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## **18. Taxation**

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*The following statements are by way of a general guide to investors only and do not constitute tax advice. Investors are therefore advised to consult their professional advisers concerning possible taxation or other consequences of the purchase, holding, selling or otherwise disposing of the Units under the laws of their country of incorporation, establishment, citizenship, residence or domicile, as the case may be.*

Investors should note that the following statements on taxation are based on advice received by the Manager regarding the law and practice in force at the date of this Prospectus. As is the case with any investment, there can be no guarantee that the tax position prevailing at the time an investment is made in AmFIRST REIT will continue indefinitely.

### **18.1 AmFIRST REIT**

#### **18.1.1 Income Tax**

The taxation of income for REIT is subject to the provisions of the Malaysian Income Tax Act 1967 ("the Act"). The main provisions are contained in Section 61 of the Act, which deals specifically with the taxation of Trust bodies in Malaysia as well as guidelines issued by the tax authorities specifically on REITs.

Under the tax transparency system, the taxable income of the REIT consisting of rental, interest or profits (other than interest or profits which is exempt from income tax) and other investment income derived from or accruing in Malaysia (after deducting tax allowable expenses) which are distributed to Unitholders in the same basis period, is exempt from Malaysian income tax.

Undistributed income of the REIT will be subject to Malaysian income tax, currently at the rate of 28%. Undistributed income which has been taxed at REIT level will have tax credits attached when distributed to Unitholders. It was proposed during the 2007 Budget that the normal corporate tax rate be reduced to 27% for YA 2007 and reduced further to 26% from YA 2008 onwards.

It was recently proposed in Finance Bill 2006, as part of the 2007 Budget announcements, that the REIT will be fully exempted from income tax provided at least 90% of its income is distributed to unit holders. If less than 90% is distributed, the income of the REIT would be subject to income tax.

Taxable dividends received by the REIT would have tax credits attached, representing tax deduction at source at the prevailing tax rate of 28%. Such tax credits will be available for set off either wholly or partly against the tax liability of the REIT. Any excess over the tax liability will be refundable to the REIT. Generally, gains on disposal of investments by the REIT will not be subject to income tax.

#### **18.1.2 Real Property Gains Tax**

Specific real property gains tax ("RPGT") exemption has been provided to persons disposing properties to a REIT.

As noted above, where the REIT itself disposes investments, the gains will not be subject to income tax. However, where the investments represent properties or shares in real property companies, the gains will be subject to RPGT.

The applicable RPGT rates ranges from 30% to 5% and is dependant on the period of ownership of the properties or shares in real property companies.

#### **18.1.3 Stamp Duty**

Specific stamp duty exemption has been provided on instruments of transfer relating to property purchased by the REIT.

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## **18. Taxation (Cont'd)**

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### **18.2 Investors**

Unitholders should take advice from their own professional advisers as to their particular tax position.

#### **18.2.1 Income Tax**

(a) Resident Unitholders

The taxation of unitholders will depend on whether the unit holders are Malaysian residents or non-residents. Unitholders will be subject to income tax on distributions received from the REIT. Corporate Unitholders are taxed at the prevailing corporate tax rate, currently at 28% whilst individuals and other non-corporate Unitholders are taxed at graduated rates ranging from 1% to 28%.

Distributions representing the REIT's prior year income (which had already been taxed at REIT level) will carry a tax credit and the Unitholders can use such tax credits against their own tax liabilities.

Where the distributions represent specific exempt income at REIT level or gains on disposal of investments, the Unitholders will not be subject to income tax on such distributions.

(b) Non-resident Unitholders

Non-resident Unitholders will be subject to income tax through a withholding tax mechanism at the prevailing rate of 28%.

The 2007 Budget proposes that the withholding tax rate on distributions to non-residents as follows:-

(i)	Non-resident corporate investors	27%
(ii)	Non-resident institutional investors	20%
(iii)	Non-resident non-corporate investors	15%

These new rates are effective from YA 2007 and the reduced rates (ii) and (iii) are for 5 years.

The distributions to the non-resident corporate Unitholders will be taxed through a 28% withholding tax mechanism at REIT level. The withholding tax will be levied on taxable REIT distributions which will exclude gains on sale of investments, income specifically exempted and distributions representing REIT's prior year retained income.

Non-resident Unitholders may also be subject to tax in their respective jurisdictions depending on the provisions of their country's tax legislations.

Generally, any gains made by Unitholders (other than dealers in securities or financial institutions such as insurance companies and banks) on the sale or redemption of their investments in the REIT are treated as capital gains and will not be subject to income tax. This tax treatment will include gains in the form of cash or residual distribution in the event of the winding up of the REIT.

#### **18.2.2 Stamp Duty**

The stamp duty on the sale and purchase of Units by an investor on Bursa Securities may be found at Bursa Securities' website at [www.bursamalaysia.com](http://www.bursamalaysia.com).

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## 18. Taxation (Cont'd)

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### 18.3 Taxation Advisers' Letter



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**TAXATION ADVISER'S LETTER  
ON TAXATION OF THE TRUST AND UNITHOLDERS  
(Prepared for inclusion in this Prospectus)**

PricewaterhouseCoopers  
Taxation Services Sdn Bhd  
Reg. No. 464731-M  
11th Floor Wisma Sime Darby  
Jalan Raja Laut  
P O Box 10192  
50706 Kuala Lumpur, Malaysia  
Telephone +60 3 2693 1077  
Facsimile +60 3 2693 0997

**09 OCT 2006**

**PricewaterhouseCoopers Taxation Services Sdn Bhd**  
11<sup>th</sup> Floor, Wisma Sime Darby  
Jalan Raja Laut  
P.O. Box 10192  
50706 Kuala Lumpur

**The Board of Directors**  
Am ARA REIT Managers Sdn Bhd  
17th Floor, Bangunan AmBank Group  
55, Jalan Raja Chulan  
50200 Kuala Lumpur

Dear Sirs,

#### **TAXATION OF THE TRUST OFFERED UNDER AMFIRST REIT AND UNITHOLDERS**

This letter has been prepared for inclusion in the Prospectus to be dated **09 NOV 2006** in connection with the offer of units in AmFirst REIT ("the REIT").

The taxation of income for both the REIT and the Unitholders are subject to the provisions of the Malaysian Income Tax Act 1967 ("the Act"). The main provisions are contained in Section 61 of the Act, which deals specifically with the taxation of Trust bodies in Malaysia as well as guidelines issued by the tax authorities specifically on REITs.

#### **1. TAXATION OF THE REIT**

The REIT will be regarded as resident for Malaysian income tax purposes since the Trustee of the REIT is resident in Malaysia.

##### **1.1 Taxation of income**

Under the tax transparency system, the taxable income of the REIT consisting of rental, interest or profits<sup>1</sup> (other than interest or profits<sup>1</sup> which is exempt from income tax) and other investment income derived from or accruing in Malaysia (after deducting tax allowable expenses) which are distributed to Unitholders in the same basis period, is exempt from Malaysian income tax<sup>2</sup>.

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<sup>1</sup> Profits received on Syariah instruments which is in lieu of interest will be treated as interest for purposes of Malaysian taxation.

<sup>2</sup> It was recently proposed in Finance Bill 2006, as part of the 2007 Budget announcements, that the REIT will be fully exempted from income tax provided at least 90 per cent of its income is distributed to unit holders. If less than 90 per cent is distributed, the income of the REIT would be subject to income tax.



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Undistributed income of the REIT will be subject to Malaysian income tax, currently at the rate of 28 per cent<sup>3</sup>. Undistributed income which has been taxed at REIT level will have tax credits attached when distributed to Unitholders.

Taxable dividends received by the REIT would have tax credits attached, representing tax deduction at source at the prevailing tax rate of 28 per cent<sup>3</sup>. Such tax credits will be available for set off either wholly or partly against the tax liability of the REIT. Any excess over the tax liability will be refundable to the REIT.

Generally, gains on disposal of investments by the REIT will not be subject to income tax.

### 1.2 Exempt Income

Since REITs are considered to be unit trusts, tax exemption is available on certain income including interest, profits<sup>1</sup> or discount from the following investments:

- (a) securities or bonds issued or guaranteed by the Government;
- (b) debentures, other than convertible loan stocks, approved by the Securities Commission;
- (c) Bon Simpanan Malaysia issued by Bank Negara Malaysia;
- (d) Bonds, other than convertible loan stocks, paid or credited by any company listed in Malaysia Exchange of Securities Dealing and Automated Quotation Berhad; and
- (e) bonds issued by Pengurusan Danaharta Nasional Berhad.

Interest or profits<sup>1</sup> paid or credited by any bank or financial institution licensed under the Banking and Financial Institutions Act 1989 or the Islamic Banking Act 1983 are tax exempted.

Offshore sourced income received by the REIT from overseas investment will also be tax exempted.

The income exempted at REIT level will also be exempted from tax upon distribution to the Unitholders.

### 1.3 Tax Deductible Expenses

Since rental income of a REIT is treated as business income, expenses incurred wholly and exclusively in the production of gross rental income are allowable as tax deductions. Similarly, capital allowance will be available on qualifying capital expenditure incurred by the REIT as tax deductions.

However, any excess deductions or unabsorbed capital allowance cannot be carried forward as deduction against future rental income.

### 1.4 Real Property Gains Tax

Specific real property gains tax ("RPGT") exemption has been provided to persons disposing properties to a REIT.

As noted above, where the REIT itself disposes investments, the gains will not be subject to income tax. However, where the investments represent properties or shares in real property companies<sup>4</sup>, the gains will be subject to RPGT.

<sup>3</sup> Resident companies with paid up capital RM2.5 million and below will pay tax at 20% for the first RM500,000 of chargeable income with the balance taxed at normal corporate tax rate of 28%. It was proposed during the 2007 Budget that the normal corporate tax rate be reduced to 27 per cent for YA 2007 and reduced further to 26 per cent from YA 2008 onwards.

<sup>4</sup> A real property company is a controlled company which owns or acquires real property or shares in real property companies with a market value of not less than 75 per cent of its total tangible assets. A controlled company is a company which does not have more than 50 members and is controlled by not more than 5 persons.



The applicable RPGT rates ranges from 30% to 5% and is dependant on the period of ownership of the properties or shares in real property companies.

### 1.5 Stamp duty

Specific stamp duty exemption has been provided on instruments of transfer relating to property purchased by the REIT.

## 2. TAXATION OF UNITHOLDERS

The taxation of unitholders will depend on whether the unit holders are Malaysian residents or non-residents.

### 2.1 Resident Unitholders

Unitholders will be subject to income tax on distributions received from the REIT. Corporate Unitholders are taxed at the prevailing corporate tax rate, currently at 28 per cent<sup>3</sup> whilst individuals and other non-corporate Unitholders are taxed at graduated rates ranging from 1 per cent to 28 per cent<sup>5</sup>.

Distributions representing the REIT's prior year income (which had already been taxed at REIT level) will carry a tax credit and the Unitholders can use such tax credits against their own tax liabilities.

Where the distributions represent specific exempt income at REIT level (as noted under 1.2 above) or gains on disposal of investments, the Unitholders will not be subject to income tax on such distributions.

### 2.2 Non-resident Unitholders

Non-resident Unitholders will be subject to income tax through a withholding tax mechanism at the prevailing rate of 28 per sent<sup>6</sup>.

The distributions to the non-resident corporate Unitholders will be taxed through a 28 per cent<sup>3</sup> withholding tax mechanism at REIT level. The withholding tax will be levied on taxable REIT distributions which will exclude gains on sale of investments, income specifically exempted under 1.2 and distributions representing REIT's prior year retained income.

Non-resident Unitholders may also be subject to tax in their respective jurisdictions depending on the provisions of their country's tax legislations.

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<sup>5</sup> The recent 2007 Budget proposed a reduction of tax rate on distributions received by Residents non-corporate investors to 15% through a withholding tax mechanism. This reduction in tax rate is for 5 years beginning from year of assessment 2007.

<sup>6</sup> The 2007 Budget proposes that the withholding tax rate on distributions to non-residents as follows:-

- (a) Non-resident corporate investors 27%
- (b) Non-resident institutional investors 20%
- (c) Non-resident non-corporate investors 15%

These new rates are effective from YA 2007 and the reduced rates (b) and (c) are for 5 years.



### 2.3 Disposals by Unitholders

Generally, any gains made by Unitholders (other than dealers in securities or financial institutions such as insurance companies and banks) on the sale or redemption of their investments in the REIT are treated as capital gains and will not be subject to income tax. This tax treatment will include gains in the form of cash or residual distribution in the event of the winding up of the REIT.

Dealers in securities and financial institutions will normally be subject to income tax since such gains will be seen to be part of business income. Foreign dealers and financial institutions may not be subject to Malaysian income tax on such gains where they do not have a business presence or permanent establishment in Malaysia.

Unitholders electing to receive their income distribution by way of investment in the form of new units will be regarded as having purchased the new units out of their income distribution.

Unit splits issued by the REIT are not taxable in the hands of Unitholders.

We hereby confirm that the statements made in this report correctly reflect our understanding of the tax position under current Malaysian tax legislation and the interpretations thereof. We recommend that investors obtain independent advice on the tax issues associated with their investments in the REIT.

Yours faithfully,  
for and on behalf of

**PRICEWATERHOUSECOOPERS TAXATION SERVICES SDN BHD**

A large, stylized handwritten signature in black ink, appearing to read 'Jennifer Chang', written over the company name.

Jennifer Chang  
Senior Executive Director

PricewaterhouseCoopers Taxation Services Sdn Bhd has given written consent to the inclusion of the report as Taxation Adviser in the form and context in which it appears in this Prospectus and has not withdrawn such consent prior to the delivery of a copy of this Prospectus for approval.

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## **19. General Information**

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### **19.1 Other Pertinent Information to Unitholders**

**(i) Means by which Unitholders Can Keep Abreast of Developments of AmFIRST REIT**

Unitholders can keep abreast of the development of AmFIRST REIT via announcements made on Bursa Securities' website ([www.bursamalaysia.com](http://www.bursamalaysia.com)), annual reports and interim reports that will be sent to Unitholders.

**(ii) Means by which Unitholders Can Keep Track of the Current Price per Unit/ NAV per Unit**

Unitholders are able to keep track of the market price per Unit and the NAV per Unit as announced by Am ARA through Bursa Securities' website ([www.bursamalaysia.com](http://www.bursamalaysia.com)) and daily Malaysian newspapers (*in English and Bahasa Malaysia*). AmFIRST REIT will also be providing the Unitholders with an annual report and interim report each year on its performance which will also include information on the NAV per Unit.

**(iii) Unitholders Services Centre**

If you require any assistance on AmFIRST REIT, you may contact Am ARA at:-

17<sup>th</sup> Floor, Bangunan AmBank Group,  
55, Jalan Raja Chulan  
50200 Kuala Lumpur  
Malaysia  
Tel: 603-2078 2633/44  
Fax: 603-2732 0644

### **19.2 Consents**

The written consent of Adviser, Managing Underwriter, Lead Arranger, Sole Bookrunner, Solicitors in the form and context in which they are contained in this Prospectus has been given before the issue of this Prospectus and has not subsequently been withdrawn.

The written consent of the Reporting Accountants to the inclusion in this Prospectus of its name and letters relating to Sections 8.2, 8.3 and 8.7, in the form and context in which they are contained in this Prospectus has been given before the issue of this Prospectus and has not subsequently been withdrawn.

The written consent of the Taxation Adviser to the inclusion in this Prospectus, of its name and the taxation advisers letter in the form and context in which they are contained in this Prospectus has been given before the issue of this Prospectus and has not subsequently been withdrawn.

The written consent of the Independent Property Valuer and Property Market Consultant to the inclusion in this Prospectus of its name, valuation certificate and report in the form and context in which they are contained in this Prospectus has been given before the issue of this Prospectus and has not subsequently been withdrawn.

### **19.3 Documents for Inspection**

Copies of the following documents may be inspected, without charge, at Am ARA's registered office and/or the registered office of the Trustee during normal business hours for a period of twelve(12) months from the date of this Prospectus:

- (i) the Deed;
- (ii) the material contracts referred to in Section 19.4 of this Prospectus;

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**19. General Information (Cont'd)**

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- (iii) the Reporting Accountants' letters relating to profit forecasts and projections for 5-month period ending 31 March 2007 and the 3 financial years ending 31 March 2008 to 31 March 2010 and Proforma Balance Sheets of AmFIRST REIT together with the bases and assumptions as included in Sections 8.2, 8.3 and 8.8 respectively;
- (iv) the valuation reports on the Properties;
- (v) the Valuation Certificate as included in Section 16 of this Prospectus;
- (vi) the Taxation Adviser's letter as included in Section 18.3 of this Prospectus;
- (vii) the Property Market Report on the Office Sector in Klang Valley as included in Section 17 of this Prospectus; and
- (viii) the letters of consent referred to in Section 19.2 of this Prospectus.

**19.4 Material Contracts**

Save as disclosed below, there are no other material contracts (*including contracts not reduced into writing*), not being contracts entered into in the ordinary course of business, which have been entered into that relate to AmFIRST REIT within two years preceding the date of this Prospectus:

- (i) the Deed dated 28 September 2006 entered into between the Trustee and Am ARA as the Manager constituting AmFIRST REIT;
- (ii) the sale and purchase agreement dated 12 October 2006 (as supplemented on 1 November 2006) entered into between AmBank as the vendor and the Trustee as the purchaser for the sale and purchase of Menara AmBank for a consideration of RM230,000,000 satisfied by the issuance of 230,000,000 new Units at an issue price of RM1.00 per Unit;
- (iii) the sale and purchase agreement dated 12 October 2006 entered into between AmFPT as the vendor and the Trustee as the purchaser for the sale and purchase of:-
  - (a) BAG for a consideration of RM180,000,000 satisfied by the issuance of 180,000,000 new Units at an issue price of RM1.00 per Unit;
  - (b) AGLC for a consideration of RM19,000,000 satisfied by the issuance of 19,000,000 new Units at an issue price of RM1.00 per Unit; and
  - (c) Menara Merais for a consideration of RM57,000,000 to be satisfied by cash consideration of RM57,000,000;
- (iv) the underwriting agreement dated 12 October 2006 made between AmPTMB, the Underwriters and Mayban Trustees Berhad (on behalf of AmFPT) for the underwriting of 138,400,225 Units and 60,599,775 Units pursuant to the Cash Option and offer for sale by AmFPT respectively;
- (v) the underwriting agreement dated 12 October 2006 made between the Underwriters and AHB for the underwriting of 96,246,917 Units pursuant to the Restricted Offer For Sale;
- (vi) the property management agreement dated 12 October 2006 entered into between JLW, the Trustee and Am ARA pursuant to which JLW will provide certain property management services for BAG;
- (vii) the property management agreement dated 12 October 2006 entered into between JLW, the Trustee and Am ARA pursuant to which JLW will provide certain property management services for AGLC;



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**19. General Information (Cont'd)**

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- (viii) the property management agreement dated 12 October 2006 entered into between Rahim & Co, the Trustee and Am ARA pursuant to which Rahim & Co will provide certain property management services for Menara AmBank;
- (ix) the property management agreement dated 12 October 2006 entered into between Rahim & Co, the Trustee and Am ARA pursuant to which Rahim & Co will provide certain property management services for Menara Merais;
- (x) the Manager and the Registrar had on 13 October 2006 entered into a Registry Service Agreement for the appointment of the Registrar as the registrar for AmFIRST REIT in relation to the provision of unitholders' registry processing, related data processing and other similar services subject to the schedule of fees as set out in the Registry Service Agreement and upon the terms and conditions contained therein; and
- (xi) the Manager and ARA Asset Management (Malaysia) Limited ("ARA") had on 29 September 2006 entered into an agreement for the provision by ARA of, amongst others, the following services:-
  - (a) identifying, researching and evaluating potential acquisitions or disposal of asset with a view to enhancing the portfolio of AmFIRST REIT; and
  - (b) recommending and analysing potential asset enhancement initiatives.

Except as provided in the agreement, for the services rendered, ARA is entitled to the following fees:-

- (a) an acquisition fee of 1% of the acquisition price of any asset of AmFIRST REIT being real estate or a single-purpose company acquired by the Trustee for AmFIRST REIT (pro rated if applicable to the proportion of the interest in such real estate or single-purpose company) purchased by the Trustee for AmFIRST REIT; and
- (b) a divestment fee of 0.5% of the sale price of any asset of AmFIRST REIT being real estate or a single-purpose company sold or divested by the Trustee (pro rated if applicable to the proportion of the interest of AmFIRST REIT in such asset of AmFIRST REIT sold).

**19.5 Real Estate Purchased or to be Purchased out of the Proceeds of the IPO within the Two Preceding Years**

AmFIRST REIT is not raising any proceeds from the IPO save for the RM1,000 pursuant to the issuance of the Promoter Units which will be utilised as working capital.

**19.6 Responsibility Statement**

This Prospectus has been seen and approved by the Directors of Am ARA, AIGB, AHB and AmPTMB and they collectively and individually accept full responsibility for the accuracy of all information contained herein and confirm that, having made all enquiries which are reasonable in the circumstances, that to the best of their knowledge and belief, there are no other facts, the omission of which would make any statement herein misleading.

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## **20. Salient Terms of Deed**

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*The following information is a summary of the provision of the Deed. A copy of the Deed, together with all relevant exemptions and waivers by the SC or Bursa Securities, as the case may be, can be inspected at the Manager's registered office during normal business hours. The provisions of the SCA, the REIT Guidelines, the SC Guideline on Unit Trust Funds and the Securities Industry (Central Depositories) Act 1991, the Rules of Bursa Depository and the Securities Industry (Central Depositories) (Foreign Ownership) Regulations while the Units are deposited with the Bursa Depository pursuant to the Central Depositories Act 1991 and the Listing Requirements of Bursa Securities while the Units are listed on Bursa Securities, as amended from time to time, except to the extent of any express written exemption or waiver (together, the "REIT Regulatory Regime"), affect the terms of the Deed and the rights and obligations of the Trustee, the Manager and the Unitholders.*

*Units which are listed on Bursa Securities will be deposited with Bursa Depository or any computerised or electronic system of transfer or registration in accordance with the provision of the Central Depositories Act. For so long as the Units have been prescribed as a **prescribed security** and are deposited with the Bursa Depository pursuant to the Central Depositories Act, a depositor whose name appears in the record of depositors maintained by the Bursa Depository shall be deemed to be a Unitholder and shall, subject to the Central Depositories Act and regulations thereunder, be entitled to the number of Units stated in the record of depositors and all rights, benefits, powers and privileges and be subject to all liabilities, duties and obligations in respect of, or arising from such Units.*

*The Deed is a complex document and you should refer to the Deed and the REIT Regulatory Regime themselves for a detailed understanding of AmFIRST REIT.*

### **20.1 The Deed**

The AmFIRST REIT is a real estate investment trust constituted by the Deed, as entered into between the Manager and the Trustee on 28 September 2006.

The terms and conditions of the Deed and any supplemental Deed are binding on each Unitholder (and persons claiming through or under such Unitholder) as if such Unitholder had been party to and had executed the Deed and any supplemental Deed and had thereby covenanted for such Unitholder and for all such persons to observe and be bound by the provisions the Deed and had thereby authorised and required the Trustee and the Manager, respectively, to do all such acts and things as the Deed may require or authorise the Manager and Trustee, respectively, to do.

The Deed is governed by the law of Malaysia.

AmFIRST REIT is a real estate investment trust. Each asset of AmFIRST REIT is vested in, and held by or on behalf of, the Trustee on trust in accordance with the terms of the Deed. The rights of the Unitholders under the Deed are divided into Units.

### **20.2 The Units and Unitholders**

The rights and interests of Unitholders are contained in the Deed. Under the Deed, the Trustee safeguards these rights and interests.

Each Unit represents an undivided interest in AmFIRST REIT. A Unitholder has no equitable or proprietary interest in the underlying assets of AmFIRST REIT and is not entitled to the transfer to it of any assets (or any part thereof) or any interest in any assets (or any part thereof) of AmFIRST REIT. A Unitholder's right is limited to the right to require due administration of AmFIRST REIT in accordance with the provisions of the Deed, including without limitation, by suit against the Trustee or the Manager.

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## **20. Salient Terms of Deed (Cont'd)**

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Under the Deed, each Unitholder acknowledges that it will not commence or pursue any action against the Trustee or the Manager seeking an order for specific performance or for injunctive relief in respect of the assets of AmFIRST REIT (or any part thereof), and waives any rights it may otherwise have to such relief. If the Trustee or the Manager breach or threaten to breach the Manager's duties or obligations to the Unitholders under the Deed, the Unitholders' recourse against the Trustee or the Manager is limited to a right to recover damages or compensation from the Trustee or the Manager in a court of competent jurisdiction and the Unitholders acknowledge and agree that damages or compensation is an adequate remedy for such breach or threatened breach.

A Unitholder may not interfere or seek to interfere with the Trustee's or the Manager's rights, powers, authority or discretion and exercise any right in respect of the assets of AmFIRST REIT or any part thereof or lodge any caveat or other notice affecting the assets of AmFIRST REIT or any part thereof, or require that the assets of AmFIRST REIT or any part thereof be transferred to such Unitholder.

### **20.3 Issue of Units**

The Manager may on or after the date of registration of the Deed with the SC subscribe for not more than one thousand (1,000) initial Units and lodge with the Trustee the subscription sum to be held upon the trust of the Deed as application monies for those initial Units provided that such Units are disposed of upon Listing.

### **20.4 Suspension of Issue of Units**

The Manager may, with the prior written notification to the Trustee and subject to the Listing Requirements, suspend the trading of Units during:

- (a) any period when Bursa Securities or any other relevant recognised stock exchange is closed (otherwise than for public holidays) or during which dealings are restricted or suspended;
- (b) the existence of any state of affairs which, in the opinion of the Manager and the Trustee might seriously prejudice the interests of the Unitholders as a whole or of the assets of AmFIRST REIT;
- (c) any breakdown in the means of communication normally employed in determining the market value of the AmFIRST REIT, or when for any reason the market value of AmFIRST REIT cannot be promptly and accurately ascertained;
- (d) any period when remittance of money which will or may be involved in the realisation of any assets of AmFIRST REIT or in the payment for such assets of AmFIRST REIT cannot, in the opinion of the Manager and the Trustee, be carried out at normal rates of exchange;
- (e) in relation to any general meeting of the Unitholders, the period of 48 hours before such general meeting or any adjournment thereof;
- (f) any period where the issuance of Units is suspended pursuant to any order or direction issued by Bursa Securities or any other authorised regulatory body; or
- (g) when the business operations of the Manager or the Trustee in relation to AmFIRST REIT are substantially interrupted or closed as a result of, or arising from, pestilence, acts of war, terrorism, insurrection revolution, civil unrest, riots, strikes or acts of God.

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## **20. Salient Terms of Deed (Cont'd)**

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Such suspension will take effect forthwith upon the declaration in writing of the same by the Manager or the Trustee (provided the prior written approval of the other is obtained) and shall terminate on the day following the first Business Day on which the condition giving rise to the suspension ceases to exist and no other conditions under which suspension is authorised (as set out above) exists, upon the declaration in writing of the same by the Manager or the Trustee (provided the prior written approval of the other is obtained). The Manager will ensure that immediate announcement of such suspension is made to Bursa Securities.

### **20.5 Sale of Units**

In the event AmFIRST REIT is delisted, the Manager must sell Units upon the receipt of a written request from an investor to the Manager requesting for purchase of Units, in such form as prescribed by the Manager unless the Manager have reasonable grounds not to do so. On purchase the investor shall pay or caused to be paid to the Manager the value of the Unit which is derived after dividing the NAV of AmFIRST REIT at the next valuation point after the Manager receive the request by the total number of Units in issue on the same day, provided that the total amount to be paid to the Manager for the Units specified in the request shall be rounded to at least 4 decimal places after factoring the sales charge (if any) into the price and must be applied consistently.

### **20.6 Repurchase of Units**

Upon delisting of AmFIRST REIT, a Unitholder may issue a written request to the Manager requesting for a repurchase of all or any of the Units in such form as prescribed by the Manager. The Manager must repurchase the Units requested within a period of not more than 30 days from receipt of the request provided that all issue price monies in respect of the Units have been fully paid. On repurchase the Manager shall pay or cause to be paid to the Unitholder the value of the Unit which is derived after dividing the NAV of AmFIRST REIT at the next valuation point after the Manager receive the request by the total number of Units in issue on the same day, provided that the total amount to be paid to the Unitholder for the Units specified in the request shall be rounded downwards to the nearest sen.

In complying with the request, the Manager may select any of the following in respect of the whole or any part of the Units, which the Manager is required to repurchase:

- (a) the Manager may temporarily repurchase the Units out of the Manager's own funds and pay the Unitholder the repurchase proceeds within fourteen (14) days from the date of receipt of the request by the Manager and such repurchased Units shall within thirty (30) days from the date of receipt of request, be:
  - (i) sold by the Manager to a buyer or buyers; or
  - (ii) surrendered by the Manager to the Trustee for cancellation and reimbursement out of the assets of AmFIRST REIT. The Trustee shall, within thirty (30) days after receipt of the Manager's cancellation request reimburse the Manager at the then current repurchase price provided there is sufficient amount of the assets of AmFIRST REIT available in cash to enable the Trustee to make such payment; or
- (b) the Manager may find a buyer or buyers for the Units to be repurchased at a price which must be at least the repurchase price within the period of not more than 30 days from date of receipt of the request by the Manager; or
- (c) the Manager may request the Trustee to redeem the Units to be repurchased and pay the Unitholder the repurchase price out of the assets of AmFIRST REIT within the period of not more than 30 days from date of receipt of the request by the Manager and the Manager shall ensure that a sufficient amount of the assets of AmFIRST REIT are available in cash to enable the Trustee to make such payment.

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## **20. Salient Terms of Deed (Cont'd)**

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Where the Manager temporarily holds Units in situations stated in (a) above, the Manager may be entitled to a return on capital in the event of a winding-up of AmFIRST REIT, and distribution of income rights provided that the income distribution is based on Unit days of participation.

In the event that the Trustee is directed to redeem the Units and where the Trustee considers that it is not in the interests of the Unitholders to incur borrowings for the redemption in the manner allowed under the applicable laws and requirements or permit the assets of AmFIRST REIT to be sold or that the said assets of AmFIRST REIT cannot be liquidated at an appropriate price or on adequate terms, the Trustee shall refuse to comply with such request and to sell any of the assets of AmFIRST REIT and shall suspend the repurchase of Units and immediately convene a meeting of Unitholders to decide on the next course of action.

The suspension of the repurchase of Units shall only be exercised where the interest of the Unitholders or potential Unitholders would be materially affected if the repurchase of Units were not suspended. The Manager may also suspend the repurchase of Units for any period when the issue of Units is suspended.

### **20.7 Rights and Liabilities of Unitholders**

Subject to the rights of Unitholders created by the Deed and by law:

- (a) a Unitholder has no equitable or proprietary interest in any particular asset of AmFIRST REIT held by the Trustee and is not entitled to the transfer to it of any assets of AmFIRST REIT or any part of the assets of AmFIRST REIT or of any estate or interest in the assets of AmFIRST REIT or in any part of the assets of AmFIRST REIT;
- (b) the right of a Unitholder in the assets of AmFIRST REIT and under the Deed is limited to the right to require the due administration of AmFIRST REIT distribution of the assets of AmFIRST REIT in accordance with the Deed including, without limitation, by suit against the Trustee or the Manager;
- (c) without limiting the generality of the foregoing, each Unitholder acknowledges and agrees that:
  - (i) it will not commence or pursue any action against the Trustee or the Manager seeking an order for specific performance or for injunctive relief in respect of the assets of AmFIRST REIT or any part of the assets of AmFIRST REIT and hereby waives any rights it may otherwise have to such relief;
  - (ii) if the Trustee or the Manager breaches or threatens to breach its duties or obligations to a Unitholder under the Deed, that Unitholder's recourse against the Trustee or the Manager is limited to a right to recover damages or compensation from the Trustee or the Manager in a court of competent jurisdiction; and
  - (iii) damages or compensation is an adequate remedy for such breach or threatened breach;
- (d) a Unitholder may not:
  - (i) interfere or seek to interfere with or restrict the rights, powers, authority or discretion of the Manager or the Trustee or restrict the exercise of any discretion expressly conferred on the Manager or Trustee under the Deed or the determination of any matter which, under the Deed, requires the agreement of either or both of the Manager and the Trustee;
  - (ii) exercise any right in respect of the assets of AmFIRST REIT or any part of the assets of AmFIRST REIT or lodge any caveat or other notice affecting the assets of AmFIRST REIT or any part of the assets of AmFIRST REIT;

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## **20. Salient Terms of Deed (Cont'd)**

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- (iii) require that any assets of AmFIRST REIT or any part of the assets of AmFIRST REIT be transferred to a Unitholder; and
- (iv) give any directions to the Manager or Trustee if it would require the Manager or Trustee to do or omit doing anything which may result in AmFIRST REIT ceasing to comply with the applicable laws and requirements.

Notwithstanding any other provisions of the Deed, provided that the Offer Price is paid in full, no Unitholder shall be under any obligation personally to indemnify the Trustee or the Manager or any of their creditors in the event of there being any deficiency of the assets of AmFIRST REIT. The liability of each Unitholder shall be limited to the Offer Price payable by the Unitholder for the Unit(s) held by the Unitholder.

### **20.8 Amendments of the Deed**

Save where an amendment to the Deed has been approved by a resolution of not less than 2/3 of all Unitholders for the time being (or such other majority as may be required under the REIT Guidelines) passed at a meeting of Unitholders duly convened and held in accordance with the provisions of the Deed, no amendment may be made to the provisions of the Deed unless the Trustee certifies, in its opinion, that such amendment does not materially prejudice the interest of Unitholders and does not operate to release to any material extent the Trustee or the Manager from any responsibility to the Unitholders, and is:

- (a) necessary or expedient to comply with applicable fiscal, statutory or official requirements (whether or not having the force of law) including the requirements under the applicable laws and requirements or any changes to any of the foregoing from time to time;
- (b) made to correct a manifest error or is of a formal, technical or administrative nature only;
- (c) necessary or expedient for the purpose of complying with any ruling issued by the Malaysian taxation authorities relating to taxation of AmFIRST REIT and/or the Unitholders (including modifications to provisions on distributions under the Deed in order to comply with any ruling on taxation relating to AmFIRST REIT or the Unitholders); or
- (d) in any other circumstances not materially adverse to the interest of the Unitholders and not likely to become so.

### **20.9 Meetings of Unitholders**

Under the applicable laws and requirements and the provisions of the Deed, AmFIRST REIT will not hold any meetings for Unitholders unless the Trustee or the Manager convene or unless not less than 50 Unitholders or 1/10<sup>th</sup> in number of Unitholders, whichever is lesser, request a meeting to be convened.

Any decision to be made by resolution of Unitholders shall be made by Ordinary Resolution, unless a Special Resolution is required by the applicable laws and requirement and/or the Deed.

At least 10 Business Days' or 14 days' (whichever is the longer) notice of every meeting (other than a meeting convened to pass a Special Resolution, which requires at least 15 Business Days' or 21 days' (whichever is the longer) notice) shall be given to the Unitholders in the manner provided in the Deed. The quorum at a meeting shall be as follows:

- (a) where an Ordinary Resolution is to be proposed, at least 5 persons holding or representing by proxy at least 10% of all the Units which carry the right to vote at the meeting; and

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## **20. Salient Terms of Deed (Cont'd)**

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- (b) where a Special Resolution is to be proposed, at least 5 persons holding or representing by proxy at least 15% of all the Units which carry the right to vote at the meeting.

Voting at a meeting shall be by show of hands provided that a poll shall be taken in any case where:

- (a) it is required by the Deed or by law that the question be decided by a majority which is to be measured by a percentage of the votes of those present; or
- (b) it is demanded either before or immediately after any question is put to a show of hands by Unitholders present, holding (or representing by proxy) between them not less than 5% of the Units issued.

Unitholders do not have different voting rights on account of the number of Units held by a particular Unitholder. On a show of hands, every Unitholder has 1 vote. On a poll, every Unitholder has 1 vote for each Unit it holds.

A Unitholder shall be entitled to attend and vote at any meeting of Unitholders, and shall be entitled to appoint another person (whether a Unitholder or not) as its proxy to attend and vote. Where a Unitholder is a corporation, its duly authorised representative shall be entitled to attend and vote at any meeting of Unitholders, and shall be entitled to appoint another person (whether a Unitholder or not) as its proxy to attend and vote. Where the Unitholder is an authorised nominee as defined under the Central Depositories Act, it may appoint at least 1 proxy in respect of each CDS Account it holds with Units standing to the credit of the said CDS Account. Where a Unitholder appoints 2 proxies in accordance with this provision, the appointment shall be invalid unless it specifies the proportions of its holdings to be represented by each proxy. Such proxy shall have the same rights as the member to vote whether on a poll or a show of hands, to speak and to be reckoned in a quorum.

The Manager is not permitted to hold Units other than up to 1,000 initial Units which must be disposed of upon the Listing. Neither the Manager nor its related corporations or associated persons (as defined in the Deed) shall be entitled to vote in respect of any matter and shall not be counted in a quorum, unless otherwise permitted by the SC.

### **20.10 Directors' Declaration of Unitholdings**

Under the Deed, directors of the Manager are required to give notice to the Manager of their acquisition of Units or to changes to the number of Units which they hold or in which they have an interest, within two (2) Business Days after such acquisition or the occurrence of the event giving rise to changes in the number of Units which they hold or in which that have an interest, as applicable.

The director is deemed to have an interest in Units in similar circumstances where a person would be deemed to have an interest in a share pursuant to Section 6A of the Act.

### **20.11 Role of the Trustee**

The Trustee's duties and obligations are set out in the Deed and are summarised in Section 13.2 of this Prospectus.

In the exercise of its powers, the Trustee may (on the Manager's recommendation) and subject to the provision of the Deed, acquire or dispose of any real or personal property, borrow and encumber any assets.

The Trustee may, subject to the provisions of the Deed, appoint an engage:

- (i) a person or entity to exercise any of its powers or perform its obligations (subject to the approval of SC for such delegation); and
- (ii) agent and experts to assist the Trustee in carrying out and performing its duties and functions as owner of the assets of AmFIRST REIT.

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## **20. Salient Terms of Deed (Cont'd)**

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Although the Trustee may borrow money and obtain other financial accommodation for the purposes of AmFIRST REIT, both on a secured and unsecured basis, the Manager must not direct the Trustee to incur a liability if to do so would mean that total liabilities of AmFIRST REIT exceeds 50% (or such other limit as may be permitted by the REIT Guidelines) of the Total Asset Value of AmFIRST REIT at the time of borrowings are incurred.

The Trustee must carry out its functions and duties and comply with all the obligations imposed on it by the applicable laws and requirement and set out on in the Deed. It must retain or cause to be retained the assets of AmFIRST REIT in safe custody and cause the accounts of AmFIRST REIT to be audited. It must also cause a qualified valuer to value the real estate held by AmFIRST REIT (directly or through single-purpose companies) at least once in every 3 years from the last valuation date or as the REIT Guidelines may stipulate.

The Trustee is not personally liable to a Unitholder in connection with the office of the Trustee except in respect of its own fraud, negligence, wilful default, breach of duty or breach of trust. Any liability incurred and any indemnity to be given by the Trustee shall be limited to the assets of AmFIRST REIT over which the Trustee has recourse, provided that the Trustee has acted without fraud, negligence, wilful default, breach of trust or breach of the Deed. The Deed contains certain indemnities in favour of the Trustee under which it will be indemnified out of the assets of AmFIRST REIT for liability arising in connection with certain acts or omissions. These indemnities are subject to any applicable laws.

### **20.12 Role of the Manager**

The duties and obligations are set out in the Deed and are summarised in Section 11.3 of this Prospectus.

AmFIRST REIT may, subject to the subject to the provisions of the Deed, appoint an engage:

- (i) a person or entity to exercise any of the Manager's powers or perform its obligations (subject to the approval of SC for such delegation, where required); and
- (ii) agent and experts to assist the Manager in carrying out and performing the Manager's duties and functions as Manager of AmFIRST REIT.

The Manager is not personally liable to a Unitholder in connection with its office except in respect of its own fraud, negligence, wilful default, breach of duty. Any liability incurred and any indemnity to be given by the Manager shall be limited to the assets of AmFIRST REIT over which the Manager have recourse, provided that the Manager have acted without fraud, negligence, wilful default or breach of the Deed. The Deed contains certain indemnities in favour of the Manager under which the Manager will be indemnified out of the assets of AmFIRST REIT for liability arising in connection with certain acts or omissions. These indemnities are subject to any applicable laws.

### **20.13 Retirement, Removal and Replacement of the Trustee and Manager**

The provisions of the Deed on the retirement, removal and replacement of the Trustee and Manager are summarised in Sections 11.8 and 13.3 of this Prospectus.

### **20.14 Trustee's Fees and Manager's Fees**

The provisions of the Deed on the Trustee's fees and the Manager's fees are summarised in Sections 9.1 and 9.4 of this Prospectus.



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## **20. Salient Terms of Deed (Cont'd)**

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### **20.15 Permitted Charges to AmFIRST REIT**

The Trustee and/or the Manager shall in addition to their remuneration and rights to indemnification or reimbursement conferred under any other provision of the Deed or by law, respectively be indemnified and shall be reimbursed out of either the income of AmFIRST REIT or the capital of AmFIRST REIT (as determined from time to time between the Manager after consultation with the Auditor) for all fees, costs, charges, expenses and outgoings reasonably and properly incurred by or on behalf of the Trustee or the Manager as the case may be, that are directly related and necessary to the business of AmFIRST REIT including but not limited to:

- (a) fees and costs of engaging any expert or independent adviser in connection with any breach of the observance or performance by the other of them of the covenants, obligations, conditions and provisions of the Deed if incurred in engaging any expert or independent adviser in the interest of the Unitholders;
- b) costs of convening and holding of any meeting of Unitholders including investor meetings or analyst briefings, non-deal roadshows to update investors and carrying out any directions or resolutions of any such meeting, other than those convened by or for the benefit of the Manager and the Trustee;
- c) the fees and expenses properly incurred expenses of the Auditor;
- d) the fees and disbursements of the solicitors for either the Trustee or the Manager in advising AmFIRST REIT, the Trustee or the Manager as the case requires on the establishment of AmFIRST REIT and matters arising in connection with the discharge of its obligations under the Deed;
- e) stamp duty on cheques and other charges and duties payable from time to time on or in respect of the Deed;
- f) bank fees and other charges (including but not limited to bank account debits tax and charges in respect of financial institutions duty) incurred in connection with the keeping of or the transaction of business on the bank accounts for the Trustee or of the Manager in relation to AmFIRST REIT and its management;
- g) the cost of incidental to the printing, publishing and sending out to Unitholders (including announcements on Bursa Securities (if any)), accounts, cheques, distribution statements, reports, circulars and other notices or documents as may be agreed upon by the Trustee and the Manager to be necessary or desirable to be circulated amongst or sent out to Unitholders;
- h) the cost of preparing and printing the Prospectus or any other offering document registered in relation to AmFIRST REIT or any letters of offer or other documents for the issue of Units required by law and all other costs and expenses incurred in relation to the Listing including underwriting brokerage and commissions, advisors fees and expenses, fees payable to regulatory authorities, printing and advertising charges provided that the no service charge or upfront fee is payable to the Manager in connection with the Listing or such other issue;
- i) reasonable remuneration of and all costs, charges and expenses incurred by any receiver appointed under the Deed;
- j) all duties, taxes, charges, expenses and outgoings which by the provisions of the Deed may be or are to be borne by or out of AmFIRST REIT or are charged on AmFIRST REIT by the Government and other authorities and which are to be brought to account when determining the amount available for distribution by AmFIRST REIT and which are in fact paid by the Trustee or the Manager provided that this sub-clause (j) shall not impose on the Trustee or the Manager any obligation not elsewhere in the Deed imposed on either or both of them to pay such duties, taxes, costs, charges, expenses and outgoings;

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## **20. Salient Terms of Deed (Cont'd)**

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- k) the fees and disbursements of any qualified valuer appointed pursuant to the Deed for the valuation of any investment of AmFIRST REIT for the benefit of AmFIRST REIT;
- l) expenses incurred in the maintenance of real estate held by AmFIRST REIT including the fees of any duly appointed property manager;
- m) all outgoings which are a necessary or desirable incident of the investment or administration of AmFIRST REIT including but without limiting the generality of the foregoing quit rent, assessment, water rates, repairs and maintenance, insurance, electricity landscaping, development & redevelopment costs, subdivision costs, alterations, reasonable travel & accommodation, marketing & promotion and cleaning charges incurred in relation to any real estate held by AmFIRST REIT;
- n) costs incurred in connection with the removal or retirement or appointment of the Trustee or the Manager in accordance with this Deed;
- o) costs incurred for the modification of the Deed or for the preparation of supplemental deeds, other than in relation to modifications for the benefit of the Manager and the Trustee; and
- p) costs incurred for the procurement of credit rating for AmFIRST REIT;
- q) costs incurred for the procurement of borrowings and related costs of borrowings;
- r) costs incurred for or associated with the subdivision or consolidation of Units under Clause 5 of the Deed;
- s) costs incurred for or associated with the acquisition or incorporation of special-purpose companies for holding investments and the costs of maintaining, managing and administering such companies and, where applicable, the cost of liquidating such companies;
- t) all reasonable expenses connected with the negotiation for and acquisition/divestment of any authorised investment, including commission and advisory fees payable to real estate agents, property managers, asset managers and advisors, notwithstanding that they may be a related party of the Manager; and
- u) such other costs and expenses that the Trustee accepts as being directly relation and necessary to the business of AmFIRST REIT;

Provided that expenses associated with the management and administration of AmFIRST REIT, including general overheads and costs for services which the Manager or Trustee is expected to provide, or falling within the normal expertise of the Manager or Trustee, must not be charged to AmFIRST REIT. Without limitation to the generality of the foregoing, all fees and expenses of any person which the Manager may appoint to carry out its investment management function must not be charged to AmFIRST REIT.

### **20.16 Termination of AmFIRST REIT**

The Trustee shall terminate AmFIRST REIT:

- (a) if at a duly convened meeting of Unitholders a Special Resolution is passed that AmFIRST REIT be terminated; or
- (b) if the Trustee is of the opinion that the Manager has ceased to carry on business or has, to the prejudice of the Unitholders, failed to comply with any provision or covenant of the Deed or contravened any provisions of any relevant laws, guidelines or regulatory requirements, and at a meeting duly summoned in accordance with Section 110 of the SCA, a Special Resolution is passed that AmFIRST REIT be terminated; or

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**20. Salient Terms of Deed (Cont'd)**

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- (c) if at any time during the life of AmFIRST REIT, the Manager, after consultation with the Trustee, is of the opinion that changes in the economic climate or taxation law have caused or are likely to cause Unitholders to be detrimentally affected, the Manager requests the Trustee to summon a meeting of Unitholders and place a Special Resolution before such a meeting, setting out the action they recommend the meeting to endorse to meet such changes, and the meeting decides to terminate AmFIRST REIT; or
- (d) if the initial Listing does not take place within 3 months from the date of the Prospectus for the initial Listing; or
- (e) if at any time after the quotation date, the Units are unconditionally suspended from Official Quotation and not readmitted for Official Quotation within a continuous period of 90 Business Days after such suspension the Trust will, notwithstanding any rights, powers or duties of the Manager or the Trustee and directions given by or resolutions of Unitholders, immediately determine and its winding up will immediately commence upon the end of such 90 Business Days

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