquire, establish, re-establish, substitute, maintain, unwind or dispose of any transaction(s) or asset(s) it deems necessary to hedge the risk of entering into and performing its obligations with respect to the Units, or
  - (ii) realise, recover or remit the proceeds of any such transaction(s) or asset(s), provided that any such materially increased amount that is incurred solely due to the deterioration of the creditworthiness of the Issuer will not be deemed an Adjustment Event;
- (h) the Issuer's hedging arrangements are suspended, terminated, adjusted or changed for any reason as determined by the Calculation Agent for those hedging arrangements or any Asset relevant to the hedging arrangement is terminated suspended, adjusted or changed in any way;
- (i) a security granted by the Asset, its manager or certain service providers becomes enforceable or any of their trading or dealing arrangements become terminable because of default by them;
- (j) the net asset value of the Asset is not calculated or published as required, or the timing of the calculation or publication changes, or the methodology used changes;



- (k) information about the Asset is not published or provided as required;
- (l) trading in the Asset is suspended or restricted;
- (m) the Asset, its manager or certain service providers become insolvent by reason of the voluntary or involuntary liquidation, bankruptcy, insolvency, dissolution or winding-up of or any analogous proceeding affecting the issuer of the Asset;
- (n) there is an event in respect of the Asset or its manager by which:
  - (i) the entity will be merged with another entity (unless it will continue as an entity without reclassification or change of its shares/units); or
  - (ii) there is a change in control of the entity;
- (o) a securities lending agreement (if any) is terminated, adjusted or changed;
- (p) any actual or proposed event that in the Issuer's reasonable opinion be expected to lead to any of the events referred to in paragraphs (a) to (o) above occurring;

**Adviser Fee** means the Upfront Adviser Fee (if any) and Ongoing Adviser Fee (if any) as described in Section 1.12 or as set out in the Term Sheet IM;

**Affected Party** as defined in the Hedge, means the party affected by the Termination Event (as defined in the Hedge);

**Agency Sale Option** means the agreement between the Investor and the Issuer entered into on receipt by the Issuer of a Notice of Maturity specifying the Investor's election to use the Agency Sale Option or the Investor's deemed election under clause 4.4 of the Terms, under which the Issuer (or its nominee) will sell, or procure the sale of, the Delivery Assets for and on behalf of the Investor and the Custodian on or as soon as practicable after the Settlement Date in accordance with clause 4.4 of the Terms of the Deferred Purchase Agreement in this IM;

**Application** means an offer by the Investor to the Issuer to acquire the Delivery Parcel on a deferred basis on the terms and conditions set out in the Terms;

**Application Fee** (if applicable) has the meaning given to it in the relevant Term Sheet;

**Application Form** means, in respect of a Series, the Application Form attached at the back of the relevant Term Sheet IM;

**Application Payment Date** means, in respect of a Series, the date specified in the relevant Term Sheet IM;

**Arranger** means Sequoia Asset Management Pty Ltd (ACN 135 907 550, AFSL 341506) unless otherwise specified in a Term Sheet IM;

**ASIC** means the Australian Securities and Investments Commission;

**ASIC Act** means the *Australian Securities and Investments Commission Act 2001* (Cth), as amended from time to time;

**Asset** means, in respect of a Series, the Reference Asset, Delivery Asset, or any component or constituent thereof (including any Hedge Agreement), or a factor relevant to the calculation of, any payment or any component of the Units as specified in the relevant Term Sheet IM;

**ASX Settlement Operating Rules** means the settlement rules of the ASX Settlement and Transfer Corporations Pty Limited as amended or substituted from time to time;

**ASX** means Australian Securities Exchange as operated by ASX Limited (ABN 98 008 624 691);

**ATO** means the Australian Taxation Office;

**AUSTRAC** means the Australian Transaction Reports and Analysis Centre which regulates the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*;

**Beneficial Interest** means the beneficial interest in the Portion of the Delivery Assets in accordance with clause 9 of the Terms;

**Break Costs** means all costs, expenses and losses reasonably incurred by the Issuer acting in a commercially reasonable manner (including without limitation, any amounts paid or incurred on account of GST to the extent that input tax credits are not available and any upfront selling fees paid to an adviser that may be applicable) and notified by the Issuer as payable by the Investor as a result of:

- (a) the determination of an Early Maturity Date or Buy-Back Date or other early termination of the Deferred Purchase Agreement;
- (b) the termination or reversal of any arrangements service contracts or hedge position entered into by the Issuer in connection with Units which is terminated early; or
- (c) any loss of profits that the Issuer may suffer by reason of the early termination of the Deferred Purchase Agreement;

**Business Day** means:

- (a) a day when the ASX and any other Relevant Exchange is open for trading; and
- (b) in relation to any payments or deliveries due under the Terms, a day on which the ASX is open for trading; and
- (c) in relation to any calculations involving a Relevant Exchange or an Asset, a day on which banks are open for business in the primary jurisdiction in which that Relevant Exchange is located or in which the Asset is traded;

**Buy-Back Date** is as specified in the relevant Term Sheet IM;

**Buy-Back Price** means the fair economic value of the Units as determined by the Issuer, acting in good faith and a commercially reasonable manner, on the Buy-Back Date taking into account any Delivery Costs, Break Costs and bid-offer spread;

**Calculation Agent** means Sequoia Specialist Investments Pty Ltd undertaking such role by reference to the Issuer's hedge and/or other arrangements in relation to the Units;

**Change** has the meaning given in clause 14 "Amendment of Terms" of the Terms;

**Change of Law** means that due to the adoption of, or any change in any applicable law or regulation (including any tax legislation) or due to the promulgation of or any change in the interpretation (by any court, tribunal or regulatory authority with competent jurisdiction) of any applicable law or regulation (including any action taken by a taxing authority) the Issuer determines in good faith that it has become illegal for any party to hold, acquire or dispose of the relevant assets or the Issuer or any other party will incur a materially increased cost in performing its obligations under the Units (including due to any increase in tax liability, decrease in tax benefit or other adverse effect on its tax position);

**CHES** has the meaning given in the ASX Settlement Operating Rules;

**Commencement Date** means the date specified in the Investor's Confirmation Notice as the "Commencement Date" for the Units held, as specified in the relevant Term Sheet IM;

**Confirmation Notice** means a notice provided by the Issuer to an Investor in accordance with clause 1.3(d) of the Terms;

**Corporations Act** means the *Corporations Act 2001* (Cth) as amended from time to time;



**Coupon** (if applicable) means, in respect of a Series, a coupon (if any) calculated on a Coupon Determination Date and paid on the relevant Coupon Payment Date as described in the relevant Term Sheet IM and includes, unless otherwise specified in the relevant Term Sheet IM, any similar payments payable to investors other than the Final Value;

**Coupon Determination Date** is the date specified as such in the relevant Term Sheet IM;

**Coupon Payment Date** is the date specified as such in the relevant Term Sheet IM ;

**Currency Management Fee** (if applicable) means the Currency Management Fee specified in the relevant Term Sheet IM;

**Default under Specified Transaction** has the meaning given in the Hedge Agreement and includes where a relevant party under the Hedge Agreement defaults under a Specified Transaction and this results in an acceleration or early termination of that Specified Transaction (or other transactions under the same documentation), defaults on the last payment date, or any payment on early termination of, a Specified Transaction or repudiates or otherwise challenges the validity of a Specified Transaction. Where *Specified Transaction* means any swap, forward, future, option or other derivative transaction entered into between the parties to the Hedge Agreement, any similar transaction or combination of these transactions and any other transactions specified as such by the parties;

**Deferred Purchase Agreement or DPA** means the agreement between the Issuer, Custodian and Investor as set out in the Terms and the IM and the relevant Term Sheet IM;

**Delivery Asset** means the Delivery Assets specified in the relevant Term Sheet IM or determined by the Issuer in accordance with the Terms;

**Delivery Asset Price** means, as calculated by the Issuer in its reasonable discretion, the price per Delivery Asset at which the Issuer (or its nominee) acquires or purchases, in connection with the Units, the Delivery Asset on the Business Day immediately following the Maturity Date (or in the case of an Early Maturity, the Early Maturity Date), unless it is not possible or practical to determine the price of the Delivery Asset at that time, in which case the Issuer may, in its reasonable discretion acting in a commercially reasonable manner, nominate another time or period of time to determine the price (including, if the Issuer determines in its discretion, the average weighted price at which the Issuer (or its nominee) acquires or purchases, in connection with the Units, the Delivery Asset);

**Delivery Costs** means any incidental costs or expenses incurred by the Issuer in relation to the transfer of any Delivery Assets to or for the benefit of the Investor following Maturity or Early Maturity. For the avoidance of doubt, this includes, without limitation, any amounts paid or incurred by the Issuer or its nominees on account of GST to the extent that input tax credits are not available or on account of any other Taxes incurred as a result of transferring the Delivery Assets on Maturity or Early Maturity;

**Disposal Event** means an event which gives rise to an obligation on the Issuer under law to dispose of all or part of the Delivery Assets, or Reference Asset;

**Delivery Parcel** has the meaning as specified in the relevant Term Sheet IM and the number of each type of Delivery Asset in the Delivery Parcel to be delivered by the Issuer to the Investor on the Settlement Date is determined by the following formula:

$$\frac{[(\text{Final Value} \times \text{Number of Units held by Investor} - \text{Delivery Costs})/N]}{\text{Delivery Asset Price}}$$

Where N means the number of different types of Delivery Assets in each Delivery Parcel;

**Dividend** means an ordinary dividend or distribution;

**Early Maturity** means accelerated Maturity in accordance with clause 5 of Section 6 “Terms of the Deferred Purchase Agreement” and includes early maturity following an Early Maturity Event or an Issuer Buy-Back;

**Early Maturity Date** means the date notified to the Investor as such in the Early Maturity Notice;

**Early Maturity Event** has the meaning given in clause 5.1 “Early Maturity by the Issuer” of the Terms;

**Early Maturity Notice** means the notice of early maturity given in accordance with clause 5.4(a)(i) of the Terms;

**Early Maturity Value** means the fair economic value of the Unit at or around 5:00 pm Sydney time on the Early Maturity Date as determined by the Issuer acting in good faith and a commercially reasonable manner, unless it is not possible or practical to determine the fair economic value of the Unit at that time, in which case the Issuer may nominate another time to determine the Early Maturity Value;

**Event of Default** occurs under the Hedge Security Deed if:

- (a) the Issuer (as “Grantor”) fails to make payment or delivery under a Transaction Document on;
  - (i) its due date (or within 3 Business Days of its due date where the Grantor demonstrates to the Security Trustee’s reasonable satisfaction that the failure occurred outside the control of the Grantor because of a failure in the banking or other system used for the transfer of funds);
  - (ii) the Grantor fails to perform or observe any other obligation under a Transaction Document (other than failure described in paragraph(a)) and the Security Trustee (acting on the instructions of the Majority Investors) considers:
    - i. that the failure is materially adverse to the interest of the Beneficiaries and that the failure cannot be remedied; or
    - ii. that the failure is materially adverse to the interest of the Beneficiaries and that the failure can be remedied and the failure is not remedied within 5 Business Days after the Security Trustee provides written notice to the Grantor to remedy the failure;
- (b) an Event of Default (as defined in the Hedge of the Series) occurs with respect to the Grantor;
- (c) a Bankruptcy Event of Default (as defined in Section 5(a)(vii) of the 2002 ISDA Master Agreement) occurs with respect to the Hedge Counterparty of the Series;
- (d) a Termination Event (as defined in the Hedge of the Series) with respect to which the Grantor is the Affected Party (as defined in the Hedge) occurs; or
- (e) Nationalisation or Insolvency (as each of those terms is defined in the 2002 ISDA Equity Derivatives Definitions published by the International Swaps and Derivatives Association, Inc) occurs with respect to the Grantor; or
- (f) another event of default (however described) occurs under a Transaction Document of the Series and:
  - (i) the Security Trustee considers that the failure or default cannot be remedied; or
  - (ii) the Security Trustee considers that the failure or default can be remedied but it is not remedied to the Security Trustee’s satisfaction within 3 Business Days (or any longer period the Security Trustee approves) from the earlier of:



- i. the date the **Grantor** became aware of the default or ought reasonably to have become aware of the default; and
  - ii. receipt by the **Grantor** of a notice from the Security Trustee requiring it to remedy the default.
- (g) a representation or warranty made or deemed to be made by the Grantor in, or in connection with, the Transaction Documents of the Series is untrue or misleading (by omission or in any other way) in any material respect when made or repeated;
- (h) a proceeding is commenced against the Grantor or in relation to any Secured Property of the Series which does or may threaten the Grantor's entitlement to any Secured Property;
- (i) the Hedge Security Deed ceases for any reason to be a first ranking security interest or an obligation of the Grantor ranks ahead of or equally with the Secured Money other than an obligation which must be preferred by operation of law, or to the extent provided in the Hedge Security Deed, or a Permitted Security Interest or by perfection in accordance with the PPSA Law;

**Event of Default** as defined in the Hedge, includes the occurrence of the following events:

- (a) failure to pay or deliver, when due, any payment or delivery under the Hedge;
- (b) breach or repudiation by either party of the Hedge;
- (c) default under a credit support document (such as a credit support annex);
- (d) a representation made by a party to the Hedge proves to have been incorrect or misleading in any material respect when made or repeated (or deemed to have been made or repeated);
- (e) default by a party in a transaction specified in the Hedge;
- (f) if applicable in the Hedge, default under any other agreements of a specified type where the aggregate principal amount of such agreements exceeds a specified threshold amount;
- (g) bankruptcy event in relation to a party (including the party being dissolved, becoming insolvent, having bankruptcy proceedings instituted against it, having a liquidator, receiver or other similar official appointed); and
- (h) a party consolidates or amalgamates with, or merges with or into, another entity and the other entity does not assume all the obligations of the party under the Hedge.

**Exchange Business Day** means a day that is both a Business Day and on which the Relevant Exchange is open for trading;

**Fees** means the total of any fees payable by the Investor as set out in the relevant Term Sheet IM;

**Final Averaging Date(s)** (if applicable) means the date(s) specified as the Final Averaging Date(s) in the relevant Term Sheet IM;

**Final Strategy Value** (if applicable) has the meaning given to it in the relevant Term Sheet

**Final Value** (if applicable) means, in respect of a Series, the Final Value (if any) calculated in accordance with the formula for calculating the Final Value set out in the relevant Term Sheet IM;

**Force Majeure Event** means an event or circumstance beyond the reasonable control of a party that prevents one or more parties from performing their obligations under this Agreement;

**Fund** has the meaning given in clause 13.2 of the Terms "Superannuation Funds";

**Governing Rules** has the meaning given in clause 13.2 of the Terms "Superannuation Funds";

**Government Agency** means:

- (a) a government, whether foreign, federal, state, territorial or local;
- (b) a department, office or minister of a government acting in that capacity; or
- (c) a commission, delegate, instrumentality, agency, board or other governmental, semi-governmental, administrative or judicial, monetary or fiscal body, department, tribunal, entity or authority, whether statutory or not and includes any self-regulatory organisation established under statute or any stock exchange;

**Grantor** means, in respect of the Hedge Security Deed, Sequoia Specialist Investments Pty Ltd (ACN 145 459 936);

**GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time);

**Hedge and Hedge Agreement** means any contract to pursuant to which the Issuer hedges its obligations under a DPA of a Series and including the ISDA Master Agreement entered into by and between the Issuer (as Grantor) and the Hedge Counterparty (the counterparty to the Hedge with the Issuer) from time to time including the Schedules, any Credit Support Annex and Confirmations relating to hedging the Grantor's obligations under the Units for the Series;

**Hedge Counterparty** means an entity with whom the Issuer enters into a Hedge;

**Hedge Security Deed** means, in respect of the Trust and each Series, the deed entitled "Hedge Security Deed" entered into between the Issuer (as "Grantor") and the Security Trustee dated on or before the Commencement Date, as amended from time to time or the security interest over the Secured Property created by that deed, as appropriate;

**Holder Identification Number or HIN** has the meaning given in the ASX Settlement Operating Rules;

**Hurdle** (if applicable) has the meaning given to it in the relevant Term Sheet IM

**Index Sponsor** has the meaning given to it as specified in the relevant Term Sheet IM;

**Initial Averaging Date** (if applicable) means the date(s) specified as the Initial Averaging Date(s) in the relevant Term Sheet IM;

**Initial Strategy Value** (if applicable) has the meaning given to it in the relevant Term Sheet;

**Investor Insolvency** means the occurrence of any of the following events in relation to the Investor at any time prior the Maturity Date:

- (a) where the Investor is a corporation (subject to paragraph (d) below):
  - (i) except to reconstruct or amalgamate while solvent, an application is made for an order, a meeting is convened to consider a resolution, a resolution is passed or an order is made that the Investor be wound up or otherwise dissolved or that an administrator, liquidator or provisional liquidator of the Investor be appointed; or
  - (ii) a receiver, receiver and manager, administrator, controller, trustee or similar officer is appointed in respect of all or any part of the business, assets or revenues of the Investor;
- (b) the Investor dies, becomes insolvent (or is presumed to be insolvent under any applicable law) or is subject to any arrangement, assignment or composition (except to reconstruct or amalgamate while solvent), or is protected from any creditors or otherwise unable to pay their debts when they fall due;
- (c) where a Investor is an individual, the Investor dies or commits an act of bankruptcy;



- (d) where the Investor is the trustee of a trust or fund:
- (i) the trust or fund is wound up in accordance with its constitution, governing rules, Corporations Act, Superannuation Industry (Supervision) Act 1993 or other applicable legislation or a government authority or court has determined that the Fund be wound up; or
  - (ii) an event described in paragraph (a) above has occurred in relation to the trustee and a replacement trustee has not been appointed within 60 calendar days or the Issuer determines in its reasonable discretion that a replacement trustee is unlikely to be appointed within this timeframe;
- (e) the Investor states that it is insolvent or is presumed to be insolvent under any applicable law;
- (f) as a result of the operation of the Corporations Act the Investor is taken to have failed to comply with a statutory demand; or
- (g) anything analogous to or of a similar effect to anything described above occurring to any party under the Corporations Act, Bankruptcy Act 1996 (Cth) or the law of any relevant jurisdiction.

**Investor** means the person or entity, other than the Custodian, whose name is entered on the Register as the legal owner or beneficial holder of Units from time to time during the Investment Term;

**Investor Trust** means each of the trusts, one for each Unit, constituted under the Custody Deed;

**Investment Amount** means the Issue Price multiplied by the number of Units purchased;

**Investment Term** means, in respect of Units held by an Investor (or by the Custodian on behalf of an Investor), the time period from the Commencement Date to the Maturity Date as specified in the relevant Term Sheet IM;

**Issue Price** means, if specified in the relevant Term Sheet IM for a Series, the price as specified in the relevant Term Sheet IM as the amount payable by an Investor for a Unit issued on or before the Commencement Date;

**Issuer** means Sequoia Specialist Investments Pty Ltd (ACN 145 459 936 );

**Issuer Buy-Back** means an Investor requested buy back of Units by the Issuer in accordance with Section 6 "Terms of the Deferred Purchase Agreement";

**Issuer Buy-Back Form** means the form by that name attached to the relevant Term Sheet IM;

**Issuer Buy-Back Request** means an Investor's request for the Issuer to buy back their Units as made via the Issuer Buy-Back Form contained in the Term Sheet IM or provided by the Issuer upon request or any other method specified from the Issuer from time to time;

**Sequoia or Sequoia Specialist Investments** means Sequoia Specialist Investments Pty Limited, the Issuer for the Units;

**Lead Distributor** has the meaning as specified in the relevant Term Sheet IM;

**Majority Investors** in respect of the Trust, means Investors who together hold more than 50% in value of the Total Outstanding of the Series relating to the Trust;

**Market Disruption Event** means the occurrence or existence on any Business Day of any of the following events, in the determination of the Issuer:

- (a) the Suspension or material limitation or disruption of trading in one or more of the Assets or in securities or futures contracts

generally on the ASX , Relevant Exchange, Related Exchange or a market associated with any of the Assets; or

- (b) any of the Assets or prices relating to the Assets ceases to exist or is materially changed, fails to be calculated and published, or the method of calculation materially changes;
- (c) any event occurs that disrupts or impairs the ability of market participants in general (i) to effect transactions in, or obtain market values for, any of the Assets, on the Relevant Exchange or (ii) to effect transactions in, or obtain market values for, futures or options contracts related to the Assets on the Relevant Exchange or any Related Exchange;
- (d) the Relevant Exchange closes prior to its scheduled closing time on a Business Day and the earlier closing time was not expected or announced with sufficient notice;
- (e) the declaration of a general moratorium in respect of banking activities in the country where any Relevant Exchange or Related Exchange is located;
- (f) any market disruption event (however described) under the Hedge Agreement; or
- (g) any similar event the Issuer reasonably declares to be a Market Disruption Event, including a Force Majeure Event.

For the purposes of this definition, (1) a limitation on the hours and number of days of trading will not constitute a Market Disruption Event if it results from an announced change in the regular business hours of the Relevant Exchange or Related Exchange; (2) a limitation on trading imposed during the course of a day by reason of movements in price otherwise exceeding levels permitted by the Relevant Exchange or Related Exchange will constitute a Market Disruption Event; and (3) issues of materiality are to be determined in the reasonable discretion of the Issuer;

**Master IM** means this Master IM dated 14 March 2024;

**Maturity** means the settlement of the deferred purchase of the Delivery Parcel in accordance with clause 4 of the Terms other than as a result of Early Maturity;

**Maturity Date** means the date as specified in the relevant Term Sheet IM as the "Maturity Date", unless there is an Early Maturity under clause 5 of the Terms, in which case the Maturity Date will be the Early Maturity Date;

**Minimum Buy-Back Amount** has the meaning as specified in the relevant Term Sheet IM;

**Minimum Investment Amount** means, the amount as specified in the relevant Term Sheet IM as the "Minimum Investment Amount" or such lesser amount as the Issuer in its discretion may determine for any one or more applicants;

**Minimum Subscription Amount** means AUD5 million per Series, or such other amount determined by the Issuer in its absolute discretion;

**Nominated Account** means the transactional banking account held with an Australian bank which is nominated by the Investor on their Application Form;

**Notice of Maturity** means the notice sent to Investors at least 20 Business Days prior to the Maturity Date in which an Investor may, subject to the Terms, elect to participate in the Agency Sale Option;

**Offer** means the offer of an agreement to purchase the Delivery Assets specified as specified in the relevant Term Sheet IM on certain terms including deferred delivery;

**Offer Closing Date** means the date as specified in the relevant Term Sheet IM as the cut off time for initial investments;



**Offer Opening Date** means the opening dates of the Offer Period as specified in the relevant Term Sheet IM as the time from which Applications for Units will be accepted;

**Offer Period** means the period from the Offer Opening Date to the Offer Closing Date;

**Ongoing Adviser Fee** means the Ongoing Adviser Fee (if any) as described in Section 1.12 or as set out in the Term Sheet IM;

**Performance Cap** means the Performance Cap on the Reference Asset as specified in the relevant Term Sheet IM

**IM** means the Product Disclosure Statement, including any Term Sheet IM, for the relevant Units as supplemented or updated from time to time;

**Portion** means the number of Delivery Assets held by the Issuer on the Commencement Date for a particular Series, determined by the Issuer in its discretion, divided by the number of Units on issue in that Series and disclosed in the Confirmation Notice;

**Price Source** means the publication or other origin reporting or publishing the price of a Reference Asset;

**PPSA Law** means the *Personal Property Securities Act 2009* (Cth), any regulations made under the *Personal Property Securities Act 2009* (Cth) and any amendments to any other legislation as a consequence of the *Personal Property Securities Act 2009* (Cth) or any of those regulations;

**Reference Asset** has the meaning as specified in the relevant Term Sheet IM. Reference Asset may also be expressed as "Reference Basket" in the Term Sheet IM and in such cases a reference to Reference Asset in this Master IM should be read as Reference Basket;

**Reference Asset Closing Level** has the meaning as specified in the relevant Term Sheet IM;

**Reference Asset Starting Level** has the meaning as specified in the relevant Term Sheet IM;

**Register** means the registers of legal and beneficial owners of Units, as named on the register, maintained by the Registrar;

**Registrar** means the person or entity as specified in the relevant Term Sheet IM or any other registrar appointed by the Issuer from time to time;

**Related Exchange** means each exchange or quotation system where trading has a material effect (as determined by the Issuer) on the overall market for the futures, options, securities or other assets underlying the Reference Asset are traded;

**Relevant Exchange** means in the case of:

- (a) any exchange traded security or financial product, the primary exchange upon which that financial product is traded; and
- (b) an index, the primary exchange upon which the financial products which primarily constitute that index are traded; and
- (c) a commodity, any exchange where contracts or futures relating to the commodity are traded;
- (d) or as determined in the reasonable discretion of the Issuer;

**Sale Monies** mean the monies from the sale of the Delivery Assets obtained by the Issuer (or its nominee) on behalf of the Investor and the Custodian under the Agency Sale Option, less Break Costs and if applicable Delivery Costs, including brokerage, applicable to the sale of the Delivery Parcel;

**Scheduled Business Day** means, in respect of a Reference Asset or Delivery Asset, any day on which the Relevant Exchange and/or Related Exchange in respect of such Reference Asset or Delivery Asset is scheduled to be open for trading for their respective regular trading sessions;

**Secured Money** in relation to the Hedge Security Deed, means, in respect of a Series, all moneys, obligations and liabilities of any kind that may now be or might at any time in the future become due, owing or payable, whether actually, contingently or prospectively, to the Investors and the Security Trustee in connection with the Series and the Transaction Documents of the Series including, but without limitation, on account of principal, interest, fees, expenses, indemnity payments, losses or damages and irrespective of:

- the capacity of the Issuer (as "Grantor") (whether as principal, agent, trustee, beneficiary, partner or otherwise);
- whether the Grantor is liable as principal debtor or as surety;
- whether the Grantor is liable alone, jointly or jointly and severally with another person;
- whether or not the money, obligation or liability is owed to the Investor or to its account as a result of an assignment, transfer or other dealing with or without the Grantor's consent; or
- whether the money, obligation or liability is owed or secured before or after the date of:
- the Hedge Security Deed; or
- any assignment of the Hedge Security Deed or any other Transaction Document.

**Secured Obligations** means, in relation to the Hedge Security Deed, in respect of the Trust, each of the obligations of the Issuer to, or for the account of, the Investors of the Series and the Security Trustee under or in connection with the Transaction Documents of the Series, including but without limitation the obligation to pay the Secured Money;

**Secured Property** in relation to the Hedge Security Deed means all of the present and future right, title, benefit and interest of the Issuer (as "Grantor"):

- (a) in all proceeds, property and money received or receivable by the Grantor in its capacity as issuer of the Units in connection with the application by the Investors for the Units and the issue of the Units;
- (b) under, pursuant to or in connection, with the Hedge including in all monetary obligations and all delivery obligations of the Hedge Counterparty arising under or pursuant to the Hedge (subject to any rights of set-off and netting under the Hedge whether arising before, on or after the date of the Hedge Security Deed or the date of any notice of the Security Deed to any party to the Hedge), and including the Grantor's right to payment of any amount payable under or pursuant to the Hedge after the operation of the close-out netting provisions of the Hedge; and
- (c) under, pursuant to or in connection with any sponsored account including, without limitation, any rights of the Grantor under or pursuant to any CHESS sponsorship agreement between the Grantor and any person with respect to the Grantor's holding of any Delivery Assets in respect of the Series but excluding the Beneficial Interest in the Portion of the Delivery Assets; and
- (d) in and to the trust account which the Grantor has opened in respect of all Series including all rights of the Grantor to repayment of the amount standing to the credit of this account, including, unless otherwise provided in the Hedge Security Deed, any investments into which any of those proceeds, property, money, or payments or deliveries made in discharge or redemption of such obligations are converted, including without limitation, any Delivery Assets delivered to the Grantor under or pursuant to the Hedge or amounts paid to the Grantor under the Hedge and the proceeds of any Secured Property to which the PPSA Law applies, but excluding all Sale Monies and any and all fees, costs, charges



or similar amounts which are due and payable to the Grantor under or pursuant to this IM, any Transaction Document or any of the Secured Property;

**Security** means in respect of a Series, each Hedge Security Deed for that Series and each other deed or agreement entered into by Sequoia Specialist Investments Pty Ltd in favour of the Security Trustee after the execution of the Security Trust Deed to be held for the Trust, to secure the Secured Money in respect of the Trust or any part of it;

**Security Interest** means a right, interest, power or arrangement in relation to an asset which provides security for, or protects against default by a person in, the payment or satisfaction of a debt, obligation or liability, and includes a mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, arrangement for the retention of title or any arrangement under which money or claims to, or the benefit of, any party or creditor may be applied, set-off or made subject to a combination of accounts;

**Security Trustee** means Sequoia Nominees No.1 Pty Ltd (ACN 147 097 078) or any other security trustee appointed in accordance with the Security Trust Deed from time to time;

**Security Trust Deed** means the deed entitled "master security trust deed" entered into between the Security Trustee and the Issuer dated on or about 8 November 2017], as amended from time to time;

**Trust** in relation to the Hedge Security Deed and Security Trust Deed, means the trust for each Series constituted under the Security Trust Deed;

**Series** means the series of Units offered under the relevant Term Sheet IM that accompanies this Master IM, and each other series of financial products issued by the Issuer;

**Series Performance** has the meaning given to it in the Term Sheet IM.

**Settlement Date** means the tenth Exchange Business Day after the Maturity Date or such other date as determined by the Issuer in its discretion as is reasonably necessary for the Issuer to fulfil its obligations under the Terms;

**Settlement Notice** means the notice from the Issuer to Investors following settlement on Early Maturity or a Buy-Back Date;

**Special Dividend** means any special or abnormal dividend or distribution in respect of securities (including a distribution of income or capital) and includes a dividend or distribution described by the entity declaring that dividend or distribution as:

- (a) special, abnormal, extraordinary, additional or extra;
- (b) part of a scheme of arrangement or takeover consideration;
- (c) part of a special distribution involving a return of capital, or are otherwise characterised by the ASX or the Relevant Exchange as a special dividend or special distribution.

**Strategy Value** has the meaning given in relevant Term Sheet IM;

**Suspension** means any temporary cessation of the trading or quotation of the Delivery Asset, including a trading halt on the ASX, Relevant Exchange or Related Exchange (as the context requires);

**S&P** means Standard & Poor's, a division of The McGraw-Hill Companies Inc.;

**S&P/ASX 200 Index** means the S&P/ASX 200 Price Return Index published by S&P;

**S&P500 Index** means the S&P 500 Price Return Index published by S&P;

**Tax** or **Taxes** means any income tax, capital gains tax, GST, withholding tax, stamp, registration and other duties and other

related taxes, levies, imposts, deductions, interest, penalties and charges;

**Term Sheet IM** means the Term Sheet Product Disclosure Statement, including any Application Form and any Issuer Buy-Back Form, for the relevant Series of Units and which is to be read in conjunction with this Master IM;

**Termination Event** or other similar early termination event as defined in the Hedge, means the occurrence of the following events:

- (a) illegality i.e. it becomes unlawful for any obligations entered into under the Hedge to be performed;
- (b) force majeure event;
- (c) due to changes in taxation law, action taken by a taxing authority, court proceedings or the merger, consolidation or amalgamation of a party the amount of tax payable by a party is increased;
- (d) if applicable in the Hedge, on the merger, consolidation or amalgamation of a party, the credit rating of that party is materially weaker; and
- (e) any other event under the terms of the Hedge Agreement that constitute early termination or maturity of the Hedge;

**Termination Payment** means the amount determined by the Issuer acting in good faith and a commercially reasonable manner. Without limiting the foregoing, in determining the Termination Payment, the Issuer may adjust the Termination Payment for any costs, losses or expenses that it reasonably incurs acting in a commercially reasonable manner in relation to the Early Maturity, including without limitation, Delivery Costs, Break Costs, administrative costs, costs of unwinding any hedge put in place for the purposes of meeting its obligations under the Terms, and any cost of funding or any loss of bargain;

**Terms** means the Terms of the Deferred Purchase Agreement which are set out in Section 6 of the IM, on which the Investor agrees to acquire the Delivery Parcel from the Issuer;

**Timetable** means the timetable as specified in the relevant Term Sheet IM;

**Total Outstanding**, in respect of a Series, means the aggregate of the Secured Money to all Investors under that Series;

**Transaction Documents** in relation to the Security Trust Deed and Hedge Security Deed means, in respect of a Series:

- (a) the Hedge Security Deed;
- (b) the Hedge for that Series;
- (c) each DPA for that Series;
- (d) the Security Trust Deed (as it applies to that Series);
- (e) the Custody Deed;
- (f) the Master Information Memorandum and applicable Term Sheet Information Memorandum including the Terms of the Deferred Purchase Agreement; and
- (g) each other document which the Issuer and the Security Trustee agree in writing is a Transaction Document for the purposes of the Security Trust Deed and the Series; and
- (h) each document entered into or provided under any of the documents described in paragraphs (a), (b), (c), (d), (e) or (f) for the purpose of amending or novating any of those documents.

**Trust Fund** means, for the Trust under the Security Trust Deed, all property, rights and interests which the Security Trustee acquires after the execution of the Security Trust Deed and the giving of the relevant notice of creation of trust to hold on the Trust created by the Security Trust Deed including:



- (a) the right, title and benefit of the Security and the Secured Property;
- (b) the right, title and benefit of any other agreement that it enters into in its capacity as trustee of the trusts created by the Security Trust Deed; and
- (c) all property or money which represents the proceeds of enforcement, realisation or sale of any such property, rights or interests, any investment into which any of those proceeds are converted and the proceeds of any of those investments.

**Units or Unit** means a Deferred Purchase Agreement entered into by the Issuer, the Custodian and the Investor. The total number of Units held by the Investor will be notified by the Issuer to the Investor in the Confirmation Notice provided by the Issuer in accordance with clause 1.3(d) of the Terms.

**Upfront Adviser Fee** means the Upfront Adviser Fee (if any) as described in Section 1.12 or as set out in the Term Sheet IM;



## 9. Reference Asset Disclaimers



There is no association or relationship between the Units or the Issuer and S&P Dow Jones Indices LLC, STOXX Limited the Australian Securities Exchange (“**ASX**”) or any of their third party licensors (collectively the “**Index Sponsors**”).

The Units are issued by the Issuer and marketed by third party dealer groups, they are not sponsored, endorsed, issued, distributed, sold, marketed or promoted by any of the Index Sponsors in any way.

The Index Sponsors have no obligations or liabilities whatsoever in connection with the Units.

In particular, Investors should note that the Index Sponsors and, if relevant, their affiliates:

- are responsible only for composing and calculating the S&P/ASX 200 Price Return Index, the S&P500 Price Return Index and/or the Eurostoxx 50 Price Return Index (the “**Relevant Index**”). All decisions and calculations are made without any regard to the Units or the Issuer;
- are not involved in any way or in any way responsible for the issue of the Units;
- do not make any statements regarding the advisability of investing in the Units;
- are not involved in any way or in any way responsible for the calculation of any Coupons, Final Value or any other calculations or determinations made in relation to the Units;
- do not make any representations or warranties to any person (including the Issuer and Investors) in relation to the Units or the Relevant Index. In particular, no representations are made in relation to the ability of each Relevant Index to track the movements in the underlying share market and no warranties are made in relation to the appropriateness of any use of the Relevant Index;
- do not guarantee that the Relevant Index data included in or correspondence regarding the Relevant Index is correct, complete, up-to-date or accurate and have no liability for any errors, omissions or delays; and
- will not be liable, in any event, for any damages arising out of contract, tort, strict liability or otherwise (including indirect, special, incidental, punitive or consequential damages), regardless of whether they have advised of the possibility of such damages.

### Preparation of this IM

This IM has been prepared by Sequoia from publicly available information only. No entity has been a party to its preparation or furnished any information specifically to Sequoia for the purpose of its preparation. Similarly, information in this IM concerning an entity has not been independently verified. The Custodian and the Security Trustee have no affiliation with Sequoia and have no access to information concerning an entity or its subsidiaries other than that which is in the public domain. Sequoia has no affiliation with any entities underlying the Reference Assets and have no access to information concerning them other than that which is in the public domain.

Sequoia, the Custodian, the Lead Distributor, the Security Trustee and the Arranger do not accept any liability or responsibility for, and make no representation or warranty, express or implied, as to the accuracy or completeness of any information about an entity in this IM. Investors should make their own enquiries about an entity. Nothing in this IM can be relied upon as implying that there has been no change in the affairs of an entity, Sequoia, the Custodian, the Security Trustee and the Arranger since the dates as at which information is given in this IM.

## 10. Identification and Verification Requirements



Under the Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) legislative regime, certain due diligence must be conducted on any prospective investor before Units may be issued to that Investor. The due diligence includes identifying and verifying the identity of a prospective investor. Applications made without providing this information cannot be processed until all the necessary information has been provided. There are also ongoing customer due diligence obligations under the AML/CTF legislative regime which may require the Issuer to collect further information.

Under the AML/CTF legislative regime, the Issuer has an obligation to report suspicious matters to AUSTRAC. This obligation may require the collection of further information from investors. The Issuer may be prohibited from informing investors that reporting to AUSTRAC has taken place. The Issuer has the right to not accept Buy-Back requests or transfers or pay benefits under this product where there are reasonable grounds to believe doing so would breach Australian law or sanctions (or the law or sanctions of any other country) and the Issuer is not liable for any resulting loss.

To discharge its due diligence obligations under the AML/CTF, the Issuer relies upon customer due diligence already undertaken by its distributors. All of the Issuer's distributors are Australian financial services licensees who have 'arranged' for the Issuer or transaction in the Units. You will not be able to invest in the Units unless the distributor has been formally approved by the Issuer.

By applying for units in the Units, applicants are acknowledging that the Issuer may, in its absolute discretion, not issue units to them, cancel any Units previously issued to them, delay, block or freeze any transactions or redeem any Units issued to them if it believes it necessary to comply with the AML/CTF legislative regime. In the above circumstances, the Issuer will not be liable to applicants for any resulting loss.

**Arranger**

Sequoia Asset Management  
Level 7, 7 Macquarie Place  
Sydney NSW 2000  
PO Box R1837  
Royal Exchange NSW 1225  
P: 1300 522 644

**Issuer:**

Sequoia Specialist Investments  
Level 7, 7 Macquarie Place  
Sydney NSW 2000  
PO Box R1837  
Royal Exchange NSW 1225  
P: 02 8114 2222

**Registrar:**

Registry Direct Pty Limited  
PO Box 572  
Sandringham VIC 3191  
registry@registrydirect.com.au

**Issuer's Solicitors:**

Baker & McKenzie  
Tower One – International Towers Sydney  
Level 46, 100 Barangaroo Avenue  
Sydney NSW 2000

**Security Trustee:**

Sequoia Nominees No. 1 Pty Ltd  
Level 7, 7 Macquarie Place  
Sydney NSW 2000

**All Application Forms and Correspondence to:**

Sequoia Asset Management  
PO Box R1837  
Royal Exchange  
NSW 1225  
Tel: 1300 522 644