

### 3. PARTICULARS OF THE OFFERING

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#### 3.1 INTRODUCTION

The SC granted its approval for the Offering on 11 October 2011. The approval of the SC shall not be taken to indicate that the SC recommends the Offering. **Investors should rely on their own evaluation to assess the merits and risks of the Offering and their investment in Pavilion REIT. In considering the investment, if investors are in any doubt as to the action to be taken, they should consult their stockbroker, bank manager, solicitor, accountant or other professional advisers immediately.**

Bursa Securities' approval for the admission of all the Units to be issued to the Official List of the Main Market and for the listing of and quotation for all the said Units was obtained on 28 October 2011. All the Units will be admitted to the Official List of the Main Market and official quotation will commence after receipt of confirmation from Bursa Depository that all the Units have been credited into the respective CDS Account of the Vendors and/or their nominees (pursuant to the Acquisitions) and the successful applicants and the notices of allotment of the Units have been despatched to the said parties. Admission to the Official List of the Main Market shall not be taken as an indication of the merits of Pavilion REIT, the Units, or the Offering.

**Pursuant to Section 14(1) of the Central Depository Act, Bursa Securities will prescribe the Units as a prescribed security. Consequently, the Units will be deposited directly with Bursa Depository. Any dealings in the Units will be carried out in accordance with the Deed, the Central Depositories Act and the Rules of Bursa Depository. Unit certificates will not be issued to successful applicants.**

Pursuant to the Listing Requirements, at least 25.0% of the total number of Units in issue must be held by a minimum number of 1,000 public unitholders holding not less than 100 Units each upon completion of the Offering and at the point of Listing or such other minimum public spread as may be approved by Bursa Securities. The Manager expects to achieve the public unitholding spread requirement at the point of Listing. In the event that the above requirement is not met pursuant to the Offering, Pavilion REIT may not be allowed to proceed with the Listing. In this event, monies paid in respect of all applications will be returned in full without interest.

Investors must have a CDS Account when applying for the Units. In the case of an application by way of an Application Form, applicants should state their CDS Account number in the space provided in the Application Form. In the case of an application by way of Electronic Application or Internet Application, only an individual who has a CDS Account can make an Electronic Application or Internet Application. For an application by way of Electronic Application, an applicant shall furnish his CDS Account number to the Participating Financial Institutions by keying in his CDS Account number if the instruction on the ATM screen at which he enters his Electronic Application requires him to do so. In the case of an application by way of Internet Application, only an applicant who has an existing account with access to the internet financial services facilities with the Internet Participating Financial Institutions can make an Internet Application. The applicant shall furnish his CDS Account number to the Internet Participating Financial Institutions by keying in his CDS Account number into the online application form. A corporation or institution cannot apply for the Units by way of Electronic Application or Internet Application.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

#### 3.2 TOTAL FUND SIZE AND UNITS TO BE ISSUED

The table below sets out the details of the Units.

	Number of Units
Fund size approved by the SC	3,100,000,000 <sup>(1)</sup>
Units to be issued to the Vendors as part payment for the Acquisitions	2,210,000,000
Units to be issued pursuant to the Retail Offering	35,000,000
Units to be issued pursuant to the Institutional Offering	755,000,000
Total Units issued upon Listing	3,000,000,000
Units approved by the SC to be issued as part payment of the Management Fee	100,000,000

**Note:**

- (1) In addition to the fund size of 3.1 billion Units, the SC also granted its approval for the issuance of up to 620 million new Units (together with the corresponding increase in Pavilion REIT's approved fund size) subject to Unitholders' approval to be obtained under a general mandate by 31 December 2012. For further details, see Section 12.1 "Approvals and Conditions" of this Prospectus.

There is only one class of units in Pavilion REIT. The Units to be issued, provided that full application monies are paid in full, will rank *pari passu* in all respects with each other and will be entitled to all distributions that may be declared subsequent to the Listing.

#### 3.3 PURPOSE OF THE OFFERING

The purpose of the Offering is as follows:

- (i) to obtain a listing of and quotation for the Units on the Main Market to enhance liquidity as compared to the illiquid nature of the underlying Subject Properties;
- (ii) to gain access to capital markets in order to raise funds for future real estate acquisitions;
- (iii) to provide investors an opportunity to invest in a REIT which provides stable distribution of income and potential capital appreciation on investment in the Units; and
- (iv) to enhance the Pavilion brand name.

#### 3.4 DETAILS OF THE OFFERING

##### 3.4.1 Retail Offering

Retail Offering at the Retail Price of RM0.88 per Offer Unit, payable in full upon application and subject to refund of the difference, in the event that the Final Retail Price is less than the Retail Price.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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The Retail Offering of 35,000,000 Offer Units, representing approximately 1.16% of the total Units issued upon Listing, subject to Clawback and Reallocation, consists of the following:

- (i) 31,000,000 Offer Units, representing approximately 1.03% of the total Units issued upon Listing, for application by the Malaysian Public; and
- (ii) 4,000,000 Offer Units, representing approximately 0.13% of the total Units issued upon Listing, to the eligible tenants of the Subject Properties, the Directors of the Manager and the eligible employees of the Manager, UCSB, CFSB and KLP in the following manner:
  - (a) 1,000,000 Offer Units representing 0.03% of the total Units issued upon Listing, to 292 eligible tenants of the Subject Properties;
  - (b) 1,200,000 Offer Units representing 0.04% of the total Units issued upon Listing, to 12 Directors of the Manager; and
  - (c) 1,800,000 Offer Units representing 0.06% of the total Units issued upon Listing, to 149 eligible employees of the Manager, UCSB, CFSB and KLP.

The criteria for allocation to the eligible tenants of the Subject Properties are based on, among other things, the length of the period that such tenant has been a tenant of the Subject Properties and the percentage contribution of such tenant to the Rental Income. For the 1,200,000 Offer Units allocated to the Directors of the Manager, each Director will be entitled to subscribe for 100,000 Offer Units. The criteria for allocation to the eligible employees of the Manager, UCSB, CFSB and KLP are based on, among others, confirmation and length of employment as well as job seniority as at 30 September 2011.

#### 3.4.2 Institutional Offering

Institutional Offering to investors (other than Cornerstone Investors) at the Institutional Price payable in full upon allocation and determined by way of bookbuilding, and to the Cornerstone Investors at the Cornerstone Price.

The issue of 755,000,000 Offer Units, representing approximately 25.17% of the total issued Units upon Listing, subject to the Clawback and Reallocation, is available for application by Malaysian and foreign institutional investors and selected investors (which includes Cornerstone Investors).

On 4 November 2011, the Manager, the Cornerstone Investors and certain Joint Bookrunners entered into a master cornerstone subscription agreement in relation to subscription by the Cornerstone Investors for an aggregate of 265,000,000 Offer Units, representing approximately 8.83% of the total Units issued upon Listing, at the Cornerstone Price, subject to the terms of the individual cornerstone subscription agreement. The subscriptions of the Cornerstone Units are also conditional upon, among others, the following:

- (i) the entry into the Retail Underwriting Agreement and the Placement Agreement by the parties thereto and the Retail Underwriting Agreement and the Placement Agreement having become unconditional (in accordance with their respective original terms or as subsequently varied by agreement of the parties thereto) by no later than the time and date as specified in the Retail Underwriting Agreement and the Placement Agreement;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

- (ii) the Retail Underwriting Agreement and the Placement Agreement not having been terminated, pursuant to its terms on or prior to the date on which the Cornerstone Units are delivered to the Cornerstone Investor; and
- (iii) the respective representations, warranties and undertakings of the Cornerstone Investor in his respective individual cornerstone agreement and the master cornerstone agreement remaining true and accurate on the date on which the Cornerstone Units are delivered to the Cornerstone Investor.

In summary, the Offer Units offered under the Offering (subject to Clawback and Reallocation provision) will be allocated in the following manner:

<b>Breakdown of the Offering:</b>	<b>No. of Offer Units</b>	<b>% of total Units upon Listing</b>
<b>Retail Offering:</b>		
Malaysian Public via balloting	31,000,000	1.03
Eligible tenants of the Subject Properties, the Directors of the Manager and the eligible employees of the Manager, UCSB, CFSB and KLP	4,000,000	0.13
	<u>35,000,000</u>	<u>1.16</u>
<b>Institutional Offering:</b>		
Cornerstone Investors	265,000,000	8.83
Malaysian and foreign institutional investors and selected investors	490,000,000	16.34
<b>Institutional Offering</b>	<u>755,000,000</u>	<u>25.17</u>
<b>Total</b>	<u>790,000,000</u>	<u>26.33</u>

#### 3.4.3 Clawback and Reallocation

The Offer Units may be re-allocated to the Institutional Offering from the Retail Offering at the discretion of the JBGCs and the Manager, in the event of an over-subscription in the Institutional Offering and an under-subscription in the Retail Offering.

In the event of an over-subscription in the Retail Offering and an under-subscription in the Institutional Offering, up to 31,000,000 Offer Units (representing 1% of Pavilion REIT's fund size approved by the SC) will be re-allocated from the Institutional Offering to the Retail Offering, while any additional re-allocation thereof would be at the discretion of the JBGCs and the Manager.

The Clawback and Reallocation provision shall not apply in the event of an over-subscription in both the Retail Offering and in the Institutional Offering.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

#### 3.4.4 Minimum Subscription

The total cash consideration for the acquisition of the Subject Properties (excluding the Related Assets) is RM1,369.0 million which will be partly funded via RTL1 of up to RM900.0 million. As such, Pavilion REIT would be required to raise at least RM469.0 million from the Offering to be able to fully satisfy the cash consideration for the acquisition of the Subject Properties. In view of the above, the minimum subscription in terms of proceeds to be raised from the Offering would amount to RM469.0 million. For the avoidance of doubt, the cash consideration for the acquisition of the Related Assets of RM9.6 million will be fully funded under RTL2.

In addition, in order to comply with the public spread requirements of Bursa Securities, the minimum subscription in terms of the number of Units to be acquired will be such number of Units required to be held by public Unitholders for Pavilion REIT to comply with public spread requirements. Furthermore, if the Offering is not completed and/or the Manager decides in its absolute discretion not to proceed with the Listing, monies paid in respect of any application for the Offer Units will be returned to the applicants without interest.

#### 3.5 INDICATIVE TIMETABLE

An indicative timetable for the Offering is set out below:

<b>Date and time<sup>(1)</sup></b>	<b>Event</b>
11 November 2011	: Opening of the Institutional Offering
14 November 2011, 10.00 a.m.	: Opening date and time for the Retail Offering
21 November 2011, 5.00 p.m.	: Closing date and time for the Retail Offering
23 November 2011	: Closing of the Institutional Offering
23 November 2011	: Price Determination Date
24 November 2011	: Balloting of applications for Offer Units pursuant to the Retail Offering for the Malaysian Public portion
5 December 2011	: Allotment of Offer Units to successful applicants
7 December 2011	: Listing of Pavilion REIT on the Main Market

**Note:**

(1) The above timetable is indicative only and is subject to change. The Institutional Offering will open and close at the dates stated above or such other date or dates as the Manager and the Joint Bookrunners may mutually decide in their absolute discretion. The application for the Units offered under the Retail Offering will open and close at the dates stated above or such other date or dates as the Manager and the Joint Principal Advisers may mutually decide in their absolute discretion.

If either the Institutional Offering or the Retail Offering is extended, the Price Determination Date and dates for the balloting, allotment of Units and Listing will be extended accordingly. Any extension of the abovementioned dates will be announced by way of advertisement in a widely circulated Bahasa Malaysia and English daily newspaper within Malaysia.

### **3. PARTICULARS OF THE OFFERING (Cont'd)**

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#### **3.6 BASIS OF DETERMINING THE PRICE OF THE OFFER UNITS**

##### **3.6.1 Retail Price**

The Retail Price of RM0.88 per Unit was determined and agreed upon by the Manager, the Joint Principal Advisers, the JBGC and the Joint Underwriters after taking into consideration the following factors:

- (i) the financial history and condition of the Subject Properties;
- (ii) the pro forma NAV per Unit upon Listing of RM0.94;
- (iii) the forecasted distribution yields of Pavilion REIT;
- (iv) the future prospects of Pavilion REIT; and
- (v) the prevailing capital and property market conditions and sentiments.

The Final Retail Price will be determined after the Institutional Price is fixed on the Price Determination Date and will be equal to the lower of:

- (i) the Retail Price of RM0.88 per Unit; and
- (ii) the Institutional Price.

Prospective retail investors should be aware that the Final Retail Price will not, in any event, be higher than the Retail Price.

The Final Retail Price and the Institutional Price are expected to be announced within two Market Days from the Price Determination Date via Bursa LINK. In addition, all successful applicants will be given written notice of the Final Retail Price and the Institutional Price, together with the notices of allotment.

Applicants should also note that the market price of the Units upon Listing is subject to the vagaries of market forces and other uncertainties which may affect the price of the Units.

##### **3.6.2 Institutional Price**

The Institutional Price will be determined by way of bookbuilding wherein prospective investors will be invited to bid for portions of the Institutional Offering by specifying the number of Offer Units that they would be prepared to acquire and the price that they would be prepared to pay for the subscription. This bookbuilding process is expected to start on 11 November 2011 and will end on 23 November 2011 or such other dates as the Manager and the Joint Bookrunners may decide at their absolute discretion. Upon completion of the bookbuilding process, the Institutional Price will be fixed via agreement between the Manager and the Joint Bookrunners on the Price Determination Date, in consultation with the Joint Global Coordinators.

##### **3.6.3 Cornerstone Price**

The price payable by the Cornerstone Investors for the Cornerstone Units shall be the lower of RM0.90 per Unit and the Institutional Price, after taking into consideration of a slight potential premium to the Retail Price, the commitment provided by the Cornerstone Investors in subscribing the Offer Units prior to the commencement of the Institutional Offering and the lock-up agreed by the Cornerstone Investors as set out in Section 3.12 "Lock-up Arrangements" of this Prospectus.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

#### 3.6.4 Refund Mechanism

In the event that the Final Retail Price is lower than the Retail Price, the difference will be refunded without any interest thereon. The refund in the form of cheques will be despatched by ordinary mail to the address as stated in Bursa Depository's records for applications made via the Application Form, Electronic Application and Internet Application, of the successful applicants, within 10 Market Days from the final ballot of the application, at the successful applicants' own risk.

#### 3.6.5 Expected Market Capitalisation

Based on an illustrative Average Offering Price of RM0.88 per Offer Unit and the listing of 3,000,000,000 Units, the total market capitalisation of Pavilion REIT upon Listing is estimated to be approximately RM2,640,000,000.

### 3.7 LISTING SCHEME

In conjunction with, and as an integral part of the Listing, the Manager will undertake the listing scheme, as follows:

#### 3.7.1 Acquisitions

On 18 October 2011, the Trustee on behalf of Pavilion REIT entered into the SPAs with the Vendors for the acquisition of the Subject Properties and the Related Assets for a total purchase consideration of RM3,323,401,000:

<b>Assets</b>	<b>Purchase consideration</b>
	<b>RM'000</b>
<b>Acquired from UCSB</b>	
Pavilion Kuala Lumpur Mall	3,190,300
Pavilion Kuala Lumpur Mall Related Assets	8,806
Total	<u>3,199,106</u>
<b>Acquired from CFSB</b>	
Pavilion Tower	123,500
Pavilion Tower Related Assets	795
Total	<u>124,295</u>
<b>Grand total</b>	<u><u>3,323,401</u></u>

In aggregate, the Subject Properties (excluding the Related Assets) will be acquired for a purchase consideration of RM3,313,800,000, which represents a discount of 6.47% to the Appraised Value of RM3,543,000,000.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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Pavilion REIT will be acquiring the Related Assets in order for it to undertake daily maintenance and operations of the Subject Properties. The purchase consideration payable in respect of the Related Assets of RM9,601,000 is based on the Vendors' estimate of the net book value of the Related Assets as at the Completion Date of the SPAs. The purchase consideration of the Related Assets will be adjusted to the actual net book value of the Related Assets in the Vendors' book immediately prior to the Completion Date of the SPAs (to be certified by an external auditor to be mutually appointed by the parties in writing) subject always that the adjusted purchase consideration of the Related Assets shall not be more than RM9,601,000. The total purchase consideration for the Acquisitions of RM3,323,401,000 will be satisfied through:

- (i) the issuance of the Consideration Units; and
- (ii) RM1,378,601,000 in cash, which in turn will be funded through the proceeds from the Offering and funds received from the drawdown of a portion of the New Debt Facilities.

Pavilion REIT will acquire the Subject Properties and the Related Assets in accordance with the terms of the SPAs. As at the date of this Prospectus, the Acquisitions are still pending completion. For further details of the SPAs, see Section 14.3 "Salient Terms of the SPAs" of this Prospectus.

Note that if either SPA is not completed in accordance with the terms therein contained, there will be no Acquisitions by Pavilion REIT and the Listing will not proceed, and Pavilion REIT will be unwound in accordance with the terms of the Deed. In the event Units have been allotted, the Unitholders who were allotted Units under the Offering will only receive their monies following the completion of the winding up of Pavilion REIT in accordance with the terms of the Deed.

#### 3.8 REIT FINANCING

Assuming full subscription under the Offering and based on an illustrative Average Offering Price of RM0.88, Pavilion REIT is expected to draw down approximately RM730.6 million from the New Debt Facilities to partially finance the Acquisitions. Based on Pavilion REIT's Consolidated Pro Forma Statement of Financial Position, Pavilion REIT will have an initial gearing of approximately 20.1% of its Total Asset Value. Details of the New Debt Facilities are as follows:

The Lenders will grant to PRVC the following debt facilities:

- (i) **RTL1** - a revolving term loan facility of up to RM900.0 million to part finance the acquisition of the Subject Properties and future acquisitions by Pavilion REIT bearing a floating interest rate of the Lenders' cost of funds plus a margin of 0.8% to 1.0% per annum; and
- (ii) **RTL2** - a revolving term loan facility of up to RM100.0 million to finance general working capital of Pavilion REIT (including acquisition of the Related Assets) bearing a floating interest rate of the Lenders' cost of funds plus a margin of 1.0% to 1.1% per annum.



### 3. PARTICULARS OF THE OFFERING (Cont'd)

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In addition, in respect of PRVC BG/RTL3, Alliance Bank Malaysia Berhad will grant to PRVC a bank guarantee facility of up to RM10.0 million for the issuance of performance bonds, bank guarantees, indemnities or undertakings and a revolving term loan facility for the conversion of any amounts paid out under the performance bonds, bank guarantees, indemnities or undertakings issued under PRVC BG bearing a floating interest rate of the Lender's cost of funds plus a margin of 1.0% to 1.1% per annum.

The cost of funds of each Lender shall be determined individually by each Lender. For the Forecast Period 2011 and Forecast Year 2012, the Manager has assumed an all-in interest rate of 4.5% and 4.6% for RTL1 and RTL2 respectively, which is in line with the applicable market rates as at the Latest Practicable Date. A commission of 1% per annum would apply on any amount issued under the PRVC BG.

Following the determination of the actual proceeds to be raised under the Offering, the actual amount to be drawn down under RTL1 will be determined and set out in a supplemental agreement to the facility agreement dated 3 November 2011 ("**Facility Agreement**").

RTL1 and RTL2 will each have a maturity of five years from first drawdown of RTL1 and PRVC BG/RTL3 will be repayable on demand and subject to annual renewal at Alliance Bank Malaysia Berhad's consent. During the tenure of RTL1 and RTL2, PRVC shall pay a commitment fee of 0.20% to 0.35% per annum from the date of the first drawdown of RTL1 on the unutilised portion of RTL1 and RTL2 on a quarterly basis and in arrears to the Lenders.

Pursuant to the terms of the Facility Agreement for the New Debt Facilities, the Manager has the option to establish a Commercial Paper/Medium Term Notes programme within four years from first drawdown of RTL1. Upon the establishment of the Commercial Paper/Medium Term Notes programme, the New Debt Facilities (save for the PRVC BG/RTL3 facility) will have a maturity of up to seven years from first drawdown of RTL1.

The New Debt Facilities will be secured against, among others, the following:

- (i) legal assignment over all of Pavilion REIT's rights title interest and benefit in and to the Subject Properties and an irrevocable power of attorney to dispose the Subject Properties after occurrence of an event of default or early disposal event as the case may be.  
  
Upon issuance of strata titles for the Subject Properties, first legal charge pursuant to the National Land Code 1965 shall be created in favour of the Lenders' security agent over the Subject Properties;
- (ii) legal assignment of all Pavilion REIT's rights title interest and benefit under the sale and purchase agreements (including the SPAs) and/or tenancy agreements and/or lease agreements and/or like agreements in relation to sale of the Subject Properties and/or as the case may be the letting and/or leasing of the Subject Properties (including without limitation any and all consideration and/or proceeds of sale and/or rental payable thereunder);
- (iii) a guarantee and indemnity from the Trustee in respect of all indebtedness under the New Debt Facilities and the senior secured notes under the Commercial Paper/Medium Term Notes programme;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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- (iv) first fixed charge over all shares of PRVC;
- (v) a debenture creating first fixed and floating charge over assets properties and undertakings of PRVC;
- (vi) first fixed charge and assignment over relevant designated accounts; and
- (vi) a letter of undertaking from the Manager whereby the Manager undertakes, inter alia, to deposit into the relevant designated accounts all consideration and rental proceeds generated from the Subject Properties, all claims from insurance proceeds paid and all claims from bank guarantees in respect of tenants' and lessees' obligations in relation to each of the Subject Properties.

The above securities shall be shared on a *pari passu* basis between the Lenders and the holders of the senior secured notes under the Commercial Paper/Medium Term Notes programme upon the establishment of the Commercial Paper/Medium Term Notes programme.

In relation to the designated accounts referred to in item (vi) above, the Lenders will be authorised to take over the operations of such accounts after the occurrence of an event of default under the Facility Agreement.

The New Debt Facility agreements will have a number of covenants customary to financings of this nature including covenants which may limit the ability of Pavilion REIT to declare distributions to Unitholders or to incur further borrowings as follows:

- (i) Pavilion REIT's security margin shall not be less than 2.0 times throughout the term of the New Debt Facilities, with the security margin calculated as the aggregate open market value of the Subject Properties which are charged and/or assigned by way of security to the security agent divided by the total principal amount outstanding under the New Debt Facilities and/or the senior secured notes under the Commercial Paper/Medium Term Notes programme, as appropriate;
- (ii) Pavilion REIT's interest coverage ratio shall not be less than 2.0 times throughout the term of the New Debt Facilities, with the interest coverage ratio calculated as the aggregate of designated account balances at the beginning of the relevant period and NPI for that period divided by the aggregate amount or coupon and other finance payment in respect of the New Debt Facilities and/or the senior secured notes under the Commercial Paper/Medium Term Notes programme, as appropriate, for that period (whether the same has been paid or otherwise); and
- (iii) Pavilion REIT's gearing ratio shall not exceed 0.5 times throughout the term of the New Debt Facilities, with the gearing ratio calculated as the consolidated outstanding borrowings/indebtedness of Pavilion REIT divided by the Total Asset Value of Pavilion REIT.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

#### 3.9 USE OF PROCEEDS

Based on an illustrative Average Offering Price of RM0.88 per Offer Unit, the Offering is expected to raise gross proceeds of RM695,200,000 arising from the issuance of 790,000,000 Offer Units.

The total cash proceeds raised from the Offering are intended to be used towards the following:

- (i) payment of listing expenses;
- (ii) working capital; and
- (iii) part payment of the purchase consideration for the Acquisitions.

Assuming full subscription under the Offering and based on an illustrative Average Offering Price of RM0.88, the following table represents a best estimate of the Manager's allocation of the gross proceeds from the Offering.

Purpose	(RM'000)	Timeframe for utilisation from date of receipt of proceeds
Listing expenses <sup>(1)</sup>	42,000	Immediate
Working capital	5,200	Within 12 months
Part payment of the purchase consideration for the Acquisitions <sup>(2)</sup>	648,000	Immediate
<b>Total</b>	<b>695,200</b>	

**Notes:**

- (1) Listing expenses include estimated expenses incurred in relation to the Offering. If the actual listing expenses are less than the estimated amount, the excess cash shall be used for working capital purposes. Any shortfall will be met from proceeds set aside for working capital purposes. Breakdown of the estimated listing expenses are as follows:

Expenses	(RM'000)
Underwriting fees and commissions, placement commission and brokerage	21,500
Professional and advisory fees	11,300
Regulatory fees	450
Other Offering-related expenses and contingencies	8,750
<b>Total</b>	<b>42,000</b>

- (2) The balance of the purchase consideration for the Acquisitions will be settled via the issuance of Consideration Units and proceeds raised from the New Debt Facilities.

### **3. PARTICULARS OF THE OFFERING (Cont'd)**

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Any variation to the actual proceeds to be raised or actual listing expenses from the estimated amounts stated above will be adjusted to the amounts to be applied toward part payment of the purchase consideration for the acquisition of the Subject Properties, subject to an adequate amount being allocated for working capital purposes, which the Manager estimates to be in the range of RM5.0 million to RM15.0 million. In turn, this will have an effect on the amount of proceeds to be raised from the New Debt Facilities. For example, if the actual proceeds to be raised is higher than the estimated amount of RM695.2 million, the amount used for part payment of the purchase consideration for the acquisition of the Subject Properties will be correspondingly higher. As a result, the amount of proceeds to be raised from the New Debt Facilities will be correspondingly lower in view that the cash consideration component of the Acquisitions has been fixed at RM1,378.6 million. The converse effect would apply if the actual proceeds to be raised is lower than the said estimated amount.

#### **3.10 BROKERAGE, COMMISSIONS AND OTHER FEES AND CHARGES PAYABLE DIRECTLY BY UNITHOLDERS**

##### **3.10.1 Brokerage**

Pavilion REIT will bear brokerage relating to the Offer Units made available for application under the Retail Offering at the rate of 1.0% of the Retail Price in respect of successful applications which bear the stamp of CIMB, Maybank IB, member companies of Bursa Securities, members of the Association of Banks in Malaysia, members of the Malaysian Investment Banking Association and/or the Issuing House.

The Joint Bookrunners are entitled to charge brokerage to successful applicants under the Institutional Offering (including Cornerstone Investors). For avoidance of doubt, brokerage commission under the Institutional Offering will not be payable by Pavilion REIT.

##### **3.10.2 Commissions**

Pursuant to the Retail Underwriting Agreement, the Joint Underwriters have agreed to underwrite the Offer Units under the Retail Offering at an underwriting commission of 2.0% of the amount equal to the Retail Price multiplied by the number of Offer Units under the Retail Offering.

Pavilion REIT will bear the underwriting commission of RM616,000 in respect of the Offer Units offered under the Retail Offering.

Pursuant to the Placement Agreement to be entered into by the relevant parties, Pavilion REIT will agree to pay the Joint Bookrunners, in aggregate, a placement commission of up to 3.0% of the amount equal to the gross proceed raised under the Institutional Offering being the number of Offer Units under the Institutional Offering at the Institutional Price and the Cornerstone Price, as the case may be.

### 3. PARTICULARS OF THE OFFERING (Cont'd)

#### 3.10.3 Fees and Charges Payable Directly by Unitholders

The following is a summary of the amount of certain fees and charges payable by the Unitholders in connection with the purchase, sale and holding of their investments in Pavilion REIT or trading of the Units (so long as the Units are listed):

	Payable by the Unitholders directly	Amount payable
(a)	Bursa Securities clearing fee	0.03% of the transaction value, subject to a maximum of RM1,000 per transaction
(b)	Brokerage	A percentage of the transaction value prescribed or negotiated by the ADAs
(c)	Stamp duty	RM1.00 for every RM1,000 or fractional part of the transaction value, subject to a maximum of RM200 per transaction

The above rates may be subject to changes by the relevant parties. Further information on the charges you may incur from the trading of Units on Bursa Securities may be found on Bursa Malaysia Berhad's website at [www.bursamalaysia.com](http://www.bursamalaysia.com).

#### 3.11 SALIENT TERMS OF THE RETAIL UNDERWRITING AGREEMENT

Subject to the terms and conditions contained in the Retail Underwriting Agreement, the Joint Underwriters agreed to underwrite the 35,000,000 Offer Units under the Retail Offering at the Retail Price of RM0.88 per Unit, subject to the Clawback and Reallocation provision. For their services, the Joint Underwriters will receive an underwriting commission of RM616,000 which will be borne by Pavilion REIT.

##### Conditions Precedent

The obligation of the Joint Underwriters to underwrite the Units under the Retail Offering under the Retail Underwriting Agreement is conditional on various conditions, including, among others, the following:

- (i) the approval of Bursa Securities for the Listing being obtained on terms acceptable to the Joint Underwriters and the approvals of the SC and Bursa Securities remaining in full force and effect and that all conditions (except for any which can only be complied with after the Offering has been completed) have been complied with or otherwise waived by Bursa Securities or the SC as the case may be;
- (ii) the execution of the Placement Agreement and the Placement Agreement not having been terminated or rescinded pursuant to the provisions thereof;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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- (iii) the Offering has not been prohibited or impeded by any statute, order, rule, directive or regulation promulgated by any legislative, executive or regulatory body or authority of Malaysia or any jurisdiction within which such Offer Units are offered and all consents, approvals, authorisations or other orders required by the Sponsor, the Trustee and/or the Manager under such laws for or in connection with the Offering and/or the Listing have been obtained and are in force up to the date of closing of the Retail Offering ("**Closing Date**");
- (iv) the SPAs becoming unconditional in accordance with their respective terms;
- (v) the Joint Underwriters having been satisfied that the Manager, the Trustee and the Sponsor having complied with and that the Offering is in compliance with the policies, guidelines and requirements of Bursa Securities; and
- (vi) the execution of the deeds in connection with the lock-up arrangements (as described in Section 3.12 "Lock-Up Arrangements" of this Prospectus) ("**Lock-Up Deeds**") and the undertakings contained in the Lock-Up Deeds remaining in full force and effect and have not been breached.

If any of the conditions precedent described above, to the extent not waived, are not satisfied within three Market Days from the Closing Date, the Joint Underwriters shall be entitled to jointly terminate the Retail Underwriting Agreement.

#### **Termination**

Notwithstanding anything contained in the Retail Underwriting Agreement, CIMB and Maybank IB acting under the instructions in writing of any two or more Joint Underwriters who have agreed to underwrite, in aggregate 50% or more of the total underwritten Units provided that two of whom shall be CIMB and Maybank IB ("**Majority Joint Underwriters**"), may terminate, cancel and withdraw the Joint Underwriters respective underwriting commitment upon the occurrence of any of the following:

- (i) there is any breach by the Sponsor or the Manager of any of the representations, warranties or undertakings contained in the Retail Underwriting Agreement or which is contained in any certificate under or in connection with the Retail Underwriting Agreement, which is not capable of remedy or, if capable of remedy, is not remedied within seven days from receipt of the notice of such breach being given to the Sponsor or the Manager by CIMB or Maybank IB or by the Closing Date, whichever is the earlier;
- (ii) matters have arisen or been discovered which would, if the Offering were made at that time, render any statement in this Prospectus materially untrue, incorrect, inaccurate or misleading or constitute a material omission therefrom;
- (iii) there is failure on the part of the Sponsor or the Manager to perform any of its obligations contained in the Retail Underwriting Agreement;
- (iv) there is withholding of information of a material nature from the Joint Underwriters which is required to be disclosed pursuant to the Retail Underwriting Agreement which, in the opinion of the Joint Underwriters, would have a material adverse effect, or affect the success of the Offering, or the distribution or the sale of the Offer Units issued or to be issued under the Offering;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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- (v) in the event that the Listing does not take place by 7 December 2011 or such extended date as may be agreed upon by CIMB and Maybank IB or procured but subject to conditions not acceptable to CIMB and Maybank IB;
- (vi) the Closing Date does not occur within 30 calendar days from the date of issue of this Prospectus or such extended date as may be agreed upon by CIMB and Maybank IB;
- (viii) the occurrence of any of the following events:
  - (a) any material adverse change in national or international monetary, financial and capital markets (including stock market conditions and financing rates), political or economic conditions or exchange control or currency exchange rates which in the reasonable opinion of the Majority Joint Underwriters is likely to have a material adverse effect (whether in the primary market or in respect of dealings in the secondary market) on the value or price of the Offer Units or a material adverse effect on the Listing or the Offering. For the avoidance of doubt, and without prejudice to the foregoing, if the FTSE Bursa Malaysia KLCI Index ("Index") is, at the close of normal trading on Bursa Securities, on any Market Day:
    - (1) on or after the date of the Retail Underwriting Agreement; and
    - (2) prior to the Listing Date,  
lower than 15% of the level of the Index at the last close of normal trading on the relevant exchange on the Market Day immediately prior to the date of the Retail Underwriting Agreement and remains at or below that level for at least three consecutive Market Days or any other adverse change in the market conditions which the Majority Joint Underwriters agree to be sufficiently material and adverse to render it to be a terminating event, it shall be deemed a material adverse change in the stock market condition;
  - (b) any new law or change in law, regulation, directive, policy or ruling in any jurisdiction, interpretation or application by the court/authorities (including those relating to taxation) which in the view of the Majority Joint Underwriters has/likely to have a material adverse effect or the effect of making any obligations under the Retail Underwriting Agreement incapable of performance in accordance with its terms or the effect of prejudicing the success of the Offering;
  - (c) acts of government, acts of God (including, without limitation, the occurrence of a tsunami and/or earthquakes), acts of terrorism, strikes, national disorder, declaration of a state of emergency, lock-outs, fire, explosion, flooding, landslide, civil commotion, sabotage, acts of war, diseases or accidents which in the view of the Majority Joint Underwriters and Joint Underwriters has or is likely to have the effect of making any material part of the Retail Underwriting Agreement incapable of performance in accordance with its terms or which prevents the processing of applications and/or payments pursuant to the Offering or pursuant to the underwriting of the underwritten Units;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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- (d) any government requisition or occurrence of any other nature whatsoever which is in the reasonable view of the Majority Joint Underwriters is likely to have a material adverse effect on the business, operations, financial conditions or prospects of the Manager, Pavilion REIT, the Subject Properties or the success of the Offering;
- (e) any of the approvals, inter alia, from the SC or Bursa Securities for the Listing being revoked or otherwise not remaining in full force and effect;
- (f) any event that has a material adverse effect;
- (g) any occurrence of any local, national or international outbreak or escalation of hostilities, insurrection or armed conflict which in the reasonable view of the Joint Underwriters has/is likely to have a material adverse effect or the effect of making any obligations under the Retail Underwriting Agreement incapable of performance in accordance with its terms; or
- (h) there shall have occurred a suspension, moratorium or material restriction of all trading in all securities generally on the Bursa Securities;
- (ix) if the SC or any other relevant regulatory authority issues an order or ruling (or revoke any ruling previously made) pursuant to Malaysian laws which has the effect of preventing the Listing; or
- (x) the Placement Agreement has been terminated or rescinded in accordance with the terms thereof.

Upon the issuance of the termination notice being received by the Manager and the Sponsor, the Manager, Sponsor and the Joint Underwriters shall be released and discharged of their obligations without prejudice to their respective rights under the Retail Underwriting Agreement, and the Retail Underwriting Agreement shall be of no further force and effect and no party hereto shall be liable under any liability to any other parties hereto in respect of the Retail Underwriting Agreement, except for the following:

- (i) the Manager shall, pay the underwriting commission or the broken funding costs (as the case may be) and the costs and expenses as described in the Retail Underwriting Agreement; and
- (ii) the Sponsor and the Manager shall continue to be liable to indemnify the Joint Underwriters pursuant to the terms of the Retail Underwriting Agreement.



### 3. PARTICULARS OF THE OFFERING (Cont'd)

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#### 3.12 LOCK-UP ARRANGEMENTS

##### **Manager**

Subject to the exceptions described below, the Manager has agreed with the Joint Bookrunners that it will not without the prior written consent of each of the Joint Bookrunners, for the Lock-up Period:

- (i) directly or indirectly, offer, issue, sell, contract to issue or sell, grant any option to purchase, grant security over, encumber, pledge, mortgage, charge or otherwise dispose or agree to dispose of, any Units or any securities convertible into or exercisable or exchangeable for Units or which carry rights to subscribe for or purchase Units;
- (ii) enter into any swap, hedge or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Units (or any securities convertible into or exchangeable or exercisable for or repayable with any Units or which carry rights to subscribe for or purchase any Units) whether such swap, hedge or transaction is to be settled by delivery of Units or other securities, in cash or otherwise;
- (iii) deposit any Units or securities convertible into or exchangeable for or which carry rights to subscribe or purchase Units in any depository receipt facility whether any such transaction described above is to be settled by delivery of the Units or such other securities, in cash or otherwise; or
- (iv) enter into a transaction which is designed or which may reasonably be expected to result in any of the above or publicly announce any intention to do any of the above.

The restrictions described in the preceding paragraph do not apply to the issuance of (i) Units to be offered under the Offering; (ii) the Consideration Units and (iii) Units to the Manager in payment of any Management Fee.

##### **Major Unitholders**

Subject to the exceptions described below, the Major Unitholders have agreed with certain Joint Bookrunners that they will not, without the prior written consent of the relevant Joint Bookrunners, for the Lock-up Period:

- (i) directly or indirectly, offer, sell, contract to sell, grant any option to purchase, grant security over, encumber, pledge, mortgage, charge or otherwise dispose or agree to dispose of, any Units or any securities convertible into or exercisable or exchangeable for Units or which carry rights to subscribe for or purchase Units;
- (ii) enter into any swap, hedge or other arrangement that transfers to another, in whole or in part, any of the economic consequences of ownership of any Units (or any securities convertible into or exchangeable or exercisable for or repayable with any Units or which carry rights to subscribe for or purchase any Units) whether such swap, hedge or transaction is to be settled by delivery of Units or other securities, in cash or otherwise;

### 3. PARTICULARS OF THE OFFERING (Cont'd)

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- (iii) deposit any Units or securities convertible into or exchangeable for or which carry rights to subscribe or purchase Units in any depository receipt facility whether any such transaction described above is to be settled by delivery of the Units or such other securities, in cash or otherwise; or
- (iv) enter into a transaction which is designed or which may reasonably be expected to result in any of the above or publicly announce any intention to do any of the above.

The restrictions described in the preceding paragraph do not apply to:

- (i) the transfer, sale or disposal of any Lock-Up Units to a custodian, trustee or nominee for the Major Unitholders (the "**Permitted Transferee**"), provided that the Major Unitholders procures that the Permitted Transferee executes and delivers to the relevant Joint Bookrunners a written undertaking to the effect that the Permitted Transferee recognises and will comply with the foregoing restrictions set forth in the lock-up deed to remain in effect for the remainder of the Lock-up Period. In circumstances where such Permitted Transferee acts solely for and at the instructions of the Major Unitholders, the Permitted Transferee shall not be obliged to make any written undertaking to the relevant Joint Bookrunners, as, for the purposes of the lock-up deed, the Major Unitholders shall remain bound to ensure compliance with the lock-up deed; and
- (ii) the creation of a charge over any Lock-up Units or otherwise grant of security over or creation of any encumbrance over any Lock-up Units by the Major Unitholders, provided that such charge, security or encumbrance can only be enforced after the end of the Lock-up Period. In the case of Datuk Lim Siew Choon and Datin Tan Kewi Yong only, the exception under this item (ii) may entail a transfer by the relevant Major Unitholders of the encumbered Lock-up Units to the relevant Major Unitholders' financiers or custodian, trustee or nominee for the relevant Major Unitholders' financiers.

#### **Cornerstone Investors**

The Cornerstone Investors have agreed with the Manager and certain of the Joint Bookrunners that without the prior written consent of the Manager and the relevant Joint Bookrunners, they will not whether directly or indirectly, at any time during the period of one month following the Listing Date, dispose or permit the disposal of any of the Cornerstone Units or any interest in any company or entity holding any of the Cornerstone Units.

#### **3.13 TRADING ON THE MAIN MARKET AND SETTLEMENT IN THE SECONDARY MARKET**

Upon listing and quotation on the Main Market, the Units will be traded on the Main Market and transferred by book-entry settlement through CDS, which will be effected in accordance with the Rules of Depository, as amended from time to time, and the provisions of the Central Depositories Act. Bursa Depository operates the CDS.

### 3. PARTICULARS OF THE OFFERING *(Cont'd)*

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Unitholders are required under the Rules of Depository to maintain CDS Accounts, either directly in their name or through authorised nominees. Persons whose names appear in the record of depositors maintained by Bursa Depository will be treated as Unitholders in respect of the number of Units credited to their respective securities accounts.

Transfer of Units under the book-entry settlement will be reflected by the seller's CDS Account being debited with the number of Units sold and the buyer's CDS Account being credited with the number of Units acquired. No transfer stamp duty is currently payable for the Units that are settled on a book-entry basis, although there is a nominal transfer fee of RM10 payable for each transfer not transacted on the market.

Dealings in units of REITs listed on the Main Market are normally transacted in "board lots" of 100 units. Investors who desire to deal in less than 100 units of a listed REIT occasionally experience delays in effecting such transaction.

It is expected that the Units offered under the Offering will commence trading on the Main Market approximately 9 Market Days after the close of the Institutional Offering. Subscribers of the Units will not be able to sell or otherwise deal in the Units prior to the commencement of trading on the Main Market. See Section 5.3.15 "Risk Factors – Risks Relating to an Investment in the Units – Failure in the Listing may result in refund in monies without interest" of this Prospectus for further details.

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## **4. FINANCIAL INFORMATION**

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### **4.1 CONSOLIDATED PRO FORMA STATEMENT OF FINANCIAL POSITION**

As at the date of its establishment, Pavilion REIT did not have any assets and liabilities. The following table presents Pavilion REIT's Consolidated Pro Forma Statement of Financial Position as at the Listing Date, prepared for illustrative purposes only, to show the effects of the Acquisitions and the Offering based on the assumption that such events had been effected on the date of establishment of Pavilion REIT and are not represented as being necessarily indicative of Pavilion REIT's view of its future financial position. Pavilion REIT's Consolidated Pro Forma Statement of Financial Position should be read in conjunction with the "Reporting Accountants' Letter on the Consolidated Pro Forma Statement of Financial Position" in Appendix D and the related notes in this Prospectus.

Pavilion REIT's Consolidated Pro Forma Statement of Financial Position have been prepared on the basis of the preparation and accounting policies as set out in the "Reporting Accountants' Letter on the Consolidated Pro Forma Statement of Financial Position" in Appendix D of this Prospectus, and in a manner consistent with the format and the accounting policies to be adopted by Pavilion REIT.

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#### 4. FINANCIAL INFORMATION (Cont'd)

##### Pavilion REIT's Consolidated Pro Forma Statement of Financial Position as at the Listing Date

	(Unaudited) (RM'000)
<b>ASSETS</b>	
Property, Plant & Equipment	8,600
Investment Properties	3,543,000
Total Non-Current Assets	<u>3,551,600</u>
Inventories	1,001
Other Receivables	754
Cash and Bank Balances	79,061
Total Current Assets	<u>80,816</u>
Total Assets	<u><u>3,632,416</u></u>
<b>EQUITY</b>	
Unitholders' Fund	2,827,200
Total Equity	<u>2,827,200</u>
<b>LIABILITIES</b>	
Borrowings	730,601
Other Payables	72,013
Total Non-Current Liabilities	<u>802,614</u>
Other Payables	2,602
Total Current Liabilities	<u>2,602</u>
Total Liabilities	<u><u>805,216</u></u>
Total Equity and Liabilities	<u><u>3,632,416</u></u>
NAV (RM'000)	2,827,200
Units in issue ('000)	3,000,000
NAV per Unit (RM)	<u><u>0.94</u></u>

#### 4. FINANCIAL INFORMATION (Cont'd)

Pavilion REIT's Consolidated Pro Forma Statement of Financial Position as at the Listing Date illustrates the effects of the Acquisitions and the Offering, based on the assumption that such events had been effected on the date of establishment of Pavilion REIT. As at the date of its establishment, Pavilion REIT did not have any assets and liabilities.

Pavilion REIT's Consolidated Pro Forma Statement of Financial Position as at the Listing Date was prepared based on the following listing scheme:

- (i) In accordance with the SPAs, Pavilion REIT (via the Trustee) will acquire the Subject Properties and the Related Assets for a total purchase consideration of RM3,323,401,000:

<b>Assets</b>	<b>Purchase consideration</b>
	<b>RM'000</b>
<b>Acquired from UCSB</b>	
Pavilion Kuala Lumpur Mall	3,190,300
Pavilion Kuala Lumpur Mall Related Assets	8,806
Total	<u>3,199,106</u>
<b>Acquired from CFSB</b>	
Pavilion Tower	123,500
Pavilion Tower Related Assets	795
Total	<u>124,295</u>
<b>Grand total</b>	<u><u>3,323,401</u></u>

The acquisition of the Subject Properties and the Related Assets will be financed through:

- (a) the issuance of the Consideration Units; and
- (b) cash consideration of RM1,378,601,000, which will be funded through the proceeds from the Offering and funds received from the drawdown of a portion of the New Debt Facilities.

Pavilion REIT will be acquiring the Related Assets in order for it to undertake daily maintenance and operations of the Subject Properties. The purchase consideration payable in respect of the Related Assets is based on the Vendors' estimate of the net book value of the Related Assets as at the Completion Date of the SPAs. This may be adjusted downwards as at the Completion Date of the SPAs.

In the preparation of Pavilion REIT's Consolidated Pro Forma Statement of Financial Position, it is assumed that no adjustments will be made to the purchase consideration of the Related Assets and the carrying values of the Related Assets.

#### 4. FINANCIAL INFORMATION (Cont'd)

In addition, the following assets and liabilities will also be transferred to Pavilion REIT at their respective carrying value in the accounts of UCSB and CFSB as at the Completion Date of the SPAs. In preparation of this consolidated pro forma financial position, the following assets and liabilities have been set out based on their respective carrying value in the accounts of UCSB and CFSB as at 30 June 2011, which were prepared in accordance with approved accounting standards in Malaysia.

<b>Assets</b>	<b>RM'000</b>
Prepayments and deposits	754
Cash and cash equivalent from tenants' deposits	73,861 <sup>(1)</sup>
	<hr/> 74,615
<b>Liabilities</b>	
Other payables – tenants' deposits	(74,615)
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**Note:**

(1) Cash and cash equivalents from tenants' deposits will be transferred to Pavilion REIT by UCSB and CFSB after netting off the deposits and prepayments to be reimbursed to UCSB and CFSB, by Pavilion REIT.

(ii) Offering of 790,000,000 Offer Units which comprise the following:

(a) Retail Offering

35,000,000 Offer Units to the Malaysian Public, the eligible tenants of the Subject Properties, the Directors of the Manager and the eligible employees of the Manager, UCSB, CFSB and KLP.

(b) Institutional Offering

755,000,000 Offer Units to Malaysian and foreign institutional investors and selected investors at the Institutional Price (other than Cornerstone Investors) to be determined by way of bookbuilding.

In the preparation of Pavilion REIT's Consolidated Pro Forma Statement of Financial Position, it is assumed that the each of the Retail Price and the Institutional Price is RM0.88 per Unit.

(iii) Credit facilities

Pavilion REIT will obtain the New Debt Facilities amounting to RM1,010.0 million (being the aggregate size of the New Debt Facilities) of which RM736.5 million will be drawn down to part finance the Acquisitions and to finance the initial transaction costs for the New Debt Facilities. The borrowings in Pavilion REIT's Consolidated Pro Forma Statement of Financial Position are recorded net of transaction costs amounting to RM5.9 million which will be expensed to profit and loss over the period that the borrowings are outstanding.

(iv) Listing and quotation of the entire 3,000,000,000 Units on the Main Market.

#### 4. FINANCIAL INFORMATION (Cont'd)

##### 4.2 CAPITALISATION AND INDEBTEDNESS

Assuming full subscription under the Offering and based on the illustrative Average Offering Price, the following table sets forth the pro forma capitalisation of Pavilion REIT as at the Listing Date and after application of the total proceeds from the Offering. The information in the table below should be read in conjunction with Section 3.9 "Use of Proceeds", Section 4.1 "Consolidated Pro Forma Statement of Financial Position" and Appendix D and the related notes in this Prospectus.

As at the Listing Date	RM'000
Bank Borrowings	730,601
Unitholders' Funds <sup>(1)</sup>	2,827,200
<b>Total Capitalisation</b>	<b>3,557,801</b>

**Note:**

- (1) The Unitholders' Funds stated above has taken into consideration (i) the estimated expenses for the Listing of RM42.0 million; and (ii) the effect of fair value adjustment on the Subject Properties.

As discussed in Section 3.9 "Use of Proceeds" of this Prospectus, any variation to the actual proceeds to be raised or actual listing expenses from the estimated amounts will be adjusted to the amounts to be applied toward part payment of the purchase consideration, subject to an adequate amount being allocated for working capital purposes. In turn, this will have an effect on the amount of proceeds to be raised from the New Debt Facilities.

As such, any increase or decrease (as the case may be) in the actual proceeds to be raised is expected to have the following effects:

- (i) increase or decrease (as the case may be) in Pavilion REIT's Unitholders' Funds; and
- (ii) decrease or increase (as the case may be) in Pavilion REIT's total borrowings.

The Lenders will grant to PRVC the New Debt Facilities. See Section 3.8 "REIT Financing" of this Prospectus for further details on the New Debt Facilities.

Based on Pavilion REIT's Consolidated Pro Forma Statement of Financial Position, Pavilion REIT is expected to have an initial indebtedness of approximately RM730.6 million representing approximately 20.1% of its estimated Total Asset Value.

##### 4.3 PRO FORMA NET PROPERTY INCOME

Pavilion REIT, as a newly established REIT, is required to prepare an illustrative Pro Forma Net Property Income for FY2008, 2009, 2010 and FPE2010 and FPE2011 pursuant to Section 20.16 Part II – Listed Funds of the Prospectus Guidelines for Collective Investment Schemes issued by the SC.



#### 4. FINANCIAL INFORMATION (Cont'd)

The objective of the Pro Forma Net Property Income of Pavilion REIT is to show what the results of operations might have been had Pavilion REIT existed at an earlier date. However, the Pro Forma Net Property Income of Pavilion REIT is not necessarily indicative of the results of operations that would have been attained had Pavilion REIT actually existed earlier.

The Pro Forma Net Property Income of Pavilion REIT for FY2008, 2009, 2010 and FPE2010 and FPE2011 have been prepared based on the information extracted from the Vendors' audited financial statements for the last three financial years up to FY2010 and the unaudited management financial statements for FPE2010 and FPE2011 which were prepared in accordance with the approved accounting standards in Malaysia, as if the Acquisitions had been completed by Pavilion REIT on such earlier date. The Pro Forma Net Property Income of Pavilion REIT has been prepared in a manner consistent with the format and accounting policies to be adopted by Pavilion REIT.

Pavilion Tower was acquired by CFSB on 10 March 2010 (pursuant to a sale and purchase agreement dated 11 January 2010); therefore the Pro Forma Net Property Income of Pavilion REIT for FY2008 and 2009 do not include any financial information for Pavilion Tower.

##### **Pro Forma Net Property Income for FY2008, 2009, 2010 and FPE2010 and FPE2011**

The following table presents the Pro Forma Net Property Income of Pavilion REIT for FY2008, 2009, 2010 and FPE2010 and FPE2011.

The revenue and expenses stated below are directly related to the operations of the Subject Properties and should be read together with Section 4.4 "Management's Discussion and Analysis of Financial Condition and Results of Operations" of this Prospectus.

<b>RM '000</b>	<b>FY2008</b>	<b>FY2009</b>	<b>FY2010</b>	<b>FPE2010</b>	<b>FPE2011</b>
Rental Income	230,586	242,224	256,699	127,613	133,005
Other income	15,672	22,674	34,481	16,133	21,050
<b>Total Revenue</b>	<b>246,258</b>	<b>264,898</b>	<b>291,180</b>	<b>143,746</b>	<b>154,055</b>
Utilities	(33,539)	(36,237)	(36,610)	(18,404)	(17,899)
Maintenance	(12,842)	(15,561)	(19,935)	(8,149)	(11,404)
Quit rent and assessment	(8,143)	(8,105)	(8,576)	(4,001)	(4,508)
Other operating expenses	(26,543)	(18,634)	(23,185)	(11,051)	(8,661)
<b>Property Operating Expenses</b>	<b>(81,067)</b>	<b>(78,537)</b>	<b>(88,306)</b>	<b>(41,605)</b>	<b>(42,472)</b>
<b>NPI</b>	<b>165,191</b>	<b>186,361</b>	<b>202,874</b>	<b>102,141</b>	<b>111,583</b>

## 4. FINANCIAL INFORMATION (Cont'd)

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### 4.4 MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

#### 4.4.1 Presentation of Financial Information

Pavilion REIT was established as a REIT on 18 October 2011, and as at the date of this Prospectus does not have any portfolio of Real Estate Assets. No historical financial information has been prepared since Pavilion REIT's establishment. The Pro Forma Net Property Income of Pavilion REIT for FY2008, 2009 and 2010 and FPE2010 and FPE2011 has been prepared based on the information extracted from the Vendors' audited financial statements for the last three financial years up to FY2010 and the unaudited management financial statements for FPE2010 and FPE2011, which was prepared in accordance with approved accounting standards in Malaysia. The "Pro Forma Net Property Income" as set out in Section 4.3 of this Prospectus is for illustrative purposes only, and assumes that Pavilion REIT had been in existence throughout the period under review.

Pavilion Tower was acquired by CFSB on 10 March 2010 (pursuant to a sale and purchase agreement dated 11 January 2010); therefore the Pro Forma Net Property Income of Pavilion REIT for FY2008 and 2009 do not include any financial information for Pavilion Tower.

#### 4.4.2 General Background of Pavilion REIT

Pavilion REIT is a REIT established in Malaysia and constituted by the Deed. As Pavilion REIT is a newly established REIT, it has no historical operating results and financial information based on which recipients of this Prospectus and prospective investors in the Units may evaluate Pavilion REIT.

Pavilion REIT is a REIT established with the principal investment policy of investing, directly and indirectly, in a diversified portfolio of income producing real estate used solely or predominantly for retail purposes (including mixed-use developments with a retail component) in Malaysia and other countries within the Asia-Pacific region as well as Real Estate-Related Assets. The Manager's key objective is to provide Unitholders with regular and stable distributions and achieve long-term<sup>1</sup> growth in NAV per Unit, while maintaining an appropriate capital structure.

The Manager intends to increase the income and, consequently, the value of the Subject Properties and continue Pavilion REIT's growth through the following strategies:

- (i) proactively managing the Subject Properties and implementing asset enhancement strategies;
- (ii) actively pursuing acquisition opportunities in accordance with the Authorised Investments of Pavilion REIT; and
- (iii) pursuing an efficient capital management strategy.

See Section 1.3 "Strategies" of this Prospectus for further details.

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<sup>1</sup> Long-term in this context refers to a period of five years or more.

#### 4. FINANCIAL INFORMATION (Cont'd)

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Pavilion Kuala Lumpur Mall contributes 96.4% of the total Appraised Value of the Subject Properties and 99.4% of Pavilion REIT's Pro Forma Net Property Income for FPE2011. Accordingly, the focus of the following discussion will be on retail factors and Pavilion Kuala Lumpur Mall.

##### 4.4.3 Factors Affecting Pavilion REIT's Financial Conditions and Results of Operations

###### ***General Economic and Retail Market Conditions***

Pavilion REIT's business and financial condition will be materially affected by general economic conditions of Malaysia and conditions in the retail real estate sector in Malaysia. See Appendix B "Independent Property Market Report" of this Prospectus.

###### ***Rental Rates***

Significant factors affecting Rental Income include rental rates that Pavilion Kuala Lumpur Mall may command. Rental rates for tenancies at Pavilion Kuala Lumpur Mall are affected by, among others, the following:

- (i) rental rates of comparable malls;
- (ii) tenant mix;
- (iii) renewal options;
- (iv) size, location and configuration of NLA within Pavilion Kuala Lumpur Mall;
- (v) shopper traffic to Pavilion Kuala Lumpur Mall;
- (vi) the level of tourism to Kuala Lumpur;
- (vii) the design of Pavilion Kuala Lumpur Mall; and
- (viii) general macroeconomic and supply and demand trends affecting the retail real estate market in Malaysia, such as tenant demand levels.

###### ***Occupancy Rates and Tenancy Expiries and Renewals***

Another factor affecting Rental Income is occupancy rates. Occupancy rates of Pavilion Kuala Lumpur Mall depend on factors such as supply and demand trends affecting the retail real estate markets, the minimisation of the potential vacancy periods arising from tenancy expiries and early terminations, and rental rates of other competing properties within the locality. See Section 2.4.10 "Retail Property Competition" of this Prospectus.

###### ***Operating Cost Management and Inflation***

Significant factors affecting Property Operating Expenses are changes in maintenance and utility expenses (due to higher rates and/or usage), the age and the condition of Pavilion Kuala Lumpur Mall, fee and reimbursement arrangements with the Property Manager, inflation and changes in property assessments, employment conditions (which may affect labour costs of the Property Manager, which are re-charged to Pavilion REIT), the cost of insurance premiums and costs relating to the holding of marketing events and activities to attract shoppers to Pavilion Kuala Lumpur Mall.

### 4.4.4 Critical and Significant Accounting Policies

Critical and significant accounting policies are those accounting policies that reflect significant judgments and uncertainties and may result in materially different results under different assumptions and conditions. The Manager will review these estimates and the underlying assumptions on an ongoing basis and will recognise any revisions to these accounting estimates in the financial period in which the estimates are revised and in any future affected period. The following sets out the most significant of these critical accounting policies.

#### ***Basis of measurement***

The financial statements of Pavilion REIT will be prepared on the historical cost basis unless otherwise described below, and in compliance with the provisions of the Deed, Malaysian FRS issued by the Malaysian Accounting Standards Board and generally accepted accounting principles in Malaysia.

#### ***Functional and presentation currency***

The financial statements of Pavilion REIT will be presented in RM, which is the functional currency of Pavilion REIT. All financial information will be presented in RM and will be rounded to the nearest thousand, unless otherwise stated.

#### ***Use of estimates and judgements***

The preparation of financial statements requires management to make judgements, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses. Actual results may differ from these estimates.

Estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the year in which the estimate is revised and in any future years affected.

#### ***Investment Properties***

Investment properties are properties which are owned or held under a leasehold interest to earn Rental Income or for capital appreciation or for both, but not for sale in the ordinary course of business, use in the production or supply of goods or services or for administrative purposes.

Investment properties are measured initially at cost and subsequently at fair value with any change therein recognised in profit or loss for the period in which they arise. For investment properties acquired under equity-settled share-based payment transactions, the investment properties are initially measured at fair value, with corresponding increase in equity.

An investment property is derecognised on its disposal or when the investment property is permanently withdrawn from use and no future economic benefits are expected from its disposal. The difference between the net disposal proceeds and the carrying amount is recognised in profit or loss in the period in which the item is derecognised.

An external, independent valuation firm, having appropriate recognised professional qualifications and recent experience in the location and category of property being valued, values Pavilion REIT's investment properties portfolio at least once every three years.

#### 4. FINANCIAL INFORMATION (Cont'd)

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The fair values are based on market values, being the estimated amount for which a property could be exchanged on the date of the valuation between a willing buyer and a willing seller in an arm's length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.

In the absence of current prices in an active market, the valuations are prepared by considering the estimated rental value of the property. A market yield is applied to the estimated rental value to arrive at the gross property valuation. When actual rents differ materially from the estimated rental value, adjustments are made to reflect actual rents.

Valuations reflect, where appropriate, the type of tenants actually in occupation or responsible for meeting tenancy commitments or likely to be in occupation after letting vacant accommodation, and the market's general perception of their creditworthiness; the allocation of maintenance and insurance responsibilities between Pavilion REIT and the tenant; and the remaining economic life of the property. When rent reviews or tenancy renewals are pending with anticipated reversionary increases, it is assumed that all notices and, where appropriate, counter-notices have been served validly and within the appropriate time.

##### ***Financial Instruments***

Financial instruments are categorised and measured using accounting policies as mentioned below.

##### (i) Initial recognition and measurement

A financial asset or a financial liability is recognised in the statement of financial position when, and only when, Pavilion REIT becomes a party to the contractual provisions of the instrument.

A financial instrument is recognised initially, at its fair value plus transaction costs that are directly attributable to the acquisition or issue of the financial instrument.

##### (ii) Financial instrument categories and subsequent measurement

###### *Financial assets*

###### *Loans and receivables*

Loans and receivables category comprises trade and other receivables and cash and cash equivalents.

Financial assets categorised as loans and receivables are subsequently measured at amortised cost using the effective interest method.

###### *Financial liabilities*

All financial liabilities are subsequently measured at amortised cost.

(iii) **Derecognition**

A financial asset or part of it is derecognised when, and only when the contractual rights to the cash flows from the financial asset expire or the financial asset is transferred to another party without retaining control or substantially all risks and rewards of the asset. On derecognition of a financial asset, the difference between the carrying amount and the sum of the consideration received (including any new asset obtained less any new liability assumed) and any cumulative gain or loss that had been recognised in equity is recognised in profit or loss.

A financial liability or a part of it is derecognised when, and only when, the obligation specified in the contract is discharged or cancelled or expires. On derecognition of a financial liability, the difference between the carrying amount of the financial liability extinguished or transferred to another party and the consideration paid, including any non-cash assets transferred or liabilities assumed, is recognised in profit or loss.

***Property, plant and equipment***

(i) **Recognition and measurement**

Items of property, plant and equipment are measured at cost less any accumulated depreciation and any accumulated impairment losses.

Cost includes expenditures that are directly attributable to the acquisition of the asset and any other costs directly attributable to bringing the asset to working condition for its intended use, and the costs of dismantling and removing the items and restoring the site on which they are located. The cost of self-constructed assets also includes the cost of materials and direct labour.

When significant parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items (major components) of property, plant and equipment.

The gains or losses on disposal of an item of property, plant and equipment are determined by comparing the proceeds from disposal with the carrying amount of property, plant and equipment and are recognised net within "other income" or "other expenses" respectively in profit or loss.

(ii) **Subsequent costs**

The cost of replacing part of an item of property, plant and equipment is recognised in the carrying amount of the item if it is probable that the future economic benefits embodied within the part will flow to the Pavilion REIT, and its cost can be measured reliably. The carrying amount of the replaced part is derecognised to profit or loss. The costs of the day-to-day servicing of property, plant and equipment are recognised in profit or loss as incurred.

(iii) **Depreciation**

Depreciation is calculated over the depreciable amount, which is the cost of an asset, or other amount substituted for cost, less its residual value.

#### 4. FINANCIAL INFORMATION (Cont'd)

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Depreciation is recognised in profit or loss on a straight-line basis over the estimated useful lives of each part of an item of property, plant and equipment.

The estimated useful lives for the current and comparative periods are as follows:

- Furniture and fittings 10 years
- IT equipment & software 3 years
- Office equipment 5 years
- Tools and equipment 5 years
- Signage 10 years

Depreciation methods, useful lives and residual values are reviewed, and adjusted as appropriate at the end of the reporting period.

#### **Impairment**

##### (i) Financial assets

All financial assets are assessed at each reporting date whether there is any objective evidence of impairment as a result of one or more events having an impact on the estimated future cash flows of the asset. Losses expected as a result of future events, no matter how likely, are not recognised.

An impairment loss in respect of loans and receivables is recognised in profit or loss and is measured as the difference between the asset's carrying amount and the present value of estimated future cash flows discounted at the asset's original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account.

##### (ii) Other assets

The carrying amounts of other assets (except for inventories and investment properties that are measured at fair value) are reviewed at the end of each reporting period to determine whether there is any indication of impairment.

If any such indication exists, then the asset's recoverable amount is estimated. For the purpose of impairment testing, assets are grouped together into the smallest group of assets that generates cash inflows from continuing use that are largely independent of the cash inflows of other assets or groups of assets (the "cash-generating unit").

The recoverable amount of an asset or cash-generating unit is the greater of its value in use and its fair value less costs to sell. In assessing value in use, the estimated future cash flows are discounted to their present value using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the asset.

An impairment loss is recognised if the carrying amount of an asset or its cash-generating unit exceeds its recoverable amount. Impairment losses are recognised in profit or loss.

#### 4. FINANCIAL INFORMATION (Cont'd)

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Impairment losses recognised in prior periods are assessed at the end of each reporting period for any indications that the loss has decreased or no longer exists. An impairment loss is reversed if there has been a change in the estimates used to determine the recoverable amount since the last impairment loss was recognised. An impairment loss is reversed only to the extent that the asset's carrying amount does not exceed the carrying amount that would have been determined, net of depreciation or amortisation, if no impairment loss had been recognised. Reversals of impairment losses are credited to profit or loss in the year in which the reversals are recognised.

##### ***Borrowing costs***

Borrowing costs that are not directly attributable to the acquisition, construction or production of a qualifying asset are recognised in profit or loss using the effective interest method.

Borrowing costs directly attributable to the acquisition, construction or production of qualifying assets, which are assets that necessarily take a substantial period of time to get ready for their intended use or sale, are capitalised as part of the cost of those assets.

The capitalisation of borrowing costs as part of the cost of a qualifying asset commences when expenditure for the asset is being incurred, borrowing costs are being incurred and activities that are necessary to prepare the asset for its intended use or sale are in progress. Capitalisation of borrowing costs is suspended or ceases when substantially all the activities necessary to prepare the qualifying asset for its intended use or sale are interrupted or completed.

Investment income earned on the temporary investment of specific borrowings pending their expenditure on qualifying assets is deducted from the borrowing costs eligible for capitalisation.

##### ***Equity instruments***

Instruments classified as equity are stated at cost on initial recognition and are not re-measured subsequently.

Costs directly attributable to issue of instruments classified as equity are recognised as a deduction from equity.

##### ***Income tax***

Income tax expense comprises current and deferred tax. Income tax expense is recognised in profit or loss except to the extent that it relates to a business combination or items recognised directly in equity or other comprehensive income.

Current tax is the expected tax payable on the taxable income for the year, using tax rates enacted or substantively enacted by the end of the reporting period, and any adjustment to tax payable in respect of previous years.



#### 4. FINANCIAL INFORMATION (Cont'd)

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Deferred tax is recognised using the liability method, providing for temporary differences between the carrying amounts of assets and liabilities in the statement of financial position and their tax bases. Deferred tax is not recognised for the following temporary differences: the initial recognition of goodwill, and the initial recognition of assets or liabilities in a transaction that is not a business combination and that affects neither accounting nor taxable profit or loss. Deferred tax is measured at the tax rates that are expected to apply to the temporary differences when they reverse, based on the laws that have been enacted or substantively enacted by the end of the reporting period.

A deferred tax asset is recognised to the extent that it is probable that future taxable profits will be available against which the temporary difference can be utilised. Deferred tax assets are reviewed at the end of each reporting period and are reduced to the extent that it is no longer probable that the related tax benefit will be realised.

##### ***Revenue Recognition***

Rental Income from tenanting out retail space is recognised on an accrual basis over the term of the tenancy and such Rental Income includes service charge and promotional charges. Other revenues are recognised on accrual basis unless the recoverability of income is uncertain, whereby income recognition is on actual receipt.

##### ***Changes to Accounting Policies***

Pavilion REIT's Pro Forma Net Property Income included herein has been compiled based upon the audited financial statements of the Vendors for the last three financial years up to FY2010 and the unaudited management financial statements for FPE2010 and FPE2011 drawn in accordance with Malaysian Private Entity Reporting Standards after incorporating adjustments necessary to reflect Malaysian FRS and the operating results of Pavilion REIT as if it had been the owner of the Subject Properties throughout the periods reported. The Pro Forma Net Property Income have been prepared and in manner consistent with the format and the accounting policies to be adopted by Pavilion REIT. The Manager, having made due enquiry, is not aware of any proposed changes in the Malaysian FRS that may materially affect the financial information contained herein.

#### **4.4.5 Components of Total Revenue**

Pavilion REIT's Total Revenue is the aggregate of Rental Income and other income earned from the Subject Properties. A significant portion of Pavilion REIT's Total Revenue is derived from its Rental Income from the Subject Properties. Rental Income includes base rent, service charges and promotional charges. Other income earned from the Subject Properties includes car park income, electricity income, events and advertising income, turnover rent and other miscellaneous incomes but net of discretionary rebates (if any).

Pavilion REIT's Total Revenue is generally affected by a number of factors including:

- (i) general macro-economic conditions and supply and demand trends affecting the real estate market, particularly the retail market, in Malaysia;
- (ii) rental rates for tenancies at its properties; and
- (iii) occupancy rates and tenancy expiries and renewals.

**Rental Income**

Rental Income is the total amount payable by tenants pursuant to a tenancy agreement (save for tenancy agreements with regards to storage spaces, the income for which is recorded under Other Income). Pavilion REIT's tenancy agreements are generally fixed for a period of three years, which is the usual market practice in Malaysia. A number of Pavilion REIT's tenancies also include step-up provisions, whereby the Rental Income is increased by a fixed quantum/percentage annually during the tenancy term. Rental Income includes (i) a base rent component, (ii) a service charge component, which is a contribution paid by tenants towards the operating and maintenance expenses of the property and (iii) a promotional charge, which is contribution paid by retail tenants for marketing and promotional purposes.

Factors taken into account in determining the rental rates for a tenancy include the effect of prevailing market conditions including tenant demand, the impact of competing properties and inflation.

**Other Income**

Other income consists of the following key items:

- (i) Turnover rent – additional rental on top of Rental Income based on the sales level of tenants. There are generally two methods of computing turnover rent contained in the tenancy:
  - (a) turnover rent calculated by reference to a fixed percentage of the tenant's total monthly sales turnover; or
  - (b) turnover rent calculated by reference to a fixed percentage of the tenant's total monthly sales turnover above a specified threshold,net of the fixed monthly rental component.

The Manager believes that this proportion of the income will increase over time as tenants' sales increase. Revenue from turnover rent is recognised by Pavilion REIT upon receipt of monthly turnover statements from tenants.

- (ii) Car park income – income earned based on the agreement entered into with the car park operator;
- (iii) Electricity income – income earned from the sale of electricity to tenants at the tariff rates approved by the Energy Commission and which depends on the volume of utilisation by tenants;
- (iv) Casual tenanting events – revenue from the rental of push carts located at various parts of Pavilion Kuala Lumpur Mall;
- (v) Events – revenue earned from renting out space around Pavilion Kuala Lumpur Mall, including the Centre Court for events and promotions;
- (vi) Advertising – revenue generated from standees and advertising spaces/light-boxes located at prominent locations around the Subject Properties; and

#### 4. FINANCIAL INFORMATION (Cont'd)

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- (vii) Other miscellaneous income – Rental Income from storage spaces, revenue from the early termination of tenancies, commissions due to an exclusive arrangement with a telecommunication company, credit card usage, after-hour charges/tenancy charges to tenants for recovery of utilities, operational and maintenance work carried out for tenants as well as late payment interest charged to tenants.

Other income is computed net of discretionary rebates.

##### 4.4.6 Components of Property Operating Expenses

The most significant Property Operating Expenses of Pavilion REIT are utilities, maintenance and quit rent and assessment. Other operating expenses include property management fee, advertising and marketing expenses and general and administrative expenses.

Property Operating Expenses are not affected to the same degree as Pavilion REIT's Total Revenue by general economic trends affecting the real estate market in Malaysia, as a substantial part of its Property Operating Expenses are fixed. As a result, to the extent that Pavilion REIT's Total Revenue is negatively affected by the abovementioned factors, its results of operations will be similarly negatively affected as it may be difficult for the Manager to reduce certain of Pavilion REIT's costs. Property Operating Expenses may be affected by a number of factors including, primarily:

- (i) the age and condition of the Subject Properties;
- (ii) any maintenance and service charges levied, and insurance premiums;
- (iii) inflation;
- (iv) employment conditions;
- (v) costs relating to the organising of marketing events and activities;
- (vi) utility usage and rates; and
- (vii) changes in quit rent levied by the State Authorities and assessment rate levied by the local government where the Subject Properties are located.

##### ***Utilities expenses***

The single largest operating expense of Pavilion REIT consists of utility expenses incurred in the operation of the Subject Properties, which include electricity costs, sewerage charges and water charges.

##### ***Maintenance expenses***

Maintenance expenses include costs for contractual maintenance as well as the general repair and upkeep of the Subject Properties, for example, the maintenance of air conditioners and the car park system, cleaning expenses, electrical maintenance, consumables, insurances, the maintenance of lifts and escalators, security expenses and waste disposal. Insurance policies premiums are payable for coverage which includes (i) fire, (ii) property damage, (iii) business interruption, (iv) public liability (including personal injury) and (v) all risks.

#### 4. FINANCIAL INFORMATION (Cont'd)

##### **Quit rent and assessment**

Quit rent is an amount prescribed by and payable to the State Authority. Assessment is calculated based on a rate as prescribed by the local authorities on the annual value of the Subject Properties as assessed by the relevant local authorities.

##### **Other Operating Expenses**

These include advertising, promotion and marketing expenses, general and administrative expenses as well as property management fee and the Property Manager's reimbursables.

- (i) *Advertising and marketing expenses* – Advertising and marketing expenses comprise advertising setup costs, sponsorship of car park validation, public relations costs, marketing collaterals and decorations costs and any other expenses related to promotional activities.
- (ii) *General and administrative expenses* – General and administrative expenses include depreciation, telecommunications expenses, legal charges, upkeep, provision for doubtful debt and other miscellaneous expenses.

#### 4.4.7 Rental Income Trends

The following tables set out information on the Total NLA of each of the Subject Properties as at 31 December 2008, 31 December 2009, 31 December 2010 and 30 June 2011 and the Total Revenue and NPI for FY2008, 2009 and 2010 and for FPE2011.

Pavilion Kuala Lumpur Mall	FY2008	FY2009	FY2010	FPE2011
Total NLA (sq ft)	1,311,994	1,324,642	1,351,779	1,335,119
Total Revenue (RM'000)	246,258	264,898	289,300	151,765
NPI (RM'000)	165,191	186,361	203,326	110,963

Pavilion Tower	FY2008 <sup>(1)</sup>	FY2009 <sup>(1)</sup>	FY2010	FPE2011
Total NLA (sq ft)	-	-	167,407	167,407
Total Revenue (RM'000)	-	-	1,880	2,290
NPI (RM'000)	-	-	(452)	620

**Note:**

- (1) Pavilion Tower was acquired by CFSB from Macorp Sdn Bhd on 10 March 2010 (pursuant to a sale and purchase agreement dated 11 January 2010), following which it underwent renovations. Pavilion Tower only began tenanting out its premises from the third quarter of 2010 and is currently in the process of tenanting out its remaining premises.

For FY2010 and FPE2011, approximately 99.4% and 98.5% respectively of Total Revenue was derived from Pavilion Kuala Lumpur Mall.

#### 4. FINANCIAL INFORMATION (Cont'd)

##### 4.4.8 Occupancy Trends

The following table sets out the Occupancy Rate of the Subject Properties as at 31 December 2008, 2009 and 2010 and 30 June 2011 and the average monthly rental for FY2008, 2009 and 2010 and for FPE2011.

Subject Properties	FY2008		FY2009		FY2010		FPE2011	
	Occupancy rate (as at 31 December 2008) (%)	Average monthly rental (RM per sq ft)	Occupancy rate (as at 31 December 2009) (%)	Average monthly rental (RM per sq ft)	Occupancy rate (as at 31 December 2010) (%)	Average monthly rental (RM per sq ft)	Occupancy rate (as at 30 June 2011) <sup>(3)</sup> (%)	Average monthly rental (RM per sq ft)
Pavilion Kuala Lumpur Mall <sup>(1)</sup>	98.5	15.08	98.7	15.58	96.5	16.36	97.9	16.76
Pavilion Tower <sup>(2)</sup>	-	-	-	-	29.6	5.98	41.4	5.92

**Notes:**

- (1) The average monthly rental per sq ft is calculated based on the average monthly NLA Income (excluding Management Space) for the relevant FPE/FY divided by Occupied NLA (excluding Management Space) as at the end of the relevant FPE/FY.
- (2) Pavilion Tower was acquired by CFSB from Macorp Sdn Bhd on 10 March 2010 (pursuant to a sale and purchase agreement dated 11 January 2010), following which it underwent renovations. Pavilion Tower only began tenanting out its premises from the third quarter of 2010 and is currently in the process of tenanting out its remaining premises. In view of the varying Occupancy Rate of Pavilion Tower throughout the FPE/FY under review, the average monthly rental per sq ft is calculated based on the aggregate monthly NLA Income as at the end of the relevant FPE/FY divided by the Occupied NLA as at the end of the relevant FPE/FY.
- (3) Including tenancies which have been committed but yet to commence as at 30 June 2011, the Occupancy Rate for Pavilion Kuala Lumpur Mall and Pavilion Tower as at 30 June 2011 would have been 98.5% and 64.5%, respectively.

The Occupancy Rate of Pavilion Kuala Lumpur Mall was near 100% throughout the period under review. The reduction in Occupancy Rate of Pavilion Kuala Lumpur Mall as at 31 December 2010 was due to the closure of the Home Precinct, a precinct at Pavilion Kuala Lumpur Mall which specialised in home decoration and furnishings, for reconfiguration into Tokyo Street. See Section 2.4.8 "Expansion and Renovation of Pavilion Kuala Lumpur Mall" of this Prospectus for further details of the Tokyo Street reconfiguration.

For a further description of the Occupancy Rates and occupancy profile of the Subject Properties, see 2.4 "Pavilion Kuala Lumpur Mall" and Section 2.5 "Pavilion Tower" of this Prospectus.

4.4.9 Results of Operations

(i) Results of Operations for FPE2011 Compared to Results of Operations for FPE2010

**Total Revenue**

Pavilion REIT's Total Revenue for FPE2011 increased by RM10.4 million or 7.2% to RM154.1 million from RM143.7 million for FPE2010.

Total Revenue for FPE2011 was principally from Rental Income, which contributed to 86.3% of Total Revenue. The increase in Total Revenue was primarily due to the effect of the higher rentals from the renewal of majority of Pavilion Kuala Lumpur Mall's tenancies towards the end of the third quarter of 2010 as well as increase in advertisement income.

*Rental income* – Rental income increased by RM5.4 million or 4.2% to RM133.0 million in FPE2011 from RM127.6 million in FPE2010. The increase was mainly due to the higher rentals from the renewal of tenancies as described above.

*Other income* – Other income increased by RM5.0 million or 31.1% to RM21.1 million in FPE2011 from RM16.1 million in FPE2010 mainly due to the increase in advertisement income. This was as a result of the increase in the availability of, and demand for, advertising spaces.

**Property Operating Expenses**

Property Operating Expenses for FPE2011 increased by RM0.9 million or 2.2% to RM42.5 million from RM41.6 million for FPE2010. The increase was mainly due to increase in repair and maintenance cost such as maintenance of the air conditioning system, replacement of lightings, painting works, upgrading of doors at common corridors and back of house as well as increase in quit rent and assessment and operational costs, arising from among other things, the increased occupation of Pavilion Tower.

*Utilities expenses* – Utilities expenses decreased by RM0.5 million or 2.7% to RM17.9 million for FPE2011 from RM18.4 million for FPE2010. This decrease was mainly due to energy saving exercise undertaken as well as the closing off of the Home Precinct for reconfiguration into Tokyo Street.

*Maintenance expenses* – Maintenance expenses increased by RM3.3 million or 40.7% to RM11.4 million for FPE2011 from RM8.1 million for FPE2010. The increase was due to the increase in repair and maintenance costs arising from the expiry of warranty periods, such as maintenance of the air conditioning system, replacement of lightings, painting works as well as upgrading of doors at common corridors.

*Quit rent and assessment* – Quit rent and assessment increased by RM0.5 million or 12.5% to RM4.5 million for FPE2011 from RM4.0 million for FPE2010. Such increase was mainly due to the fact that the quit rent and assessment charges for FPE2010 did not fully reflect the acquisition of Pavilion Tower, which was completed towards the end of the first quarter of 2010.

*Other Operating Expenses* – Other operating expenses decreased by RM2.4 million or 21.6% to RM8.7 million for FPE2011 from RM11.1 million for FPE2010. The decrease was mainly due to the completion of amortisation of tenancy related costs and write back of provision of doubtful debts.

***NPI***

As a result of the abovementioned factors, Pavilion REIT recorded a NPI of RM111.6 million for FPE2011 which represented a 9.3% increase from NPI of RM102.1 million for FPE2010.

**(ii) Results of Operations for FY2010 Compared to FY2009**

***Total Revenue***

Total Revenue increased by RM26.3 million or 9.9% to RM291.2 million in 2010 from RM264.9 million in 2009, primarily due to a RM14.5 million or 6.0% increase in Rental Income.

*Rental Income* – Rental Income increased by RM14.5 million or 6.0% to RM256.7 million in 2010 from RM242.2 million in 2009 primarily as a result of an increase in service charge rates.

*Other income* – Other income increased by RM11.8 million or 52.0% to RM34.5 million in 2010 from RM22.7 million in 2009 mainly due to an increase in advertisement income arising from higher demand, an increase in turnover rent as well as a decrease in rebates given to tenants.

***Property Operating Expenses***

Property Operating Expenses increased by RM9.8 million or 12.5% to RM88.3 million in 2010 from RM78.5 million in 2009. In both 2009 and 2010, utilities expenses were the largest component of Property Operating Expenses and accounted for approximately 46.1% and 41.4% of Property Operating Expenses, respectively. The increase in Property Operating Expenses in 2010 was primarily due to the increase in maintenance costs and other operating costs such as advertising set-up costs, as well as the contribution of expenses from Pavilion Tower which commenced operations in the third quarter of 2010.

*Utilities expenses* – There was minimal change in utilities expenses between 2009 and 2010, which increased by RM0.4 million or 1.1% to RM36.6 million in 2010 from RM36.2 million in 2009. The change was due to an increase in power consumption due to consumption by Pavilion Tower following the commencement of the tenancies.

*Maintenance expenses* – Maintenance expenses increased by RM4.3 million or 27.6% to RM19.9 million in 2010 from RM15.6 million in 2009. The increase was due to the increase in repair and maintenance costs arising from the continuous replacement of electrical cabling and the upgrading of doors, flooring and lighting in Pavilion Kuala Lumpur Mall following the expiry of warranties as well as the replacement of certain fixtures at Pavilion Tower.

#### 4. FINANCIAL INFORMATION (Cont'd)

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*Quit rent and assessment* – Quit rent and assessment increased by RM0.5 million or 6.2% to RM8.6 million in 2010 from RM8.1 million in 2009, due to contribution attributed to the acquisition of Pavilion Tower.

*Other operating expenses* – Other operating expenses increased by RM4.6 million or 24.7% to RM23.2 million in 2010 from RM18.6 million in 2009 mainly due to set-up cost to cater for the increase in demand for advertising spaces, as well as due to provisions for doubtful debts.

#### **NPI**

As a result of the abovementioned factors, Pavilion REIT recorded a NPI of RM202.9 million in 2010 which represented an 8.9% increase from NPI of RM186.4 million in 2009.

#### **(iii) Results of Operations for FY2009 Compared to FY2008**

##### ***Total Revenue***

Total Revenue increased by RM18.6 million or 7.6% to RM264.9 million in 2009 from RM246.3 million in 2008, primarily due to a RM11.6 million or 5.0% increase in Rental Income. Total Revenue from Pavilion Kuala Lumpur Mall made up 100% of Total Revenue for 2008 and 2009 as Pavilion Tower only commenced operations in 2010.

*Rental Income* – Rental Income increased by RM11.6 million or 5.0% to RM242.2 million in 2009 from RM230.6 million in 2008 mainly as a result of an increase in NLA due to the introduction of additional kiosks.

*Other income* – Other income increased by RM7.0 million or 44.6% to RM22.7 million for 2009 from RM15.7 million in 2008, primarily due to an increase in turnover rent, car park income as well as electricity income and after hours charges (which are charges arising from the continued operations of the tenants during the hours after Pavilion Kuala Lumpur Mall is closed).

##### ***Property Operating Expenses***

Property Operating Expenses decreased by RM2.6 million or 3.2% to RM78.5 million in 2009 from RM81.1 million in 2008. The reduction in 2008 was mainly from other operating expenses, due to the reversal of provisions for doubtful debts made in 2007. Property Operating Expenses for both 2008 and 2009 were attributable to Pavilion Kuala Lumpur Mall only, and despite an increase in utilities expenses in both years, there was a greater decrease in other operating expenses which resulted in an overall drop in Property Operating Expenses.

*Utilities* – Utilities expenses increased by RM2.7 million or 8.1% to RM36.2 million in 2009 from RM33.5 million in 2008. The increase was mainly attributable to an increase in tariffs in the middle of 2008.



#### 4. FINANCIAL INFORMATION (Cont'd)

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*Maintenance expenses* – Maintenance expenses increased by RM2.8 million or 21.9% to RM15.6 million in 2009 from RM12.8 million in 2008. The increase was due to an increase in repair and maintenance costs arising from the expiry of defects liability periods, for example in relation to the maintenance for air conditioners, lifts, escalators and other operational equipment in Pavilion Kuala Lumpur Mall.

*Quit rent and Assessment* – Quit rent and Assessment was maintained at RM8.1 million for both 2009 and 2008 with a minor decrease by RM0.04 million or 0.5% between both years.

*Other operating expenses* – Other operating expenses decreased by RM7.9 million or 29.8% to RM18.6 million in 2009 from RM26.5 million in 2008 mainly due to a reversal in provisions for doubtful accounts in 2009 due to recovery of bad debts, reduction in marketing and promotional expenses as well as a decline in tenancy costs.

#### ***NPI***

As a result of the abovementioned factors, Pavilion REIT recorded a NPI of RM186.4 million in 2009 which represented a 12.8% increase from NPI of RM165.2 million in 2008.

#### **4.4.10 Liquidity and Capital Resources**

The Manager is of the opinion that Pavilion REIT's working capital would be sufficient for its present requirements as Rental Income is received in advance monthly and generally, tenants are required to provide a security deposit of three months of their monthly rental payable. At Listing, assuming full subscription under the Offering and based on an illustrative Average Offering Price of RM0.88 as well as listing expenses of RM42.0 million, Pavilion REIT will have RM5.2 million to fund working capital, capital expenditures and unanticipated cash needs. The Manager anticipates that Pavilion REIT's primary uses of cash will be to fund distributions, for payment of its day to day operations expenses, trust expenses, servicing of debt, maintenance and other property-related costs as well as for its capital expenditure, asset enhancement and future property acquisitions.

Funding of the foregoing will come from a combination of net cash from operations and borrowings. Pavilion REIT will also have future funding capacity through debt financing – based on Pavilion REIT's Consolidated Pro Forma Financial Position, its expected gearing level at the time of the Listing will be approximately 20.1% of its Total Asset Value while the regulated maximum under the REITs Guidelines is 50.0% of its Total Asset Value at the time of borrowing. If required and deemed necessary or appropriate, Pavilion REIT will also consider other opportunities to raise additional equity capital through the issuance of new Units.

#### 4. FINANCIAL INFORMATION (Cont'd)

It is the intention of the Manager to distribute at least 90.0% of Pavilion REIT's Distributable Income on a half-yearly basis or such other interval as determined by the Manager at its absolute discretion. For the period from Listing to 31 December 2012, Pavilion REIT will distribute 100.0% of its Distributable Income. As such, Pavilion REIT will not be able to meet all its obligations to repay the principal of its debt obligations from its cash flow generated from operations. As such, Pavilion REIT will be required to refinance the principal of its debt obligations on maturity or repay the debt from equity financing, or both. There can be no assurance that debt refinancing will be available on terms similar to the New Debt Facilities.

##### 4.4.11 Capital Expenditures

The following table sets forth details of historical and proposed capital expenditures in relation to the Subject Properties for the periods indicated.

Total Capital Expenditure (RM'000)	FY2008	FY2009	FY2010	FPE2011	Forecast Period 2011	Forecast Year 2012
Pavilion Kuala Lumpur Mall	2,896	15,432	16,525	6,501	-	3,100
Pavilion Tower	-	-	2,773	7	-	-

The Manager prepares an annual regular capital expenditure budget for each of the Subject Properties which is intended to provide for all necessary capital improvements. As at the Latest Practicable Date, each of the Subject Properties has been maintained on a regular basis. While there are no material deferred capital maintenance obligations outstanding, the regular capital expenditure with respect to maintenance and capital improvements is forecasted at RM3.1 million (due to anticipated enhancement to the Subject Properties and provision for acquisition of property, plant and equipment) for the Forecast Year 2012. See Section 2.4.8 "Expansion and Renovation of Pavilion Kuala Lumpur Mall" and Section 2.5.7 "Expansion and Renovation of Pavilion Tower" of this Prospectus for further details.

Actual capital expenditure may differ from the planned capital expenditure due to various factors, including results of operations, future cashflows, financial condition, receipt of governmental approval, changes in legislative and regulatory environment and other factors that are beyond the Manager's or Pavilion REIT's control.

#### 4. FINANCIAL INFORMATION (Cont'd)

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##### 4.5 PROFIT FORECASTS

Statements contained in this "Profit Forecasts" section that are not historical facts may be forward-looking statements. Such statements are based on the assumptions set forth in this section of the Prospectus and are subject to certain risks and uncertainties which could cause actual results to differ materially from those forecasts. Under no circumstances should the inclusion of such information herein be regarded as a representation, warranty or prediction by any of Pavilion REIT, the Manager, the Trustee, the Joint Principal Advisers, the Joint Global Coordinators or any other person that the underlying assumptions will materialise, or that these results will be achieved or are likely to be achieved. See Section on "Forward-looking Statements" and Section 5 "Risk Factors" of this Prospectus for further details. Investors in the Units are cautioned not to place undue reliance on these forward-looking statements which are made only as of the date of this Prospectus.

***None of Pavilion REIT, the Manager, the Trustee, the Joint Principal Advisers or the Joint Global Coordinators guarantees the performance of Pavilion REIT, the repayment of capital or the payment of any distributions, or any particular return on the Units. The forecast yields stated in the following table are calculated based on the illustrative Average Offering Price of RM0.88.***

***Such yields will vary accordingly for investors who purchase Units at a price that differs from the illustrative Average Offering Price.***

***Investors are cautioned that rental yield on the Subject Properties to be held by Pavilion REIT is not equivalent to the yield of the Units. Current rental receipts and yields may not sustain. The values of the Subject Properties may rise as well as fall.***

The following table shows Pavilion REIT's Profit Forecasts for the Forecast Period 2011 and the Forecast Year 2012. The financial year end of Pavilion REIT is 31 December. The forecast period of 2011 has been prepared assuming that the first financial year is the one-month period ending 31 December 2011, giving an implied Listing Date of 1 December 2011. The Profit Forecasts may be different to the extent that the Listing Date is other than 1 December 2011. The Profit Forecasts are based on the assumptions set out below and have been examined by the Reporting Accountants, being KPMG, and should be read together with the "Reporting Accountants' Letter on the Profit Forecasts" set out in Appendix E, as well as the assumptions and the sensitivity analysis set out in this section of the Prospectus.

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#### 4. FINANCIAL INFORMATION (Cont'd)

##### Profit Forecasts

	Forecast Period 2011 (RM'000)	Forecast Year 2012 (RM'000)
<b>Total Revenue</b>		
Rental Income	23,060	280,389
Other Income	2,710	33,957
	<b>25,770</b>	<b>314,346</b>
<b>Property Operating Expenses</b>		
Utilities	(3,262)	(39,469)
Maintenance	(1,956)	(24,023)
Quit Rent and Assessment	(750)	(9,093)
Other Operating Expenses	(1,829)	(21,805)
Property Operating Expenses	(7,797)	(94,390)
<b>Net Property Income (NPI)</b>		
Interest Income	128	1,534
Net Investment Income	18,101	221,490
<b>Trust Expenses</b>		
Management Fee	(1,443)	(17,452)
Trustee's Fee	(33)	(400)
Other Trust Expenses	(167)	(2,000)
Borrowing Costs	(2,891)	(34,821)
Profit before Taxation	13,567	166,817
Taxation	-	-
Profit after Taxation	13,567	166,817
Add: Non cash items <sup>(1)</sup>	437	5,289
<b>Distributable Income</b>	<b>14,004</b>	<b>172,106</b>
Number of Units in issue (million) <sup>(2)</sup>	3,000.00	3,002.48
Distribution rate (%)	100.00	100.00
Distribution cover (time)	1.00	1.00
Distribution per Unit (sen) <sup>(3)</sup>	0.47	5.73
Illustrative Average Offering Price (RM/Unit)	0.88	0.88
<b>Distribution Yield (%) on Illustrative Average Offering Price<sup>(4)</sup></b>	<b>6.41</b>	<b>6.51</b>

##### Notes:

- (1) Non cash items comprise the Management Fee payable in Units, depreciation of plant and equipment and amortisation of transaction costs for the New Debt Facilities.
- (2) The increase in number of Units in issue is a result of the assumed part payment of the Management Fee for the relevant period in the form of Units issued at an assumed issue price of RM0.88 per Unit.
- (3) Assuming a listing date of 1 December 2011.
- (4) Distribution yield for the Forecast Period 2011 has been annualised.

#### 4. FINANCIAL INFORMATION (Cont'd)

##### 4.5.1 PROJECTED INCOME

The following sets out the forecasted Total Revenue and Net Property Income of each of the Subject Properties for the Forecast Period 2011 and Forecast Year 2012.

	Forecast Period 2011 (RM'000)	Forecast Year 2012 (RM'000)
<b>Total Revenue</b>		
Pavilion Kuala Lumpur Mall	24,964	302,692
Pavilion Tower	806	11,654
<b>Total</b>	<b>25,770</b>	<b>314,346</b>
<b>Net Property Income</b>		
Pavilion Kuala Lumpur Mall	17,562	212,386
Pavilion Tower	411	7,570
<b>Total</b>	<b>17,973</b>	<b>219,956</b>

##### 4.5.2 DIRECTORS' ANALYSIS AND COMMENTARY

The Directors confirm that the Profit Forecasts of Pavilion REIT and the underlying bases and assumptions stated herein have been reviewed by the Directors. After due and careful inquiries, with the Directors taking into account the future prospects of the industry, the future direction of Pavilion REIT and its level of gearing, liquidity and working capital requirements, the Directors are of the opinion that the Profit Forecasts of Pavilion REIT are achievable and the assumptions made are reasonable at the time of issue of this Prospectus, barring unforeseen circumstances.

Nevertheless, the bases and assumptions, including the interest rate assumptions, are inherently subject to significant business, economic and competitive uncertainties and contingencies, which are beyond the Manager's control. Therefore, future events, regionally and globally, may have a material impact on the actual results of Pavilion REIT during the Forecast Period 2011 and Forecast Year 2012.

##### 4.5.3 BASES AND ASSUMPTIONS

The Manager has prepared the Profit Forecasts on the following bases and assumptions. The Manager considers these bases and assumptions to be appropriate and reasonable as at the date of this Prospectus. However, investors should consider these bases and assumptions as well as the Profit Forecasts and make their own assessment of the future performance of Pavilion REIT.

#### 4. FINANCIAL INFORMATION (Cont'd)

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##### 4.5.3.1 Total Revenue Bases and Assumptions

For Forecast Period 2011 and Forecast Year 2012, the Manager forecasted Total Revenue to be RM25.8 million and RM314.3 million, respectively. Total Revenue consists of Rental Income and Other Income (as defined herein).

##### *Rental Income*

Rental Income comprises base rent, service charges and promotional charges. Promotional charges are only applicable to retail tenancies of Pavilion Kuala Lumpur Mall.

Pavilion Kuala Lumpur Mall contributes RM22.3 million and RM269.0 million to the Rental Income for Forecast Period 2011 and Forecast Year 2012, respectively.

##### *Base rent*

The Manager has assumed the following in arriving at the forecasted base rent for the tenancies of the Subject Properties for Forecast Period 2011 and Forecast Year 2012:

- (i) base rent is forecasted based on committed tenancies for Forecast Period 2011 and Forecast Year 2012. The Manager has also assumed that vacant lots are tenanted at an assumed rent after taking into consideration historical rates and/or prevailing market rates. The Manager has assumed 100.0% Occupancy Rate in Pavilion Kuala Lumpur Mall for Forecast Period 2011 and Forecast Year 2012, before taking into consideration the vacancy allowance applied to Pavilion Kuala Lumpur Mall. As for Pavilion Tower, the Manager has assumed Occupancy Rate of 82.3% and 100.0% for the Forecast Period 2011 and the Forecast Year 2012 respectively;
- (ii) expiring tenancies in Forecast Period 2011 are assumed to be renewed at their prevailing contractual rates;
- (iii) the Manager has assumed that tenancies for Pavilion Kuala Lumpur Mall expiring in Forecast Year 2012 will be renewed at a 5.0% increase in base rent. This translates to an approximately RM0.7 million increase in the total base rent for Forecast Year 2012. Such increase in base rent was assumed after taking into consideration likely market conditions, inflation levels, tenancy demand as well as rental payable pursuant to comparable tenancies that have recently been negotiated. No increase is assumed for renewal of tenancies of Pavilion Tower expiring in Forecast Year 2012; and
- (iv) the Manager has assumed a provision for vacancy allowance of 3.0% of base rent based on its forecasted base rent for Pavilion Kuala Lumpur Mall while no vacancy allowance was provided for in respect of Pavilion Tower. The provision for vacancy allowance is for the vacancy period before the rent becomes payable under the new tenancy and to cover changeover of tenancies and loss of income.

##### *Service charges*

Service charges are contributions paid by tenants for operating expenses of each of the Subject Properties. It is computed based on the amount of space occupied by the tenants. Should there be an increase in NLA, service charges will increase accordingly.

#### 4. FINANCIAL INFORMATION (Cont'd)

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The Manager assumes that service charges will remain unchanged at existing rates throughout Forecast Period 2011 and Forecast Year 2012.

The Manager has applied a vacancy allowance of 3.0% to its forecasted service charge for Pavilion Kuala Lumpur Mall, while no vacancy allowance was provided for in respect of Pavilion Tower.

##### *Promotional charges*

Promotional charges are computed based on the amount of space occupied by the tenants. Should there be an increase in NLA, these charges would increase accordingly. The Manager has assumed that promotional charges imposed on tenants of Pavilion Kuala Lumpur Mall will remain at existing rates for Forecast Period 2011 and Forecast Year 2012.

The Manager has applied a vacancy allowance of 3.0% to its forecasted promotional charge for Pavilion Kuala Lumpur Mall. Promotional charges are not applicable for office tenants.

##### **Other Income**

Other income consists of car park income, electricity charges billed to tenants, casual tenancing, events, advertising, turnover rent and other miscellaneous income, net of rebates given to tenants (“**Other Income**”).

Other Income contributes 10.5% and 10.8% of Total Revenue for Forecast Period 2011 and Forecast Year 2012, respectively. The Manager has forecasted Other Income amounting to RM2.7 million and RM34.0 million for Forecast Period 2011 and Forecast Year 2012, respectively. Other Income is based on specific assumptions as set out below and/or historical financial information.

##### *Car park income*

Car park income is forecasted based on the formula stipulated in the car park agreement entered into between UCSB and the car park operator (which will be assigned and/or novated to the Trustee after the Listing) and on the existing number of car park bays/rates. The tenure of the car park agreement is three years with an option to renew for a further term of three years. Car park income contributes 29.6% (RM0.8 million) and 27.9% (RM9.5 million) of Other Income for Forecast Period 2011 and Forecast Year 2012, respectively.

##### *Electricity income*

Tenants are billed for their electricity consumption based on tariff rates approved by the Energy Commission.

For Forecast Period 2011 and Forecast Year 2012, the Manager expects that the electricity income of the Subject Properties will amount to RM1.3 million and RM15.7 million, respectively. Electricity income contributed 48.1% and 46.2% to Other Income for Forecast Period 2011 and Forecast Year 2012, respectively.

The Manager expects the annualised electricity income for Forecast Period 2011 to increase by 1.0% per annum for Forecast Year 2012. The increase in electricity tariff as announced by the Government in May 2011 has been accounted for in the tariff to tenants for Forecast Period 2011 and Forecast Year 2012.

#### **4. FINANCIAL INFORMATION (Cont'd)**

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##### *Advertising income*

For Forecast Period 2011 and Forecast Year 2012, the Manager has assumed an advertising income of RM0.6 million and RM7.5 million, respectively. The advertising income for Forecast Year 2012 is 4.2% higher than the annualised advertising income for Forecast Period 2011. The increase in advertising income for Forecast Year 2012 is due to the creation of additional advertising locations and increase in advertising rates as well as more active marketing activities.

##### **4.5.3.2 Property Operating Expenses Assumptions**

###### *Utilities*

Utilities refer to electricity, water and sewerage charges. For Forecast Period 2011 and Forecast Year 2012, the Manager expects the Subject Properties to incur utilities charges of RM3.3 million and RM39.5 million respectively, on the assumption that existing arrangements with utility service providers (including any preferential tariff granted) would continue to apply.

The Manager has assumed an increase in utilities charges of 1.0% for Forecast Year 2012 as compared against the annualised utilities charges for Forecast Period 2011. In addition, the Manager has taken into consideration the increase in tariffs which was announced by the Government in May 2011 for Forecast Period 2011.

###### *Maintenance*

Maintenance refers to the cost of upkeep of the Subject Properties such as the maintenance of air conditioners and car park systems, cleaning expenses, electrical maintenance, consumables, insurances, the maintenance of lifts and escalators, security charges and waste disposal. In addition, these charges also include insurance premiums payable for coverage which includes (i) fire accident, (ii) property damage, (iii) business interruption, and (iv) public liability (including personal injury). The Manager assumes no additional insurance is required or taken.

For Forecast Period 2011 and Forecast Year 2012, the Subject Properties are expected to incur maintenance charges of RM2.0 million and RM24.0 million respectively, taking into account historical experience.

The Manager expects the annualised maintenance expenses for Forecast Period 2011 to be in line with Forecast Year 2012.

###### *Quit rent and assessment*

Quit rent and assessment is an amount prescribed and payable to the state government and local council on the Subject Properties. Assessment is computed based on the rate prescribed by the local council on the annual value of the Subject Properties.

These expenses are estimated to be RM0.8 million and RM9.1 million for Forecast Period 2011 and Forecast Year 2012, respectively.



**Other operating expenses**

*Advertising and marketing expenses*

Advertising and marketing expenses comprise advertising set-up cost, public relations costs and costs of marketing collaterals and decoration together with any other expenses related to promotional activities as well as discounted car park charges for shoppers who spend above a certain amount in Pavilion Kuala Lumpur Mall.

The forecasted advertising and marketing expenses are based on the Manager's plans for advertising and promotions for Pavilion Kuala Lumpur Mall. The Manager assumes that the annualised expenses in the Forecast Period 2011 of RM7.4 million will be reduced by 10.8% to RM6.6 million in the Forecast Year 2012 as advertising and marketing expenses are expected to decrease mainly due to an expected increase in sponsorships for promotional activities.

*General and administrative expenses*

General and administrative expenses consist of depreciation, telecommunications expenses, legal charges, upkeep and other miscellaneous expenses of the Subject Properties. These expenses are expected to increase by 1.4% from the annualised expenses in the Forecast Period 2011 to RM2.4 million in the Forecast Year 2012, save for provision for doubtful debts which has been assumed at 0.5% of Rental Income taking into consideration historical experience.

*Property management fee and reimbursable*

As stipulated in the Property Management Agreement, the property management fee amounts to RM30,000 per month (excluding service tax). In addition, the Property Manager is also entitled to full reimbursement of costs and expenses incurred in the operation, maintenance, management and marketing of the Subject Properties (including but not limited to the cost relating to the employment and remuneration of on-site staff provided) ("**Permitted Expenses**") as well as fees and reimbursements for Permitted Expenses payable to its services provider(s), provided that such reimbursable amounts are (i) approved under the annual business plan and budget for the Subject Properties or incurred with prior approval by the Trustee and the Manager and (ii) supported by receipts, vouchers or other evidence of payment acceptable to the Manager and the Trustee. For the Forecast Year 2012, the reimbursable amount payable to the Property Manager is estimated to be RM11.1 million based on historical experience as well as the terms of the Property Management Agreement.

**4.5.3.3 Interest Income Assumptions**

Interest income is assumed to be earned at an interest rate of 2.5% per annum applied to cash held in interest-bearing/fixed deposit accounts, which is assumed to be RM61.4 million throughout the Forecast Period 2011 and the Forecast Year 2012. It is assumed that remaining cash balances and cashflow from operations will be used for working capital and for distribution to Unitholders every half-yearly and hence, would not earn any interest.

#### **4. FINANCIAL INFORMATION (Cont'd)**

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##### **4.5.3.4 Management Fee Assumptions**

For the Forecast Period 2011 and Forecast Year 2012, the Management Fee will be computed based on the following:

- (i) base fee of 0.3% per annum of the Total Asset Value of the Pavilion REIT (excluding cash and bank balance which are held in non-interest bearing accounts); and
- (ii) performance fee of 3.0% per annum of Net Property Income of the Subject Properties.

The Manager will be paid the Management Fee as described above in the form of cash and Units. For FY2011 and FY2012, the Manager intends to receive between 15% to 50% of its Management Fee in the form of Units. For the purposes of the Profit Forecast, it is assumed that 15.0% of the Management Fee will be paid in Units for both the Forecast Period 2011 and Forecast Year 2012.

##### **4.5.3.5 Trustee's Fee Assumptions**

For Forecast Period 2011 and Forecast Year 2012, the Trustee's fee will amount to RM33,333 and RM400,000, respectively.

##### **4.5.3.6 Other Trust Expenses**

Other trust expenses of Pavilion REIT consist of annual audit fees, taxation fees, valuation fees, market research fees, public relations expenses and other expenses relating to preparation and distribution of reports to Unitholders, together with other miscellaneous expenses such as postage, printing and stationery. Factors such as Pavilion REIT's total assets, number of investors, property values and inflation rates are likely to impact trust expenses.

##### **4.5.3.7 Borrowings and Finance Cost Assumptions**

To part finance the Subject Properties, Pavilion REIT will obtain the New Debt Facilities as described in Section 3.8 "REIT Financing" of this Prospectus and the Manager has assumed a drawdown of RM721.0 million via RTL1 upon Listing. The Manager assumes that RTL1 carries an interest rate of 4.5% per annum taking into consideration the estimated cost of funds of 3.5% plus an interest spread of 1.0%.

As part of the Acquisitions, the Manager has assumed Pavilion REIT will drawdown additional borrowings of RM15.5 million via RTL2 to fund the acquisition of the Related Assets as well as to finance the initial transaction cost for the New Debt Facilities such as legal fees, stamp duty and facility/agency fees in Forecast Period 2011. Such funding costs relating to the New Debt Facilities of approximately RM5.9 million are assumed to be amortised over the tenure of these facilities of five years. The Manager assumes that RTL2 carries an interest rate of 4.6% per annum taking into consideration the estimated cost of funds of 3.5% plus an interest spread of 1.1%.

#### **4. FINANCIAL INFORMATION (Cont'd)**

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The Manager has assumed that for Forecast Year 2012, Pavilion REIT will drawdown RM3.1 million from RTL2 to fund the additional acquisition of property, plant and equipment as well as enhancement costs of the Subject Properties which has been budgeted as capital expenditure for Forecast Year 2012. As RTL2's total availability is RM100.0 million, any undrawn portion is subjected to commitment fees of 0.35% per annum.

In addition to the above, the Manager has assumed that for Forecast Period 2011 and Forecast Year 2012, fees of 1.0% are applicable for bank guarantee facilities of RM6.5 million.

##### **4.5.3.8 Tax Assumptions**

- (i) Pavilion REIT will be exempted from income tax provided that Pavilion REIT distributes 90.0% or more of its total income as defined in the Income Tax Act to its Unitholders within two months from the close of its financial year which forms the basis period for the year of assessment of Pavilion REIT.

No current tax liabilities have been forecasted during the Forecast Period 2011 and Forecast Year 2012 as it is assumed that at least 90.0% of Pavilion REIT's total income (as defined in the Malaysian Income Tax Act 1967) will be distributed to Unitholders within two months after the close of the financial year.

- (ii) The forecasts do not take into consideration the possible implementation of a goods and services tax as its implementation has been deferred by the Government. The Manager has assumed that a goods and services tax will not be implemented during the Forecast Period 2011 and Forecast Year 2012.

##### **4.5.3.9 Investment Properties and Valuation Assumptions**

For the Forecast Period 2011, it is assumed that the fair value of the investment properties as at the end of the Forecast Period 2011 to be equivalent to the fair value at date of Acquisition resulting in no fair value gain or loss.

For the Forecast Year 2012, it is assumed that the fair value of the investment properties as at the end of the Forecast Year 2012 will increase by RM3.0 million which is equivalent to the planned capital expenditure. No potential rental loss is anticipated during the period when regular capital expenditure works are being carried out.

##### **4.5.3.10 Property, Plant and Equipment Assumptions**

The Manager has assumed that the acquisition of property, plant and equipment (i.e. Related Assets excluding inventory) during the Forecast Period 2011 and Forecast Year 2012 will be funded by borrowings.

As part of the Acquisitions, Pavilion REIT will acquire the property, plant and equipment at RM8.6 million in Forecast Period 2011. The Manager forecasts RM0.1 million for the acquisition of property, plant and equipment in Forecast Year 2012.

##### **4.5.3.11 Distribution of Income Assumptions**

The Manager has assumed that Pavilion REIT will distribute 100.0% of its Distributable Income for the Forecast Period 2011 and Forecast Year 2012.

#### 4. FINANCIAL INFORMATION (Cont'd)

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##### 4.5.3.12 General Assumptions

- (i) Save for Units assumed to be issued to the Manager under Section 4.5.3.4 "Management Fee Assumptions" of this Prospectus, the property portfolio and structure of Pavilion REIT remains unchanged, with no further incurrence of debt (save as disclosed above) or issuance of Units for cash;
- (ii) it is assumed that all Units to be issued will be fully subscribed at RM0.88 per Unit;
- (iii) there will be no significant change in the principal activities of Pavilion REIT;
- (iv) all tenancies are enforceable and will be performed in accordance with their terms with no premature termination of tenancies;
- (v) there will be no major changes in the prevailing inflation rate, property expenses, REIT Financing costs and trust expenses of Pavilion REIT other than forecasted;
- (vi) significantly all revenue receivable by Pavilion REIT, such as rental proceeds, will be received within the credit term for such receivables;
- (vii) there will be no major changes in Pavilion REIT's operations that will adversely affect the performance of Pavilion REIT;
- (viii) there will be no material contingent liabilities arising during the Forecast Period 2011 and Forecast Year 2012, which may adversely affect the Profit Forecasts. Pavilion REIT will not be engaged in any material litigation and there will be no legal proceedings which will affect Pavilion REIT's activities or performance or give rise to additional contingent liabilities which may materially affect the results of Pavilion REIT;
- (ix) the listing expenses in relation to the Offering will be approximately RM42 million. Such expenses are recognised as a deduction from Pavilion REIT's equity and are not expensed to Pavilion REIT's consolidated statement of comprehensive income;
- (x) it has been assumed that there will be no major changes in the Malaysian FRS issued by the Malaysian Accounting Standards Board or other financial reporting requirements that may have a material effect on the forecast profit after taxation;
- (xi) there will be no adverse economic, political or property market conditions which will materially affect the activities and performances of the Subject Properties;
- (xii) there will be no major changes to present legislation or Government regulations, tax rates and basis of taxation in Malaysia which will adversely affect the operations of Pavilion REIT or the markets in which it operates;
- (xiii) there will be no major disruption in the operations and there will be no other events and abnormal factors including war, terrorism attacks, epidemic outbreak or natural disaster, which will adversely affect the operations of Pavilion REIT; and
- (xiv) there will be no major industrial disputes or any other abnormal factors or changes that will significantly affect Pavilion REIT's operations or rental rate or disrupt its planned operations.

#### 4. FINANCIAL INFORMATION (Cont'd)

##### 4.5.4 SENSITIVITY ANALYSIS

The Profit Forecasts are based on a number of assumptions that have been outlined in Section 4.5.3 "Bases and Assumptions" of this Prospectus. The Profit Forecasts are also subject to a number of risks as outlined in Section 5 "Risks Factors" of this Prospectus. The actual performance of Pavilion REIT and the Subject Properties could differ materially from the forward-looking statements in this Prospectus.

Investors should be aware that future events cannot be predicted with any certainty and that deviations from the figures forecast in this Prospectus are to be expected. Depicted below is the sensitivity analysis on Pavilion REIT's DPU for the Forecast Period 2011 and the Forecast Year 2012 as a result of changes in vacancy allowance for Pavilion Kuala Lumpur Mall, rate of increase in base rent for Pavilion Kuala Lumpur Mall, interest rate for the New Debt Facilities, Property Operating Expense and Occupancy Rate of Pavilion Tower. The assumptions for these items have been set out in Section 4.5.3 "Bases and Assumptions" of this Prospectus.

The sensitivity analysis is intended to provide a guide only and variations in actual performance could exceed the ranges shown. Movement in other variables may offset or compound the effect of a change in any of the aforementioned variables beyond the extent shown.

(i) **Impact of variations in the vacancy allowance for the Rental Income of Pavilion Kuala Lumpur Mall on DPU**

Vacancy Allowance for the Rental Income of Pavilion Kuala Lumpur Mall	DPU (sen)	
	Forecast Period 2011	Forecast Year 2012
5.0% vacancy allowance	0.45	5.55
<b>Base case: 3.0% vacancy allowance</b>	0.47	5.73
1.0% vacancy allowance	0.48	5.91

(ii) **Impact of variations in the rate of increase in base rent on renewal of tenancies for Pavilion Kuala Lumpur Mall expiring in Forecast Year 2012 on DPU**

Rate of increase in base rent on renewal of tenancies for Pavilion Kuala Lumpur Mall expiring in Forecast Year 2012	DPU (sen)	
	Forecast Period 2011	Forecast Year 2012
No increase	0.47	5.71
<b>Base case: Increase of 5.0%</b>	0.47	5.73
Increase of 10.0%	0.47	5.76

4. FINANCIAL INFORMATION (Cont'd)

(iii) Impact of variations in interest rate for the New Debt Facility on DPU

Interest Rate	DPU (sen)	
	Forecast Period 2011	Forecast Year 2012
0.25% above assumed interest rate	0.46	5.67
<b>Base case: Assumed interest rate<sup>(1)</sup></b>	0.47	5.73
0.25% below assumed interest rate	0.47	5.79

**Note:**

(1) The interest rate for the New Debt Facilities is assumed to be 4.5% and 4.6% for RTL1 and RTL2 respectively for both the Forecast Period 2011 and the Forecast Year 2012.

(iv) Impact of variations in the Property Operating Expenses on DPU

Property Operating Expenses	DPU (sen)	
	Forecast Period 2011	Forecast Year 2012
5.0% above assumed Property Operating Expenses	0.45	5.58
<b>Base case: Assumed Property Operating Expenses<sup>(1)</sup></b>	0.47	5.73
5.0% below assumed Property Operating Expenses	0.48	5.89

**Note:**

(1) The assumed Property Operating Expenses for the Forecast Period 2011 and the Forecast Year 2012 are RM7.8 million and RM94.4 million, respectively.

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4. FINANCIAL INFORMATION (Cont'd)

(v) Impact of variations in the Occupancy Rate of Pavilion Tower<sup>(1)</sup>

Occupancy Rate of Pavilion Tower	DPU (sen)	
	Forecast Period 2011	Forecast Year 2012
Base case: 82.3% for Forecast Period 2011; 100.0% for Forecast Year 2012	0.47	5.73
82.3% for Forecast Period 2011; 82.3% for Forecast Year 2012 <sup>(2)</sup>	0.47	5.67
64.5% for Forecast Period 2011; 64.5% for Forecast Year 2012 <sup>(3)</sup>	0.46	5.60

Notes:

- (1) The impact of variations in the Occupancy Rate is in respect of reduction in Rental Income only without any corresponding changes in net Property Operating Expenses.
- (2) Assuming that the Occupancy Rate for Forecast Year 2012 remains at the same level as Forecast Period 2011 of 82.3%. Based on the illustrative Average Offering Price of RM0.88 per Offer Unit, the distribution yield for Forecast Period 2011 (annualised) and Forecast Year 2012 is 6.41% and 6.44% respectively.
- (3) Assuming that the Occupancy Rate for Forecast Period 2011 and Forecast Year 2012 is 64.5% (i.e. based on the committed tenancies of Pavilion Tower as at 30 June 2011). Based on the illustrative Average Offering Price of RM0.88 per Offer Unit, the distribution yield for Forecast Period 2011 (annualised) and Forecast Year 2012 is 6.27% and 6.36% respectively.

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## **5. RISK FACTORS**

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An investment in the Units involves risk. Prospective investors should rely on their own evaluation and carefully consider the following risk factors in addition to other information contained elsewhere in this Prospectus, before investing in the Units.

This Prospectus contains forward-looking statements that involve risks, uncertainties and assumptions. The actual results of Pavilion REIT could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks described below and elsewhere in this Prospectus. If any of the risks described herein actually occur, Pavilion REIT's business, prospects, financial condition, results of operations and ability to make distributions could be negatively affected, the trading price of the Units could decline and investors may lose all or part of their investment.

Unless specified or quantified in the relevant risk factors set out herein, the Manager is not in a position to quantify the financial or other implication of any of the risks described in this section. In addition, the following risk factors may not be exhaustive and additional risks and uncertainties not presently known to Pavilion REIT or the Manager, or which are currently deemed to be immaterial may become material in the future, which would have a material adverse effect on Pavilion REIT or the trading price of the Units.

Given the nature of REITs which aims to make stable income distributions, investors should not expect to realise significant proportion of their returns in Pavilion REIT to be in the form of capital gains.

Investors should be aware that the trading price of the Units may fluctuate. Investors should also note that they may not get back their original investment.

### **5.1 RISKS RELATING TO THE SUBJECT PROPERTIES**

#### **5.1.1 The Subject Properties have tenancy cycles in which a substantial number of the tenancies expire in certain years.**

A substantial number of the Subject Properties' tenancies are for terms of three years, which exposes the Subject Properties to significant rates of tenancies expiries each tenancy cycle.

Pavilion Kuala Lumpur Mall has tenancy cycles in which a substantial number of the tenancies expire in certain years, with 67.2% of the tenancies by Occupied NLA expiring in 2013.

The concentration of tenancy expiries heightens Pavilion REIT's exposure to the typical risks associated with tenancy expiries, including the risk of vacancies following non-renewal of tenancies, reduced occupancy rates and lower Rental Income.

If key tenants or a large number of tenants decide not to renew their tenancies and in the event that new tenants are unable to be secured or secured after a long vacancy period or at lower rates, the income of Pavilion REIT and distributions to Unitholders will be adversely affected.



## 5. RISK FACTORS (Cont'd)

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### 5.1.2 The Subject Properties may face increased competition from other properties.

The Subject Properties are located in areas where other competing properties are present and new properties may be developed which may compete with the Subject Properties. The appeal and attractiveness of the Subject Properties may decrease in the future, especially if new shopping centres and/or office buildings are built and/or existing properties undergo upgrading and the Subject Properties fail to keep pace.

The income from, and the market value of, the Subject Properties will be dependent on the ability of the Subject Properties to compete against other properties for tenants. If, in the future, competing properties are more successful in attracting and retaining tenants, the income from the Subject Properties could be reduced, thereby adversely affecting Pavilion REIT's cash flow and the amount of funds available for distribution to Unitholders.

Furthermore, Pavilion Tower is currently not fully occupied and the Manager will have to actively seek new tenants upon Listing. The office property market in Malaysia is highly competitive. Pavilion Tower competes for tenants with numerous developers, owners and operators of office properties. In addition, it is expected that a significant new supply of office properties in the Golden Triangle will come on to the market between mid-2011 and end-2012, which will result in additional competition for tenants. Based on the Independent Property Market Report, the supply during such period is expected to include approximately 3.8 million sq ft of additional office space in the Golden Triangle. There can be no assurance that Pavilion Tower will be able to compete effectively with other properties to secure additional tenants.

### 5.1.3 The loss of key tenants of Pavilion Kuala Lumpur Mall, a downturn in the businesses of Pavilion Kuala Lumpur Mall's key tenants or any breach by the key tenants of their obligations under their tenancy agreements could have an adverse effect on the financial conditions and results of operations of Pavilion REIT.

The ten largest tenants of Pavilion Kuala Lumpur Mall accounted for approximately 22.7% of the total NLA Income of Pavilion Kuala Lumpur Mall as at 1 June 2011. Accordingly, Pavilion REIT's financial condition and results of operations and ability to make distributions may be adversely affected by the bankruptcy, insolvency or downturn in the businesses of one or more of these tenants, as well as the decision by one or more of these tenants not to renew its tenancy. New tenants on the same terms (or no less favourable terms) may not be found in time or at all.

Further, in the event that any key tenants of Pavilion Kuala Lumpur Mall are unable to pay their rent or breach their obligations under the tenancy agreements, Pavilion REIT's financial condition and results of operations and ability to make distributions may be adversely affected. The performance of the key tenants' other businesses (if any) could also have an impact on their ability to make rental payments to Pavilion REIT. The departure of key tenants could also impact the interests of potential and existing tenants in Pavilion Kuala Lumpur Mall.

Factors that affect the ability of such key tenants to meet their obligations include, but are not limited to:

- (i) general economic conditions;
- (ii) their financial position;

## 5. RISK FACTORS (Cont'd)

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- (iii) the local economies in which they have other business operations (if any); and
- (iv) the ability of such key tenants to compete with their competitors.

### **5.1.4 The Subject Properties may require significant capital expenditure beyond the Manager's current estimate and Pavilion REIT may not be able to secure funding.**

The Subject Properties may require significant capital expenditure beyond the Manager's current estimate for refurbishment, renovation and improvements. Pavilion REIT may not be able to fund capital improvements solely from cash derived from its operating activities and/or obtain additional equity and/or debt financing on favourable terms or at all. If Pavilion REIT is not able to procure such financing, the Manager may be unable to refurbish, renovate and/or improve the Subject Properties which may adversely affect rental negotiations and rental rates in the future. Pavilion REIT may also require additional debt and equity financing to fund future expansion, operational needs and debt service payments. Without the required funding, Pavilion REIT may not be able to carry out its operations effectively, incur sufficient capital expenditures or respond to competitive pressures.

### **5.1.5 Transportation infrastructure near the Subject Properties may be redirected, relocated, terminated, delayed or not completed.**

There is no assurance that the existing and/or planned transportation infrastructure and public transport services around the Subject Properties will not be redirected, relocated, terminated or delayed. Currently, the infrastructure around the Subject Properties includes the KL Monorail stations of Bukit Bintang and Raja Chulan which are the two closest stations to the Subject Properties. The planned infrastructure includes the upcoming Klang Valley MRT, under which one station has been designated for Bukit Bintang along the finalised Sungai Buloh-Kajang Line. If the current infrastructure or planned infrastructure is redirected, relocated, terminated, delayed or not completed, it may have an adverse effect on the accessibility of the Subject Properties, including worsening traffic congestion around the Subject Properties, and reduce the flow of shopper traffic to Pavilion Kuala Lumpur Mall. This may then have an adverse effect on the demand, appeal and the rental rates for the Subject Properties and have an adverse effect on the financial condition and results of operations of Pavilion REIT.

### **5.1.6 Pavilion REIT may be adversely affected by construction or development works around the vicinity of the Subject Properties.**

Construction or development works around the vicinity of the Subject Properties, including the planned construction of the new MRT station and tracks near the Subject Properties, the covered skybridge which will connect Pavilion Kuala Lumpur Mall to Kuala Lumpur Convention Centre and a link bridge between a proposed development across Jalan Raja Chulan and Pavilion Kuala Lumpur Mall as well as in relation to Pavilion Extension may cause physical damage to the Subject Properties or disruption to operations of Pavilion REIT. Any damage to the Subject Properties will result in disruption to the business and operations of tenants and may result in Pavilion REIT being unable to collect Rental Income on space affected by such damage. Shopper traffic will also be affected by potential inconveniences resulting from such damage.

## 5. RISK FACTORS (Cont'd)

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### **5.1.7 Renovations, redevelopment works or physical damage to the Subject Properties or continued development of the Pavilion Kuala Lumpur Project may disrupt the operations of the Subject Properties and collection of Rental Income or otherwise resulting in an adverse impact to the financial condition of Pavilion REIT.**

The quality and design of the Subject Properties have a direct influence over the demand for space in, and the rental rates of, the Subject Properties. The Subject Properties may need to undergo renovation, upgrading, development, redevelopment or asset enhancement programmes from time to time to retain their competitiveness and may also require unforeseen ad hoc maintenance or repairs in respect of faults or problems that may develop or because of new planning laws or regulations. The costs of maintaining retail and office properties and the risk of unforeseen maintenance or repair requirements tend to increase over time as the building ages. In addition, the Subject Properties may be required to undergo rectification works to comply with local regulatory requirements. The business and operations of the Subject Properties may suffer some disruption and it may not be possible to collect any Rental Income in full, or at all, on space affected by such renovation or redevelopment works. Any inconvenience caused may also potentially lower shopper traffic.

Some examples of such renovation and redevelopment works include standard maintenance, the creation of Tokyo Street as well as the construction of the proposed serviced suites which is proposed to be erected above a certain section of Pavilion Kuala Lumpur Mall.

In addition, physical damage to the Subject Properties resulting from fire or other causes may lead to a significant disruption to the business and operation of the Subject Properties and, may impose unbudgeted costs on Pavilion REIT and result in an adverse impact on the financial condition and results of operations of Pavilion REIT and its ability to make distributions to Unitholders.

### **5.1.8 The Subject Properties might be adversely affected if the Manager and the Property Manager do not provide adequate management and maintenance.**

Should the Manager and the Property Manager fail to provide adequate management and maintenance, the value of the Subject Properties might be adversely affected and this may result in the loss of tenants or lower rental rates, which will adversely affect the financial condition of Pavilion REIT and its ability to make distributions to Unitholders.

Failure to provide adequate management and maintenance to Pavilion Kuala Lumpur Mall may also lead to a decrease in shopper traffic, with shoppers being attracted to the competitors of Pavilion Kuala Lumpur Mall. This will affect the financial performance of Pavilion REIT.

## 5. RISK FACTORS (Cont'd)

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### **5.1.9 Pavilion REIT may suffer material losses in excess of insurance proceeds or Pavilion REIT may not put in place or maintain adequate insurance in relation to the Subject Properties and its potential liabilities to third parties.**

The Subject Properties face the risk of suffering physical damage caused by fire, acts of God such as natural disasters or other causes, as well as potential public liability claims from shoppers, contractors and tenants.

In addition, certain types of risks (such as war risk and losses caused by the outbreak of contagious diseases, contamination or other damages caused by breaches of environmental law) may be uninsurable or the cost of insurance may be prohibitive when compared to the risk. Currently, Pavilion REIT's insurance policies for the Subject Properties include property damage caused by fire, lightning or explosion, consequential losses (including loss of revenue), machinery breakdown, equipment damage, theft, accidental damage and public liability but do not in general cover acts of war, outbreak of contagious diseases, contamination or other damages caused by breaches of environmental law.

Should an uninsured loss or a loss in excess of insured amounts occur, Pavilion REIT could be required to incur additional unbudgeted capital expenditure, pay compensation and/or lose capital invested in the affected Subject Property as well as anticipated future revenue from that Subject Property as it may not be able to rent out or sell the affected property. No assurance can be given that material losses in excess of insurance proceeds (if any) will not occur.

In addition, Pavilion REIT's insurance policies and terms of coverage will be subject to renewal and negotiations on a periodic basis in the future and there is no assurance as to the nature and extent of coverage that will be available on commercially reasonable terms in the future. Any material increase in insurance rates or decrease in available coverage in the future will adversely affect Pavilion REIT's business, results of operations and financial condition.

### **5.1.10 The due diligence on the Subject Properties may not have identified all material defects, breaches of laws and regulations and other deficiencies.**

Save for due diligence on the title and legal matters affecting the Subject Properties, no other due diligence was carried out in respect of the Subject Properties. Such due diligence may not have revealed all breaches of laws or regulations or defects or deficiencies affecting the Subject Properties, including to the title thereof.

No technical due diligence was undertaken by the Manager on the Subject Properties. There can be no assurance that the Subject Properties do not or will not have defects or deficiencies, which will require additional expenditure, special repair or maintenance expenses or the payment of damages or other obligations to third parties. Such costs or liabilities may involve significant and potentially unpredictable levels of expenditure which could have a material adverse effect on Pavilion REIT's business, financial condition, results of operations and prospects.

Moreover, the representations, warranties and indemnities made in favour of Pavilion REIT by the Vendors may not offer sufficient protection for the costs and liabilities arising from any defect or deficiency.

## **5. RISK FACTORS (Cont'd)**

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### **5.1.11 The Appraised Values of the Subject Properties are based on various assumptions which may or may not materialise; the price at which Pavilion REIT is able to sell the Subject Properties in future may be lower than the acquisition value of the Subject Properties.**

There can be no assurance that the assumptions relied on to derive the Appraised Values of the Subject Properties are accurate measures of the market, and the said values of the Subject Properties may be evaluated inaccurately. Property valuation in general involves using assumptions, estimates, subjective parameters and/or close proxies. The Independent Property Valuer may have included a subjective determination of certain factors relating to the Subject Properties such as their relative market positions, financial and competitive strengths, and physical condition. The Independent Property Valuer may also have taken into account external factors such as demand and supply, general economic conditions and interest rates.

The valuation of any of the Subject Properties does not guarantee a sale price at that value at present or in the future as values might change and are subject to market conditions as well. The price at which Pavilion REIT may sell any of the Subject Properties may be lower than the Appraised Value or its purchase consideration.

### **5.1.12 Pavilion REIT is dependent on third parties for certain services.**

Certain services to the Subject Properties, for example, water, electricity and sewerage treatment may be provided by third party service providers or may not be located within the Subject Properties. There is no assurance that the third parties or other parties contracted by the third parties will fulfil their obligations under any contracts of service. Pavilion REIT is also dependent on the Property Manager for providing property management services, tenancy management services, marketing and marketing coordination services and project management services. Any interruption to such services to the Subject Properties may disrupt business operations and have a material adverse effect on Pavilion REIT's business, financial condition, results of operations and prospects.

### **5.1.13 Pavilion REIT has no control over the Master Title of the Subject Properties.**

The Subject Properties form part of a mixed development including two blocks of luxury serviced apartments and the proposed serviced suites to be erected above a certain section of Pavilion Kuala Lumpur Mall. Until the Master Title is subdivided and separate strata titles are issued in respect of the various components of the said mixed development, legal title to the Subject Properties will remain registered in the name of UCSB and accordingly, Pavilion REIT will only hold beneficial ownership of the Subject Properties. Notwithstanding that a private caveat has been lodged on the Master Land by the Trustee on 19 October 2011, the Manager can provide no assurance that UCSB will at all time deal with the Master Title in the best interest of Pavilion REIT.

## 5. RISK FACTORS (Cont'd)

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### 5.1.14 Completion of the SPAs and transfer of certain contracts may not occur.

There can be no assurance that both of the SPAs, which are interdependent on each other, will complete in accordance with their respective terms. The SPAs are subject to conditions precedent, which may not all be satisfied or waived. Further, the Vendors may fail to comply with the terms of the SPAs, including the obligation to complete the sale to Pavilion REIT. See Section 14.3 "Salient Terms of the SPAs" of this Prospectus for details of the SPAs. If either SPA is not completed in accordance with the terms therein contained, the Acquisitions by Pavilion REIT will not complete, and Pavilion REIT will be unwound in accordance with the terms of the Deed. In the event the Units have been allotted, the Unitholders who were allotted Units under the Offering will only receive their monies following the completion of the winding up of Pavilion REIT in accordance with the terms of the Deed.

Further, the transfer of certain servicing, maintenance and insurance contracts as well as electricity distribution rights/privileges require the consents of various third parties before they can be validly transferred. As a result, there can be no assurance that all such contracts will be transferred to Pavilion REIT and Pavilion REIT may be adversely affected if the benefits of such contracts are unavailable or have to be re-contracted for on less favourable terms.

### 5.1.15 The Subject Properties or any part of them may be acquired compulsorily.

Under Section 3 of the Land Acquisition Act 1960, the State Authority has the power to acquire any land, whether in whole or in part, which is needed:

- (i) for any public purpose;
- (ii) by any person or corporation for any purpose which, in the opinion of the State Authority, is beneficial to the economic development of Malaysia or any part thereof or to the public generally or any class of the public; or
- (iii) for the purpose of mining or for residential, agricultural, commercial, industrial or recreational purposes or any combination of such purposes.

In the event of any compulsory acquisition of property in Malaysia, the amount of compensation to be awarded is based on the fair market value of a property and is assessed on the basis prescribed in the Land Acquisition Act, 1960 and other relevant laws. The market value of the Subject Properties as determined by the State Authority may be lower than the market value as determined by any independent property valuer appointed by Pavilion REIT. Or, if any of the Subject Properties were acquired compulsorily by the State Authority at a point in time when the market value of the Subject Properties has decreased, the level of compensation paid to Pavilion REIT may be less than the price which Pavilion REIT paid for the Subject Properties, which may have an adverse effect on the trading price of the Units and Pavilion REIT's business, financial condition, results of operations and prospects. If the compulsory acquisition concerned a material section of the Subject Properties such as retail/office space, car park areas and/or access areas to the Subject Properties, the business and operation of the Subject Properties may be adversely affected thereby resulting in a reduction of Total Revenue and the market value of the Subject Properties.

## 5. RISK FACTORS (Cont'd)

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### 5.2 RISKS RELATING TO PAVILION REIT'S OPERATIONS

#### 5.2.1 Pavilion REIT is exposed to economic and real estate market conditions (including uncertainties and instability in global market conditions and increased competition in the retail and office property market).

The Subject Properties are located in Kuala Lumpur, Malaysia. As a result, Pavilion REIT's results of operations depend, to a large extent, on the performance of Malaysia's economy and the Malaysian real estate market conditions. A decline in Malaysia's economy could adversely affect Pavilion REIT's results of operations and future growth. Historically, the Malaysian property market has been cyclical and Malaysian property values, rents and occupancy rates have been affected by, among other factors, the rate of economic growth in Malaysia, interest rates and inflation. The performance of Pavilion REIT may also be adversely affected by a number of local real estate market conditions, such as the competitiveness of competing retail and office properties or the supply and demand of retail and office properties. There can be no assurance that the Malaysian economy will continue to improve, that property values, rents and occupancy rates will not decline, or that interest rates or inflation will not rise in the future. An economic decline in Malaysia, a decline in real estate market conditions in Malaysia or other developments outside the control of Pavilion REIT and the Manager, would have a material adverse effect on Pavilion REIT's business, financial condition and results of operations.

In addition, the Malaysian economy is affected by global economic conditions. The global credit markets have experienced, and may continue to experience, volatility and liquidity disruptions, which have resulted in the consolidation, failure or near failure of a number of institutions in the banking and insurance industries. There is also growing concern that the debt crisis in Europe and the United States will impinge upon the health of the global financial system. These and other related events have had significant impact not only on the global capital markets associated with asset-backed securities but also on the global credit and financial markets as a whole. The deterioration in the financial markets has caused a recession in many countries, which has led to significant declines in employment, household wealth, consumer demand and lending and as a result, has adversely affected economic growth in Malaysia and elsewhere. These events could adversely affect Pavilion REIT insofar as they result in:

- (i) reduced shopper traffic in Pavilion Kuala Lumpur Mall;
- (ii) a negative impact on the ability of the tenants to pay their rents (including turnover rent) in a timely manner or continue their tenancies, thus reducing Pavilion REIT's revenue and/or cashflows;
- (iii) an increased likelihood that one or more of (i) the Lenders, (ii) banks providing bankers' guarantees for Pavilion REIT's rental deposits or (iii) Pavilion REIT's insurers may be unable to honour their commitments to Pavilion REIT; and/or
- (iv) an increase in overall counterparty risk involving parties such as, but not limited to, tenants, advertising customers, carpark operator, insurers, lenders as well as contractors and suppliers (in terms of any warranties provided).

## 5. RISK FACTORS (Cont'd)

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Pavilion REIT may have difficulty accessing the financial markets, which could make it more difficult or expensive to obtain funding in the future. There can be no assurance that Pavilion REIT will be able to raise funds at a reasonable cost which could have a material adverse effect on Pavilion REIT's business, financial condition and results of operations.

### 5.2.2 The Total Revenue earned from, and the value of, the Subject Properties may be adversely affected by a number of factors.

The Total Revenue earned from, and the value of, the Subject Properties may be adversely affected by a number of factors, including, but not limited to:

- (i) the ability to collect rent from the tenants on a timely basis or at all;
- (ii) the amount and extent to which Pavilion REIT may grant rental rebates to the tenants;
- (iii) defects affecting the Subject Properties which could affect the operations of tenants resulting in the inability of such tenants to make timely payments of rent or at all;
- (iv) a drop in rental rates due to changes in rental rates of comparable malls, tenant mix, renewal options, size, location and configuration of NLA within the Subject Properties, shopper traffic to Pavilion Kuala Lumpur Mall, the level of tourism to Kuala Lumpur and the design of Pavilion Kuala Lumpur Mall;
- (v) the tenants seeking the protection of bankruptcy laws which could result in delays in the receipt of rent payments, inability to collect Rental Income, or delays in the termination of the tenancy, or which could hinder or delay the re-letting of the space in question or the sale of the relevant property;
- (vi) the general macroeconomic and supply and demand trends affecting the economic conditions of Malaysia and conditions in the real estate market sector in Malaysia;
- (vii) reduced occupancy rates due to supply and demand trends affecting the retail real estate markets, the length of potential vacancy periods arising from tenancy expiries and early terminations, and rental rates of other competing properties;
- (viii) the Manager's ability to provide adequate management and maintenance or to purchase or put in place adequate insurance;
- (ix) changes in laws and governmental regulations in relation to real estate, including those governing usage, zoning, taxes and government charges. Rights related to the properties may also be restricted by legislative actions, such as revisions to the laws relating to building standards or town planning laws, or the enactment of new laws related to condemnation and redevelopment; and
- (x) acts of God, wars, terrorist attacks, riots, civil commotions, widespread communicable diseases, natural disasters and other events beyond the control of the Manager.



## 5. RISK FACTORS (Cont'd)

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### 5.2.3 Operating risks inherent to the retail property industry and increases in operating and other expenses of the Subject Properties could have an adverse effect on Pavilion REIT's financial condition and results of operations.

Pavilion REIT's ability to maintain a certain level of distributions to the Unitholders could be affected if its operating and other expenses increase without a corresponding increase in revenue or tenant reimbursement of operating and other costs. In addition to other factors mentioned herein, factors which could increase operating and other costs of the Subject Properties, include, but are not limited to, the following:

- (i) increase in utility costs (including any increase in preferential tariff granted by utility service providers);
- (ii) increase in construction, repair and maintenance costs (including mechanical and engineering costs);
- (iii) increase in third party sub-contracted service costs;
- (iv) increase in insurance premiums;
- (v) increase in payroll expenses;
- (vi) increase in quit rent and assessments (property and related taxes) and other statutory charges;
- (vii) increase in property management cost and Management Fee;
- (viii) changes in statutory laws, regulations or government policies which increase the cost of compliance with such laws, regulations or policies;
- (ix) increase in costs of financing for operating or capital requirements; and
- (x) increase in the service charge and sinking fund contributions applicable to strata properties.

Additionally, capital expenditures and other expenses may be irregular since on-going repairs and maintenance involves significant and potentially unpredictable expenditures. Both the amount and timing of such expenditures will have an impact on the cash flow of Pavilion REIT. If the Subject Properties do not generate revenue sufficient to meet operating expenses, debt service and capital expenditures, Pavilion REIT's income and ability to make distributions may be materially and adversely affected.

Many of these factors may have an adverse effect on the NPI derived from the Subject Properties. The valuation of the Subject Properties, (to be obtained at least once every three years from the date of the last valuation pursuant to the REIT's Guidelines), will reflect such factors and as a result, such valuation may fluctuate significantly upwards or downwards.

## 5. RISK FACTORS (Cont'd)

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### 5.2.4 Pavilion REIT will be heavily reliant on Pavilion Kuala Lumpur Mall for a substantial portion of NPI.

Pavilion REIT will be dependent on Pavilion Kuala Lumpur Mall for a substantial portion of its NPI. For the Forecast Period 2011 and the Forecast Year 2012, Pavilion Kuala Lumpur Mall is forecasted to account for 97.7% and 96.6% of the Subject Properties' NPI, respectively. Pavilion REIT may continue to be dependent on Pavilion Kuala Lumpur Mall for a significant portion of its NPI going forward and a decline in Pavilion Kuala Lumpur Mall's NPI will have a material adverse effect on Pavilion REIT.

### 5.2.5 Pavilion REIT is subject to risks inherent in concentrating investments primarily in retail properties in a single country.

Pavilion REIT's principal investment policy is to invest in income-producing Real Estate Assets used solely or predominantly for retail purposes in Malaysia. Further, the Subject Properties are both located at the Bukit Bintang area. As such, Pavilion REIT will be subject to additional risks compared to a portfolio that is diversified in terms of location and type. These risks include, and are not limited to, a downturn in the Malaysian economy, movements in interest rates and changes in policies or laws affecting real property, which could in turn affect the valuation of the Subject Properties, reduce visitors to the Bukit Bintang area, reduce retail spending, decrease rental and occupancy rates, and increase the risk of tenant insolvency. Such downturns would affect distributions to Unitholders, and have a material adverse effect on Pavilion REIT's business, results of operations and financial conditions.

In addition, Pavilion REIT is exposed to political risks in Malaysia. Pavilion REIT may be affected by changes in government policies as a result of change of government and the political sentiment in Malaysia may change and affect Pavilion REIT adversely.

### 5.2.6 The amount Pavilion REIT may borrow is limited, which may affect the operations and expansion of Pavilion REIT.

Under the REITs Guidelines, Pavilion REIT is only permitted to borrow up to 50.0% of its Total Asset Value at the time the borrowing is incurred. Unitholders' approval is required if Pavilion REIT wants to increase its borrowing beyond 50.0%. Pavilion REIT may, from time to time, require further debt financing to achieve its investment strategies. If further debt funding is incurred, it would result in increased debt service obligations and could result in additional operating and financing covenants, or liens on the Subject Properties, that would restrict its operations. In the event Pavilion REIT does not obtain the necessary approval to incur additional borrowings in the future, Pavilion REIT may be unable to proceed with its strategies and may face adverse business consequences as a result of this limitation on future borrowings. These may include:

- (i) an inability to fund capital expenditure requirements in relation to Pavilion REIT's existing asset portfolio or in relation to Pavilion REIT's acquisitions to expand its portfolio;
- (ii) a decline in the value of the Deposited Property may cause the borrowing limit under the REITs Guidelines to be exceeded, thus affecting Pavilion REIT's ability to make further borrowings; and

## 5. RISK FACTORS (Cont'd)

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- (iii) cash flow shortages (including with respect to distributions) which Pavilion REIT might otherwise be able to resolve by borrowing funds.

### 5.2.7 Changes in consumer behaviour patterns in Malaysia may adversely affect Pavilion REIT.

Changes in consumer behaviour patterns in Malaysia may adversely affect Pavilion REIT's business, prospects, financial condition and results of operations. The increasing trend of consumers shifting their preference from retail shopping to internet shopping may lead to a decrease in shopper traffic to Pavilion Kuala Lumpur Mall and to retail malls in Malaysia as a whole. According to the Independent Property Market Consultant, youths aged 20 to 24 spend an average of 22.3 hours online per week and this could possibly result in greater online spending when they join the work force. This would lead to a downturn in the businesses of tenants of Pavilion Kuala Lumpur Mall and affect their ability to make rental payments to Pavilion REIT (including turnover rent), which would in turn adversely affect Pavilion REIT's Total Revenue.

The gradual increase in the number of suburban malls in Kuala Lumpur which have been completed or are expected to be completed between 2011 and 2013, such as 1 Mont' Kiara, KL Festival City and Nu Sentral Mall (Lot G), as well as the improved quality of offerings and services provided by suburban malls may lead to more shoppers choosing to visit such suburban malls compared to malls in the city, such as Pavilion Kuala Lumpur Mall, due to the greater convenience and shorter travelling times. This may deter shoppers from travelling to Pavilion Kuala Lumpur Mall and thus adversely affect the businesses of tenants of Pavilion Kuala Lumpur Mall and of Pavilion REIT in turn.

Malaysia's middle income groups have been and may continue to be affected by rising inflation with shrinking purchasing power as petrol and utility price increases have grown faster than salary growth. The incomes of the middle income groups may not be growing fast enough to meet rising living costs in Malaysia and so they may limit their spending to necessities. This may adversely affect the businesses of the tenants of Pavilion Kuala Lumpur Mall and consequently, the operations and results of Pavilion REIT.

The planned introduction of a goods and services tax ("GST") in Malaysia may also affect the spending habits of Malaysian shoppers. GST is a broad based multi-stage taxation system whereby tax is levied on the amount of value created at each stage of the production cycle which is ultimately transferred to the end-purchaser of the good or service. The effect is an overall increase in the price of goods and services which may reduce retail spending and adversely affect the business of tenants of Pavilion Kuala Lumpur Mall.

## 5. RISK FACTORS (Cont'd)

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### 5.2.8 Pavilion REIT may face risks associated with debt financing and existing and future debt facilities and debt covenants may limit or affect Pavilion REIT's operations.

Upon Listing, based on Pavilion REIT's Consolidated Pro Forma Statement of Financial Position, Pavilion REIT will have total indebtedness of approximately RM730.6 million representing approximately 20.1% of its estimated Total Asset Value. Pavilion REIT's actual indebtedness upon Listing is subject to the actual proceeds to be raised under the Offering. Pavilion REIT is subject to risks associated with existing and future debt financing, including the risk that its cash flow will be insufficient to meet the required payments of principal and interest under such financing, and therefore be unable to make distributions to Unitholders. See Section 3.8 "REIT Financing" of this Prospectus for further details on the debt financing of Pavilion REIT.

It is the intention of the Manager to distribute at least 90.0% of Pavilion REIT's Distributable Income to Unitholders. As a result, Pavilion REIT may not be able to meet all of its obligations to repay any future borrowings through its cash flow from operations. Pavilion REIT may be required to repay maturing debt with funds from additional debt or equity financing or both. There is no assurance that such financing will be available on acceptable terms or at all.

If principal amounts due for repayment at maturity cannot be refinanced, extended or paid with proceeds of other capital transactions, such as new equity capital, Pavilion REIT will not be able to repay all maturing debt. In such cases, if Pavilion REIT defaults under such debt facilities, the lenders may be able to declare a default and initiate enforcement proceedings in respect of any security provided, and/or call upon any guarantees provided. Further, if Pavilion REIT's properties are mortgaged, such properties could be foreclosed by the lender or the lender could require a forced sale of the properties with a consequent loss of income and asset value to Pavilion REIT. This would in turn affect the distributions to be paid to Unitholders.

Even if Pavilion REIT is able to secure new debt financing, Pavilion REIT may be subject to the risk that the terms of any refinancing undertaken will be less favourable than the terms of the borrowings sought to be refinanced (including bank borrowings or issuances of debenture and bonds). Pavilion REIT may also be subject to certain covenants that may limit or otherwise adversely affect its operations and its ability to make distributions to Unitholders. Such covenants may also restrict Pavilion REIT's ability to acquire properties or undertake other capital expenditure and may require it to set aside funds for maintenance or repayment of security deposits or require Pavilion REIT to maintain certain financial ratios (such as loan to value ratios). The triggering of any of such covenants may have an adverse impact on Pavilion REIT's financial condition.

Increases in interest rates could significantly affect Pavilion REIT's financial condition and results of operations. The interest rates of borrowings could be subject to changes based on the cost of funds of the respective lenders, which could be subject to renegotiation on a periodic basis. If the interest rates for Pavilion REIT's existing or future borrowings increase significantly, its cost of funds will increase which may adversely impact its results of operations, planned capital expenditure and cash flows.

## 5. RISK FACTORS (Cont'd)

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### 5.2.9 The Manager may not be able to successfully implement its investment strategies, including asset enhancements, for Pavilion REIT.

There is no assurance that the Manager will be able to implement its investment strategies successfully or that it will be able to expand Pavilion REIT's portfolio at any specified rate or to any specified size. The success of implementation of its investment strategies depends on the identification of suitable assets and the ability to obtain financing. The Manager may not be able to make acquisitions or investments on favourable terms or within a desired time frame, which will impede the growth of Pavilion REIT.

Pavilion REIT's ability to make new property acquisitions under its acquisition growth strategy may be adversely affected by the emergence of competitors in the retail and office property markets. There may be significant competition for investment opportunities from other property investors, including other REITs, commercial property development companies and private investment funds. There is no assurance that Pavilion REIT will be able to compete effectively against such entities.

Pavilion REIT has been granted the General ROFR by the Sponsor over the Sponsor's future retail properties in Malaysia for acquisitions in the future. Pursuant to the terms of the General ROFR, acquisition of properties under the General ROFR may be subject to consent from third parties. There can be no assurance that such parties will give such consent. If the Sponsor is unable to provide the support required by Pavilion REIT in relation to the exercise of the General ROFR when applicable in future, the future growth of Pavilion REIT may be adversely affected. See Section 14.4.1(a) "General ROFR granted to Pavilion REIT by the Sponsor" of this Prospectus for further details.

Even if Pavilion REIT were able to successfully acquire property or investments, there is no assurance that Pavilion REIT will achieve its intended return on such acquisitions or investments.

Further, Pavilion REIT's external growth strategy and its asset selection process may not be successful and may not provide positive returns to Unitholders. Acquisitions may divert management's attention away from day-to-day operations and cause disruptions to Pavilion REIT's operations.

Even if the Manager can identify suitable assets and investment opportunities for Pavilion REIT, obtaining funding for such acquisitions and investments may be difficult. Potential vendors may view negatively the prolonged time frame and lack of certainty associated with the raising of equity capital to fund any such purchase. They may instead prefer other potential purchasers.

The Manager may from time to time initiate asset enhancement on some of the Subject Properties. There is no assurance that such plans for asset enhancement will materialise, or in the event that they do materialise, they may not achieve their desired results or may incur significant costs. For further details on the asset enhancement plans of the Manager, please see Section 2 "Business and Subject Properties" of this Prospectus.

## 5. RISK FACTORS (Cont'd)

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### **5.2.10 Pavilion REIT is not licensed to sell electricity to tenants of the Subject Properties and is reliant on the Sponsor's licence.**

The Sponsor is licensed to supply and sell electricity to tenants/consumers of the Pavilion Kuala Lumpur Project (including the two blocks of serviced apartments known as Pavilion Residences and the proposed block of serviced suites, which will not be acquired by Pavilion REIT) at the tariff rates approved by the Energy Commission. As part of the terms of the SPAs, all income derived from the Subject Properties will accrue to Pavilion REIT upon Listing, including any income from the sale of electricity to the tenants of the Subject Properties. Accordingly, the Manager and Pavilion REIT will have to rely on the Sponsor in order to earn electricity income. There is no guarantee that the Sponsor will perform its obligations in accordance with the terms of the SPAs or its licence or that the Sponsor's licence to supply and sell electricity to the Pavilion Kuala Lumpur Project will not be revoked by the relevant authorities prior to its expiry in March 2028. As a result of the above, Pavilion REIT may lose the margin earned on the electricity income derived from the Subject Properties, which in turn may adversely affect Pavilion REIT's financial conditions and results of operations.

### **5.2.11 Pavilion REIT and the Manager are reliant on the Sponsor for the use of, among others, the "Pavilion Kuala Lumpur" brand name.**

The Manager intends to leverage on and use the "Pavilion Kuala Lumpur" brand name to attract reputable tenants, maintain tenant relationships and attract shoppers. Accordingly, Pavilion REIT will have to rely on the Sponsor for the use of, among others, the "Pavilion Kuala Lumpur" brand name. The Manager does not have exclusive use of the "Pavilion Kuala Lumpur" brand name. If the Sponsor licenses the "Pavilion Kuala Lumpur" brand name to a less reputable company, then this may dilute the prestige of the "Pavilion Kuala Lumpur" brand name, and adversely affect the reputation of Pavilion Kuala Lumpur Mall. If Pavilion REIT is unable to use the "Pavilion Kuala Lumpur" brand name, the business and operation of Pavilion REIT may be adversely affected. See Section 1.9 "Intellectual Property" of this Prospectus for further details on the use of the registered trademark "Pavilion Kuala Lumpur" and other pending trademarks.

### **5.2.12 Pavilion REIT may not meet the requirements to enjoy tax exemptions under Section 61A of the Income Tax Act, 1967 (the "Income Tax Act") by virtue of, among others, tax adjustments or changes in tax laws.**

Pursuant to Section 61A of the Income Tax Act, a REIT is exempted from income tax for the relevant year of assessment provided that it distributes at least 90.0% of its total income (as defined under the Income Tax Act) to its Unitholders in the basis period of the REIT for the relevant year of assessment. The Malaysian Inland Revenue Board (the "MIRB") has given a concession for such distribution to be made within two months after the close of the financial year which forms the basis period for the tax assessment of the REIT.

Where the abovementioned conditions pursuant to Section 61A of the Income Tax Act are met, Pavilion REIT will be exempted from Malaysian income tax. However, Pavilion REIT is required to withhold tax on taxable income distributed to certain Unitholders. See Appendix C "Tax Consultant's Letter on Taxation of Pavilion REIT and Unitholders" of this Prospectus for the Malaysian withholding tax implications on distributions to investors from a Malaysian REIT which meets the requirements of Section 61A of the Income Tax Act.

## 5. RISK FACTORS (Cont'd)

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There is no assurance that Pavilion REIT will be able to comply with the requirements to enjoy tax exemptions under Section 61A of the Income Tax Act. In the event of a tax audit, the MIRB may make an upward adjustment to the total income of Pavilion REIT, which may result in Pavilion REIT no longer satisfying the 90.0% threshold requirements of Section 61A of the Income Tax Act. Moreover, if Pavilion REIT was not originally exempt under Section 61A of the Income Tax Act, an upward adjustment to total income would result in Pavilion REIT being subject to more tax.

The Malaysian tax laws may be subject to change. For example, the pre-requisites for tax exemption may become more difficult to meet, such that Pavilion REIT would be more likely to be subject to tax or the tax exemption for Malaysian REITs may be removed altogether. Any other tax exemptions, such as stamp duty, which Malaysian REITs currently enjoy, may also be removed in the future.

### **5.2.13 Pavilion REIT depends on certain key personnel and the loss of any key personnel may adversely affect its operations.**

Pavilion REIT's performance depends, in part, upon the continued service and performance of the executive officers of the Manager. See Section 6.5 "Management Team of the Manager" of this Prospectus for details of the executive officers of the Manager. These key personnel may leave the employment of the Manager. If the above were to occur, the Manager will need to spend time searching for a replacement and the duties which such executive officers are responsible for may be affected. The loss of any of these individuals could have a material adverse effect on Pavilion REIT's financial condition and the results of operations.

### **5.2.14 The removal of the Manager could have an adverse effect on Pavilion REIT's financial condition and results of operations.**

No guarantee can be given that the Manager will remain the manager of Pavilion REIT. In the event that the Manager ceases to be eligible to act as a REIT manager under the CMSA or is removed pursuant to the Deed or the Relevant Laws and Requirements, Pavilion REIT may need to appoint another manager, which may materially and adversely affect Pavilion REIT's financial condition and results of operations. The removal of the Manager will also lead to Pavilion REIT losing the right to use the "Pavilion Kuala Lumpur" brand name as well as the rights granted under the General ROFR and fahrenheit88 ROFR. See Section 1.9 "Intellectual Property" and Section 14.4 "Salient Terms of the Existing ROFRs" of this Prospectus for further details on the use of the "Pavilion Kuala Lumpur" brand name and the terms of the ROFRs, respectively.

## 5. RISK FACTORS (Cont'd)

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### **5.2.15 Pavilion REIT may be adversely affected by the illiquidity of real estate investments and the lack of alternative uses and may be exposed to a higher level of risk compared to other types of unit trusts that have a more diverse range of investments.**

Pavilion REIT's focus on retail properties involves a higher level of risk as compared to a portfolio which has a more diverse range of investments which are more liquid. Real estate investments are relatively illiquid and such illiquidity may affect Pavilion REIT's ability to vary its investment portfolio or liquidate part of its assets in response to changes in economic, real estate market or other conditions. Pavilion REIT may be unable to sell its assets on short notice or may be forced to give a substantial reduction in the price that may otherwise be sought for such assets if a quick sale is required. Pavilion REIT may face difficulties in securing timely and commercially favourable financing in asset-based lending transactions secured by real estate due to the illiquid nature of real estate assets. These factors could have an adverse effect on Pavilion REIT's financial condition and results of operations, with a consequential adverse effect on Pavilion REIT's ability to deliver expected distributions to Unitholders.

Further, Pavilion REIT's principal policy of investing, directly or indirectly, in Real Estate will subject Pavilion REIT to risks inherent in concentrating in Real Estate. The level of risk could be higher as compared to other types of unit trusts that have a more diverse range of investments in other sectors.

A concentration of investments in Real Estate Assets exposes Pavilion REIT to the risk of a downturn in the real estate market. Such downturns may lead to a decline in occupancy for properties or Real Estate-Related Assets in Pavilion REIT's portfolio. This will affect Pavilion REIT's Rental Income from the Subject Properties, and/or a decline in the capital value of Pavilion REIT's portfolio, which will have an adverse impact on distributions to the Unitholders and/or on the results of operations and the financial condition of Pavilion REIT.

### **5.2.16 Possible change of investment strategies may adversely affect Unitholders' investments in Pavilion REIT.**

Pavilion REIT's policies with respect to certain activities, including investments and acquisitions, will be determined by the Manager. Unitholders and potential investors should note that, subject to the requirements of the Deed and the Relevant Laws and Requirements, the Manager has wide discretion to determine the investment strategies of Pavilion REIT and may decide to invest in other types of assets, including any Real Estate Assets, Real Estate-Related Assets, as well as Non-Real Estate-Related Assets. Furthermore, as with other investment decisions, there are risks and uncertainties with respect to the selection of investments and with respect to the investments themselves. See Section 10.9 "Investment Policies of Pavilion REIT" of this Prospectus for further details on the restrictions relating to the investment policies of Pavilion REIT.



## 5. RISK FACTORS (Cont'd)

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### **5.2.17 Pavilion REIT is subject to third-party litigation risk by shoppers, contractors and tenants of the Subject Properties which could result in significant liabilities and damage to Pavilion REIT's reputation.**

Pavilion REIT is exposed to the risk of litigation or claims by shoppers, contractors or tenants of the Subject Properties, which may arise for a variety of reasons, including accidents or injuries that may be suffered by them while at the Subject Properties, tenants' inability to enjoy the use of the Subject Properties in accordance with the terms of their tenancy and Pavilion REIT's failure to perform any of its obligations under any tenancy, construction or other contract or agreement entered into with contractors, tenants or other third parties. If Pavilion REIT is required to bear all or a portion of the costs arising out of such litigation, this may have a material adverse effect on Pavilion REIT's business, financial condition, results of operations and prospects.

### **5.2.18 Pavilion REIT may engage in interest rate hedging transactions, which can limit gains and increase costs.**

Subject to the approval from the relevant authorities, if any, Pavilion REIT may enter into interest rate hedging transactions to protect itself from the effects of interest rate on floating rate debt. Interest rate hedging activities may not have the desired beneficial impact on the results of operations or financial condition of Pavilion REIT.

Interest rate hedging could adversely affect Pavilion REIT because among others:

- (i) the party owing money in the hedging transaction may default on its obligation to pay;
- (ii) the credit quality of the party owing money on the hedge may be downgraded to such an extent that it impairs Pavilion REIT's ability to sell or assign its side of the hedging transaction; and
- (iii) the value of the derivatives used for hedging may be adjusted from time to time in accordance with accounting standards to reflect changes in fair value. Such changes although unrealised, would reduce the NAV of Pavilion REIT if it is due to downward adjustments.

Interest rate hedging involves risks and transaction costs, which may reduce overall returns.

### **5.2.19 While the Subject Properties are located in Malaysia, Pavilion REIT's future acquisitions may be located outside Malaysia, which would expose Pavilion REIT to risks in other countries.**

The principal investment policy of Pavilion REIT is to invest, directly and indirectly, in a diversified portfolio of income producing Real Estate used solely or predominantly for retail purposes (including mixed-use developments with a retail component) in Malaysia and other countries within the Asia-Pacific region as well as Real Estate-Related Assets. Pavilion REIT may therefore acquire properties outside Malaysia in countries within the Asia-Pacific region in the future, which would expose Pavilion REIT to risks relating to foreign conditions in such countries, including:

- (i) a decline in general economic conditions or foreign real estate market conditions affecting the attractiveness of the properties or reducing demand for such properties;

## 5. RISK FACTORS (Cont'd)

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- (ii) exchange rate fluctuations between the Malaysian Ringgit and the foreign currency, and government regulations in relation to foreign exchange;
- (iii) foreign laws and policies, such as government controls over property investments or laws concerning foreign ownership of property, and limitations on the ability of Pavilion REIT to seek legal recourse;
- (iv) differing levels of income tax, withholding tax, capital gains tax, or any other taxes that may be imposed in other countries or in Malaysia, and potential increases thereto; and
- (v) uncertainty as to whether Pavilion REIT will be able to repatriate to Malaysia the income and gains derived from investment in the properties on a timely and regular basis.

Any inability to navigate the above risks, to the extent they materialise, will affect Pavilion REIT's ability to make distributions to Unitholders from the income and gains derived from properties outside of Malaysia.

### **5.2.20 Potential conflicts of interest among Pavilion REIT, the Manager, the Sponsor and the Major Unitholders could result in corporate actions and business decisions that are not in the Unitholders' best interests.**

The Manager and the Sponsor are 51.0%-owned by UCDSB and 49.0%-owned by UCPC. UCDSB and KLP are companies controlled by Datuk Lim Siew Choon and Datin Tan Kewi Yong while UCPC is a company controlled by QH. In addition, Datuk Lim Siew Choon, Datin Tan Kewi Yong and QH will be Major Unitholders of Pavilion REIT upon Listing. There can be no assurance that conflicts of interest may not arise among Pavilion REIT, the Manager, the Sponsor and the Major Unitholders in the future. See Section 11 "Corporate Governance, Related Party Transactions and Conflicts of Interest" of this Prospectus.

The Major Unitholders, the Sponsor and their respective subsidiaries and/or associates are engaged in, and/or may engage in among others, investment in, and the development, management and operation of retail and office properties which may compete with the Subject Properties and cause downward pressure on rental rates. Additionally, the Major Unitholders, the Sponsor and the Manager may in the future sponsor, manage or invest in other REITs or other vehicles which may also compete directly with Pavilion REIT.

In addition, pursuant to the Existing ROFRs, the Manager may in the future recommend that Pavilion REIT acquire additional properties from the Sponsor and/or its subsidiaries and fahrenheit88 from Makna Mujur Sdn Bhd, an indirect subsidiary of QH. In such cases, the Manager is required to obtain valuations from independent property valuers and to comply with all other requirements applicable to such transactions pursuant to the REITs Guidelines. However, there can be no assurance that the negotiations with respect to such properties relating to the sale and purchase of such properties (in particular, the representations, warranties and indemnities and payment terms), will not be adverse to Pavilion REIT or will reflect an arm's length acquisition by Pavilion REIT.

## 5. RISK FACTORS (Cont'd)

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As at 1 June 2011, an aggregate of 29,742 sq ft of office space in Pavilion Tower has been let out to Malton Berhad and its subsidiaries. Datuk Lim Siew Choon and Datin Tan Kewi Yong who are Major Unitholders are also major shareholders and directors of Malton Berhad (via Malton Corporation Sdn Bhd). There can be no assurance that Malton Berhad and its subsidiaries will continue to renew their tenancies with Pavilion REIT at rental rates which are reflective of an arm's length transaction.

Pursuant to the Service Provider Agreement entered into between KLP and the Property Manager, KLP will provide the Property Manager with, inter alia, a team of personnel with the necessary qualifications, expertise, experience and internal working and operation knowledge of the Subject Properties in order for the Property Manager to properly operate, maintain, manage and market Pavilion Kuala Lumpur Mall and Pavilion Tower. The appointment of KLP as service provider (including the terms of its remuneration) is subject to the approval of the Manager. There can be no assurance that the appointment of KLP will not be on terms adverse to Pavilion REIT or terms which are not reflective of an arm's length transaction.

### **5.2.21 Pavilion REIT and the Manager are newly established entities without an established operating history.**

Pavilion REIT was established on 18 October 2011 and the Manager was incorporated on 7 April 2011. Notwithstanding that the employees of the Manager have had previous experience in the operation and management of the Subject Properties, neither Pavilion REIT nor the Manager has sufficient operating history by which its performance may be judged. The lack of an established operating history will make it more difficult for investors to assess Pavilion REIT's future performance. There is no assurance that Pavilion REIT will be able to generate sufficient income from operations to make distributions or that such distributions (if any) will be in line with those set out in Section 4.5 "Profit Forecasts" of this Prospectus. Pro forma financials and past financial results are not indicative of future results.

### **5.2.22 Pavilion REIT may incur unanticipated costs and liabilities, in connection with environmental laws and regulations.**

Under various laws, an owner or operator of real property may become liable for the costs of removal of certain hazardous substances released on its property. These laws may impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such hazardous substances. The presence of hazardous substances on any Subject Property owned by Pavilion REIT may have an adverse effect on Pavilion REIT's ability to sell any of its Subject Properties or borrow using its Subject Properties as collateral. To the extent that Pavilion REIT becomes liable for costs of removing any hazardous substances, Pavilion REIT's ability to make distributions to Unitholders may be duly affected.

## 5. RISK FACTORS (Cont'd)

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### **5.2.23 Occurrence of any acts of God, war and terrorist attacks may adversely and materially affect the business and operations of the Subject Properties.**

Acts of God, such as natural disasters, are beyond the control of Pavilion REIT or the Manager. These may materially and adversely affect the economy, infrastructure and livelihood of the local population including Pavilion REIT. Pavilion REIT's business and income available for distribution may be adversely affected should such acts of God occur. There is no assurance that any war, terrorist attack or other hostilities in any part of the world, potential, threatened or otherwise, will not, directly or indirectly, have an adverse effect on the operations of the Subject Properties and hence Pavilion REIT's income available for distribution.

### **5.2.24 The outbreak of an infectious disease or any other serious public health concerns in Asia and elsewhere could adversely impact the business, financial condition and results of operations of Pavilion REIT.**

In 2009, outbreaks of Influenza A (H1N1-2009) occurred in a number of countries across the world.

In late 2003 and June 2004, outbreaks of avian influenza occurred in a number of countries in Asia. In 2005 and 2006, outbreaks were reported in other parts of the world including Europe, the Middle East and Africa. Some of these outbreaks severely affected the poultry and related industries and, in addition, several cases of bird-to-human transmission of avian influenza were reported in various countries. In June 2007, World Health Organisation reported new cases of human infection of avian influenza (H5N1) in China and Indonesia.

In 2003, Hong Kong, Taiwan, China, Malaysia, Singapore and other places experienced an outbreak of Severe Acute Respiratory Syndrome ("SARS"), which adversely affected the Asian economies, including Malaysia's economy. The retail property sector was one of the sectors that experienced poor performance during the SARS outbreak.

The outbreak of an infectious disease such as Influenza A (H1N1-2009), avian influenza or SARS in Asia and elsewhere, together with any resulting restrictions on travel and/or imposition of quarantines, could have a negative impact on the economy and business activities in Asia and could thereby adversely impact the revenues and results of Pavilion REIT. These factors could materially and adversely affect the business and financial conditions and the results of operations of Pavilion REIT.

## 5. RISK FACTORS (Cont'd)

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### 5.3 RISKS RELATING TO AN INVESTMENT IN THE UNITS

#### 5.3.1 The actual performance of Pavilion REIT and the Subject Properties could differ materially from the forward-looking statements in this Prospectus.

This Prospectus contains forward-looking statements regarding, among others, forecast and projected distribution/yield levels for the Forecast Period 2011 and the Forecast Year 2012. These forward-looking statements are based on a number of assumptions which are subject to uncertainties and contingencies which are outside of the Manager's control. See Section 4.5.3 "Bases and Assumptions" of this Prospectus for further details. In particular, the Profit Forecasts were prepared based on an assumed Occupancy Rate for Pavilion Tower of 82.3% and 100.0% for the Forecast Period 2011 and the Forecast Year 2012 respectively, without provision of any vacancy allowance. See Section 2.5.6 "Occupancy Rate and Average Monthly Rental" of this Prospectus for the details of the occupancy rate of Pavilion Tower. Pavilion REIT's ability to achieve the forecast and projected distributions/yields is subject to events and circumstances assumed which may not occur as expected, or events and circumstances not anticipated which may arise.

In addition, certain effects relating to the Offering and the Listing as set out in this Prospectus have been presented based on the illustrative Average Offering Price of RM0.88. Any decrease in the actual proceeds to be raised would result in the increase in Pavilion REIT's total borrowings and interest expense, which in turn would reduce Pavilion REIT's forecast and projected distributions.

No assurance is given that the assumptions will be realised and the actual distributions/yields will be as forecasted.

#### 5.3.2 The sale of a substantial number of Units by the Major Unitholders and/or any of their transferees of the Units (following the lapse of the lock-up arrangements) could adversely affect the price of the Units and Pavilion REIT's rights granted under the Existing ROFRs.

Upon Listing, Pavilion REIT will have 3,000,000,000 issued Units, of which 1,127,300,000 Units will be held by Datuk Lim Siew Choon and Datin Tan Kewi Yong and 1,082,900,000 Units will be held by QH. If the Major Unitholders and/or any of their transferees of the Units (following the lapse of the relevant respective lock-up arrangements, or pursuant to any applicable waivers) sells or is perceived as intending to sell a substantial amount of its Units, or if a secondary offering of the Units is undertaken in connection with an additional listing on another securities exchange, the market price for the Units could be adversely affected. Further, the Major Unitholders may charge, grant security over or create any encumbrances over the Units held in connection with credit facilities obtained/to be obtained, which may subsequently be enforced (following the lapse of the relevant respective lock-up arrangements, or pursuant to any applicable waivers). Any significant reduction in the Major Unitholders' holdings in Pavilion REIT may also result in the loss of rights granted under the General ROFR and fahrenheit88 ROFR. See Section 3.4 "Details of the Offering", Section 3.12 "Lock-Up Arrangements" and Section 14.4 "Salient Terms of the Existing ROFRs" of this Prospectus for further details.

## 5. RISK FACTORS (Cont'd)

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### 5.3.3 Pavilion REIT's Consolidated Pro Forma Statement of Financial Position and Pro Forma Net Property Income included herein may not reflect actual financial position and results.

Pavilion REIT's Consolidated Pro Forma Statement of Financial Position have been prepared to show the effects of the Acquisitions and the Offering, based on the assumption that the events have been effected on the date of establishment of Pavilion REIT. As Pavilion REIT's Consolidated Pro Forma Statement of Financial Position are prepared for illustrative purposes only, such information, because of its nature, do not give a true picture of the effects of the formation of Pavilion REIT on the financial position of Pavilion REIT had the events occurred at the balance sheet date. Further, such information does not purport to predict Pavilion REIT's future financial position.

Pavilion REIT's Pro Forma Net Property Income included in this Prospectus have been prepared on an aggregate basis as if the Subject Properties have been operated under Pavilion REIT throughout and as at the periods and dates presented. The Pro Forma Net Property Income is also not necessarily indicative of the results of operations that would have been attained had Pavilion REIT actually existed earlier.

### 5.3.4 Pavilion REIT may not be able to make distributions to Unitholders or the level of distributions may fall.

The Distributable Income is dependent on:

- (i) the Net Property Income earned from real estate investments which depends on, among other factors (i) the amount of Rental Income and other property income received and (ii) the level of property expenses incurred; and
- (ii) the trust level expenses of Pavilion REIT, such as Management Fee and financing costs.

If the Subject Properties do not generate sufficient Distributable Income, Pavilion REIT's ability to make distributions to Unitholders could be adversely affected.

No assurance is given as to Pavilion REIT's ability to pay or maintain distributions. Neither is there any assurance that the level of distributions will increase over time, that there will be contractual increases in rent under the tenancies of the Subject Properties or that the receipt of Rental Income in connection with expansion of the properties or acquisitions of properties will increase Pavilion REIT's cash flow available for distribution to Unitholders.

### 5.3.5 The NAV per Unit may be diluted if further issues are priced below the then current NAV per Unit.

The Deed contemplates new issues of Units, the offering price for which may be above, at or below the then current NAV per Unit. The NAV per Unit may be diluted if new Units are issued and the use of proceeds from such issue of Units generates insufficient cashflow to cover the dilution. Where new Units, including Units which may be issued to the Manager in payment of the Management Fee, are issued at less than the NAV per Unit, the then current NAV of each existing Unit may be diluted.

## 5. RISK FACTORS (Cont'd)

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### 5.3.6 Unitholders who do not or are not able to participate in future equity financing by Pavilion REIT will experience a dilution in their interest in Pavilion REIT.

If Unitholders do not or are not able to participate in any future equity fund raising, such as rights issues or private placements, their proportionate interest in Pavilion REIT will be reduced. Any consideration received by such Unitholders in exchange for any rights under future equity fund raisings may not be sufficient to compensate for the dilution of their unitholdings as a result of the equity fund raising.

### 5.3.7 The price of the Units may decline after the Listing.

The Final Retail Price and the Institutional Price may not be indicative of the market price for the Units upon completion of the Listing. The trading price of the Units will depend on many factors, including, but not limited to:

- (i) the perceived prospects of Pavilion REIT's business and investments and the market for retail and office properties or Real Estate-Related Assets;
- (ii) differences between Pavilion REIT's actual financial and operating results and those expected by investors and analysts;
- (iii) changes in analysts' recommendations or projections, if any;
- (iv) changes in general economic or market conditions;
- (v) the market value of Pavilion REIT's assets;
- (vi) the perceived attractiveness of the Units against those of other equity or debt securities, including those not in the real estate sector;
- (vii) the balance of buyers and sellers of the Units;
- (viii) the size and liquidity of the Malaysian REIT market;
- (ix) any changes to the regulatory system, including the tax system, both generally and specifically in relation to Malaysian REITs;
- (x) the ability on the Manager's part to implement successfully its investment and growth strategies; and
- (xi) broad market fluctuations, including increases in interest rates and weakness of the equity and debt markets.

Units may trade at prices that are higher or lower than the NAV per Unit. To the extent that Pavilion REIT retains operating cash flow for investment purposes, working capital reserves or other purposes, these retained funds, while increasing the value of Pavilion REIT's Total Asset Value and NAV, may not correspondingly increase the market price of the Units. Any failure to meet market expectations with regards to future earnings and cash distributions may adversely affect the market price for the Units.

Where new Units are issued at less than the market price of Units, the value of an investment in Units may be affected. The Units are not capital-protected/guaranteed products. There is no guarantee that Unitholders can regain the amount invested. If Pavilion REIT is terminated or liquidated, investors may lose a part or all of their investment in the Units.

## 5. RISK FACTORS (Cont'd)

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### 5.3.8 Cyclical market and economic conditions may affect the price and demand for the Units.

Cyclical movements in domestic and international securities markets, economic conditions, foreign exchange rates and interest rates may affect the market price of, and demand for, the Units. In particular, an increase in market interest rates may have an adverse impact on the market price of the Units if the annual yield on the price paid for the Units gives investors a lower return compared to other investments.

The FTSE Bursa Malaysia KLCI Index traded to its record high of 1,597 points on 11 July 2011 but decreased to 1,387 as at the close of the Latest Practicable Date. There can be no assurance that the performance of the Malaysian securities markets will continue to improve. The Malaysian securities markets are smaller than certain other international securities markets and have in the past experienced substantial fluctuations in the prices of listed securities.

### 5.3.9 The laws, regulations and accounting standards in Malaysia may change, including the introduction of new or revised legislation, regulations, guidelines or directives affecting REITs.

Pavilion REIT may be affected by the introduction of new or revised legislation, regulations or accounting standards. Accounting standards in Malaysia are subject to change as they are further aligned with international accounting standards. The financial statements of Pavilion REIT may be affected by the introduction of such revised accounting standards. The extent and timing of these changes in accounting standards are unknown and subject to confirmation by the relevant authorities.

There is no assurance that these changes will not:

- (i) have a significant impact on the presentation of Pavilion REIT's financial statements;
- (ii) have a significant impact on Pavilion REIT's results of operations;
- (iii) have an adverse effect on the ability of Pavilion REIT to make distributions to Unitholders;
- (iv) have an adverse effect on the ability of the Manager to carry out Pavilion REIT's investment strategy; or
- (v) have an adverse effect on the operations and financial condition of Pavilion REIT.

Pavilion REIT may also be affected by the introduction of new or revised legislation, regulations, guidelines or directives affecting REITs. There is no assurance that new or revised legislation, regulations, guidelines or directives will not adversely affect REITs in general or Pavilion REIT specifically and hence have a corresponding adverse effect on Unitholders.

Based on the Government's recent announcement for Malaysia's Budget 2012, the current withholding tax rate on taxable income distributed to certain Unitholders by a Malaysian REIT is proposed to be extended for another 5 years until 31 December 2016. See Appendix C "Tax Consultant's Letter on Taxation of Pavilion REIT and Unitholders" of this Prospectus for further details.



## **5. RISK FACTORS (Cont'd)**

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### **5.3.10 The Malaysian Ringgit may be subject to exchange controls.**

From 1998 to 2005, Bank Negara Malaysia maintained a fixed exchange rate of RM3.80 to US\$1.00. In 2005, Bank Negara Malaysia removed the peg and allowed the Malaysian Ringgit to operate in a managed float, with the value of the currency being determined by various economic factors. There can be no assurance that Bank Negara Malaysia will, or would be able to, intervene or maintain this managed float system in the future or that any such intervention or managed float system would be effective.

Furthermore, there can be no assurance that the Government will not impose more restrictive or other exchange controls. Any further imposition, variation or removal of exchange controls may adversely affect the value of the Units or the ability of investors to repatriate the proceeds of any distributions or from the sale of any Units out of Malaysia.

### **5.3.11 Foreign investment in Malaysian assets may be subject to further controls.**

Foreign investment in Malaysian assets is regulated and monitored by the Economic Planning Unit of the Prime Minister's Department. Currently there is no restriction imposed on foreign investment in REITs which have invested in Malaysian assets. However, there can be no assurance that the Economic Planning Unit of the Prime Minister's Department and/or the Government will not impose any restrictive or other controls relating to foreign investment in Malaysian assets. Any imposition or variation of such controls may affect Unitholders' ability to sell the Units to foreign parties and may affect the liquidity of the Units. Such conditions may also limit Pavilion REIT's access to future sources of equity capital.

### **5.3.12 Unitholders may be unable to recover in claims brought against the Manager as the Manager is not an entity with significant assets.**

Unitholders may in future have claims against the Manager in connection with the carrying on of its duties as manager of Pavilion REIT (including in relation to the Offering and this Prospectus).

Under the terms of the Deed, the Manager is indemnified from the Deposited Property against any actions, costs, claims, damages, expenses or demands to which it may be put as manager of Pavilion REIT unless occasioned by the fraud, gross negligence, wilful default or breach of the Deed by the Manager. In the event of any such fraud, gross negligence, wilful default or breach, only the assets of the Manager itself and not the Deposited Property would be available to satisfy a claim.

### **5.3.13 The Manager is not obliged to redeem Units.**

Unitholders have no right to request the Manager to redeem their Units while the Units are listed on the Main Market. Unitholders may only deal in their listed Units through trading on the Main Market. Accordingly, apart from selling their Units through trading on the Main Market, Unitholders may not be able to realise their investments in Units.

## 5. RISK FACTORS (Cont'd)

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### 5.3.14 The REIT market in Malaysia is relatively undeveloped and the Units have never been publicly traded; the listing of the Units on the Main Market may not result in an active or liquid market for the Units.

There is no public market for the Units prior to the Offering and an active public market for the Units may not develop or be sustained after the Listing. Bursa Securities' approval for the admission of all the issued Units of Pavilion REIT to the Official List of the Main Market and for the listing of and quotation for all the issued Units was obtained on 28 October 2011. However, listing and quotation does not guarantee that a trading market for the Units will develop or, if a market does develop, the liquidity of that market for the Units. Prospective Unitholders must be prepared to hold their Units for an indefinite length of time.

Furthermore, it may be difficult to assess Pavilion REIT's performance against either domestic or international benchmarks. The REIT market in Malaysia is relatively undeveloped which could lead to a lack of liquidity for the Units and a general lack of investor demand for Malaysian REITs such as Pavilion REIT. There can be no assurance that an active market for REITs will develop in Malaysia.

### 5.3.15 Failure in the Listing may result in refund in monies without interest.

The Listing is exposed to the risk that it may fail should any one or more of the following events occur:

- (i) the Joint Underwriters and the Joint Bookrunners exercise their rights pursuant to the Retail Underwriting Agreement and the Placement Agreement, respectively, to discharge themselves from their obligations thereunder;
- (ii) Pavilion REIT is unable to meet the public spread requirement of at least 25.0% of the issued Units of Pavilion REIT being held by a minimum of 1,000 public Unitholders holding not less than 100 Units each or such other minimum public unitholding spread as may be approved by Bursa Securities;
- (iii) the Final Retail Price and the Institutional Price are not at a level to allow for completion of the acquisition of the Subject Properties when RTL1 of up to RM900 million is fully drawn down; or
- (iv) the Lenders exercise their rights pursuant to the New Debt Facilities to discharge themselves from their obligations thereunder.

If the Offering is not completed and/or the Manager decides in its absolute discretion not to proceed with the Listing, any monies paid in respect of all applications under the Retail Offering will be refunded without interest.

## **5. RISK FACTORS (Cont'd)**

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### **5.3.16 There is no assurance that the Units will remain listed on Bursa Securities and/or not be suspended from trading.**

Although it is intended that the Units will remain listed on Bursa Securities, there is no guarantee of the continued listing of the Units. Among other factors, Pavilion REIT may not continue to satisfy the public spread requirements under the Listing Requirements. Accordingly, Unitholders will not be able to sell their Units through trading on Bursa Securities if the Units are no longer listed on Bursa Securities and/or are suspended from trading for an indefinite period. Under such circumstances, Pavilion REIT may be terminated and wound up in accordance with the Deed. Please refer to Section 10.21 "Termination and Winding-up of Pavilion REIT" of this Prospectus for further details.

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## **6. THE MANAGER**

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### **6.1 CORPORATE INFORMATION**

The Manager, Pavilion REIT Management Sdn Bhd, was incorporated in Malaysia on 7 April 2011. As at the date of this Prospectus, it has an issued and paid-up capital of RM1,000,000. The principal activity of the Manager is to manage and administer Pavilion REIT. The Manager is 51.0%-owned by UCDSB and 49.0%-owned by UCPC. UCDSB is a company controlled by Datuk Lim Siew Choon and Datin Tan Kewi Yong while UCPC is a company controlled by QH.

As at the date of this Prospectus, the Manager only manages one fund, namely, Pavilion REIT.

### **6.2 FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE MANAGER**

The Manager shall, subject to the provisions of the Deed carry out all activities, as it may deem necessary for the management of Pavilion REIT and its business. The Manager's main responsibility is to manage activities in relation to Pavilion REIT.

The Manager shall, in managing Pavilion REIT, undertake primary management activities in relation to Pavilion REIT, including but not limited to overall strategy, risk management strategy, new acquisition and disposal analysis, marketing and communications, individual asset performance and business planning, market performance analysis and other activities as provided under the Deed.

In addition, the Manager covenants with the Trustee and each of the Unitholders, inter alia, the following:

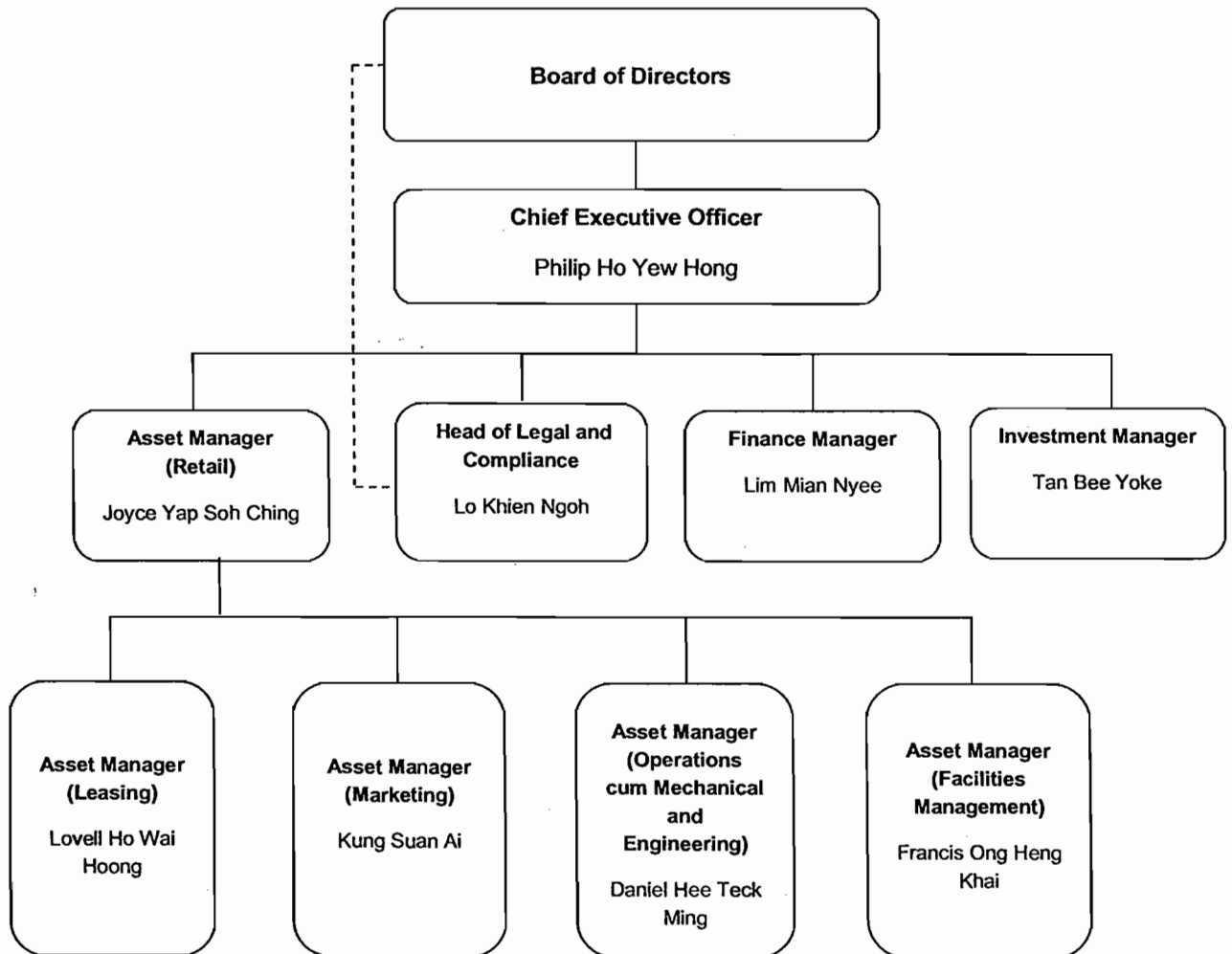
- (i) to carry on and conduct its business in a proper, diligent and efficient manner and ensure that Pavilion REIT is managed and administered in a proper, diligent and efficient manner and in accordance with the Deed and the Relevant Laws and Requirements and acceptable and efficacious business practices in the real estate investment industry;
- (ii) to act with due care, skill and diligence in managing Pavilion REIT and effectively employ the resources and procedures necessary for the proper performance of Pavilion REIT;
- (iii) to observe high standards of integrity and fair dealing in managing Pavilion REIT to the best and exclusive interest of the Unitholders;
- (iv) not to take on, lease or otherwise acquire, any immovable property or any interest therein, except for the purposes of operating Pavilion REIT and those entered into in the ordinary course of business;
- (v) not to make improper use of its position in, or information acquired through, managing Pavilion REIT to gain, directly or indirectly, an advantage for itself or for any other person or to cause detriment to the interests of Unitholders and to ensure that its officers and delegates comply with the same;

## 6. THE MANAGER (Cont'd)

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- (vi) to the same extent as if the Trustee was a director of the Manager:
  - (a) to make available to the Trustee or an authorised officer or employee of the Trustee or the auditor appointed by the Trustee, for inspection the whole of the books and records of the Manager in relation to Pavilion REIT wherever kept;
  - (b) to make available to the Trustee or an authorised officer or employee of the Trustee or the auditor appointed by the Trustee, for inspection all financial and other records of Pavilion REIT wherever kept; and
  - (c) to give to the Trustee or an authorised officer or employee of the Trustee or the auditor appointed by the Trustee such oral or written information, explanation or other assistance that they may require with respect to all matters relating to Pavilion REIT or any Deposited Property or otherwise relating to the affairs of Pavilion REIT;
- (vii) to ensure that Pavilion REIT has, at all times, an appointed trustee and a person responsible for ensuring compliance with the Deed and the Relevant Laws and Requirements;
- (viii) to appoint a property management company which has been approved by the Trustee to manage the Real Estate held by Pavilion REIT and which possesses adequate human resources with the necessary qualifications, expertise and experience in real estate management;
- (ix) to take all necessary steps to ensure that the Deposited Property is adequately protected and properly segregated;
- (x) to insure and keep covered or insured in the name of the Trustee for their full replacement value or such amounts as may be recommended by a qualified valuer against fire, explosion, storm, tempest, flood, lightning and other usual risks including loss of rent where applicable on all the Real Estate comprised in the Deposited Property and on request by the Trustee produce for the inspection of the Trustee all insurance policies effected;
- (xi) to take all reasonable steps and exercise due diligence to ensure that the Deposited Property and the Units are correctly valued in accordance with provisions of the Deed and Relevant Laws and Requirements; and
- (xii) to establish and maintain risk management systems and controls to enable it to identify, assess, mitigate, control and monitor risks in relation to Pavilion REIT.

6.3 MANAGEMENT REPORTING STRUCTURE



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## 6. THE MANAGER (Cont'd)

### 6.4 DIRECTORS OF THE MANAGER

The Board is entrusted with the responsibility for the overall management of the Manager. The Board consists of 12 Directors. The following table sets forth certain information regarding the Directors:

No.	Name	Nationality	Position
1.	Datuk Lim Siew Choon	Malaysian	Chairman and Non-Independent Executive Director
2.	Datin Tan Kewi Yong	Malaysian	Non-Independent Executive Director
3.	Ahmad Mohd A Y Al-Sayed	Qatari	Non-Independent Non-Executive Director
4.	Omer Abdulaziz H A Al-Marwani	Qatari	Non-Independent Non-Executive Director
5.	Mohamed Badr S K Al-Sadah	Qatari	Non-Independent Non-Executive Director
6.	Navid Chamdia	British	Non-Independent Non-Executive Director
7.	Dato' Lee Tuck Fook	Malaysian	Non-Independent Executive Director
8.	Ooi Ah Heong	Malaysian	Non-Independent Non-Executive Director
9.	Datuk Roger Tan Kim Hock	Malaysian	Independent Non-Executive Director
10.	Dato' Maznah binti Abdul Jalil	Malaysian	Independent Non-Executive Director
11.	Dato' Mohzani bin Datuk Dr Abdul Wahab	Malaysian	Independent Non-Executive Director
12.	Syed Mohd Fareed bin Shaikh Alhabshi	Singaporean	Independent Non-Executive Director

**6.4.1 Experience and Expertise of the Board of Directors**

Information on the business and working experience of the Directors is set out below:

**Datuk Lim Siew Choon** is the Chairman and a Non-Independent Executive Director of the Manager.

He has more than 28 years of experience in property development, construction, retail design, retail development as well as corporate management.

He is currently the Executive Chairman and board member of Malton Berhad and is also a director of KLP.

Since the early 1980s, he has managed and guided a real estate development and construction group of companies known as the Khuan Choo Group, which successfully completed several projects ranging from landed properties, condominiums and mixed developments to high-rise office buildings in the Klang Valley. He subsequently listed the Khuan Choo Group on the Kuala Lumpur Stock Exchange (now known as Bursa Securities) in 2002 via Malton Berhad.

He holds a Bachelor of Business Administration degree (majoring in Finance) from the University of Central Oklahoma in the United States.

**Datin Tan Kewi Yong** is a Non-Independent Executive Director of the Manager.

She has over 27 years of experience in marketing, finance and human resource management and has been instrumental in setting up various business ventures including the manufacturing of office and industrial equipment, a mail order business, bonded warehouses and trading and distribution of well-known international brands of kitchenware and electrical appliances.

She has been involved in the marketing, events and promotional aspects of Pavilion Kuala Lumpur Mall since its opening in 2007. She has been an Executive Director of Malton Berhad since 2002 and is also a director of KLP.

She is also the spouse of Datuk Lim Siew Choon.

**Ahmad Mohd A Y Al-Sayed** is a Non-Independent Non-Executive Director of the Manager.

He is currently the Managing Director and Chief Executive Officer of QH, the strategic and direct investment arm of the Qatar Investment Authority. He is also the Secretary to the board of the Qatar Investment Authority, Vice Chairman of Qatar Exchange, Vice Chairman of Harrods Group and also a member of the boards of Canary Wharf Group and Qatar National Bank, which are listed in the United Kingdom and Qatar, respectively.

Prior to being appointed Secretary to the board of the Qatar Investment Authority in 2006, he held key roles in various Qatari institutions, including the Supreme Council for Economic Affairs and Investment.

He graduated with a Bachelor of Law from Qatar University in Doha, Qatar, and a Master of Law (Banking and Finance Law) from Boston University in the United States. He also holds an Executive Master of Business Administration from Trium Global (New York University Stern New York, London School of Economics London and HEC Paris).



**Omer Abdulaziz H A Al-Marwani** is a Non-Independent Non-Executive Director of the Manager.

He is currently the Director of the Finance Affairs Department at the Qatar Investment Authority and has held that appointment since 2006. He has also been the Director of the Finance and Administration Affairs Department at the Qatari Supreme Council for Economic Affairs and Investment since 2003.

He began his career as an accountant at Qatar Petroleum in 1996. From 1997 to 1999, he was the Finance Department Controller at Qatar Islamic Bank. From 1999 to 2002, he was Senior Auditor at the Qatari State Audit Bureau.

He graduated with a Bachelor degree from the Management and Economic faculty, Qatar University and is a Certified Public Accountant, United States.

**Mohamed Badr S K Al-Sadah** is a Non-Independent Non-Executive Director of the Manager.

He is currently the Human Resource Director of the Qatar Investment Authority, where he oversees the management of the Human Resource department, providing strategic support and services to the Qatar Investment Authority and various of its subsidiaries.

He started his professional career in 2003 as a Project Engineer with Dolphin Energy Limited, where he worked on a US\$6 billion project. He has also worked on projects with JGC Corporation, an engineering and construction company in Japan. Subsequently, he was appointed as the Human Resource Manager of Dolphin Energy Limited in 2009.

He graduated with a Bachelor degree in Material Science and Engineering from the University of Arizona, in the United States.

**Navid Chamdia** is a Non-Independent Non-Executive Director of the Manager.

Navid Chamdia is head of real estate investments at QH, focusing primarily on direct acquisitions, joint ventures and co-investments in Europe, the United States and emerging markets. Navid is also responsible for real estate fund investments made by the Qatar Investment Authority.

Prior to joining QH and the Qatar Investment Authority in 2005, Navid spent 12 years at Ernst & Young's Project Finance division in London advising on the financing and delivery of over US\$10 billion of global real estate and infrastructure projects.

Navid is also a director of Chelsfield plc, a UK based property company.

Navid is a qualified Chartered Accountant and a member of the Institute of Chartered Accountants from England and Wales. Navid is also a Chartered Financial Analyst charter holder. Navid graduated from University College London with a first class honours degree in Economics.

**Dato' Lee Tuck Fook** is a Non-Independent Executive Director of the Manager.

He is currently a director of KLP. He began his career with KPMG in 1974 under articleship, was subsequently admitted as a partner in 1985 and was responsible for KPMG's Malaysian management consultancy practice until he left the practice in 1990. From 1990 to 1992, he was appointed the Vice President of Samling Group in Sarawak. He later joined the Renong Berhad group as the Managing Director of Renong Overseas Corporation. Between 1994 and 2000, he was the Chairman of the Executive Committee of the board of Peremba-Kentz Ltd, an engineering company with operations located in South Africa, the Middle East, Thailand, Ireland and Malaysia. He was the Managing Director of Cement Industries of Malaysia Bhd from 2001 to 2002.

From 2002 to 2006, he was Managing Director of Paracorp Berhad. In 2003 he was appointed the Executive Director of Malton Berhad and was re-designated as its Managing Director in December 2003. He resigned from the board of Malton Berhad in 2009.

He is a member of the Malaysian Institute of Accountants and the Malaysian Institute of Certified Public Accountants. He also holds a Masters degree in Business Administration from the International Management Centre, Buckingham.

**Ooi Ah Heong** is a Non-Independent Non-Executive Director of the Manager.

He has over 35 years of experience in the property development business and has years of experience ranging from low-cost housing to high-end condominium development and institutional buildings to shopping and entertainment centres.

He is currently the Division Director of Business Development of Malton Berhad.

He began his career with Yong Dan Mohd Faiz, a quantity surveying firm in Kuala Lumpur in 1976. He joined Tan & Tan Developments as a Project Manager in 1979. He then joined IOI Group as its General Manager. In 1989, he helped to form Pentadel Sdn Bhd, which was involved in salvaging projects that were stalled. In 1991, he joined Cheras Heights Development, a subsidiary of Perlis Plantation Bhd, as its General Manager. During his tenure there he developed the Cheras Leisure Mall, a large shopping complex at Cheras and oversaw the retrofitting of Shaw Parade in Kuala Lumpur. From 1995 to 2002, he acted as an adviser to various property developers on business development opportunities in the property market, including the Khuan Choo Group. He joined Malton Berhad in 2002.

He graduated from the University of Singapore in 1976.

**Datuk Roger Tan Kim Hock** is an Independent Non-Executive Director of the Manager.

He has been a Director of Bank of Nova Scotia Berhad since December 2004.

Prior to joining Bank of Nova Scotia Berhad, he was Deputy Chairman at ECM Libra Berhad from 2004 to 2006. Before this, he was President and Chief Executive Officer of Hong Leong Credit Berhad from 2001 to 2004 and of Hume Industries (M) Bhd from 1993 to 2001.

He has held directorships at, among others, Croesus IT Solutions Sdn Bhd, Electrocon Ventures Sdn Bhd, Masmeyer Holdings Sdn Bhd and Treasure Resort Pte Ltd. He was a non-executive director, Chairman of the audit committee and a member of the remuneration committee of Midwest Corporation Limited, a public company listed on the Australian Stock Exchange from 2004 to 2008.

## 6. THE MANAGER (Cont'd)

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He graduated from the London School of Economics and Political Science with a Bachelor of Laws and practiced law for seven years prior to joining Hong Leong Group, Malaysia.

**Dato' Maznah binti Abdul Jalil** is an Independent Non-Executive Director of the Manager.

Currently, she is the Executive Chairman of Moore Stephens AC Advisory Sdn Bhd.

She joined Master-Carriage (Malaysia) Sdn Bhd as Director of Corporate Affairs in 1992. Prior to that, she was with Amanah Merchant Bank Bhd, in Corporate Finance and Advisory for 13 years. In 1997 she was appointed as Vice President of HICOM Holdings Berhad. She was Chairman of Uni.Asia General Insurance Berhad and Uni.Asia Life Assurance Berhad. She has also served on the board of Edaran Otomobil Nasional Berhad, EON Capital Berhad, EON Bank Berhad, Gadek (Malaysia) Berhad, HICOM Holdings Berhad, Horsedale Development Berhad, Labuan Reinsurance (L) Ltd, Malaysian International Merchant Bankers Berhad and several private limited companies under DRB-HICOM as well as on the board of UOB Bank Berhad. Thereafter, she joined Hong Leong Financial Group Berhad as Executive Vice President, Corporate Finance & Principal Investment prior to her appointment as Executive Vice President, Investment Banking at Kenanga Investment Bank Berhad.

She graduated with a Bachelor and Masters Degree in Business Administration (Finance) from Northern Illinois University and Central Michigan University, respectively.

**Dato' Mohzani bin Datuk Dr Abdul Wahab** is an Independent Non-Executive Director of the Manager.

He served as the Managing Director of Shell Malaysia Trading Sdn Bhd and Shell Timur Sdn Bhd from 2001 and 2005 respectively until his retirement at the end of 2009. He has years of experience in various senior management positions in Shell's Downstream Oil Products sector. Prior to that, he was a non-independent non-executive director of Shell Refining Company (FOM) Berhad for eight years and was a board member of Brunei Shell Marketing. His board experience includes serving on Shell Oman Marketing plc and the joint venture companies between Petronas and Exxon/Mobil, PS Pipeline and PS Terminal, and other Shell downstream subsidiaries. He also served as a director of a multiparty loyalty program company, Bonuskad Loyalty Sdn Bhd.

Since his retirement at the end of 2009, he has been appointed to the board of Ramunia Holdings Bhd as a non-independent and non-executive director, as independent director of EON Bank Bhd and EONCAP Islamic Bank and assumed the role of Chairman of TH-Alam Holdings.

Previously, he sat as director of the Petroleum Industry of Malaysia Mutual Aid Group and is currently a member of the Investment Panel of Lembaga Tabung Haji.

He graduated with a Bachelor degree in Economics from the University of Malaya.

## 6. THE MANAGER (Cont'd)

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**Syed Mohd Fareed bin Shaikh Alhabshi** is an Independent Non-Executive Director of the Manager.

He is currently the Director in Business Development in Dragoni International LLC, an interior contracting company, where he holds a 20% equity interest.

He started his career by exporting electronic goods from Singapore to Middle East countries, namely Saudi Arabia, Kuwait and the United Arab Emirates. Thereafter, in 1994, he started an investment holding company for a Saudi Arabian family which owns 80% of National Commercial Bank. In 2002, he started his own interior contracting company in Dubai. He later sold majority of his interest to Depa Ltd, a public listed company in Dubai.

He has been appointed as the Advisor (Middle East) to the Albukhary Foundation as well as Director of the International Relations of His Royal Highness Prince Khalid bin Abdullah bin Abdul Aziz of Saudi Arabia. He is also a Representative of the Middle East to the East Coast Economic Region Development Council since August 2010.

### 6.4.2 Directorships of Directors in other Management Companies

As at the Latest Practicable Date, none of the Directors are directors of any other management companies.

### 6.4.3 Role of the Board of Directors

The key roles of the Board are to:

- (i) guide the corporate strategy and directions of the Manager (including acquisition and divestment of Authorised Investments);
- (ii) oversee the proper conduct of the Manager (including budgeting approval and all other financial matters);
- (iii) set the guidelines for the internal controls;
- (iv) ensure compliance with Relevant Laws and Requirements; and
- (v) determine and approve the distribution amounts to Unitholders and payment of Management Fee.

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## 6. THE MANAGER (Cont'd)

### 6.5 MANAGEMENT TEAM OF THE MANAGER

The executive officers of the Manager are entrusted with the responsibility for the daily operations of the Manager. The following table sets forth information regarding the executive officers of the Manager:

Name	Nationality	Position
Philip Ho Yew Hong	Malaysian	Chief Executive Officer
Joyce Yap Soh Ching	Malaysian	Asset Manager (Retail)
Lovell Ho Wai Hoong	Malaysian	Asset Manager (Leasing)
Kung Suan Ai	Malaysian	Asset Manager (Marketing)
Daniel Hee Teck Ming	Malaysian	Asset Manager (Operations cum Mechanical and Engineering)
Francis Ong Heng Khai	Singaporean	Asset Manager (Facilities Management)
Lo Khien Ngoh	Malaysian	Head of Legal and Compliance
Lim Mian Nyee	Malaysian	Finance Manager
Tan Bee Yoke	Malaysian	Investment Manager

#### 6.5.1 Expertise and Experience of Executive Officers

Information on the working experience of the executive officers of the Manager is set out below:

**Philip Ho Yew Hong** is the Chief Executive Officer of the Manager.

He has over 23 years of years of experience in corporate planning, mergers & acquisitions, finance, audit, operations management, property development and construction.

Prior to joining the Manager, he was the Chief Financial Officer of the Sponsor, where he was involved in the establishment of Pavilion REIT. During this period he was also involved in the finance, operations and property investment functions for the Sponsor group. Prior to this, he was Chief Operation Officer and Finance Director of KLP during the development and construction stage of the Pavilion Kuala Lumpur Project.

He started his career in KPMG Peat Marwick as an auditor in 1989, before joining Kee Huat Industries Berhad in 1992 as an accountant and was subsequently promoted to Group Accountant. He then joined a construction company in 1995 as the Finance Manager and was promoted to Financial Controller. In 1997, he joined the Khuan Choo Group of companies where his last position was Executive Director of Malton Berhad before leaving in 2002 to join KLP.

He holds a Master of Business Administration from University of Strathclyde, United Kingdom and a Bachelor of Business in Accounting from Chisholm Institute of Technology, Australia. He is currently a member of the Malaysian Institute of Accountants.

## 6. THE MANAGER (Cont'd)

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**Joyce Yap Soh Ching** is the Asset Manager (Retail) of the Manager and Chief Executive Officer (Retail) of KLP.

During her 30 years' working experience, she has held key positions and handled a variety of responsibilities in the areas of development, sales and marketing, leasing of various types of property development and asset management.

In her role as Chief Executive Officer of KLP, her key responsibility was to formulate, articulate and prioritise departmental goals in line with KLP's strategic objectives which included mall operations, leasing, marketing and human resources. Her role also involved developing and maintaining effective networking relationships with local, regional and international retailers.

Prior to joining KLP, she worked with Gestetner Manufacturing Co., London, General Corporation Bhd, Lion Properties Sdn Bhd, MBf Properties Sdn Bhd, Berjaya Ditan Sdn Bhd and Sunway Pyramid Sdn Bhd.

She is the Advisor and immediate past President of the Malaysian Association for Shopping and Highrise Complex Management ("PPKM"). In 2010, she received the Outstanding Entrepreneurship Awards awarded by the Asia Pacific Entrepreneurship Awards Malaysia and was awarded the Distinction for Distinguished Lifetime Dedication to Management of Shopping Centre by PPKM in 2008.

She holds a Bachelor of Arts (Hons) in Business Studies from North East London Polytechnic, London (now known as North London University) and a Certificate in Centre Management from PPKM.

**Lovell Ho Wai Hoong** is the Asset Manager (Leasing) of the Manager and Director of Leasing of KLP.

He has 18 years' experience in shopping mall management particularly in the areas of leasing and marketing. In the retail industry, he possesses a wide network of both local and international retailers from renowned local brands to international luxury brands and has successfully secured the tenant mix and occupancy rates for Pavilion Kuala Lumpur Mall. He joined KLP in 2002 as Senior Leasing Manager, was promoted to General Manager in 2005 and was appointed Director of Leasing in 2010.

Prior to joining KLP, he was the Marketing Manager of Sunway Pyramid Sdn Bhd and was responsible for setting the strategic marketing plans and implementing marketing and communication plans for the mall. He began his career with the Shopping Centre Management Division of The Lion Group. During his tenure with The Lion Group, he was involved in the overall leasing and marketing functions for the Lion Group Parade of Shopping Centres throughout the country.

He holds a Bachelor of Business in Marketing from the Royal Melbourne Institute of Technology, Melbourne, Australia. He is also a Certified Marketing Manager by PPKM and a member of PPKM.

**Kung Suan Ai** is the Asset Manager (Marketing) of the Manager and Director of Marketing of KLP.

She has 15 years of experience in retail and corporate marketing for shopping centres and integrated developments. She joined KLP in 2008 as General Manager, Marketing before being appointed as Director of Marketing in 2010. She oversaw the marketing and concierge services of Pavilion Kuala Lumpur Mall.

She started her career with Sunway Pyramid in 1996, and in 2001 joined Mid Valley Megamall as Advertising and Promotions Manager. In 2004, she was made Director of Advertising & Promotions and in 2008, Director of Marketing for the integrated Mid Valley City development.

She is presently the Vice President of PPKM and is actively involved in shopping tourism events for Bukit Bintang – KLCC.

She holds a Bachelor of Arts (Hons) in Communications from Universiti Kebangsaan Malaysia.

**Daniel Hee Teck Ming** is the Asset Manager (Operations cum Mechanical and Engineering) of the Manager and Director of Operations of KLP.

He joined the Sponsor in 2007 as General Manager, Mechanical & Electrical before being appointed as Director of Operations from the end of 2008.

He gained several years of experience in aluminium fabrication in the United Kingdom after his graduation in 1982. On his return to Malaysia, he worked with United Technologies Carrier from 1988 to 2000 where he last held the position of General Manager, Services. From 2000 to 2006, he was Chief Operating Officer of Paracorp Technology Sdn Bhd. From 1996 to 2007, he served on the Board of Directors of Artwright Holdings Berhad as an Independent Non-Executive Director. He was also a member of the Audit Committee and a member of the Nomination & Remuneration Committee of Artwright Holdings Berhad.

He holds a Higher National Diploma in Mechanical Engineering from Humberside College of Higher Education, United Kingdom.

**Francis Ong Heng Khai** is the Asset Manager (Facilities Management) of the Manager and Assistant Director of Operations of KLP.

He has over 18 years of experience in property management covering residential, commercial and industrial properties.

Prior to joining KLP, he was with CapitaMall Asia Ltd for close to seven years and managed one of their shopping malls, Plaza Singapura which is situated in Singapore's shopping belt along Orchard Road. He was seconded to a new development, ION Orchard in 2008 as Head of Facilities. While with ION Orchard, he was involved in the operations planning and recruitment of the facilities team for the new mall, pre-opening preparations and post-opening operations. He was responsible for the daily operations of the mall, preparation of the operations and maintenance budget, implementation of standard operating procedures and was also involved in asset enhancement initiatives of the respective malls that he had managed.

## 6. THE MANAGER (Cont'd)

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He holds a Bachelor of Business (Property) from the University of South Australia, Australia and a Diploma in Building Management from Ngee Ann Polytechnic, Singapore.

**Lo Khien Ngoh** is the Head of Legal and Compliance of the Manager.

She is a senior lawyer with more than 20 years professional experience. Prior to joining the Manager, she was an investment lawyer with the Qatar Investment Authority specialising in the area of corporate, mergers and acquisitions and regulatory compliance work.

She had also served as a regional counsel of Hess Corporation (a United States oil & gas corporation) in South East Asia, the Head of Legal for the industrial and energy division of the Genting group of companies, and a legal manager with Berjaya Group Berhad. She started her career as an Advocate and Solicitor of the High Court of Malaya.

Khien Ngoh was called as a barrister and admitted into the Honourable Society of Lincoln's Inn, London after receiving her degree from the University of London.

**Lim Mian Nyee** is the Finance Manager of the Manager.

Prior to joining the Manager in October 2011, she was the Finance Manager at The Nomad Hotel Management Sdn Bhd, a subsidiary of The Nomad Group Berhad. She oversaw the finance department for the service residences within the The Nomad Group Berhad with main responsibilities in financial reporting, budget and planning.

Lim Mian Nyee is a member of the Association of Chartered Certified Accountants and the Malaysian Institute of Accountants.

**Tan Bee Yoke** is the Investment Manager of the Manager.

Prior to joining the Manager in October 2011, she was Assistant Vice President at Sime Darby Berhad under the Group Strategy and Business Development Department. She has extensive experience in corporate exercises relating to mergers and acquisitions as well as business expansion and development. The scope of her work involved financial modelling and valuation, debt financing analysis, project/investment feasibility analysis and planning as well as other financial and strategic reviews. Prior to joining Sime Darby Berhad, she was with a couple of audit firms, namely Ernst & Young in China and PricewaterhouseCoopers in Malaysia.

Tan Bee Yoke is a member of the Association of Chartered Certified Accountants and the Malaysian Institute of Accountants.

### 6.5.2 Roles of the Executive Officers of the Manager

The **Chief Executive Officer** will work with the Board to determine the strategy for Pavilion REIT. The Chief Executive Officer will also work with the other members of the Manager's Management Team to ensure that Pavilion REIT operates in accordance with the Manager's stated investment strategy. Additionally, the Chief Executive Officer will be responsible for planning the future strategic development of Pavilion REIT. The Chief Executive Officer is also responsible for strategic planning, the overall day-to-day management and operations of Pavilion REIT and working with the Manager's investment, asset management, financial and legal and compliance personnel in meeting the strategic, investment and operational objectives of Pavilion REIT.



## 6. THE MANAGER (Cont'd)

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The **Asset Manager (Retail)** is in charge of the asset management team, which is responsible for formulating the business plans in relation to Pavilion REIT's properties with short, medium and long-term objectives, and with a view to maximising the Rental Income of Pavilion REIT. The Asset Manager (Retail) will ensure that the asset managers work closely with the Property Manager to implement Pavilion REIT's strategies to maximise the income generation potential and minimise the expense base of the properties without compromising their marketability. The asset management team led by the Asset Manager (Retail) focuses on the operations of Pavilion REIT's properties, the implementation of the short to medium-term objectives of Pavilion REIT's portfolio and supervise the Property Manager in the implementation of Pavilion REIT's property-related strategies including analysing and recommending asset enhancement initiatives.

The **Head of Legal and Compliance** is responsible for ensuring that Pavilion REIT complies with the Relevant Laws and Requirements. The Head of Legal and Compliance is responsible for monitoring the internal corporate governance policies of Pavilion REIT and will report directly to the Board on specific compliance matters.

The **Finance Manager** will work with the Chief Executive Officer and will be responsible for applying the appropriate capital management strategy, including tax and treasury matters, as well as finance and accounting matters, overseeing implementation of Pavilion REIT's short and medium-term business plans, cash and funding management activities and financial condition.

The **Investment Manager** is in charge of the investment team, which is responsible for identifying, researching and evaluating potential acquisitions and related investments with a view to enhancing Pavilion REIT's portfolio, or divestments where a property is no longer strategic, fails to enhance the value of Pavilion REIT's portfolio or fails to be yield accretive. In order to support these various initiatives, the team will undertake detailed analysis to test the financial impact of different courses of action.

### 6.6 MANAGEMENT FEE

#### 6.6.1 Details of the Management Fee

The Manager is entitled under the Deed to the following management fees (exclusive of service tax, if any):

(i) **Base Fee**

Up to 1.0% per annum of the Total Asset Value of Pavilion REIT (excluding cash and bank balances which are held in non-interest bearing accounts).

For the purposes of calculating the Base Fee only, where Pavilion REIT holds its investments through one or more SPVs, the Total Asset Value shall include the value of all the assets of the relevant SPV, pro-rated, if applicable, to the proportion of Pavilion REIT's interest in the relevant SPV.

(ii) **Performance Fee**

Up to 5.0% per annum of Pavilion REIT's Net Property Income in the relevant financial year.

## 6. THE MANAGER (Cont'd)

### (iii) Incentive Fee

An incentive fee is payable in accordance with the following:

Fee Payable (% per annum of the Total Asset Value of Pavilion REIT)	Criteria: Annual growth in Distributable Income in a Financial Year (calculated before accounting for Incentive Fee in that Financial Year)
Up to 0.10%	Exceeds 7.5% and up to 10.0%
Up to 0.15%	Exceeds 10.0% and up to 12.5%
Up to 0.20%	Exceeds 12.5%

The Incentive Fee is payable in Units only. The Incentive Fee is only applicable in respect of the second full financial year in which Pavilion REIT has been established and in operation, being FY2013. No Incentive Fee is payable for FY2011 and FY2012.

Nevertheless, taking into consideration that the Incentive Fee is not common among other listed Malaysian REITs, the Manager has, and will continue, to, waive its rights to the Incentive Fee unless otherwise approved by Unitholders via an ordinary resolution, obtained at a general meeting to be convened. For this purpose, the Major Unitholders, who are also substantial shareholders of the Manager, will abstain from voting on such resolution in respect of their direct and/or indirect unitholdings in view that they have an interest in the outcome of such resolution which is different from the other Unitholders. The Manager intends to convene the said general meeting in FY2012.

### (iv) Acquisition Fee

1.0% of the transaction value (being the total purchase consideration) of any Real Estate and Real Estate-Related Assets directly or indirectly acquired from time to time by the Trustee or one or more SPV on behalf of Pavilion REIT pro-rated, if applicable, to the proportion of Pavilion REIT's interest.

In the case of acquisition of SPVs, 1.0% of the underlying value (being the appraised value of the Real Estate as determined by an independent valuer appointed by the Trustee) of any Real Estate (which are held through the SPVs) pro-rated, if applicable, to the proportion of Pavilion REIT's interest.

Any payment to third party agents or brokers in connection with the acquisition of any Real Estate Assets and Real Estate-Related Assets by Pavilion REIT shall not be paid by the Manager out of the Acquisition Fee received or to be received by the Manager (but shall be borne by Pavilion REIT).

## 6. THE MANAGER (Cont'd)

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### (v) Divestment Fee

0.5% of the transaction value (being the total sale consideration) of any Real Estate and Real Estate-Related Assets directly or indirectly sold or divested from time to time by the Trustee or one or more SPVs on behalf of Pavilion REIT pro-rated, if applicable, to the proportion of Pavilion REIT's interest.

In the case of divestment of SPVs, 0.5% of the underlying value (being the appraised value of the Real Estate as determined by an independent valuer appointed by the Trustee) of any Real Estate (which are held through the SPVs) pro-rated, if applicable, to the proportion of Pavilion REIT's interest.

Any payment to third party agents or brokers in connection with the sale or divestment of any Real Estate Assets and Real Estate-Related Assets by for Pavilion REIT shall not be paid by the Manager out of the Divestment Fee received or to be received by the Manager (but shall be borne by Pavilion REIT).

The Management Fee should not be higher than that disclosed above in this Section 6.6 "Management Fee" unless:

- (i) the Manager has notified the Trustee in writing of the new higher rate, and the Trustee consents to the same;
- (ii) the Manager has announced to Bursa Securities of the higher fee rate and its effective date; and
- (iii) 90 days has elapsed from the date of this Prospectus.

The Management Fee as disclosed in this section may only be varied upwards by way of a supplementary deed and in accordance with the requirements of the CMSA.

Based on the Profit Forecast, the Management Fee estimated for the Forecast Period 2011 and Forecast Year 2012 amounts to RM1.4 million and RM17.5 million, respectively, which were computed based on a Base Fee of 0.3% per annum of the Total Asset Value of Pavilion REIT (excluding cash and bank balances which are held in non-interest bearing account) and a Performance Fee of 3.0% of Pavilion REIT's NPI for the respective years. While the Manager intends to receive between 15% to 50% of its Management Fee in the form of Units for FY2011 and FY2012, for the purpose of the Profit Forecast, it is assumed that 15.0% of the Management Fee will be paid in Units for the Forecast Period 2011 and Forecast Year 2012.

Save for the Incentive Fee, the Management Fee is payable to the Manager in cash and/or new Units as the Manager may elect. Any payment of the Management Fee in cash must be paid within seven days of (i) in respect of Base Fee and Performance Fee, the announcement of the relevant quarterly financial reports; (ii) in respect of the Incentive Fee, the announcement of the annual financial statements; or (iii) in respect of the Acquisition Fee and Divestment Fee, the completion of the relevant acquisition or divestment (collectively, "Trigger Events"). Any payment of the Management Fee in new Units must be paid as soon as practicable after obtaining Bursa Securities' approval for the listing of and quotation for the said Units. Where such approval cannot be obtained, the payment of the Management Fee will be paid in cash. Bursa Securities has approved the listing of and quotation for 100,000,000 Units to be issued as part payment of the Management Fee.

**6. THE MANAGER (Cont'd)**

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Payment of the Management Fee in Units (particularly in the case of Incentive Fee) is subject to Pavilion REIT complying with the public spread requirements and there being no Take-over Code implications, failing which such Management Fee will remain as an amount owing and the Units can only be issued to the Manager after such restrictions are resolved.

The Manager will ensure that the payment of the Management Fee in the form of new Units does not result in a conflict of interest by taking the following steps:

- (i) The payment of the Management Fee in the form of new Units will be in accordance with the following formula:

$$\text{New Units to be issued as payment of the Management Fee} = \frac{\text{Management Fee payable in Units}}{\text{Market Price}}$$

where the Market Price is the volume weighted average market price of the Units for the last five Market Days preceding each Trigger Event. With reference to any book closing date, where the Trigger Event is before but the issuance of the new Units relating to such Trigger Event is after the said book closing date, the Market Price will be further adjusted for the entitlement relating to such book closing date; and

- (ii) The Manager will make immediate announcements to Bursa Securities disclosing the number of new Units issued and the issue price of the new Units when new Units are issued as payment for the Management Fee.

Any issuance of the Units set out in Section 3.2 "Total Fund Size and Units to be Issued" of this Prospectus which have been approved by the SC to be allocated as payment of the Management Fee shall not require the approval of the Unitholders and the SC.

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## 6. THE MANAGER (Cont'd)

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### 6.6.2 Illustration of the Management Fee Payable

To illustrate the Management Fee payable in any particular financial year (other than FY2011 and FY2012), the following scenarios for Pavilion REIT's financial position and performance as well as acquisition and divestment activities are assumed:

<b>Total Asset Value as at the end of the current FY</b>	:	RM3,700.0 million (assuming all cash and bank balances are held in interest bearing accounts)
<b>Net Property Income for the current FY</b>	:	RM220.0 million
<b>Annual growth in Distributable Income for the current FY</b>	:	<b>Scenario 1:</b> Exceeds 7.5% and up to 10.0% increase from the previous FY <b>Scenario 2:</b> Exceeds 10.0% and up to 12.5% increase from the previous FY <b>Scenario 3:</b> Exceeds 12.5% increase from the previous FY
<b>Acquisition activities during the FY</b>	:	<b>Acquisition 1:</b> Acquisition of a Real Estate for a purchase consideration of RM500.0 million <b>Acquisition 2:</b> Acquisition of an SPV, which holds a Real Estate valued at RM500.0 million (by an independent valuer) and has borrowings of RM300.0 million, for a purchase consideration of RM200 million
<b>Divestment activities during the FY</b>	:	<b>Divestment 1:</b> Divestment of a Real Estate for a sale consideration of RM500.0 million <b>Divestment 2:</b> Divestment of an SPV, which holds a Real Estate valued at RM500.0 million (by an independent valuer) and has borrowings of RM300.0 million, for a sale consideration of RM200.0 million

Based on the above, the Management Fee payable by Pavilion REIT are illustrated on the 2 following scenarios as set out in the table below:

<b>Base Case</b>	:	Assuming Management Fee is charged at the rate in line with the assumptions for the Profit Forecast (see Section 4.5.3.4 "Management Fee Assumptions" of this Prospectus for further details) and Unitholders' approval for the Incentive Fee is not obtained.
<b>Maximum Case</b>	:	Assuming Management Fee is charged at the maximum rate provided for under the Deed and Unitholders' approval for the Incentive Fee is obtained.

6. THE MANAGER (Cont'd)

	Base Case	Maximum Case
<b>Base Fee</b>	0.3% of Total Asset Value = 0.3% of RM3,700.0 million = RM11.1 million	1.0% of Total Asset Value = 1.0% of RM3,700.0 million = RM37.0 million
<b>Performance Fee</b>	3.0% of Net Property Income = 3.0% of RM220.0 million = RM6.6 million	5.0% of Net Property Income = 5.0% of RM220.0 million = RM11.0 million
<b>Incentive Fee</b>	Not applicable.	<b>Scenario 1:</b> 0.10% of Total Asset Value = 0.10% of RM3,700.0 million = RM3.7 million <b>Scenario 2:</b> 0.15% of Total Asset Value = 0.15% of RM3,700.0 million = RM5.6 million <b>Scenario 3:</b> 0.20% of Total Asset Value = 0.20% of RM3,700.0 million = RM7.4 million
<b>Acquisition Fee</b>	<b>Acquisition 1:</b> 1.0% of transaction value = 1.0% of RM500.0 million = RM5.0 million <b>Acquisition 2:</b> 1.0% of underlying value = 1.0% of RM500.0 million = RM5.0 million	
<b>Divestment Fee</b>	<b>Divestment 1:</b> 0.5% of transaction value = 0.5% of RM500.0 million = RM2.5 million <b>Divestment 2:</b> 0.5% of underlying value = 0.5% of RM500.0 million = RM2.5 million	

Aside from the event driven fees (being the Acquisition Fee and Divestment Fee), the aggregate annual Management Fee (being the Base Fee, Performance Fee and Incentive Fee, where applicable) and its proportion as a percentage of NPI based on the illustrations above are as follows:

	Base Case	Maximum Case
<b>Scenario 1</b>	RM17.7 million (8.0% of NPI)	RM51.7 million (23.5% of NPI)
<b>Scenario 2</b>		RM53.6 million (24.3% of NPI)
<b>Scenario 3</b>		RM55.4 million (25.2% of NPI)

**6.7 OUTSOURCING OF THE REGISTRAR FUNCTION**

The SC has approved the outsourcing of the registrar function by the Manager to Tricor Investor Services Sdn Bhd on 31 October 2011.

The Manager has entered into an agreement with Tricor Investor Services Sdn Bhd to delegate the function of registrar to Tricor Investor Services Sdn Bhd.

Tricor Investor Services Sdn Bhd was incorporated in Malaysia under the Act on 21 April 1984. As at the Latest Practicable Date, the authorised share capital of Tricor Investor Services Sdn Bhd is RM25,000.00 comprising 25,000 ordinary shares of RM1.00 each, of which 20,000 are currently issued and credited as fully paid-up. Tricor Investor Services Sdn Bhd is principally involved in the provision of unit registration services.

The principal services to be provided by the Registrar shall comprise, inter alia, the following:

- (i) setting up maintenance of the principal register and keeping the same updated in compliance with the CMSA and the Relevant Laws and Requirements and in accordance with the provisions in the Deed;
- (ii) maintaining of records, books and documents for the time period in accordance to the provisions as stipulated in the Relevant Laws and Requirements;
- (iii) attending to relevant correspondences and enquiries from the Unitholders and any other parties pertaining to the principal register which include changes of names and addresses, replacement of lost certificates (if applicable), distribution statements, registration of powers of attorneys, letters of administration, grant of probate, indemnities, court orders and any other matters ancillary thereto;
- (iv) acting as advisor to the Manager on all matters in relation to Bursa Depository or the Relevant Laws and Requirements and be the official link between Bursa Depository and the Manager;
- (v) performing registration formalities on consolidation and splitting of Unit Certificates received from Bursa Depository;
- (vi) despatching annual reports, interim reports, circulars, notices and documents to Unitholders;
- (vii) providing statistical reports or detailed Unitholders' information that may be required by the Manager or the relevant authorities on a regular basis or upon receipt of a written request;
- (viii) preparing, verifying and despatching of distribution cheques and statements as well as reconciling and submitting the distribution accounts to the Registrar of Unclaimed Moneys in accordance with the Unclaimed Moneys Act, 1965 (if applicable);
- (ix) processing issue of new Units including computation and allotment, verification of data for crediting into the respective CDS account and the subsequent despatching of new certificates, notices of allotment and relevant confirmation letter(s) to the Unitholders;

## 6. THE MANAGER (Cont'd)

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- (x) providing where applicable, information to Bursa Depository on relevant dates for book closure and payment; and
- (xi) preparing for and handling the registration for Unitholders' meeting which includes the following:
  - (a) handling registration of Unitholders for meeting purpose;
  - (b) handling lodgment and processing of proxy forms received as well as providing the analysis of voting instruction based on proxy forms received.

Notwithstanding the above, the services of the Registrar are not intended, in anyway, to diminish the responsibilities of the Manager. The registrar function is the responsibility of the Manager.

### 6.8 OUTSOURCING OF THE INTERNAL AUDIT FUNCTION

The SC has approved the outsourcing of the internal audit function by the Manager to BDO Governance Advisory Sdn Bhd ("BDO GA") on 31 October 2011.

The Manager has entered into an agreement with BDO GA to delegate the function of internal auditor to BDO GA.

BDO GA was incorporated in Malaysia under the Act on 9 June 1997. As at the Latest Practicable Date, the authorised share capital of BDO GA is RM150,000 comprising 150,000 shares of RM1.00 each, of which 150,000 shares are currently issued and fully paid-up. BDO GA is principally involved in the provision of internal audit services, corporate governance advisory and general consulting.

The principal services to be provided by BDO GA shall comprise, inter alia, the following:

- (i) developing an annual internal audit plan;
- (ii) conducting an annual internal control review covering key business processes, including but not limited to, procurement and payment of property operating expenses and property enhancement services, tenancy management, collection of rentals, acquisition and divestment of investment properties and fund management activities;
- (iii) presenting the findings on internal control reviews to the Board as and when required; and
- (iv) conducting a follow-up review to report on the status of implementation of management action plans arising from the internal control review conducted, as necessary.

Notwithstanding the above, the services of the BDO GA are not intended, in anyway, to diminish the responsibilities of the Manager. The design, development, implementation and operations of the system of controls are the responsibilities of the Manager.



## 6. THE MANAGER (Cont'd)

### 6.9 UNITHOLDINGS OF SUBSTANTIAL SHAREHOLDERS, DIRECTORS AND KEY MANAGEMENT PERSONNEL OF THE MANAGER IN PAVILION REIT

As Pavilion REIT was only established on 18 October 2011, the substantial shareholders, Directors and key management personnel of the Manager will not hold any Units, direct and/or indirect, in Pavilion REIT prior to the Acquisitions and Offering. The unitholding of the said parties after the Acquisitions and Offering are set out in the table below:

	Direct	
	No. of Units ('000)	%
<b>Substantial Shareholders<sup>(1)</sup></b>		
Datuk Lim Siew Choon <sup>(2)</sup>	845,425	28.18
Datin Tan Kewi Yong <sup>(2)</sup>	281,875	9.40
QH	1,082,900	36.10
<b>Directors<sup>(2)</sup></b>		
Datuk Lim Siew Choon	845,425	28.18
Datin Tan Kewi Yong	281,875	9.40
Ahmad Mohd A Y Al-Sayed	100	*
Omer Abdulaziz H A Al-Marwani	100	*
Mohamed Badr S K Al-Sadah	100	*
Navid Chamdia	100	*
Dato' Lee Tuck Fook	100	*
Ooi Ah Heong	100	*
Datuk Roger Tan Kim Hock	100	*
Dato' Maznah binti Abdul Jalil	100	*
Dato' Mohzani bin Datuk Dr Abdul Wahab	100	*
Syed Mohd Fareed bin Shaikh Alhabshi	100	*
<b>Key Management Personnel<sup>(2)</sup></b>		
Philip Ho Yew Hong	95	*
Joyce Yap Soh Ching	95	*
Lovell Ho Wai Hoong	85	*
Kung Suan Ai	70	*
Daniel Hee Teck Ming	70	*
Francis Ong Heng Khai	60	*
Lo Khien Ngoh	-	-
Lim Mian Nyee	-	-
Tan Bee Yoke	-	-

**Notes:**

(1) Pursuant to the issuance of the 2,210,000,000 Consideration Units to UCSB, which will be distributed or transferred by UCSB to its ultimate shareholders, being the Major Unitholders, in the proportion set out above.

(2) Assuming full subscription of the Offer Units reserved for them under the preferential allocation under the Retail Offering.

\* Negligible.

The substantial shareholders, Directors and key management personnel of the Manager will not have any indirect unitholdings in Pavilion REIT upon Listing.

## **6. THE MANAGER (Cont'd)**

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### **6.10 SUMMARY OF THE MANAGER'S FINANCIAL POSITION SINCE THE DATE OF INCORPORATION**

The Manager was incorporated in Malaysia under the Act on 7 April 2011 as a private limited company and it has not commenced operations. As at the date of this Prospectus, the Manager has an issued and paid up share capital of RM1,000,000.

### **6.11 RETIREMENT, REMOVAL AND REPLACEMENT OF THE MANAGER**

#### **6.11.1 Retirement**

The Manager may retire upon giving six month's written notice to the Trustee (or such shorter period as may be agreed upon with the Trustee) and then the Trustee shall appoint in writing any other corporation as the Manager in its stead subject to the approval of the SC.

#### **6.11.2 Removal and Replacement**

The Trustee may take all reasonable steps to remove the Manager from its appointment under the following circumstances:

- (i) the Manager ceases to exist;
- (ii) the Manager was not validly appointed;
- (iii) the Manager ceases to be eligible to act as a management company pursuant to the CMSA or its appointment to act as the management company of Pavilion REIT is revoked by the SC;
- (iv) the Manager fails or refuses to act as Manager in accordance with the material provisions or covenants of the Deed or the provisions of the CMSA;
- (v) the Manager has a receiver appointed over the whole or a substantial part of its assets or undertaking and the Manager has not ceased to act under the appointment, or a petition is presented for the winding up of the Manager (other than for the purpose of and followed by a reconstruction, unless during or following such reconstruction the Manager becomes or is declared to be insolvent);
- (vi) the Manager is under investigation for conduct amounting to fraud or of similar serious nature being a contravention of the Act or any securities law and is found guilty by the Courts of Malaysia of such offence as charged;
- (vii) the Manager is required to be removed by the SC or is required to be removed pursuant to the provisions of the REITs Guidelines; or
- (viii) the Manager is required to be removed by the Unitholders by way of a Special Resolution (or otherwise in accordance with the requirements of the REITs Guidelines) passed at a meeting of Unitholders convened for that purpose on the grounds that the Manager is in breach of its obligations under the Deed and the Manager has failed to remedy the breach despite the request from the Trustee.

## **6. THE MANAGER (Cont'd)**

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The Trustee may then appoint a replacement manager whom is eligible to act as manager under the CMSA and which has been approved by the SC. Without prejudice to the Trustee's right to appoint a replacement management company, the Manager shall have the right to nominate a new management company (which is eligible to be appointed to act as management company under the CMSA) which shall not be a related corporation or an associated person of the Manager, within 14 days of its removal for consideration by the Trustee.

### **6.12 RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST**

The Deed provides that the Manager, the Trustee and any delegate of either of them shall avoid conflicts of interest arising or, if conflicts arise, shall ensure that Pavilion REIT is not disadvantaged by the transaction concerned. The Manager must not make improper use of its position in managing Pavilion REIT to gain, directly or indirectly, an advantage for itself or for any other person or to cause detriment to the interest of Unitholders.

The Directors are under a fiduciary duty towards Pavilion REIT to act in the best interest of Pavilion REIT. In addition, the Executive and Non-Executive Directors (including the Chief Executive Officer) and the executive officers of the Manager are expected to act with honesty and integrity at all times.

Under the Deed, the related parties of the Manager (as defined in the Deed) may hold Units. Unless otherwise permitted by the SC, Related Parties of the Manager shall not have voting rights in respect of the Units held and shall not be counted in a quorum at any Unitholders' meeting, if they have interest in the outcome of the transaction tabled for approval at the meeting which is different from the interest of other Unitholders.

See Section 11 "Corporate Governance, Related Party Transactions and Conflicts of Interest" of this Prospectus for further details on conflicts of interest and related party transactions.

### **6.13 CORPORATE GOVERNANCE**

See Section 11 "Corporate Governance, Related Party Transactions and Conflicts of Interest" of this Prospectus.

### **6.14 MATERIAL LITIGATION AND ARBITRATION**

As at the Latest Practicable Date, the Manager is not engaged in any material litigation and arbitration, either as plaintiff or defendant, which has a material effect on its financial position and its Directors do not know of any proceedings pending or threatened or of any facts likely to give rise to any proceedings which might materially and adversely affect its financial position or business.

## 7. BACKGROUND INFORMATION ON SPONSOR AND MAJOR UNITHOLDERS

### 7.1 THE SPONSOR

The Sponsor of Pavilion REIT is UCSB, the developer of the Pavilion Kuala Lumpur Project comprising four components, namely Pavilion Kuala Lumpur Mall, Pavilion Tower, two blocks of luxury serviced apartments known as Pavilion Residences and a proposed block of serviced suites. Incorporated on 15 April 1993, the Sponsor developed the first Smart School for the Ministry of Education in Taman Shamelin Perkasa, Cheras, Kuala Lumpur.

The board of directors of the Sponsor has a wealth of experience, and are supported by experienced asset management and development teams.

The Sponsor's principal business strategy is to invest in, develop and manage real estate in Malaysia. The Sponsor aims to further add value to these properties through asset enhancement initiatives and precinct development strategies.

### 7.2 MAJOR UNITHOLDERS

The total number of Units in issue upon Listing will be 3,000,000,000 Units.

The following table sets out a summary of the Major Unitholders of Pavilion REIT and their unitholdings upon Listing:

	Units held post Offering			
	Direct		Indirect	
	No. Of Units ('000)	%	No. Of Units ('000)	%
Datuk Lim Siew Choon <sup>(1)(2)</sup>	845,425	28.18	-	-
Datin Tan Kewi Yong <sup>(1)(2)</sup>	281,875	9.40	-	-
QH <sup>(1)</sup>	1,082,900	36.10	-	-
<b>Total</b>	<b>2,210,200</b>	<b>73.68</b>	<b>-</b>	<b>-</b>

**Notes:**

- (1) Pursuant to the issuance of the Consideration Units to UCSB, which will be distributed or transferred by UCSB to its ultimate shareholders, being the Major Unitholders, in the proportion set out above.
- (2) Assuming full subscription of the Offer Units reserved to them under the preferential allocation under the Retail Offering.

#### 7.2.1 Datuk Lim Siew Choon and Datin Tan Kewi Yong

Upon Listing, Datuk Lim Siew Choon and Datin Tan Kewi Yong will be Major Unitholders of Pavilion REIT, and will together hold 37.6% of the Units. See Section 6.4.1 "Experience and Expertise of the Board of Directors" of this Prospectus for further details on the relevant experience of Datuk Lim Siew Choon and Datin Tan Kewi Yong.

## **7. BACKGROUND INFORMATION ON SPONSOR AND MAJOR UNITHOLDERS (Cont'd)**

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### **7.2.2 QH**

Upon Listing, QH will be a Major Unitholder of Pavilion REIT with a unitholding of 36.1%. QH is a global investment house established in 2006, founded and wholly-owned by the Qatar Investment Authority. QH invests internationally and locally in strategic private and public equity, and other direct investments including real estate.

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## 8. THE TRUSTEE

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*The following information in this section (save where it relates to the Deed) has been prepared and provided by the Trustee. None of the Manager, the Joint Principal Advisers, the Joint Global Coordinators and any other person has independently verified this information and, therefore, neither the Manager, the Joint Principal Advisers nor the Joint Global Coordinators make any representation as to the correctness, accuracy or completeness of such information. Accordingly, prospective investors should not place undue reliance on such information.*

### 8.1 CORPORATE INFORMATION

AmTrustee Berhad (“AmTrustee”) was incorporated in Malaysia under the Act on 28 July 1987. It is registered as a trust company under the Trust Companies Act, 1949 and is also registered with the SC for trusteeship service in respect of unit trust funds. As at the Latest Practicable Date, the authorised share capital of the Trustee was RM1,000,000 comprising 100,000 ordinary shares of RM10.00 each, paid up to RM5.00 each in accordance with Section 3(c) of the Trust Companies Act, 1949.

The principal activity of the Trustee is the provision of corporate trusteeship services. The Trustee has been in the trustee business for more than 24 years. As at the Latest Practicable Date, the Trustee's staff strength comprises 28 executive staff and five non-executive staff.

The Trustee undertakes all types of trustee business allowed under the Trust Companies Act, 1949 specialising in corporate trustee services which include acting as trustee for private debt securities, unit trust funds, provident and retirement funds, golf clubs and timeshares, stakeholders and REITs. As at the Latest Practicable Date, the Trustee is trustee for 22 unit trust funds and three listed REITs.

### 8.2 BOARD OF DIRECTORS OF THE TRUSTEE

The following table sets out information regarding the Board of Directors and Chief Executive Officer of the Trustee as at the Latest Practicable Date:

Name	Directorship
Ms. Pushparani d/o Moothathamby	Chairman (Non-Independent Director)
En. Shaharuddin Bin Hassan	Director (Non-Independent Director)
Tuan Hj Mohamad Sabirin Bin Hj A. Rahman	Director (Non-Independent Director)
Dato' Ng Mann Cheong	Independent Director
Datuk Haji Mohd Idris Bin Mohd Isa	Independent Director

**Chief Executive Officer of the Trustee: Mr Tan Kok Cheeng**

Mr Tan Kok Cheeng has been appointed as the Chief Executive Officer of AmTrustee with effect from 1 October 2010. Prior to joining the Trustee, he served as the Chief Internal Auditor, Internal Audit Department, AmBank Group then elevated as Internal Audit Advisor, AmBank Group. He has been with AmBank for more than 25 years.

**8.3 FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEE**

The Trustee's functions, duties and responsibilities are set out in the Deed. The general function, duties and responsibility of the Trustee include, but are not limited to the following:

- (i) to safeguard the interests of the Unitholders and actively monitor the administration of Pavilion REIT by the Manager to ensure that the interests of Unitholders are upheld at all times;
- (ii) to act continuously as the Trustee under the trust created by the Deed until Pavilion REIT is terminated as provided in the Deed or until the Trustee has retired from Pavilion REIT in the manner provided in the Deed;
- (iii) to ensure that Pavilion REIT has, at all times, an appointed management company;
- (iv) to ensure that the Manager does not make improper use of its position in managing Pavilion REIT to gain, directly or indirectly, an advantage for itself or for any other person or to cause detriment to the interest of the Unitholders of Pavilion REIT;
- (v) to exercise all due care, skill, diligence and vigilance in carrying out its functions and duties and in safeguarding the rights and interests of the Unitholders in accordance with the Deed and the Relevant Laws and Requirements;
- (vi) to ensure at all times, through proper and adequate supervision, that Pavilion REIT is managed and administered by the Manager in accordance with Pavilion REIT's objectives, the Deed and the Relevant Laws and Requirements and acceptable and efficacious business practices within the real estate investment industry. In ensuring compliance with the requirements and safeguarding the interests of the Unitholders, the Trustee, covenants to conduct independent reviews and not only depend on the submission of information by the Manager. It covenants to exercise reasonable diligence in monitoring the function of the Manager in accordance with the provisions of the Deed and to do everything in its power to ensure that the Manager remedies any breach known to the Trustee of the provisions or covenants of the Deed, unless the Trustee is satisfied that the breach will not materially prejudice the Unitholders' interests;
- (vii) to immediately notify the SC of any irregularity, breach of the Deed, the Relevant Laws and Requirements or any other matter properly regarded by the Trustee as not being in the interests of Unitholders; and
- (viii) to take all reasonable steps and exercise due diligence to ensure that the Deposited Property are correctly valued and valued by a qualified valuer in accordance with the Deed and Relevant Laws and Requirements.

## 8. THE TRUSTEE (Cont'd)

### 8.4 FINANCIAL INFORMATION OF THE TRUSTEE

The following is a summary of the Trustee's past audited financial performance for the past three financial years ended 31 March.

	Year Ended 31 March		
	2011	2010	2009
	(RM)	(RM)	(RM)
Paid-up share capital	500,000	500,000	500,000
Shareholders' funds	8,144,017	6,580,115	5,732,058
Revenue	5,936,225	4,866,141	4,342,967
Profit before tax	1,786,353	1,165,721	444,644
Profit after tax	1,563,902	848,057	327,025

### 8.5 TRUSTEE'S FEE

In accordance with the Deed, Pavilion REIT will pay the Trustee an annual trustee's fee of up to 0.05% per annum of the NAV of Pavilion REIT. For FY2011 and FY2012, the Trustee's fee will be capped at RM400,000 per annum. Any other upward variation exceeding the maximum limit will only be made with the prior approval of the Unitholders, and by way of a supplementary trust deed, in accordance with the Deed and the CMSA.

### 8.6 RETIREMENT, REMOVAL AND REPLACEMENT OF THE TRUSTEE

#### 8.6.1 Retirement

The Trustee may retire upon giving six months' written notice to the Manager (or such shorter period as may be agreed upon with the Manager) whereupon the Manager shall within one month after becoming aware of the intention of the Trustee to retire, appoint by way of deed, a replacement trustee who is eligible to be appointed to act as trustee under the CMSA and who has been approved by the SC.

#### 8.6.2 Removal and Replacement

The Manager may take all reasonable steps to remove the Trustee from its appointment under the following circumstances:

- (i) the Trustee ceases to exist;
- (ii) the Trustee was not validly appointed;
- (iii) the Trustee is not eligible to be appointed or to act in accordance with the provisions or covenants of the Deed or the provisions of the CMSA;
- (iv) the Trustee fails or refuses to act as trustee in accordance with the provisions or covenants of the Deed or the provisions of the CMSA;



## 8. THE TRUSTEE (Cont'd)

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- (v) the Trustee has a receiver appointed over the whole or a substantial part of its assets or undertaking and the Trustee has not ceased to act under the appointment, or a petition is presented for the winding up of the Trustee (other than for the purpose of and followed by a reconstruction, unless during or following such reconstruction the Trustee becomes or is declared to be insolvent); or
- (vi) the Trustee is under investigation for conduct that contravenes the Trust Companies Act 1949, the Trustees Act 1949, the Act or any securities law and an adverse finding is found.

The Manager may then appoint a replacement trustee whom is eligible to act as trustee under the CMSA and whom has been approved by the SC.

The Trustee may be removed on grounds that the Trustee is in breach of its obligations under the Deed and the Trustee has failed to remedy the breach despite the request from the Manager to remedy the breach and another trustee (which is eligible to be appointed to act as trustee under the CMSA and duly approved by the SC) shall be appointed if the Unitholders decide on such removal and replacement by a Special Resolution (or otherwise in accordance with the requirements of the REITs Guidelines), passed at a duly convened meeting which is requisitioned by the Unitholders in the manner provided in the Deed.

Nothing in the Deed limits the right of the SC under Section 292(2) of the CMSA to remove the Trustee and appoint a replacement on the SC's own accord, or on the application of the Manager or of a Unitholder, on any of the grounds stated in sub-paragraphs (i) to (vi) above.

### 8.7 TRUSTEE'S RESPONSIBILITY STATEMENT

The Trustee has given its willingness to assume the position as trustee of Pavilion REIT and all the obligations in accordance with the Deed and the Relevant Laws and Requirements.

### 8.8 MATERIAL LITIGATION AND ARBITRATION

Save as disclosed below, as at the Latest Practicable Date, there is no current material litigation and arbitration, including those pending or threatened, or any facts likely to give rise to any proceedings which might materially affect the business or financial position of the Trustee, or any of their delegates.

AmTrustee was served with a Writ and Statement of Claim dated 12 December 2005 by solicitors acting for Meridian Asset Management Sdn Bhd ("**Meridian**") for alleged loss and damage amounting to RM27,606,169.65 together with interest and costs arising from the provision of custodian services by AmTrustee to Meridian ("**Meridian Suit**").

## 8. THE TRUSTEE (Cont'd)

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AmTrustee was served on 24 March 2006 with a Writ and Statement of Claim dated 25 January 2006 by solicitors acting for Malaysian Assurance Alliance Berhad (“MAA”) for alleged loss and damages amounting to RM19,640,178 together with interest and costs (“MAA Suit”). MAA had appointed Meridian as an external fund manager for certain of its insurance funds, and part of these funds were deposited by Meridian with AmTrustee. The claim by MAA in the MAA Suit is part of the portion of the claim as mentioned in the above Meridian Suit.

In the MAA Suit, AmTrustee filed a Third Party Notice against Meridian on 6 November 2006 seeking indemnification/contribution from Meridian. Meridian filed a counter claim against AmTrustee.

On 22 February 2008, AmTrustee filed an application for a stay of proceedings of the Meridian’s Suit on the grounds that Meridian’s counter claim in the MAA Suit amounts to duplicity/abuse of process which was dismissed with costs on 26 June 2008. AmTrustee filed a Notice of Appeal to the Court of Appeal on 25 July 2008. The Appeal came up for hearing on 11 August 2011 and the Court of Appeal ordered that this appeal be heard with another of AmTrustee’s appeal. Both the Appeals were fixed for Case Management on 7 October 2011 and refixed for Hearing on 17 November 2011.

Parties have filed several interim applications in the Meridian Suit among which was application by Meridian to add another subsidiary of AMMB Holdings Berhad, namely AmInvestment Bank Berhad as 2<sup>nd</sup> Defendant and also to increase the alleged loss and damage from RM27,606,169.65 to RM36,967,166.84 to include alleged loss due to reputation damage and loss of future earnings (together with interest and costs) arising from the provision of custodian services by AmTrustee to Meridian. The Learned Judge dismissed Meridian’s application to add AmInvestment Bank Berhad as a Party to the Meridian Suit and allowed Meridian’s claim to increase its claim against AmTrustee from RM27,606,169.65 to RM36,967,166.84 (“Decision”).

No appeal was lodged by Meridian to the Court of Appeal against the Decision in dismissing its application to add AmInvestment Bank Berhad as a Party to the Meridian Suit. With no appeal against the Decision, there is no litigation pending against AmInvestment Bank Berhad by Meridian as at the Latest Practicable Date.

It is to be noted that both the Meridian Suit and MAA Suit were ordered on 16 September 2008 to be tried together at the same time pursuant to Order 4 Rule 1 of the Rules of the High Court 1980.

AmTrustee has also been served on 2 September 2009 with a copy of a Third Party Notice dated 12 August 2009 by solicitors acting for Meridian.

The Third Party Notice is taken against AmTrustee by Meridian on a suit filed by Kumpulan Wang Persaraan (Diperbadankan) (“KWAP”) against Meridian in 2007, at the Kuala Lumpur High Court via suit number D5-22-1457-2007 (“KWAP Suit”). The facts of this case revolve around the same facts as that of the above Meridian Suit and MAA Suit. The High Court suit by KWAP is for an alleged breach by Meridian of an Investment Management Agreement executed between KWAP and Meridian in 2001 (“the Agreement”) for a sum of RM7,254,050.42 as general damages for breach of the Agreement and breach of trust together with interests and costs (“KWAP’s claim”).

## **8. THE TRUSTEE (Cont'd)**

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On the basis of KWAP's claim, Meridian is seeking against AmTrustee via the Third Party Notice for AmTrustee to indemnify Meridian in respect of KWAP's claim.

AmTrustee filed an Application to Strike out the Third Party Notice. This Application was fixed for Hearing on 27 September 2010 and the court allowed this Application with cost on 1 November 2010. Meridian filed an appeal to the Court of Appeal against this decision and the appeal was dismissed with costs ("Order"). With the Order, AmTrustee is no longer involved in KWAP's claim against Meridian.

The court directed parties to consider resolving this matter via mediation but Parties informed court that they are not agreeable to resolve this matter via mediation. Trial dates for both Meridian Suit and MAA Suit were initially fixed from 24 January to 26 January 2011 and are refixed now on 29 and 30 June and 1 July 2011. Both matters were then fixed for Case Management on 25 May 2011.

In the meantime, AmTrustee filed an Application for Stay of Proceeding of both the Meridian Suit and MAA Suit pending the full and final disposal of a criminal proceeding (which is still ongoing) involving a key witness of Meridian. This Application came up for hearing on 1 December 2010 and was dismissed. AmTrustee filed an appeal to the court of appeal against this decision. The Appeal came up for hearing on 24 May 2011 and the Appeal was allowed with costs and both the Suits are stayed pending the disposal of the criminal proceedings.

When the matter came up for Case Management on 25 May 2011, Solicitors informed the High Court of the Court of Appeal's decision to stay the civil trial pending the disposal of the criminal trial. The court then vacated the initial trial dates and both the Suits are fixed for Case Management on 20 October 2011.

Based on documents and evidence in their possession, the solicitors for AmTrustee are of the view that AmTrustee has a good defence in respect of the claims by Meridian and MAA and in any event, that AmTrustee will be entitled to an indemnity or contribution from Meridian in respect of the claim.

### **8.9 DELEGATION OF THE TRUSTEE'S FUNCTION**

As at the Latest Practicable Date, none of the Trustee's function in relation to Pavilion REIT has been delegated.

## **9. THE PROPERTY MANAGER**

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*The following information in this section (save where it relates to the Property Management Agreement) has been prepared and provided by the Property Manager. None of the Manager, the Joint Principal Advisers, the Joint Global Coordinators and any other person has independently verified this information and, therefore, neither the Manager, the Joint Principal Advisers nor the Joint Global Coordinators make any representation as to the correctness, accuracy or completeness of such information. Accordingly, prospective investors should not place undue reliance on such information.*

### **9.1 CORPORATE INFORMATION**

The Property Manager, Henry Butcher Malaysia Sdn Bhd, is an affiliate of Henry Butcher & Co (now operating under the name of Goindustry Dovebid PLC), a worldwide professional practice established in London in the 1800s. The Property Manager is principally involved in property management, property valuation, real estate agency and consultancy services in the property field. The Property Manager is duly registered with the Board of Valuers, Appraisers and Estate Agents Malaysia.

### **9.2 FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE PROPERTY MANAGER**

The Trustee, the Manager and the Property Manager entered into the Property Management Agreement on 18 October 2011 for the appointment of the Property Manager to provide property management services to manage, operate, maintain and market the Subject Properties upon the terms and conditions therein.

The services provided by the Property Manager for each property under its management include the following:

- (i) retail consultancy services, including carrying out regular reviews, analysis and surveys relating to property management practices adopted by other existing and new shopping centres, trends in consumer buying behaviour, changes in demographic and psychographic characteristics of target consumers, expenditure patterns and trends in the industry, trends in tenant mix and tenant requirements and expectations, and design, layout and building trends for retail centres;
- (ii) property management services, including operation and maintenance of the property, recommending third party contracts for provision of property maintenance and building security services, supervising the performance of contractors, advising on centre improvement and upgrading, and ensuring compliance with building and safety regulations;
- (iii) financial management services by assisting the Manager and/or the Trustee in respect of the financial, cost and budgetary coordination, administration and measurement including preparation of budgets for management operation, procedures for monitoring budgetary performance and compliance, and annual reports and analysis of operation performance;

## **9. THE PROPERTY MANAGER (Cont'd)**

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- (iv) tenancy management services, including coordinating handover of premises and tenants' fitting-out requirements, implementing effective rental collection policies and practices, formulating letting policies, tenancy terms and conditions and assisting in drawing up legal tenancy documentation and implementing marketing activities to attract and secure tenants;
- (v) marketing and marketing coordination services, including managing public relations and the promotion of the property by organising campaigns and activities to increase visitor numbers and further strengthen the image and popularity of the property; and
- (vi) professional service management to seek advice and consult with other expertise within the Property Manager on capital value and assessment value and seeking other professional advice and consulting with other professionals in legal, technical, financial and accounting matters.

In accordance with the terms of the Property Management Agreement, the Property Manager shall, during the duration of the Property Management Agreement, employ, by itself or through third party service providers, personnel required to properly operate, maintain, manage and market all the Subject Properties on such terms and conditions as are commercially reasonable or appropriate having regard to the qualification, skill and experience of the persons employed for the relevant positions, responsibilities and duties. Please refer to Section 9.6 "Salient Terms of the Property Management Agreement" of this Prospectus for further details of the Property Management Agreement.

### **9.3 EXPERIENCE IN PROPERTY MANAGEMENT AND PROPERTIES MANAGED**

The Property Manager has over 20 years of experience in property management, carrying out numerous assignments relating to shopping centre consultancy, leasing and management. The Property Manager is currently managing more than 30 properties and has a nationwide network of 25 offices with a current total of over 400 employees.

The Property Manager has provided property management and related consultancy services for other properties, including the following commercial properties:

- (i) Menara PGRM in Kuala Lumpur;
- (ii) Menara HSC in Kuala Lumpur;
- (iii) Courts Mammoth in Kuala Lumpur;
- (iv) Laman Seri Business Park in Selangor;
- (v) Excella Business Park in Kuala Lumpur; and
- (vi) Wisma Allianz in Kuala Lumpur.

9.4 INFORMATION ON KEY PERSONNEL AND STAFF STRENGTH

The profiles of the key personnel of the Property Manager who are involved in the management of the Subject Properties are as follows:

**Long Tian Chek**, Director, is a Chartered Surveyor, a member of the Institute of Surveyors Malaysia, a founder member of the Association of Valuers and Property Consultants in Private Practice Malaysia and a registered valuer, auctioneer and estate agent. He has over 20 years of professional experience in matters relating to the real estate industry. He started in the public sector before joining a local private firm of professional surveyors. He has also been appointed on many occasions to act as Court Assessor in the High Court of Malaya where he has advised in land acquisition cases for compensation payable. He is a graduate in Urban Estate Management from London. He founded Henry Butcher Malaysia Sdn Bhd with Lim Eng Chong in 1987.

**Lim Eng Chong**, Director, holds a BSc degree in Estate Management (Hons.). He is a registered Valuer and Estate Agent, and a member of the Royal Institute of Chartered Surveyors. His experience since 1977 includes the valuation of properties, plant and machineries, agency sales, investments advisory and brokerage and property and project management as well as research and development consultancy for mega projects. He also has years of experience in the development business, from land acquisitions to project management to project marketing. He is active in the professional advancement of the real estate industry, previously serving as Vice President of FIABCI Malaysia (FIABCI is an international real estate federation), a council member of the Malaysian Institute of Estate Agents, as well as a committee member of the Private Valuers' Association. He founded Henry Butcher Malaysia Sdn Bhd with Long Tian Chek in 1987.

**Low Hon Keong**, General Manager (Asset and Property Management), is charged with overseeing property management division. He also has years of experience in managing both residential and commercial properties as he was fully involved in the management of Menara Genesis for more than five years, a prime commercial office development located within the Golden Triangle. In his previous employment, he was overseeing the property management and marketing of Plaza Phoenix, a regional retail development situated in Cheras. He is also experienced in chairing general meetings, and has provided consulting services to management corporations, joint management bodies and building owners pertaining to operation and maintenance matters. He also has experience in giving advice to developers on the handover of vacant possession. He holds a Degree in Property Management from University Technology of Malaysia. He also undertakes business development of the property management services for the firm.

## 9. THE PROPERTY MANAGER (Cont'd)

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### 9.5 PROPERTY MANAGEMENT FEE

The Property Manager is entitled to property management fee of RM30,000 per month (excluding service tax). In addition, the Property Manager is also entitled to full reimbursement of costs and expenses incurred in the operation, maintenance, management and marketing of the Subject Properties (including but not limited to the cost relating to the employment and remuneration of on-site staff provided) ("**Permitted Expenses**") as well as fees and reimbursements for Permitted Expenses payable to its service provider(s), subject that such reimbursable amounts are (i) approved under the annual business plan and budget for the Subject Properties or incurred with prior approval by the Trustee and the Manager and (ii) supported by receipts, vouchers or other evidence of payment acceptable to the Manager and the Trustee. For Forecast Year 2012, the reimbursable amount payable to the Property Manager is estimated to be RM11.1 million.

### 9.6 SALIENT TERMS OF THE PROPERTY MANAGEMENT AGREEMENT

The salient terms of the Property Management Agreement are summarised below:

- (i) Subject to the right of termination under the Property Manager Agreement, the appointment of the Property Manager shall commence from the Listing Date and shall unless terminated in accordance with the Property Management Agreement, continue for an initial period of 2 years and may be renewed for another two years thereafter with the agreement of the Property Manager on such terms and conditions as may be mutually agreed between the parties ("**Management Period**").
- (ii) The functions, duties and responsibilities of the Property Manager under the Property Management Agreement is summarised in Section 9.2 "Functions, Duties and Responsibilities of the Property Manager" of this Prospectus.
- (iii) The Property Management Agreement may be terminated in accordance to the terms and conditions therein under any one of the following circumstances:
  - (a) upon expiry of the Management Period;
  - (b) upon termination by the Trustee of the appointment of the Manager as the management company to Pavilion REIT;
  - (c) upon exercise by any parties therein of the right of mutual termination by giving 3 months' notice in writing to the other parties;
  - (d) upon occurrence of any force majeure event which results in the failure of the Property Manager to deliver a substantial majority of the services contemplated under the Property Management Agreement for at least 14 days;
  - (e) upon the sale of the Subject Properties by the Trustee; and

## 9. THE PROPERTY MANAGER (Cont'd)

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- (f) at the option of the Manager and/or the Trustee, upon occurrence of any one or more of the events:
- (1) the Property Manager is in breach of the terms or conditions of the Property Management Agreement and such breach continues for a period of thirty (30) business days after its receipt from the Manager and/or the Trustee a notice specifying such breach and requesting that the same be remedied;
  - (2) there is a revocation, withholding or modification of licence, authorisation or approval that impairs or prejudices the Property Manager's ability to comply with the material terms and conditions of the Property Management Agreement;
  - (3) any of the material provisions in the Property Management Agreement becomes ineffective, invalid or unenforceable;
  - (4) the Property Manager changes the nature or scope of its core business, suspends or ceases or threatens to suspend or cease a substantial part of its business operations;
  - (5) an order is made or a resolution is passed for winding up or dissolution of the Property Manager; and/or
  - (6) the Property Manager becomes insolvent or a receiver has been appointed over the whole or a substantial part of the assets of the Property Manager.

For the purposes of this Section 9.6, "force majeure event" means all events which are beyond the reasonable control of the parties to the Property Management Agreement and which are unforeseen or if foreseen are unavoidable and which render impossible the performance of any material obligation or the exercise of any material right under the Property Management Agreement by any of the parties and shall include but is not limited to (i) war, invasion, rebellion, revolution, insurrection or civil war; (ii) act of government in its sovereign capacity; (iii) earthquakes, fire, lightning, storms, floods or any other occurrence caused by the operation of the forces of nature; (iv) strikes, lockouts, boycotts or labour disputes affecting the operation of any of the Subject Properties; (v) terrorism, sabotage or arson; and (vi) change in law.

### 9.7 UNITHOLDING OF THE PROPERTY MANAGER IN PAVILION REIT

The Property Manager will not hold any Units upon Listing.



## 9. THE PROPERTY MANAGER (Cont'd)

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### 9.8 SERVICE PROVIDER TO PROVIDE PERSONNEL TO THE PROPERTY MANAGER

Pursuant to the Property Management Agreement, the Property Manager may appoint any third party service provider to, inter alia, provide personnel to the Property Manager in order for the Property Manager to carry out its duties under the Property Management Agreement to the best of its abilities provided that the appointment of such third party service providers has been approved by the Manager. The amount of such third party service providers' fees will be determined under the annual business plan and budget for the Subject Properties. The service provider's fees and costs and expenses properly incurred by the service provider for the provision of the services will form part of the property expenses to be paid by the Trustee to the Property Manager under the Property Management Agreement. The Trustee, on the instruction of the Manager and the concurrence of the Property Manager, is authorised to make payment of such fees, costs and expenses from the account of Pavilion REIT either (i) directly to the service provider, or (ii) to the operating account of the Manager for the Manager to utilise such payment to pay the service provider.

The Property Manager entered into a service provider agreement with KLP on 18 October 2011 ("**Service Provider Agreement**"), wherein KLP will provide the Property Manager with, inter alia, a team of personnel with the necessary qualification, expertise, experience and internal working and operation knowledge of the Subject Properties in order for the Property Manager to properly operate, maintain, manage and market Pavilion Kuala Lumpur Mall and Pavilion Tower in accordance with the terms and conditions of the Service Provider Agreement. As disclosed in Section 6.5.1 "Expertise and Experience of Executive Officers" of this Prospectus, several members of the management team of the Manager are also employees of KLP.

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## 10. SALIENT TERMS OF THE DEED

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*The Deed is a complex document and the following is a summary only and is qualified in its entirety by, and is subject to, the contents of the Deed. Certain salient terms of the Deed are summarised in other sections of this Prospectus. Recipients of this Prospectus and all prospective investors in the Units should refer to the Deed itself to confirm specific information or for a detailed understanding of Pavilion REIT. The Deed is available for inspection at the registered office of the Manager.*

### 10.1 THE DEED

Pavilion REIT is a REIT constituted by the Deed, as entered into between the Trustee and the Manager on 13 October 2011. The Deed came into effect on 18 October 2011 when it was registered with the SC.

Each Unitholder and all persons claiming through it shall be entitled to the benefit of and shall be bound by the terms and conditions of the Deed and any supplementary deed as if it had been a party thereto and as if the Deed contained covenants on the part of each Unitholder to observe and be bound by all the provisions thereof and an authorisation by each Unitholder to do all such acts and things as the Deed may require the Trustee or the Manager (as the case may be) to do. The Deed does not establish either the Trustee or the Manager as the agent of the Unitholders and does not create any other relationship other than that which is established by the provisions of the Deed.

Pursuant to the Deed, the Trustee shall hold the Deposited Property upon trust for the Unitholders and the Deposited Property so held shall be segregated from the general assets of the Trustee. The rights of the Unitholders under the Deed are divided into Units.

The Manager and the Trustee shall in the performance of their respective duties under the Deed, at all times comply with applicable provisions of the Relevant Laws and Requirements, subject to compliance with any applicable waiver or exemption given by any relevant regulatory authority (including the SC or Bursa Securities, as the case may be) in respect of the Relevant Laws and Requirements. See “Information Summary – Fees and Charges” of this Prospectus for a summary of fees payable to the Manager and the Trustee; Section 6.6 “Management Fee” of this Prospectus for further details of the Management Fee payable to the Manager; and Section 8.5 “Trustee’s Fee” of this Prospectus for further details of the Trustee’s fee payable to the Trustee, pursuant to the terms of the Deed.

The Deed is governed by, and shall be construed in accordance with, the laws of Malaysia.

### 10.2 NATURE OF UNITS

Each Unit is of equal value and represents an undivided interest in Pavilion REIT. There is only one class of Units in Pavilion REIT, and all issued Units rank *pari passu* provided the issue price is fully paid. A Unit shall not confer any interest in any particular Deposited Property held by the Trustee on the trust of the Deed but only such interest in Pavilion REIT as a whole as is conferred on a Unit under the provisions of the Deed.

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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### **10.3 RIGHTS OF UNITHOLDERS**

The Units confer on the Unitholder the rights (among others) to receive any distribution entitlements and such other rights, benefits, entitlements and privileges as are conferred on the Units or attached to the Units by the provisions of the Deed.

### **10.4 LIMITATION OF LIABILITY AND RIGHTS OF UNITHOLDERS**

The liability of each Unitholder in its capacity as such is limited to the Unitholder's investment in Pavilion REIT. A Unitholder is not required to indemnify the Trustee or the Manager or a creditor of either or both of them against any liability of the Trustee or the Manager in respect of Pavilion REIT.

However, the rights of the Unitholders are limited as follows:

- (i) a Unitholder has no equitable or proprietary interest in the Deposited Property and is not entitled to the transfer to it of any Deposited Property or any part of the Deposited Property or of any estate or interest in the Deposited Property or in any part of the Deposited Property;
- (ii) the right of a Unitholder in the Deposited Property and under the Deed is limited to the right to require the due administration of Pavilion REIT in accordance with the Deed including, without limitation, by suit against the Trustee or the Manager; and
- (iii) without limiting the generality of the foregoing, each Unitholder acknowledges and agrees that:
  - (a) he 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 Deposited Property or any part of the Deposited Property and hereby waives any rights it may otherwise have to such relief;
  - (b) if the Trustee or the Manager breaches or threatens to breach its duties or obligations to a Unitholder under the Deed, the 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
  - (c) damages or compensation is an adequate remedy for such breach or threatened breach.
- (iv) a Unitholder may not (whether at a meeting of Unitholders or otherwise):
  - (a) interfere or seek to interfere with 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;

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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- (b) exercise any right in respect of the Deposited Property or any part of the Deposited Property or lodge any caveat or other notice affecting the Deposited Property or any part of the Deposited Property;
- (c) require that any of the Deposited Property or any part of the Deposited Property be transferred to the Unitholder; and
- (d) give any directions to the Manager or the Trustee which would require the Manager or the Trustee to do or omit doing anything which may result in Pavilion REIT ceasing to comply with the Relevant Laws and Requirements or which may result in the Manager or the Trustee being required to do anything which is inconsistent with their duties at law or under the Deed.

### **10.5 CREATION OF UNITS**

The Manager is to ensure that any method of offering of Units for the Listing includes an offering of Units to the general public. Where the method of offering includes an offer for sale of existing Units, the Manager is to ensure that all expenses of such offer for sale is borne by the offerors and not Pavilion REIT. Where the method of offering is an issue of new Units, the Manager is to ensure that all expenses of such issuance are borne by Pavilion REIT. Applications for new Units to be issued for the Offering shall be made in accordance with this Prospectus. The Manager shall have the absolute discretion as to whether to allot and issue any Units pursuant to an application without assigning any reasons for its decision.

Subject to the Relevant Laws and Requirements, the Manager shall determine the issue price, on market-based principles, taking into account the best interests of Pavilion REIT and Unitholders. A Unit shall be deemed to have been issued to the person entitled to such Unit when the name of such person has been entered onto the Record of Depositors. No certificates for the Units shall be issued to any subscribers or purchasers of Units pursuant to this Prospectus.

The Manager may from time to time recommend to the Trustee any subsequent issuance of Units by any method permitted under the REITs Guidelines.

### **10.6 SUSPENSION OF, DEALING IN AND ISSUE OF UNITS**

The Manager or the Trustee may, with the prior written approval of the other and subject to the Listing Requirements, suspend the issue of Units during exceptional circumstance which in the opinion of the Trustee and the Manager provides good and sufficient reason to do so, having taken into consideration the interests of the Unitholders. Such suspension will take effect forthwith upon the written approval by the Manager or the Trustee pursuant to any the declaration in writing of the same by the other and shall terminate upon the written approval by the Manager or the Trustee pursuant to any declaration in writing of the same by the other which will be made after the condition or any other conditions giving rise to the suspension ceases to exist subject always to the Relevant Laws and Requirements.

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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The Trustee shall, in consultation with the Manager and where it deems appropriate and subject to the REITs Guidelines, suspend dealing in the Units due to exceptional circumstances, where there is a good and sufficient reason to do so, considering the interest of Unitholders or potential investors. Such suspension must cease as soon as practicable after the exceptional circumstances have ceased, and in any event within 21 days of the commencement of the suspension. The Trustee shall immediately notify the SC in writing of such suspension, stating the reason for suspension and the proposed resumption of dealings in Units and the date of the proposed resumption.

### **10.7 VENDOR UNITS**

In the case of the issue of Units to vendors of Authorised Investments and subject to the Relevant Laws and Requirements, the Manager may offer Units to vendors as consideration (in whole or in part) for Authorised Investments proposed to be acquired by Pavilion REIT at a price determined by the Manager and approved by the Trustee if the following conditions are met so long as Pavilion REIT is listed:

- (i) the terms and conditions of the acquisition are approved by the Unitholders pursuant to the REITs Guidelines;
- (ii) neither the Manager nor the person to whom the Units are to be issued nor any associated person of that person votes in relation to the above approval of the Unitholders pursuant to the REITs Guidelines; and
- (iii) if and to the extent required, the acquisition is approved by the SC and any other relevant regulatory authority (where required).

### **10.8 DISTRIBUTABLE INCOME**

The Distributable Income for each Distribution Period shall be the realised income for such Distribution Period being the net income for the Distributable Period adjusted (in whole or in part) as deemed necessary by the Manager in the interest of Pavilion REIT and the Unitholders for the following effects which may or may not have been recorded in the profit or loss for the relevant Distribution Period:

- (i) the portion of the Management Fee paid or payable in Units;
- (ii) amortisation and other non-cash expenses or gains;
- (iii) valuation gain/loss on investment properties and financial instruments;
- (iv) depreciation or impairment of assets;
- (v) any other entries, provisions, write-offs or adjustments required by the approved accounting standards;
- (vi) expenses/loss which is charged to the profit or loss relating to issuance of new Units or expenses that is capital in nature; and

## 10. SALIENT TERMS OF THE DEED (Cont'd)

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- (vii) unamortised costs which had been paid and incurred but had not been expensed off to the profit or loss other than those incurred for issuance of Units or raising of funds.

The Distributable Income which the Manager may distribute for any Distribution Period shall take into consideration the following:

- (i) total returns for the period;
- (ii) income for the period;
- (iii) cash flow for distribution;
- (iv) stability and sustainability of distribution of income and/or capital; and
- (v) the investment objective and distribution policy of Pavilion REIT.

All (or such lower percentage as determined by the Manager in its absolute discretion) of the Distributable Income will be distributed among the persons who on the relevant book closing date for a Distribution Period are Unitholders, in proportion to their Units. Each Unitholder's entitlement to the percentage of Distributable Income (before any applicable deduction) is to be determined in accordance with the following formula:

$$\text{Distribution Entitlement} = \% \text{ of DI} \times \text{UH/UI}$$

where:

- DI = Distributable Income
- UH = the number of Units held by the Unitholder at the close of business on the book closing date for the relevant Distribution Period adjusted to the extent it is entitled to participate in the Distributable Income.
- UI = the total number of Units in issue in Pavilion REIT at the close of business on the book closing date for the relevant Distribution Period adjusted to the extent it is entitled to participate in the Distributable Income.

### 10.9 INVESTMENT POLICIES OF PAVILION REIT

#### 10.9.1 Authorised Investments

- (i) Subject to observance of the investment limits as may be established or prescribed by the SC from time to time for a listed REIT and the REITs Guidelines, Pavilion REIT may invest in any Authorised Investments.
- (ii) The Trustee must act as custodian and take into its custody, or under its control (in the event of delegation of custody), the Deposited Property in trust and hold the Deposited Property for the Unitholders in accordance with the Deed and the Relevant Laws and Requirements. The Deposited Property shall be registered in the name of the Trustee for and on behalf of the Unitholders, or assigned to the Trustee for and on behalf of the Unitholders, or to the order of Pavilion REIT.

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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For avoidance of doubt, the Manager may use financial derivatives including but not limited to entering into futures, forwards, options and swap contracts for the purpose of achieving the investment objective of Pavilion REIT if in compliance with the Relevant Laws and Requirements.

### **10.9.2 Investment Limits**

In exercising its powers to make investment on behalf of Pavilion REIT, and subject to limits as may be prescribed by the SC or the REITs Guidelines from time to time, the Manager must ensure that:

- (i) at least 50.0% of the Total Asset Value of Pavilion REIT must be invested in Real Estate Assets at all times; and
- (ii) not more than 25.0% of the Total Asset Value of Pavilion REIT is invested in Non-Real Estate-Related Assets, cash, deposits and/or money market instruments; or
- (iii) such other investment or limits as may be permitted by the SC or the REITs Guidelines,

provided that arising from the disposal of Deposited Property or pending acquisition of any Authorised Investments or following capital raising of Pavilion REIT, the actual investment ratio of Pavilion REIT may be at a variance from the provisions stipulated above, and the REITs Guidelines. However, the Manager may, in consultation with the Trustee, vary the investments forming part of the Deposited Property in the best interests of the Unitholders provided that such variance is in compliance with the REITs Guidelines.

### **10.9.3 Restriction on Investment/Activities**

Pavilion REIT shall not at any time be involved in the following activities:

- (i) the extension of financing or other credit facilities by Pavilion REIT;
- (ii) property development, except in the circumstances permitted by the REITs Guidelines; and
- (iii) acquisition of vacant land; or
- (iv) any other activity which does not comply with the REITs Guidelines and where no waiver from the SC is obtained to exempt compliance with the relevant guideline.

### **10.9.4 Investment Policy**

- (i) The principal investment policy of Pavilion REIT is to invest, directly and indirectly, in a diversified portfolio of income producing real estate used solely or predominantly for retail purposes (including mixed-use developments with a retail component) in Malaysia and other countries within the Asia-Pacific region as well as Real Estate-Related Assets.
- (ii) The Manager may, in consultation with the Trustee and subject to all Relevant Laws and Requirements, from time to time change the investment policy of Pavilion REIT.
- (iii) The Trustee shall ensure that it is fully informed at all times of the investment policy and of changes made by the Manager to the investment policy of Pavilion REIT.

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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Unless otherwise provided by the Relevant Laws and Requirements, any modification to the Deed involving any material change to the investment policy of Pavilion REIT must be approved by the Unitholders by way of a resolution of not less than two-thirds of all Unitholders at a Unitholders' meeting duly convened and held in accordance with the Deed.

### **10.10 CONCERNING THE TRUSTEE**

The Trustee is responsible for the safe custody of the Deposited Property. Any Authorised Investment forming part of the Deposited Property, whether in bearer or registered form, is to be paid, assigned or transferred to or to the order of the Trustee forthwith on receipt by the Manager and is to be dealt with as the Trustee may think proper for the purpose of providing for the safe custody of the same.

The Trustee may act as custodian of the Deposited Property itself or the Trustee may delegate this role to another person as custodian or joint custodians (with the Trustee if acting as custodian or with any other custodian appointed by the Trustee) of the whole or any part of the Deposited Property and (where the Trustee is custodian) may appoint or (where the Trustee appoints a custodian) may empower such custodian or joint custodian (as the case may be) to appoint with the prior consent in writing of the Trustee, sub-custodians. Any such delegation can only be carried out by the Trustee in compliance with the REITs Guidelines and the Trustee shall remain responsible for the actions and omissions of any delegate as though they were its own actions and omissions. Where this role is delegated, the Trustee should ensure that:

- (i) it retains control of Pavilion REIT's property at all times; and
- (ii) there are adequate arrangements to prevent the delegate from releasing the custody or control of Pavilion REIT's property without its prior consent.

The Trustee shall not be under any obligation to institute, acknowledge service of, appear in, prosecute or defend any action, suit, proceedings or claim in respect of the provisions of the Deed or in respect of the Deposited Property or any part thereof or any corporate or Unitholders' action which in its opinion would or might involve it in expense or liability, unless the Manager shall so request in writing, and shall so often as required by the Trustee furnish it with an indemnity satisfactory to it against any such expense and liability.

Except if and so far as otherwise expressly provided in the Deed, the Trustee as regards all the trusts, powers, authorities and discretions vested in it has absolute and uncontrolled discretion as to the exercise of the same, whether in relation to the manner or as to the mode of and time for such exercise, and in the absence of fraud, negligence, wilful default, breach of the Deed or breach of trust the Trustee shall not be in any way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise of the same.

See Section 8.3 "Functions, Duties and Responsibilities of the Trustee" of this Prospectus, for other salient terms of the duties, responsibilities and covenants of the Trustee as provided in the Deed.



## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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### **10.11 FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE TRUSTEE**

See Section 8.3 "Functions, Duties and Responsibilities of the Trustee" of this Prospectus, for details of the functions, duties and responsibilities of the Trustee.

### **10.12 RETIREMENT, REMOVAL AND REPLACEMENT OF THE TRUSTEE**

See Section 8.6 "Retirement, Removal and Replacement of the Trustee" of this Prospectus, for details of the retirement, removal and replacement of the Trustee.

### **10.13 LIMITATION OF LIABILITY AND INDEMNITY OF THE TRUSTEE**

It is expressly agreed that the Trustee enters into the Deed and any documents in relation thereto only in its capacity as trustee of Pavilion REIT. A liability arising under the Deed and any such document shall be limited to and can be enforced against the Trustee only to the extent to which the Trustee can satisfy such liability out of the Deposited Property. Subject to the provisions of the Deed and the Relevant Laws and Requirements and without prejudice to any right of indemnity at law given to the Trustee, the Trustee shall be entitled for the purpose of indemnity against any actions, costs, claims, damages, expenses or demands to which it may be put as the Trustee to have recourse to the Deposited Property or any part thereof:

- (i) if the same are not caused by any fraud, negligence, recklessness, wilful act or omission, breach of trust or breach of contractual duty on the part of the Trustee or by its failure to show the degree of care, due diligence and vigilance required of a trustee in the execution or performance of its obligations under the Deed and/or any other documents in relation thereto; or
- (ii) where a majority of not less than  $\frac{3}{4}$  of all Unitholders for the time being, voting at a meeting summoned for such purposes, releases the Trustee with respect to specific acts or omission.

### **10.14 CONCERNING THE MANAGER**

The Manager shall, subject to the provisions of the Deed and the Relevant Laws and Requirements, carry out all activities as it may deem necessary for the management of Pavilion REIT and its business, including but not limited to undertaking the following activities:

- (i) to develop a business plan for the Deposited Property in the short, medium and long term with a view to maximising income of Pavilion REIT;
- (ii) to recommend to the Trustee in writing to purchase, transfer, acquire, hire, let, lease, license, exchange, dispose of, convey, surrender or otherwise deal with any Authorised Investment in furtherance of the investment policy and prevailing investment strategy of Pavilion REIT; and

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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- (iii) to supervise and oversee the management of Deposited Property (including but not limited to lease audit, systems control, data management and business plan implementation) in accordance with the provisions of the Deed.

Unless otherwise expressly provided in the Deed, the Manager shall as regards all the powers, authorities and discretions vested in it have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner or as to the mode of and time for the exercise thereof and in the absence of fraud, negligence, wilful default or breach of the Deed, the Manager shall not be in any way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof. Notwithstanding the above, the Manager shall be responsible at all times for the exercise or non-exercise of its power, authorities and discretions in respect of the management of Pavilion REIT and the investment of the Deposited Property.

### **10.15 FUNCTIONS, DUTIES AND RESPONSIBILITIES OF THE MANAGER**

See Section 6.2 "Functions, Duties and Responsibilities of the Manager" of this Prospectus for other salient terms of the functions, duties and responsibilities of the Manager as provided in the Deed.

### **10.16 RETIREMENT, REMOVAL AND REPLACEMENT OF THE MANAGER**

See Section 6.11 "Retirement, Removal and Replacement of the Manager" of this Prospectus, for details of the retirement, removal and replacement of the Manager.

### **10.17 LIMITATION OF LIABILITY AND INDEMNITY OF THE MANAGER**

The Manager shall not be under any liability except such liability as may be assumed by it under the Deed nor shall the Manager be liable for any act or omission of the Trustee.

Subject as expressly provided in the Deed and without prejudice to any right of indemnity at law given to the Manager, the Manager shall be entitled for the purpose of indemnity against any actions, costs, claims, damages, expenses or demands to which it may be put as Manager to have recourse to the Deposited Property, save where such action, cost, claim, damage, expense or demand is occasioned by the fraud, negligence, wilful default or breach of the Deed by the Manager.

### **10.18 MANAGER'S FEE AND TRUSTEE'S FEE**

The provisions on the Manager's fee and the Trustee's fee are as set out in the Deed. See Section 6.6 "Management Fee" and Section 8.5 "Trustee's Fee" of this Prospectus for details of the Manager's fee and the Trustee's fee, respectively.

## **10. SALIENT TERMS OF THE DEED (Cont'd)**

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### **10.19 PERMITTED CHARGES OF PAVILION 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 Pavilion REIT or the capital of Pavilion 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, that are directly related and necessary to the business of Pavilion REIT.

### **10.20 MODIFICATION OF THE DEED**

All modifications to the Deed must be made through a deed supplementary to the Deed and will take effect only upon registration of the supplementary deed with the SC. The Manager must submit any such supplementary deed to the SC for such registration pursuant to the CMSA. In addition to the foregoing, any material change to the investment objectives of Pavilion REIT must be approved by resolution passed by not less than two-thirds of all Unitholders for the time being (or such other majority as may be required under the REITs Guidelines from time to time), given at a meeting of Unitholders duly convened and held.

### **10.21 TERMINATION AND WINDING-UP OF PAVILION REIT**

The Trustee shall terminate Pavilion REIT where:

- (i) if at a duly convened meeting of Unitholders a Special Resolution (or otherwise in accordance with the requirements of the REITs Guidelines), is passed that Pavilion REIT be terminated; or
- (ii) the Manager is in liquidation or where 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 and Requirements, and at a meeting duly summoned in accordance with Section 301 of the CMSA, a Special Resolution is passed that Pavilion REIT be terminated; or
- (iii) if at any time during the life of Pavilion 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 the 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 at the meeting to endorse to meet such changes, and the meeting decides to terminate Pavilion REIT; or
- (iv) if the Listing does not take place within three months from the date of this Prospectus for the Listing and a Special Resolution (or otherwise in accordance with the requirements of the REITs Guidelines), is passed at a duly convened meeting of Unitholders to terminate Pavilion REIT; or

## 10. SALIENT TERMS OF THE DEED (Cont'd)

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- (v) if at any time after the Listing Date, the Units are unconditionally suspended from trading and such suspension is not lifted within a continuous period of 90 Market Days (notwithstanding any rights, powers or duties of the Manager or the Trustee and directions given by or resolutions of the Unitholders). In this case, winding up of Pavilion REIT will immediately commence upon the end of such 90 Market Days; or
- (vi) if the SC's approval is revoked under Section 212(7)(A) of the CMSA or if Pavilion REIT is delisted by Bursa Securities; or
- (vii) if an approved transfer scheme (referred to in the Deed) has been effected and resulted in Pavilion REIT being left with no assets or properties.

If the determination events in paragraph (ii) above occur, the Trustee must apply to the Court for an order confirming the Unitholders' resolution. The Court may confirm the resolution if the Court is satisfied that it is in the interests of the Unitholders to do and may make orders for the winding-up of Pavilion REIT (including but not limited to procedures for a voluntary winding-up of Pavilion REIT), which orders must be carried out by the Trustee.

Upon termination of Pavilion REIT (other than due to the events in paragraph (ii) above) the following shall have effect:

- (i) the Trustee shall as soon as practicable sell, call in and convert into money the Deposited Property, and divide the proceeds of such sale, calling in and conversion less all proper costs and disbursement, commissions, brokerage fees, fees payable to the Manager and the Trustee on termination of Pavilion REIT and other outgoings including costs of final distribution of capital and income and all proper provisions for liabilities of Pavilion REIT, among the Unitholders in proportion to the number of Units which they hold respectively at the date of the decision to terminate Pavilion REIT provided that the Trustee may at its discretion make a partial distribution of capital from time to time and the Trustee and Manager shall on termination of Pavilion REIT be deemed as preferential creditors as provided in the Act.
- (ii) the Trustee shall as soon as practicable after the date of the notice to notify Unitholders on, among others, on the decision to terminate Pavilion REIT, give to each Unitholder notice of impending distribution.
- (iii) the Trustee may postpone the sale, calling in and conversion of any part of the investment and property comprised in Pavilion REIT for such time as it thinks it desirable so to do in the interest of the Unitholders and shall not be responsible for any loss attributable to such postponement except to the extent that such loss may be attributable to the Trustee's own neglect or default.
- (iv) the Trustee may retain in its hands or under its control for as long as it thinks fit such part of Pavilion REIT as in its opinion may be required to meet any outgoings of Pavilion REIT or any of the investments thereof provided that any investments or monies so retained to the extent that they are ultimately found not to be so required shall remain subject to Pavilion REIT for conversion and distribution in accordance with the Deed.

## 10. SALIENT TERMS OF THE DEED (Cont'd)

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- (v) the Trustee and the Manager are entitled to:
- (a) be paid from the proceeds of realisation of Pavilion REIT before any payment is made to the Unitholders, all costs incurred:
- (1) by the Trustee and the Manager before the winding up of Pavilion REIT which has not been recouped;
  - (2) by the Trustee and the Manager in connection with the winding up of Pavilion REIT and the realisation of the Deposited Property;
  - (3) by or on behalf of any creditor of the Trustee or the Manager in relation to Pavilion REIT;
  - (4) by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Trustee or the Manager in connection with the winding up of Pavilion REIT; and
- (b) following the termination of Pavilion REIT and until the winding up is completed, their remuneration provided for in the Deed.

The provisions of the Deed shall continue to apply (where applicable) pending the completion of the winding up process unless provided otherwise in the Deed.

Pavilion REIT shall nevertheless terminate at the expiration of a period of 999 years after the date of the registration of the Deed with the SC.

### 10.22 MEETINGS OF UNITHOLDERS

Either the Trustee or the Manager may convene a meeting of Unitholders by giving notice to the Unitholders in accordance with the Deed, which notice shall specify the general nature of the business to be transacted. The Manager shall within 21 days after an application has been delivered to the Manager at its registered office, being an application by not fewer than 50, or 1/10 in number, whichever is lesser, of all Unitholders, convene a meeting of Unitholders.

The Manager is entitled to receive notice of and to attend and speak at any meeting of the Unitholders but the Manager shall not be entitled to exercise its voting rights in respect of Units which it or its nominee holds or is deemed to hold for such meeting, unless otherwise permitted by the SC or the Relevant Laws and Requirements.

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## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST**

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### **11.1 CORPORATE GOVERNANCE**

The Manager intends to adopt a comprehensive corporate governance framework that meets best practice principles and to ensure that applicable securities laws and regulations, the REITs Guidelines, the Listing Requirements and the Malaysian Code on Corporate Governance (Revised 2007) are complied with, where applicable, and that the Manager's obligations as described in the Deed are properly and efficiently carried out.

### **11.2 EXISTING AND ONGOING RELATED PARTY TRANSACTIONS**

#### **11.2.1 Acquisition of Subject Properties**

The Sponsor is a company whose share capital is 51.0%-owned by UCDSB and 49.0%-owned by UCPC. UCDSB is a company controlled by Datuk Lim Siew Choon and Datin Tan Kewi Yong while UCPC is a company controlled by QH. Datuk Lim Siew Choon, Datin Tan Kewi Yong and QH will be Major Unitholders of Pavilion REIT on Listing. The share capital of the Manager is also 51.0% held by UCDSB and 49.0% held by UCPC. In addition, certain directors of the Sponsor also sit on the Board of the Manager.

The acquisition of the Subject Properties is deemed a related party transactions as Pavilion REIT shall acquire Pavilion Kuala Lumpur Mall from the Sponsor and Pavilion Tower from CFSB (a wholly-owned subsidiary of the Sponsor).

The purchase consideration for the acquisition of the Subject Properties is at a discount of approximately 6.47% to the Appraised Value. The acquisition of the Subject Properties is consistent with the investment objective and strategy of Pavilion REIT. See Section 3.7.1 "Acquisitions" and Section 14.3 "Salient Terms of the SPAs" of this Prospectus for more details on the Acquisitions and the SPAs.

#### **11.2.2 Non-exclusive licence granted by the Sponsor to Pavilion REIT to use certain trademarks**

Pursuant to a licence agreement dated 18 October 2011, the Sponsor has granted the Trustee and the Manager a non-exclusive licence to use, among others, the registered trademark "Pavilion Kuala Lumpur" and other pending trademarks for a nominal consideration. See Section 1.9 "Intellectual Property" of this Prospectus for further details. This arrangement is deemed a related party transaction in view that the Sponsor is a person connected to the Manager by virtue of their relationship described in Section 11.2.1 above.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.2.3 Tenancies entered into by Malton Berhad and its subsidiaries in relation to Pavilion Tower**

Malton Berhad and its subsidiaries (namely Bukit Rimau Development Sdn Bhd, Horizontal Promenade Sdn Bhd, Domain Resources Sdn Bhd, Khuan Choo Property Management Sdn Bhd, Gapadu Development Sdn Bhd, Pembinaan Gapadu Sdn Bhd and Khuan Choo Development Sdn Bhd) ("**Malton Group**") have entered into various tenancy agreements with CFSB for rental of office lots (aggregating 29,742 sq ft) in Pavilion Tower. Datuk Lim Siew Choon and Datin Tan Kewi Yong are major shareholders and directors of Malton Berhad (via Malton Corporation Sdn Bhd). Upon the completion of the SPAs, these existing tenancies will be assigned to the Trustee and upon the expiry of the existing tenancies, the Trustee may, on behalf of Pavilion REIT, enter into new agreements of a similar nature with Malton Group. The rental rates in the tenancy agreements are arrived at on an arm's length basis within the range which is currently payable by the other third party tenants of Pavilion Tower.

### **11.2.4 Easement granted by the Sponsor to Harmoni Perkasa Sdn Bhd**

Pursuant to a deed dated 27 March 2011, the Sponsor has granted Harmoni Perkasa Sdn Bhd, a wholly-owned subsidiary of the Sponsor, several perpetual easements and rights over Pavilion Kuala Lumpur Mall. See Section 2.4.11 "Rights and Easements" of this Prospectus for more details. Upon completion of the Pavilion Kuala Lumpur Mall SPA, the deed relating to such easements and rights will be novated to the Trustee or the Trustee may, on behalf of Pavilion REIT, enter into a new deed of a similar nature with Harmoni Perkasa Sdn Bhd.

### **11.2.5 Tenancies entered into by the Manager and the Sponsor in relation to the Management Space**

The Sponsor and the mall management occupy a total of 20,465 sq ft of retail office space on levels 9 and 10 of Pavilion Kuala Lumpur Mall. Following the Listing, rental will be payable by the Sponsor and the Manager, as tenants, in respect of the space which they occupy. The rental rates in these tenancy agreements will be arrived at on an arm's length basis within the range of the office rental which is currently payable by the other third party office tenants of Pavilion Kuala Lumpur Mall.

### **11.2.6 Tenancy entered into by Syedex Marketing Sdn Bhd ("Syedex") in relation to Pavilion Kuala Lumpur Mall**

Syedex has entered into a tenancy agreement with UCSB for rental of a retail lot (measuring 1,267 sq ft) in Pavilion Kuala Lumpur Mall, which commenced on 20 December 2007 and renewed on 20 December 2010. Syed Mohd Fareed bin Shaikh Alhabshi, who is a Director, is also a 20%-shareholder and director of Syedex. Upon the completion of the SPAs, the existing tenancy will be assigned to the Trustee and upon the expiry of the existing tenancy, the Trustee may, on behalf of Pavilion REIT, enter into a new agreement of a similar nature with Syedex. The rental rate in the tenancy agreement was arrived at on an arm's length basis within the range which is currently payable by the other third party tenants of Pavilion Kuala Lumpur Mall after taking into consideration the size and location of the retail space within the Pavilion Kuala Lumpur Mall.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.2.7 Easement and tenancies involving Lumayan Indah Sdn Bhd ("LISB")**

QH (via its related corporations) currently holds 49% equity interest in LISB. By a deed dated 14 June 2011, the Sponsor has granted LISB, the right and perpetual easement to construct and maintain the LISB Link Bridge (as defined in Section 2.4.11 "Rights and Easements" of this Prospectus). Upon the completion of the Pavilion Kuala Lumpur Mall SPA, the deed relating to such easements and rights will be novated to the Trustee or the Trustee may, on behalf of Pavilion REIT, enter into a new deed of a similar nature with LISB.

Further to the above, LISB had on 1 September 2010 entered into a tenancy agreement with the Sponsor for the rental of retail space (aggregating 20,364 sq ft) in Pavilion Kuala Lumpur Mall. Upon the completion of the SPAs, the existing tenancy will be assigned to the Trustee and upon the expiry of the existing tenancy, the Trustee may, on behalf of Pavilion REIT, enter into new agreements of a similar nature with LISB. The rental rate in the tenancy agreement was arrived at on an arm's length basis after taking into consideration the size and location of the retail space within the Pavilion Kuala Lumpur Mall.

### **11.2.8 Appointment of QNB Capital as Joint Global Coordinator**

The appointment of QNB Capital as Joint Global Coordinator to the Institutional Offering and the payment of the fees by Pavilion REIT to QNB Capital for its services pursuant to the said appointment (which is the same as that to all other Joint Global Coordinators), will be deemed a related party transaction in view that QNB Capital is a wholly-owned subsidiary of Qatar National Bank S.A.Q., which is 50%-owned by Qatar Investment Authority and Qatar Investment Authority wholly-owns QH, which in turn holds 49% equity interest in the Manager (via UCPC). QH will also become a Major Unitholder of Pavilion REIT after the Acquisitions and Offering.

## **11.3 POTENTIAL RELATED PARTY TRANSACTIONS**

### **11.3.1 Acquisition pursuant to exercise of ROFRs**

In the event of any acquisition pursuant to the exercise of the General ROFR or the fahrenheit88 ROFR, the sale and purchase agreement for such proposed acquisition will be a potential related party transaction. Potential conflict of interest may arise between Pavilion REIT and the vendors of such assets during the negotiation on the terms of such sale and purchase agreement.

See Section 14.4 "Salient Terms of the Existing ROFRs" of this Prospectus for details of the ROFRs.

### **11.3.2 Facilities sharing arrangement**

Upon the completion of the construction of the proposed block of serviced suites above Pavilion Kuala Lumpur Mall by Harmoni Perkasa Sdn Bhd, a wholly-owned subsidiary of the Sponsor, the proposed block of serviced suites may share the use of certain facilities at Pavilion Kuala Lumpur Mall. Potential conflict of interest may arise between Pavilion REIT and Harmoni Perkasa Sdn Bhd during the negotiation of the terms of a shared facilities agreement, if required.



## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.4 POTENTIAL CONFLICTS OF INTEREST**

#### **11.4.1 The Sponsor**

The Sponsor and its subsidiaries are engaged in, and/or may engage in among others, investment in, and the development, management and operation of retail and office properties which may compete with the Subject Properties. Further, the Sponsor and its subsidiaries may also sponsor, manage or invest in other REITs or other vehicles which may compete directly with Pavilion REIT.

Certain directors of the Manager sit on the board of the Sponsor. As a result, the strategies and activities of Pavilion REIT may be influenced by the overall interests of the Sponsor. There can be no assurance that conflicts of interest may not arise among Pavilion REIT, the Manager and the Sponsor in the future.

To mitigate the potential conflicts of interest, the Sponsor has undertaken to both the Manager and the Trustee, to grant to Pavilion REIT the General ROFR in respect of the acquisition and disposal of Relevant Assets upon terms contained in the Sponsor's letter of undertaking. See Section 14.4.1(a) "General ROFR granted to Pavilion REIT by the Sponsor" of this Prospectus for further details.

#### **11.4.2 KLP**

Datuk Lim Siew Choon, Datin Tan Kewi Yong and Dato' Lee Tuck Fook are also directors of KLP. Datuk Lim Siew Choon and Datin Tan Kewi Yong hold the entire issued and paid-up share capital of KLP. Pursuant to the Service Provider Agreement entered into between KLP and the Property Manager, KLP will provide the Property Manager with, inter alia, a team of personnel with the necessary qualifications, expertise, experience and internal working and operation knowledge of the Subject Properties in order for the Property Manager to properly operate, maintain, manage and market Pavilion Kuala Lumpur Mall and Pavilion Tower. Potential conflict of interest may arise in view that the appointment of KLP as service provider (including the terms of its remuneration) by the Property Manager is subject to the approval of the Manager.

#### **11.4.3 QH and its related corporations**

QH, which will be a Major Unitholder of Pavilion REIT upon Listing, is also a substantial shareholder of the Manager (via UCPC) with representatives on the Board.

Potential conflict of interest may arise in view that fahrenheit88, which is an existing shopping mall situated along Jalan Bukit Bintang and opposite Pavilion Kuala Lumpur Mall, is owned by Makna Mujur Sdn Bhd, an indirect subsidiary of QH. Further, QH and its related corporations may also sponsor, manage or invest in other REITs or other vehicles which may compete directly with Pavilion REIT.

Notwithstanding the above, the Manager believes that Pavilion Kuala Lumpur Mall is not in direct competition with fahrenheit88 given the differing focus on shopper and brand profiles. In addition, the Board representatives of QH (all of whom are Non-Executive Directors) will not be involved in the day-to-day operations of Pavilion Kuala Lumpur Mall such as tenanting and marketing activities.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.4.4 Manager's policy on related party transactions and dealing with conflict of interest situations**

Upon Listing, Pavilion REIT will be subjected to the REITs Guidelines and/or the Listing Requirements (where applicable) on related party transactions. Compliance of Pavilion REIT with the REITs Guidelines and the Listing Requirements will ensure that related party transactions will not prejudice the interests of the Unitholders as a whole.

The REITs Guidelines provide, inter alia, that the trustee's consent is required for all related party transactions which involves real estate, and where the transaction value is equal or greater than 5% of the Total Asset Value of Pavilion REIT (after acquisition), the prior approval of Unitholders by way of an ordinary resolution is required. In addition, the REITs Guidelines also provides that related parties of the Manager should not vote or be counted as quorum at a meeting if they have interest in the outcome of a transaction tabled for approval which is different from the interests of other Unitholders.

In respect of tenancies entered into with related parties, the REITs Guidelines require the Trustee to ensure that the terms and conditions of the tenancy agreements are reasonable under the prevailing market conditions. In determining the rental rates for related tenants, the Trustee should be guided by the recommendation of at least one independent valuer appointed by the Trustee.

The Listing Requirements oblige the Manager to make prompt announcements and disclosures in Pavilion REIT's annual reports in relation to any related party transactions.

In order to mitigate any potential conflict of interest, the Manager has also instituted the following procedures:

- (i) in respect of matters or transactions which a Director or a person connected to him or her has an interest (directly or indirectly), such Director shall not participate in any proceedings of the Board and shall abstain from voting in respect of such matter or transaction;
- (ii) the Board shall maintain a minimum ratio of at least one-third independent directors at all times;
- (iii) the Directors owe fiduciary duties to the Manager and Pavilion REIT, including the duty to act in good faith and in the best interest of Pavilion REIT; and
- (iv) any transactions in which a conflict of interest will arise should be executed on terms which are the best available for Pavilion REIT and which are no less favourable to Pavilion REIT than arm's-length transactions between independent parties and be adequately disclosed in the Prospectus and fund reports of Pavilion REIT.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.5 INTERESTS OF DIRECTORS AND OTHER SUBSTANTIAL SHAREHOLDERS OF THE MANAGER IN OTHER CORPORATIONS CARRYING ON SIMILAR BUSINESSES**

As at the Latest Practicable Date, none of the Directors and substantial shareholders of the Manager hold any interests in other corporations carrying on similar businesses.

For the purpose of this Section 11.5 “similar business” means the management of a REIT with an investment mandate to invest in real estate property in Malaysia and other countries within the Asia-Pacific region.

### **11.6 OTHER PERTINENT INFORMATION**

The Manager will comply with all requirements as laid out in the REITs Guidelines on related party transactions including provisions contained in the Deed.

The Manager will establish procedures that will ensure that such transactions are undertaken in full compliance to the REITs Guidelines and are carried out on an arm’s length basis and under normal commercial terms and in the best interest of the Unitholders.

Related party transactions shall require the Trustee to ensure that such transactions are at arm’s length, based on normal commercial terms and not prejudicial to the interest of the Unitholders. Furthermore, the Trustee has the ultimate discretion under the Deed to decide whether or not to enter into a transaction involving a related party of the Manager. If the Trustee is to sign any contract with a related party of the Manager, the Trustee will review the contract documentation to ensure it complies with the requirements and provisions relating to related party transactions contained in the REITs Guidelines and the Deed.

### **11.7 DECLARATIONS BY ADVISERS**

#### **11.7.1 CIMB**

CIMB confirm that, save for as disclosed below, it is not aware of any conflict of interest by acting as Joint Principal Adviser, Joint Global Coordinator, Joint Bookrunner and Joint Underwriter in relation to the Offering.

CIMB, its subsidiaries and associated companies, as well as its holding company CIMB Group Holdings Berhad and the subsidiaries and associated companies of its holding company (the “**CIMB Group**”) form a diversified financial group and are engaged in a wide range of investment and commercial banking, brokerage, securities trading, asset and funds management and credit transaction service businesses. The CIMB Group has engaged and may in the future, engage in transactions with and perform services for the Sponsor, Pavilion REIT, PRMSB and/or its affiliates, in addition to the roles undertaken in the Offering. In addition, in the ordinary course of business, any member of the CIMB Group may at any time offer or provide its services to or engage in any transactions (on its own account or otherwise) with any member of the Sponsor, Pavilion REIT, PRMSB and/or its affiliates, hold long or short positions, and may trade or otherwise effect transactions for its own account or the account of its other customers in debt or equity securities or senior loans of the Sponsor, Pavilion REIT, PRMSB and/or its affiliates. This is a result of the businesses of CIMB Group generally acting independently of each other, and accordingly there may be situations

## 11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)

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where parts of the CIMB Group and/or its customers now have or in the future, may have interest or take actions that may conflict with the interests of Pavilion REIT.

The CIMB Group has, in the ordinary course of their banking business, granted credit facilities to the Sponsor and its group of companies. Part of the proceeds arising from the disposal of Pavilion Kuala Lumpur Mall and Pavilion Tower to Pavilion REIT will be used to repay all or part of the said credit facilities. In addition, CIMB Group will also be, in the ordinary course of their banking business, granting credit facilities to Pavilion REIT under the New Debt Facilities.

The CIMB Group has also, in the ordinary course of their banking business, granted credit facilities to a member of the Sponsor, whereby the current security provided may be replaced with Units held by certain Major Unitholders upon Listing.

CIMB is of the view that all the aforementioned extension of credit facilities do not result in conflict of interest situation in respect of its capacities in relation to the Offering as the total current outstanding credit facilities are not material when compared to the audited total assets of CIMB Group as at 31 December 2010. Furthermore, the extension of credit facilities arose in the ordinary course of business of the CIMB Group in view of CIMB Group's extensive participation in the Malaysian capital market and banking industry.

### 11.7.2 Maybank IB

Maybank IB confirms that, save for as disclosed below, it is not aware of any conflict of interest by acting as Joint Principal Adviser, Joint Global Coordinator, Joint Bookrunner and Joint Underwriter in relation to the Offering.

Maybank IB, its subsidiaries and associated companies, as well as its holding company Maybank Banking Berhad and the subsidiaries and associated companies of its holding company (the "**Maybank Group**") form a diversified financial group and are engaged in a wide range of investment and commercial banking, brokerage, securities trading, asset and funds management and credit transaction service businesses. Maybank Group has engaged and may in the future, engage in transactions with and perform services for the Sponsor, Pavilion REIT, PRMSB and/or its affiliates, in addition to the roles undertaken in the Offering. In addition, in the ordinary course of business, any member of the Maybank Group may at any time offer or provide its services to or engage in any transactions (on its own account or otherwise) with any member of the Sponsor, Pavilion REIT, PRMSB and/or its affiliates, hold long or short positions, and may trade or otherwise effect transactions for its own account or the account of its other customers in debt or equity securities or senior loans of the Sponsor, Pavilion REIT, PRMSB and/or its affiliates. This is a result of the businesses of Maybank Group generally acting independently of each other, and accordingly there may be situations where parts of the Maybank Group and/or its customers now have or in the future, may have interest or take actions that may conflict with the interests of Pavilion REIT.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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Maybank Group has, in the ordinary course of their banking business, granted credit facilities to the Sponsor and its group of companies. Part of the proceeds arising from the disposal of Pavilion Kuala Lumpur Mall and Pavilion Tower to Pavilion REIT will be used to repay all or part of the said credit facilities. In addition, Maybank Group will also be, in the ordinary course of their banking business, granting credit facilities to Pavilion REIT under the New Debt Facilities.

Maybank IB is of the view that all the aforementioned extension of credit facilities does not result in conflict of interest situation in respect of its capacities in relation to the Offering as the total current outstanding credit facilities are not material when compared to the audited total assets of Maybank Group as at 30 June 2011. Furthermore, the extension of credit facilities arose in the ordinary course of business of the Maybank Group in view of Maybank Group's extensive participation in the Malaysian capital market and banking industry.

### **11.7.3 Credit Suisse**

Credit Suisse is of the view that it has no conflict of interest in its capacity as the Joint Global Coordinator and Joint Bookrunner in relation to the Offering and the Listing in that Credit Suisse has not made any loans to the Manager, Trustee, UCSB or CFSB and in its capacity as the Joint Global Coordinator and Joint Bookrunner, Credit Suisse will not receive proceeds from the Offering, except with respect to the fees and expenses of Credit Suisse in connection with the Offering.

### **11.7.4 Credit Suisse Malaysia**

Credit Suisse Malaysia is of the view that it has no conflict of interest in its capacity as the Joint Bookrunner in relation to the Offering and the Listing in that Credit Suisse Malaysia has not made any loans to the Manager, Trustee, UCSB or CFSB and in its capacity as the Joint Bookrunner, Credit Suisse Malaysia will not receive proceeds from the Offering, except with respect to the fees and expenses of Credit Suisse Malaysia in connection with the Offering.

### **11.7.5 Deutsche Bank**

Deutsche Bank is of the view that it has no conflict of interest in its capacity as the Joint Bookrunner in relation to the Offering and the Listing in that Deutsche Bank has not made any loans to the Manager, Trustee, UCSB or CFSB and in its capacity as the Joint Bookrunner, Deutsche Bank will not receive proceeds from the Offering, except with respect to the fees and expenses of Deutsche Bank in connection with the Offering.

### **11.7.6 QNB Capital**

QNB Capital is of the view that it has no conflict of interest in its capacity as the Joint Global Coordinator in relation to the Offering and the Listing in that QNB Capital has not made any loans to the Manager, Trustee, UCSB or CFSB and in its capacity as the Joint Global Coordinator, QNB Capital will not receive proceeds from the Offering, except with respect to the fees and expenses of QNB Capital in connection with the Offering.

### **11.7.7 KPMG**

KPMG confirms that there is no conflict of interest in its capacity as the Auditors and Reporting Accountants of Pavilion REIT.

## **11. CORPORATE GOVERNANCE, RELATED PARTY TRANSACTIONS AND CONFLICTS OF INTEREST (Cont'd)**

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### **11.7.8 KPMG Tax**

KPMG Tax confirms that there is no conflict of interest in its capacity as the Tax Consultant of Pavilion REIT.

### **11.7.9 Rahmat Lim & Partners**

Rahmat Lim & Partners confirms that there is no conflict of interest in its capacity as the Legal Adviser to the Manager as to Malaysian Law.

### **11.7.10 Allen and Gledhill LLP**

Allen and Gledhill LLP confirms that there is no conflict of interest in its capacity as the Transaction and International Legal Adviser to the Manager.

### **11.7.11 CB Richard Ellis (Malaysia) Sdn Bhd**

CB Richard Ellis (Malaysia) Sdn Bhd confirms that there is no conflict of interest in its capacity as the Independent Property Market Consultant in relation to the Offering and the Listing.

In its capacity as the Independent Property Market Consultant, CB Richard Ellis (Malaysia) Sdn Bhd was responsible for preparing the Independent Property Market Report found in Appendix B of this Prospectus.

### **11.7.12 Knight Frank (Proprietor: Ooi & Zaharin Sdn Bhd)**

Knight Frank (Proprietor: Ooi & Zaharin Sdn Bhd) confirms that there is no conflict of interest in its capacity as the Independent Property Valuer in relation to the Offering and the Listing.

In its capacity as the Independent Property Valuer, Knight Frank (Ooi & Zaharin Sdn Bhd) was responsible for preparing the Valuation Certificate found in Appendix A of this Prospectus.

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## 12. APPROVALS, WAIVERS AND CONDITIONS

### 12.1 APPROVALS AND CONDITIONS

- (i) The SC has, through its letter dated 11 October 2011, approved the establishment of Pavilion REIT (including the appointment of the Manager and the Trustee), the Acquisitions, the Offering and the Listing. The conditions imposed by the SC and the status of compliance are as follows:

No.	Details of conditions imposed	Status of compliance
1.	The Manager or its advisers to clearly disclose in the Prospectus the following in relation to Pavilion Tower: (a) the reasons for the low occupancy rates; (b) the measures to be undertaken by PRMSB to ensure full occupancy; and (c) the impact on the expected yield for the forecast year should Pavilion Tower not be fully occupied.	Complied. The required disclosures have been included in Sections 2.5.9 and 4.5.4 of this Prospectus.
2.	The Manager is to rectify the reconfiguration of net lettable area and conversion of car parking bays into additional retail area in Pavilion Kuala Lumpur Mall <sup>(1)</sup> within 12 months from the date of the SC's approval letter.	Noted and to be complied by the Manager.
3.	The Manager or its advisers is to make half yearly announcements to Bursa Securities on the actions taken to comply with item (2) above and to update the SC on the actions taken to comply with such condition when the announcements are made.	Noted and to be complied by the Manager.
4.	The Manager or its advisers is to provide evidence of compliance with Clauses 3.04(d) and 3.28 of the REITs Guidelines prior to the registration of the Prospectus.	Complied, as informed via a letter to the SC dated 20 October 2011.
5.	The Manager or its advisers is to submit an operational audit report of Pavilion REIT's operations to the SC within 6 months after Pavilion REIT is launched and listed. The appointment of the auditors and the scope of work shall be subject to the SC's clearance.	Noted and to be complied by the Manager.
6.	The Manager or its advisers is to inform the SC of the Listing Date prior to the Listing.	To be complied.
7.	The issuance of up to 3,000,000,000 Units and the Listing must be completed within 6 months from the date of the decision letter. SC's approval is deemed to lapse if the Manager fails to do so within the stipulated timeframe.	To be complied.

**Note:**

- (1) This SC's condition refers to obtaining the relevant authorities' approval in connection with the Unrecognised Area.

**12. APPROVALS, WAIVERS AND CONDITIONS (Cont'd)**

In addition, the SC has via the same letter approved the following:

- (a) the proposed issuance of up to 100,000,000 Units to the Manager on a staggered basis in accordance with the terms and formula set out in the Deed, as part payment for the Management Fee together with the listing of and quotation for such Units proposed to be issued to the Manager. The condition imposed by the SC and the status of compliance are as follows:

Details of conditions imposed	Status of compliance
<p>With regards to the 100.0 million Units reserved for the Management Fee that are payable in Units, the Manager is to notify the SC on the following with regard to each issuance of such Units:</p> <p>(a) the actual number of new Units to be issued and listed as part payment of the Management Fee; and</p> <p>(b) the basis of arriving at such number of new Units.</p>	To be complied.

- (b) the proposed issuance of up to 620,000,000 Units (together with the listing of and quotation for such Units and the corresponding increase in Pavilion REIT's approved fund size) in connection with Unitholders' approval to be obtained under a general mandate in accordance Paragraph 14.03 of the REITs Guidelines. The condition imposed by the SC and the status of compliance are as follows:

Details of conditions imposed	Status of compliance
<p>With regards to the 620.0 million Units to be issued pursuant to Clause 14.03 of the REITs Guidelines, the Units are to be issued and listed within 12 months from the date of Unitholders' approval, which must be obtained by 31 December 2012</p>	To be complied.

- (ii) The SC had further granted its approval, through its letter dated 31 October 2011, for the outsourcing of the registrar and internal audit functions by the Manager to Tricor Investor Services Sdn Bhd ("Tricor") and BDO Governance Advisory Sdn Bhd ("BDO GA"), respectively. The conditions imposed by the SC and the status of compliance are as follows:

Details of conditions imposed	Status of compliance
<p>The Manager to submit a copy of the duly executed Service Level Agreements with Tricor and BDO GA within 1 month of SC's approval</p>	Complied, as informed via a letter to the SC dated 4 November 2011.



## 12. APPROVALS, WAIVERS AND CONDITIONS (Cont'd)

### 12.2 WAIVERS

#### Waivers from the REITs Guidelines, Asset Valuation Guidelines and Part II (Listed Funds) of the Prospectus Guidelines for Collective Investment Schemes ("CIS Guidelines") issued by the SC

The SC has, through its letters dated 28 July 2011 and 11 October 2011, granted the following waivers in respect of compliance with the REITs Guidelines, Asset Valuation Guidelines and the CIS Guidelines (collectively, "Guidelines"):

No.	Relevant section of the Guidelines	Details of the waiver granted
1.	Paragraph 3.04 (b) of the REITs Guidelines	Waiver from complying with the requirement for the Manager to be a subsidiary of (i) a company involved in the financial services industry in Malaysia; (ii) a property-development company; or (iii) a property-investment holding company.
2.	Paragraph 13.03 (b) of the REITs Guidelines	Waiver to allow for only 1% of the approved fund size of Pavilion REIT to be offered to the Malaysian Public (via balloting) under the Retail Offering.
3.	Paragraph 13.13 (b) and (c) of the REITs Guidelines	Waiver to allow for a restricted offer of Units to be made to the eligible employees of UCSB, CFSB and KLP as part of the Retail Offering.
4.	Paragraph 4.12 (e) of the Asset Valuation Guidelines	Waiver to allow for the Manager to provide a redacted version of the valuation report by the Independent Property Valuer where the details of terms and rentals of the tenants are blacked-out from public inspection.
5.	Paragraph 20.07(a)(ii), Part II of the CIS Guidelines	Waiver from disclosing the Subject Properties' major tenants and their corresponding percentage contribution to NLA Income but instead to only disclose the Subject Properties' major tenants' aggregated percentage of contribution to NLA Income together with their individual percentage of Occupied NLA.
6.	Paragraph 3.10(j), Part IV of the CIS Guidelines	Waiver to allow the facility agreement in relation to the New Debt Facilities to be submitted to the SC as part of the registration documents three Market Days prior to obtaining the SC's approval for the registration of the Prospectus.

In respect of item (1) above, the SC has imposed the following conditions, all of which has been met as at the date of this Prospectus and will be subject to continued compliance:

- (i) the principal activity of the holding company of the Manager (being UCDSB) being confined to property-related investment holding;
- (ii) the principal activity of UCDSB's subsidiary, namely UCSB, is to remain as property and project development, and further, that the investment holdings of UCSB be confined to property-related investments; and
- (iii) the current shareholding structures of UCDSB and UCSB as well as the proposed shareholding structure of the Manager must be maintained.

## 13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA

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### 13.1 OVERVIEW OF REGULATION OF REITS IN MALAYSIA

In Malaysia, REITs are governed and regulated by the SC and in addition, a listed REIT would also be subject to the purview of Bursa Securities. The SC is empowered to ensure compliance with the CMSA, the REITs Guidelines and the Take-over Code while Bursa Securities is empowered to ensure the compliance of the listed REIT with the relevant sections of the Listing Requirements. The appointments of the management company and the trustee are subject to the approval of the SC. The CMSA, the REITs Guidelines, the Listing Requirements serve to govern the operation and administration of REITs and together with the Take-over Code serve to protect the interest of unitholders and to facilitate an orderly development of REITs. The trustee and the management company, including their officers and directors, must comply with the CMSA, the REITs Guidelines, the Listing Requirements, the Take-over Code and all other Relevant Laws and Requirements.

#### 13.1.1 Under the CMSA and/or the REITs Guidelines:

- (i) **The management company** – A management company must, among others, be an entity incorporated in Malaysia; have a minimum shareholders fund of RM1 million at all times and approved by the SC. The REITs Guidelines contain provisions on reconstruction, amalgamation and change in shareholding of the management company (which will require the prior approval of the SC), composition of the board of directors (including independent members), appointment of a chief executive officer, designated person responsible for the REIT, compliance person and property manager.
- (ii) **The trustee** – The appointment of a trustee must be approved by the SC. The minimum requirements of a trustee include, among other things, that it must be a trust company registered under the Trust Companies Act 1949 or incorporated under the Public Trust Corporation Act 1995; be registered with the SC; have a minimum issued and paid-up capital of not less than RM500,000; have the adequate human resources, expertise, and experience and have adequate and appropriate systems, procedures and processes, to carry out its duties and responsibilities. A trustee is also obliged by the CMSA to notify the SC as soon as practicable of any irregularity, any breach of the provisions or covenants of the Deed or any contravention of securities laws.
- (iii) **Delegation and outsourcing** – A management company or a trustee may delegate and outsource its functions to third parties. Nonetheless, this does not relieve a management company or a trustee from its responsibilities. When delegation takes place, it is the duty of the management company and the trustee to ensure that adequate procedures are in place and that the trust deed, prospectus, guidelines and securities laws are complied with. Note also that the delegation of a management company's function requires the SC's prior approval.

- (iv) **Investment of the REIT** – The REITs Guidelines set out the investment perimeters of REITs in Malaysia including among other things, the spread limits, concentration limits, etc, Real Estate-Related Assets, Non-Real Estate-Related Assets, investments in deposits, investments in foreign real estate/markets and the level of borrowings (which shall not exceed 50.0% of the Total Asset Value of the REIT at any time), acquisition of real estate (i.e., at a price which shall not exceed 10.0% above the value assessed in a valuation report (unless varied by the SC) and likewise a REIT should not dispose of a real estate asset at a price 10.0% less than the value assessed; and the disposal of any real estate (e.g, any disposal of real estate at a value exceeding 50.0% of the REITs' Total Asset Value must be sanctioned by the unitholders by way of an ordinary resolution).
- (v) **Valuation** – Valuations of real estate are required to be undertaken at least once every three years. The REITs Guidelines also govern the valuation of Real Estate-Related Assets and Non-Real Estate-Related Assets, appointment of the valuer, preparation of the valuation report, regulatory parameters on valuation of real estate and announcement/publication of NAV per unit of REIT.
- (vi) **Fees** – The REITs Guidelines contain provisions for the remuneration of the management company, remuneration of the trustee and other expenses of the REIT. The management company and the trustee may only be remunerated by way of an annual fee charged to the REIT, which must be permitted by the trust deed and disclosed in the prospectus and only expenses directly related to the operation and administration of the REIT may be paid out of the REIT including, among other things, the maintenance of real estate belonging to the REIT, fees for the valuation of any investment of the REIT and listing expenses for listing on the stock exchange.
- (vii) **Issue of securities by a REIT** – Unless contemplated in the trust deed constituting the REIT and approved by the SC, any issue of new units by a REIT is subject to approval by the unitholders and, where relevant, the prior approval of the SC.
- (viii) **Operational matters** – The chapter on operational matters in the REITs Guidelines covers issues such as the registration of unitholders, the branch register of unitholders outside Malaysia, distribution of income, rebates and commission, transfer scheme (which is an arrangement to transfer REIT property from a REIT to another REIT), unitholders' meetings, notice, voting rights, chairperson of meetings, quorum, corporate governance principles and best industry standards for all activities conducted in relation to the REIT.

#### 13.1.2 Under the Listing Requirements:

In addition to prescribing the admission procedures and requirements for the admission and listing of a REIT on the Main Market, the Listing Requirements also prescribe the following:

- (i) **Board of directors of the management company** – The board of directors of the management company must have at least 2 independent directors while maintaining a minimum ratio of at least 1/3 independent directors at all times.

## 13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)

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- (ii) **General meetings** – The deed of a listed REIT is required to be in compliance with the Listing Requirements in relation to notice, proxies and voting rights of the Unitholders.
- (iii) **Continuing listing obligation** – The chapter on continuing listing obligation covers the unitholding spread requirement of a listed REIT of at least 25.0% of the total number of listed units must be held by public unitholders.
- (iv) **Continuing disclosure** – The chapter on continuing disclosure requirements sets out the disclosure policy of Bursa Securities which a listed REIT is required to adhere to, immediate disclosure of any material information, preparation of announcements, financial statements and reports, and consequences for failure to comply.

### 13.1.3 Under the Take-over Code:

The Take-over Code applies to REITs that are listed on Bursa Securities. Under the Take-over Code, any person acquiring an interest, either individually or with parties acting in concert, in more than 33.0% of the Units (being voting units in Pavilion REIT) is required to extend a mandatory offer for the remaining Units in accordance with the Take-over Code, unless otherwise exempted. A take-over offer is also required to be made if a person holding more than 33.0% but not more than 50.0% of the Units, either individually or in concert, acquires more than 2.0% of the Units in any six-month period under the Take-over Code, unless otherwise exempted.

As a result, acquisitions of Units which may result in a change in control of Pavilion REIT will be subject to the provisions of the Take-over Code, such as a requirement to make a mandatory offer for Units.

## 13.2 OVERVIEW OF LAND LAW

### 13.2.1 The Land System

In Malaysia, land law is based on the Torrens system of South Australia which operates on the principle of "title by registration". Notwithstanding the adoption of Torrens system in Malaysia, some lands in the state of Penang and Malacca are still governed by the deed system. The National Land (Penang and Malacca Titles) Act 1963 ("NLCPM") was thus enacted to govern such lands and to convert the deed system in Penang and Malacca to the Torrens system used under the National Land Code 1965 ("NLC").

Pursuant to the Federal Constitution of Malaysia ("**Constitution**"), land matters generally lie within the jurisdiction of the state governments. However, the Constitution specifically provides for federal legislation in such matters for the purposes of ensuring uniformity of law and policy in various aspects of land matters which are not exercisable with regard to the States of Sabah and Sarawak.

### 13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)

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The following are the primary pieces of legislation governing land law in Malaysia the operation of which is supplemented by various subsidiary legislations such as the various state land enactments and ordinances which are in force in the respective states in Malaysia:

- (i) the NLC;
- (ii) the NLCPM;
- (iii) Strata Titles Act 1985 (“STA”);
- (iv) Sarawak Land Code (Cap 81) (“Sarawak Land Code”); and
- (v) Sabah Land Ordinance (Cap 68) (“Sabah Land Ordinance”).

The NLC is an act which amends and consolidates the laws relating to land and land tenure, the registration of title to land and of dealings therewith and the collection of revenue therefrom within the States of Johor, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Terengganu, the Federal Territory of Kuala Lumpur, the Federal Territory of Putrajaya and the Federal Territory of Labuan, and for purposes connected therewith while in the States of Sabah and Sarawak, the respective Sabah Land Ordinance and Sarawak Land Code apply.

The rest of this Section 13.2 of the Prospectus will cover land law applicable to the states in Peninsula Malaysia and the Federal Territories.

The NLCPM was enacted to provide for the conversion of the system of registration of deeds practiced prior to 1966 to the Torrens system.

STA is an act to facilitate the subdivision of buildings or lands into parcels and the issuance of separate strata titles in relation to the same, and the STA is only applicable to West Malaysia and the Federal Territory of Labuan.

The NLC expressly provides that it shall not (unless expressly provided to the contrary) affect the provisions of:

- (i) any law relating to customary tenure;
- (ii) any law relating to Malay reservations or Malay holdings;
- (iii) any law relating to mining;
- (iv) any law relating to sultanate lands;
- (v) any law relating to wakaf (relating to the endowment of property for religious and/or public purposes in accordance with Islamic teachings) or bait-ul-mal (an Islamic non-profit financial organisation providing benefits to community members and organisations);
- (vi) the Terengganu Settlement Enactment 1356;
- (vii) the Padi Cultivators (Control Rent and Security of Tenure) Ordinance 1955;
- (viii) the Kelantan Land Settlement Ordinance 1955;
- (ix) the Land (Group Settlement Areas) Act 1960;

## **13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)**

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- (x) the Perlis Land Settlement Enactment 1966; and
- (xi) any law relating to exemptions from the payment of land revenue.

### **13.2.2 Indefeasibility of Title**

Pursuant to the NLC, a person will obtain an indefeasible title to or interest in the land after his/her proprietorship to or interest in land is being registered on the document of title. However, the indefeasibility of title can be defeated under those circumstances as provided in Section 340(2) of the NLC, which include fraud or forgery, or where the registration of title or interest is obtained by the use of an insufficient or void instrument or where the title or interest is unlawfully acquired.

### **13.2.3 Powers of the State Authority**

The State Authority is vested with the entire property in all state lands under the NLC. "State Authority" refers to the Ruler or Governor of the state, as the case may be, and "state land" refers to all land in the state other than land that has already been alienated or reserved (whether as forest or otherwise) or mining land.

Under the NLC, the State Authority has power to alienate land for either:

- (i) a term not exceeding 99 years (commonly referred to as leasehold); or
- (ii) in perpetuity (commonly referred to as freehold).

The power to alienate land by the State Authority is the most common method of disposal of land. The alienation of land by the State Authority is subject to certain conditions such as:

- (i) payment of annual rent;
- (ii) payment of premium (which is subject to exemption by the State Authority);
- (iii) category of land use; and
- (iv) such conditions and restrictions in interest which may be imposed by the State Authority.

Unless an application is made to the State Authority for the extension of the term and such application is approved by the State Authority usually upon the payment of a premium, land alienated for a term not exceeding 99 years shall upon the expiry of such term revert to the State Authority.

In addition to the power to alienate land, the State Authority also has the power to:

- (i) reserve land and grant leases of reserve land for a specific purpose not exceeding 21 years;
- (ii) permit temporary occupation of land;
- (iii) permit the extraction and removal of rock material from land;
- (iv) permit the use of air space on or above land; and
- (v) dispose of underground land.

## **13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)**

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### **13.2.4 Categories of Land Use**

Land in Malaysia is divided into three general categories of land use, namely, agricultural, industrial and building. The category of land use is endorsed on the documents of title issued in respect of those lands alienated by the State Authority pursuant to the NLC. However, on approving the alienation of land, the State Authority may, if it is satisfied that the imposition of express conditions could better control the use of the land, direct that no category of land use be endorsed on the document of title.

An application may be made to the State Authority by the proprietor of any alienated land for the alteration of any category of land use to which the land is for the time being subject, or where it is not so subject, for the imposition of any category.

Each category of land use is subject to implied conditions as more particularly set out in the NLC. Additionally, specific uses may be specified in the documents of title to land. Failure to comply with express or implied conditions of land use may result in the forfeiture of land by the State Authority.

### **13.2.5 Dealings in Land**

The NLC governs dealings in land and interest in land (which in the context of the NLC includes a registered lease, charge or easement as well as a statutory lien or a tenancy exempt from registration created in respect thereof). Dealings under the NLC may be divided into:

- (i) dealings capable of registration which are transfers, charges, leases and easements; and
- (ii) dealings not capable of registration which are tenancies exempt from registration and statutory liens which are protected by way of an endorsement and the entry of a lien-holder's caveat.

In Malaysia, no instrument effecting any dealing with respect to alienated lands and/or interests therein shall be effective until such instrument has been duly registered.

### **13.2.6 Restrictions in Interest**

Restrictions in interest are restrictions expressly endorsed on the document of title to the land which limits the powers of the registered proprietor to deal with the land. An example of such a restriction is the restriction to transfer, charge or lease the land unless the prior consent of the State Authority has been obtained. It is common to find such restrictions in interest endorsed on the documents of title to lands alienated by the State Authority for terms not exceeding 99 years as opposed to lands alienated by the State Authority in perpetuity.

As restrictions in interest imposed on the document of title to the land binds the land, the restrictions therefore bind the owner(s) (whether present or future) of the land.

In the case of a property held or to be held under a strata title, where there is a restriction in interest endorsed on the document of title to the master land, such restriction will also apply to such property, whether or not the separate strata title to such property has been issued.

**13.2.7 Restraints on Dealings**

Restraints on dealings include the following:

**(i) Private caveats**

Private caveat is one of the restraints on dealings under the NLC. A person claiming title to or any registrable interest in any alienated land any right to such title or interest may lodge a private caveat to protect his title or interest in such alienated land. Under the NLC, a non-citizen or foreign company is required to obtain the prior approval of the State Authority before lodging a private caveat.

Once a private caveat is lodged, the registered proprietor may not register or endorse any dealing on the document of title to his land without first removing such private caveat or first obtaining the consent in writing of the person who lodged such private caveat. However, the private caveat will not prevent any dealing made by the registered proprietor, the application for the registration or endorsement of which is made by the registered proprietor before the lodgement of such private caveat.

An application may be made to the Registrar of Titles/Land Administrator or the court by a registered proprietor (or any aggrieved person or body) for the removal of the private caveat. A private caveat will expire six years from the time of the lodgement of the same, unless earlier withdrawn or removed by the Registrar of Titles/Land Administrator or the court.

**(ii) Prohibitory Orders**

Pursuant to the NLC, "prohibitory order" means where land or an interest in land held by a judgment-debtor is to be sold in execution proceedings, an order made pursuant to rules of court by a court of competent jurisdiction prohibiting the judgment-debtor from effecting any dealing therewith or from effecting such dealing therewith as may be specified in the order.

A prohibitory order will take effect once it has been entered by the land registrar and endorsed on the document of title. The order will prohibit the following endorsement or entry:

- (a) any instrument of dealing executed by or on behalf of the proprietor save and except for any certificate of sale relating thereto;
- (b) any claim to the benefit of any tenancy exempt from registration granted by the proprietor; and
- (c) any lien-holder's caveat.

However, a prohibitory order will not prohibit the registration, endorsement or entry of any instrument, claim or lien-holder's caveat where the instrument was presented, or the application for endorsement or entry received, prior to the time from which the order takes effect.



**13.2.8 Malay reserve land and customary land**

The Malay Reservation Enactments of the respective states were enacted to secure and protect the Malays' interest in lands reserved for Malays by prohibiting the disposition of such lands by the state and the dealings by the registered proprietors in favour of non-Malays. Any disposal, dealing or attempt to dispose of or deal in Malay reserve land in contravention of the respective Malay Reservation Enactments will be rendered null and void and no action for breach of contract shall be maintained in respect of such disposal or dealing.

The present Malay Reservation Enactments have adopted the policy of providing for exceptions to the prohibition by permitting disposals by the State Authority and dealings by the registered proprietors in favour of certain specified persons and bodies with the approval of the ruler of the state in council of the respective states.

In the same manner, customary land such as those in the state of Malacca, shall only be transferred, charged, leased or transmitted to a Malay pursuant to NLCPM.

**13.2.9 Charges**

It is common for a financier to require a borrower to create a charge over the land or a lease of land of the borrowers in favour of the financiers as a security for the financing provided.

A registered proprietor's power to charge is subject to any prohibition or limitation imposed by the NLC or any other written law for the time being in force, any restriction in interest to which the land in question is for the time being subject and in relation to leases, the provision thereof, express or implied.

Every charge created under the NLC shall take effect upon registration so as to render the land or lease in question liable as security in accordance with the provisions thereof, express or implied.

A chargee is required to comply with the NLC when enforcing the charge to obtain a sale of the land or lease to which the charge relates in the event of a breach by the borrower. The chargee is required, among other things, to serve a default notice in the form as prescribed by the NLC and apply to the court or the land office administrator or the collector of land revenue, as the case may be, for an order for sale. Upon the registration of any certificate of sale given to a purchaser in respect of a charged land or lease, the title or interest of the registered proprietor/chargor shall pass to and vest in the purchaser, free and discharged from all liability under the charge in question and any charge subsequent thereto.

**13.2.10 Leases and Tenancies**

Under the NLC, tenancies may be granted for terms not exceeding three years. There is no registration requirement for tenancies under the NLC but the interest of a tenant under a tenancy exempt from registration can be protected by way of an endorsement on the document of title to the land.

## **13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)**

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The proprietor of any alienated land may grant leases of the whole or any part thereof. A lease granted under the NLC must be more than three years and maximum term for which any lease may be so granted shall be:

- (i) 99 years if it relates to the whole of the land; or
- (ii) 30 years if it relates to a part only thereof.

The lease granted is required to be registered with the relevant Land Registry/Office in order to vest in the lessee the interest in respect of the said lease.

### **13.2.11 Sale and Purchase of Real Property**

The sale and purchase of real property in Malaysia may be completed by way of transfer or legal assignment. Any transfer of a property with a separate document of title is effected by registration of an instrument of transfer in a format prescribed under the NLC at the relevant Land Registry/Office. For a property without a separate document of title having been issued, transfer of beneficial ownership of the property is made by way of a legal assignment in favour of a new purchaser of all the rights, interests and title in respect of the property under the principal sale and purchase agreement (made between the original proprietor of the land and/or the developer (as the seller) and the first purchaser).

### **13.2.12 Properties held under Strata Titles**

Under the STA, the owner of a building who has sold or agreed to sell any parcel comprised in the building to any person, is required to apply for an individual strata title to the parcel within the period stipulated in the STA.

The establishment and functions of the joint management body (“JMB”) and the management corporation (“MC”) for the purpose of managing and maintaining the common areas of those buildings constructed on the land situated within West Malaysia and the Federal Territory of Labuan have been provided for in the respective acts named below:

#### **(i) Building and Common Property (Maintenance and Management) Act 2007 (“BCPA”)**

Pursuant to the BCPA, the JMB, where a building or land intended for subdivision into parcels has been completed:

- (a) before the commencement of BCPA and vacant possession of the parcels has been delivered by the developer to the purchaser but the MC has not come into existence, the JMB shall be established consisting of the developer and parcel owners upon the convening of the first meeting no later than 12 months from the commencement of the BCPA;
- (b) on or after the commencement of the BCPA, the JMB shall be established consisting of the developer and the parcel owners upon the convening of the first meeting not later than 12 months from the date of delivery of vacant possession of the parcels to the parcel owners.

### 13. OVERVIEW OF THE RELEVANT LAWS AND REGULATIONS IN MALAYSIA (Cont'd)

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The JMB is required to elect a joint management committee, consisting of one representative of the developer and not less than 5 but not more than 12 parcel owners, at a general meeting to perform the duties of the JMB, conduct the business of JMB on its behalf and for that purpose, to exercise the powers of the JMB under the BCPA.

There are three types of meetings namely, the first general meeting, the annual general meetings and the extraordinary general meetings to be held by the JMB. At the first general meeting, each parcel owner who has paid his maintenance charges in respect of his parcel to the building management account of the developer is entitled to vote by show of hands. Joint purchasers will only be entitled to vote by appointing a proxy. The BCPA does not provide for voting on poll and therefore, each parcel owner is only entitled to one vote regardless of the share units allotted to his parcel. Although the BCPA made provisions for rules to regulate the first general meeting of the JMB, there are no provisions on how the subsequent annual general meetings or extraordinary general meetings are to be conducted and it is also not clear whether the rules on quorum and voting rights for the first general meeting of the JMB will apply to subsequent annual general meetings or extraordinary general meetings. The parcel owners and the developer will therefore have to agree on their voting rights in the said meetings.

The JMB will be deemed to be dissolved 3 months from the date of the first meeting of the MC.

#### (ii) STA

Upon the opening of a book of the strata register in respect of a subdivided building or land, there shall come into existence the MC consisting of all the parcel owners including in the case of phased development, the proprietor of the provisional block or blocks. The MC shall, on coming into existence, become the proprietor of the common property and be the custodian of the issue document of title of the lot. Upon its establishment, the MC is responsible for the maintenance and management of common property (which means so much of the lot as is not comprised in any parcel (including any accessory parcel), or any provisional block as shown in an approved strata plan).

The by-laws set out in the Third Schedule of the STA shall, as and from the opening of a book of the strata register, be in force for all purposes in relation to every subdivided building or land and shall not be amended by the MC. The purposes of by-laws are for regulating the control, management, administration, use and enjoyment of the strata development. The MC may, by special resolution make additional by-laws, or make amendments to such additional by-laws, not inconsistent with the by-laws set out in the Third Schedule of the STA.

The STA provides for meetings to be held periodically. Under the STA, three types of meeting are provided to be held by the MC, namely, the first annual general meeting, the annual general meetings and the extraordinary general meetings.

It shall be the duty of the original proprietor to convene the first annual general meeting of the MC. The agenda for the first annual general meeting includes, among other things, to confirm or vary the insurances effected by the MC and the amounts of contributions to the management fund, to determine the members of the council and to elect the council and to decide whether to amend the additional by-laws in force immediately before the holding of the meeting.

Annual general meetings are required to be held by the MC annually for the consideration of accounts, election of council members and such other matters as may be required. Extraordinary meetings are held by the council of the MC upon request by the parcel owners or commissioner of buildings or when the council deems appropriate or necessary.

Each parcel owner shall, at general meetings, have one vote on a show of hands and on poll will have such number of votes that corresponds with the number of share units attached to his parcel. A co-proprietor may vote by means of a jointly appointed proxy. Only parcel owners whose separate strata titles to their respective parcels are registered in their names are allowed to vote.

Pursuant to the STA, every parcel shall have a share value approved by the relevant authority and expressed in whole numbers to be known as share units. Share units allotted to the parcels can be based on a few factors, namely, the areas of the parcels and the purchase consideration of the parcels.

The share units allocated to each parcel owner is important as it determines, among other things, the following:

- (a) the voting rights of each parcel owner on a poll;
- (b) the quantum of the undivided share of each parcel owner in the common property;
- (c) the proportion of the contribution payable by each parcel owner to the management fund;
- (d) the proportion of each parcel owner's entitlement to the profits arising from transactions pertaining to the common property;
- (e) the proportion of each parcel owner's liability for the debts of the MC;
- (f) the proportion of each parcel owner's entitlement to the proceeds of a sale of the lot and his share in the surplus of the funds of the MC, if any, on the termination of the strata scheme.

## 14. ADDITIONAL INFORMATION

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### 14.1 GENERAL

- (i) No Units will be allotted or issued on the basis of this Prospectus later than 12 months after the date of this Prospectus.
- (ii) The Units will rank pari passu in all respects and will be entitled to all distributions that may be declared subsequent to the Listing.
- (iii) In accordance with the Deed and REITs Guidelines, the Manager is required, on a quarterly basis, to carry out a valuation of Pavilion REIT's investments in Real Estate-Related Assets and Non-Real Estate-Related Assets and announce the NAV of Pavilion REIT to Bursa Securities. Unitholders are able to keep track of the market price per Unit and the NAV per Unit as announced by the Manager through Bursa Malaysia Berhad's website [www.bursamalaysia.com](http://www.bursamalaysia.com) after the Listing.
- (iv) Pavilion REIT will also be providing Unitholders with an annual report on its performance which will also include information on the NAV per Unit. The Manager must also give the SC the annual report no later than two months after the end of the financial period the report relates to.

Unitholders can obtain information on the current developments and annual reports of Pavilion REIT from the Bursa Malaysia Berhad's website [www.bursamalaysia.com](http://www.bursamalaysia.com) after the Listing.

- (v) If you require further information on Pavilion REIT, the Manager may be contacted at:

Level 10 Pavilion Kuala Lumpur

168, Jalan Bukit Bintang

55100 Kuala Lumpur

Telephone Number: (603) 2118 8888

E-mail: [info@pavilion-reit.com](mailto:info@pavilion-reit.com)

Website: [www.pavilion-reit.com](http://www.pavilion-reit.com)

- (vi) Save as disclosed in this Prospectus, as at the Latest Practicable Date, the Directors confirm that Pavilion REIT's financial conditions and operations are not affected by any of the following factors:
  - (a) known trends, demands, commitments, events or uncertainties that have had or that the Manager reasonably expect to have, a material favourable or unfavourable impact on Pavilion REIT's financial performance, liquidity, position and operations;
  - (b) material commitments for capital expenditure; and
  - (c) unusual, infrequent events or transactions or any significant economic changes that have materially affected Pavilion REIT's financial performance, position and operation.

## 14. ADDITIONAL INFORMATION (Cont'd)

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- (vii) The Manager has not established any specific policies or procedures to counter the risk involving money-laundering activities. It is not pertinent for the Manager to adopt such policies and procedures as unlike other unit trust funds, Pavilion REIT is a REIT to be listed on the Main Market and will not be sourcing for investment funds on a regular basis nor does Pavilion REIT allow for redemption of its Units. Further, Pavilion REIT does not receive monies from investors on cash terms.

### 14.2 MATERIAL CONTRACTS

The dates of, parties to, and general nature of every material contract which Pavilion REIT (via the Trustee) has entered into since its establishment up to the date of this Prospectus (not being contracts entered into in the ordinary course of the business of Pavilion REIT) are as follows:

- (i) the Deed dated 13 October 2011 constituting Pavilion REIT and registered with the SC on 18 October 2011 entered into between the Manager and the Trustee, for the benefit of the Unitholders;
- (ii) the SPA dated 18 October 2011 between UCSB and the Trustee whereby the Trustee agreed to purchase Pavilion Kuala Lumpur Mall and the Pavilion Kuala Lumpur Mall Related Assets for a purchase consideration of RM3,190,300,000 and RM8,806,000 respectively, with the purchase consideration of Pavilion Kuala Lumpur Mall to be satisfied in cash and the issuance of Consideration Units, and the purchase consideration of the Pavilion Kuala Lumpur Mall Related Assets to be satisfied in cash;
- (iii) the SPA dated 18 October 2011 between UCSB, CFSB and the Trustee whereby the Trustee agreed to purchase Pavilion Tower and the Pavilion Tower Related Assets for a purchase consideration of RM123,500,000 and RM795,000 respectively, which will be satisfied in cash;
- (iv) the Retail Underwriting Agreement for the Retail Offering dated 18 October 2011 between the Manager, the Sponsor and the Joint Underwriters for the underwriting of 35,000,000 Units under the Retail Offering at an underwriting commission of RM616,000;
- (v) the facility agreements for the New Debt Facility dated 3 November 2011 between the Lenders, PRVC and the Trustee in respect of the New Debt Facilities;
- (vi) the non-exclusive licence agreement dated 18 October 2011 between the Sponsor, the Manager and the Trustee in respect of the use of, among others, the registered trademark "Pavilion Kuala Lumpur" and other pending trademarks for a nominal amount;
- (vii) the Property Management Agreement dated 18 October 2011 between the Property Manager, the Manager and the Trustee pursuant to which the Property Manager will provide certain property management services for the Subject Properties in consideration of a property management fee of RM30,000 per month (excluding service tax); and

## **14. ADDITIONAL INFORMATION (Cont'd)**

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- (viii) the master cornerstone agreement dated 4 November 2011 entered into between the Manager, the Cornerstone Investors and certain Joint Bookrunners in relation to subscription by the Cornerstone Investors for an aggregate of 265,000,000 Offer Units, representing approximately 8.83% of the total Units issued upon Listing, at the Cornerstone Price.

### **14.3 SALIENT TERMS OF THE SPAS**

#### **14.3.1 Overview of the SPAs**

Under the SPAs, the Trustee will acquire from the Vendors, Pavilion Kuala Lumpur Mall and Pavilion Tower together with the fixtures and fittings which are currently affixed, installed, attached and/or appurtenant to Pavilion Kuala Lumpur Mall and Pavilion Tower (save and except for those fixtures and fittings belonging to the tenants) and the Related Assets:

- (i) free from all encumbrances but subject to all conditions of title and restrictions in interest whether express or implied in the Master Title and the strata titles to Pavilion Kuala Lumpur Mall and Pavilion Tower when issued; and
- (ii) subject to all the tenancies identified in the SPAs together with all the rights benefits and obligations thereunder.

The SPAs are interdependent and the Trustee is not obliged to complete the acquisition of either Subject Property unless the acquisition of the Subject Properties are completed concurrently under the respective SPAs.

The acquisition of Pavilion Kuala Lumpur Mall will be subjected to the rights and easements granted by UCSB to the parties which are more particularly described in the Pavilion Kuala Lumpur Mall SPA. See Section 2.4.11 "Rights and Easements" of this Prospectus for the summary of the rights and easements.

Upon completion of the SPAs, UCSB will assign, transfer and vest all its rights, title, interest, benefits in and to the Mechanical/Electrical Levels to the Trustee in accordance with the terms of the Pavilion Tower SPA.

#### **14.3.2 Consideration**

The total purchase consideration amounting to RM3,323,401,000 only for the Subject Properties and the Related Assets shall be satisfied by the Trustee in accordance with the SPAs as follows:

- (i) the issuance and allotment of the Consideration Units and to be credited into such CDS Account as may be notified by UCSB, at least one Business Day before the Completion Date of the SPAs or such other date as parties may agree in writing; and
- (ii) the balance of the purchase consideration by way of cash which shall, on the Completion Date of the SPAs, be paid firstly towards settlement of the redemption sum required to redeem Pavilion Kuala Lumpur Mall and Pavilion Tower from the Vendors' lenders and the balance (if any) shall be paid to the Vendors in their respective proportions.

See Section 3.7.1 "Acquisitions" of this Prospectus for the breakdown of the total purchase consideration.

## 14. ADDITIONAL INFORMATION (Cont'd)

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The purchase consideration payable in respect of the Related Assets is based on the Vendors' estimate of the net book value of the Related Assets as at the Completion Date of the SPAs. The purchase consideration of the Related Assets will be adjusted to the actual net book value of the Related Assets in the Vendors' books immediately prior to the Completion Date of the SPAs (to be certified by an external auditor to be mutually appointed by the parties in writing) subject always that the adjusted purchase consideration of the Related Assets shall not be more than the amount stipulated in the respective SPAs, that is in total a sum of RM9,601,000.00. The adjusted purchase consideration of the Related Assets must be agreed in writing within three (3) months from the Completion Date of the SPAs, in which case the Vendors shall refund to the Trustee the difference between the purchase consideration of the Related Assets and the adjusted amount within thirty (30) days from the date of such written confirmation by the parties.

### 14.3.3 Conditions

The sale, purchase and transfer of Pavilion Kuala Lumpur Mall and Pavilion Tower (excluding Mechanical/Electrical Levels) are conditional upon:

- (i) the approval of Bursa Securities for the Listing having been obtained;
- (ii) the consent of the Vendors' lenders for the Acquisitions having been obtained;
- (iii) this Prospectus having been issued to the Malaysian Public;
- (iv) the receipt by the Vendors and the Vendors' lenders respectively of the undertakings from the Issuing House to pay the requisite purchase consideration on the Completion Date of the SPAs in such form and on such terms as may be mutually agreed upon; and
- (v) the receipt by the Trustee's solicitors of the written confirmation from the Manager confirming that all the conditions, variations or revisions imposed by SC and Bursa Securities in respect of the acquisition of Pavilion Kuala Lumpur Mall and Pavilion Tower (excluding Mechanical/Electrical Levels) which are capable of being satisfied up to the date of such confirmation have been satisfied and of its satisfaction with the results of the bookbuilding exercise under the Institutional Offering.

### 14.3.4 Completion

Subject to the fulfilment of the conditions precedent set out in Section 14.3.3 above, on the Completion Date of the SPAs:

- (i) legal possession of Pavilion Kuala Lumpur Mall and Pavilion Tower in the same state and condition as they were at the date of the SPAs (fair wear and tear excepted) shall be deemed to have been delivered by the Vendors to the Trustee;
- (ii) all rights, title, interest, benefits or claim in and to Pavilion Kuala Lumpur Mall and Pavilion Tower and the risk relating to Pavilion Kuala Lumpur Mall and Pavilion Tower shall pass from the Vendors and UCSB to the Trustee;
- (iii) all rights, title, interest, benefits in and to the Mechanical/Electrical Levels will be transferred, assigned and vested in favour of the Trustee by UCSB under the Pavilion Tower SPA;



**14. ADDITIONAL INFORMATION (Cont'd)**

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- (iv) all interests, benefits and rights in all the tenancies in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower will be assigned to the Trustee;
- (v) all outgoing in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower shall be apportioned on the Completion Date of the SPAs and the Vendors and UCSB shall respectively bear and settle the outgoing due and payable up to the date immediately preceding the Completion Date of the SPAs and the Trustee shall bear and settle the outgoing due and payable on and from the Completion Date of the SPAs;
- (vi) all income in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower shall be apportioned on the Completion Date of the SPAs and the Vendors and UCSB shall respectively be entitled to all income received by them and/or the Trustee for the period immediately preceding the Completion Date of the SPAs and the Trustee shall be entitled to all income received by them and/or the Trustee for the period on and from the Completion Date of the SPAs;
- (vii) the Vendors will hold all security deposits, rental and all other payments paid by the tenants (including electricity charges) on and after the Completion Date of the SPAs to the Vendors upon trust for the Trustee and will pay over the same to the Trustee in accordance with the terms of the SPAs;
- (viii) the Vendors will issue written notices to all the tenants to inform them of the assignment of the Vendors' interests, benefits and rights under their respective tenancies in favour of the Trustee and to extend a copy each of such notices;
- (ix) all the rights, interests, benefits and obligations in and under all contracts and guarantees in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower will be assigned to the Trustee;
- (x) all the insurance contracts in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower will be endorsed in favour of the Trustee;
- (xi) the Vendors will issue written notices to all counter-parties to inform them of the assignment of the Vendors' rights, interests, benefits and obligations in and under their respective contracts in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower in favour of the Trustee;
- (xii) the Vendors and UCSB will respectively deliver to the Trustee all relevant documents including but not limited to all operating and maintenance manuals and files of the tenancies and assets, all agreements (including all tenancy agreements and service contracts), all relevant approvals, licences, consents, permits, certificates, plans and drawings in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower to the extent possible; and
- (xiii) the Vendors will deliver vacant possession of the untenanted space within the Subject Properties together with all keys and access devices in respect of the same unless such spaces have been tenanted by the Vendors prior to the Completion Date of the SPAs.

## **14. ADDITIONAL INFORMATION (Cont'd)**

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### **14.3.5 Representations and Warranties**

The Vendors have given specific representations and warranties relating to Pavilion Kuala Lumpur Mall and Pavilion Tower and the tenancies and have agreed to indemnify the Trustee against all losses, damages, costs, expenses and outgoings for a breach of such representations and warranties.

### **14.3.6 Other Terms**

- (i) The registered proprietor of the Master Land, UCSB, has undertaken to apply for the subdivision of title for the Master Land so as to obtain a separate strata title for each Pavilion Kuala Lumpur Mall and Pavilion Tower and upon the issuance of such separate strata titles, UCSB shall execute the relevant memorandum of transfer in respect of Pavilion Kuala Lumpur Mall and Pavilion Tower in favour of the Trustee.
- (ii) Save and except for a breach of UCSB's undertaking as set out in sub-paragraph (i) above and the rights of the Trustee reserved in relation to any default by Vendors under the respective SPAs, notice of any claims arising from any breach of the terms and conditions of the SPAs must be given by the non-defaulting party to the defaulting party within 12 months from the Completion Date of the SPAs to ensure that the defaulting party shall take such necessary action to rectify the said breach.
- (iii) The Trustee's liability arising under the SPAs as trustee for Pavilion REIT shall be limited to and can only be enforced against the Trustee only to the extent to which the Trustee can satisfy such liability out of the assets of Pavilion REIT.

## **14.4 SALIENT TERMS OF THE EXISTING ROFRS**

### **14.4.1 (a) General ROFR granted to Pavilion REIT by the Sponsor**

By a letter of undertaking dated 18 October 2011, the Sponsor has undertaken to the Trustee that with effect from the Listing Date and for so long as:

- (i) the Manager or any of its related corporations remains the management company of Pavilion REIT;
- (ii) UCDSB and/or any of its related corporations, alone or in aggregate, remains as a Controlling Shareholder of the Manager;
- (iii) QH and/or any of its related corporations, alone or in aggregate, remains as a Controlling Shareholder of the Manager;
- (iv) QH and/or any of its related corporations, alone or in aggregate, remains as a Controlling Unitholder of Pavilion REIT;
- (v) Datuk Lim Siew Choon and/or Datin Tan Kewi Yong and/or any corporation in which either of them or collectively, is or are, the Controlling Shareholder(s), alone or in aggregate, remains as a Controlling Unitholder of Pavilion REIT; and
- (vi) Pavilion REIT remains listed on Bursa Securities,

neither the Sponsor nor any Sponsor Entity will:

- (i) dispose any General Asset without giving the ROFR to the Trustee to purchase such General Asset for and on behalf of Pavilion REIT;
- (ii) purchase any General Asset from any third party which may in future be identified and targeted for acquisition by the Sponsor or a Sponsor Entity, without giving the ROFR to the Trustee to purchase such General Asset for and on behalf of Pavilion REIT.

In the event that the Sponsor or a Sponsor Entity should sponsor a Malaysian retail property fund for the development of General Asset, then the Sponsor shall use his best endeavours to procure such fund to grant a ROFR to the Trustee to purchase any General Asset which the said fund wishes to dispose, for and on behalf of Pavilion REIT.

**(b) fahrenheit88 ROFR granted to Pavilion REIT by Makna Mujur Sdn Bhd**

By a letter of undertaking dated 18 October 2011, Makna Mujur Sdn Bhd ("**Makna Mujur**"), an indirect subsidiary of QH, has undertaken to the Trustee that with effect from the Listing Date and for so long as:

- (i) the Manager or any of its related corporations remains the management company of Pavilion REIT;
- (ii) QH and/or any of its related corporations, alone or in aggregate, remains as a Controlling Shareholder of the Manager;
- (iii) UCDSB and/or any of its related corporations, alone or in aggregate, remains as a Controlling Shareholder of the Manager;
- (iv) QH and/or any of its related corporations, alone or in aggregate, remains as a Controlling Unitholder of Pavilion REIT;
- (v) Datuk Lim Siew Choon and/or Datin Tan Kewi Yong and/or any corporation in which either of them or collectively, is or are, the Controlling Shareholder(s), alone or in aggregate, remains as a Controlling Unitholder of Pavilion REIT; and
- (vi) Pavilion REIT remains listed on Bursa Securities,

Makna Mujur shall not dispose fahrenheit88 without giving the ROFR to the Trustee to purchase fahrenheit88 for and on behalf of Pavilion REIT.

## 14. ADDITIONAL INFORMATION (Cont'd)

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### (c) Pavilion Extension ROFR

By a letter of undertaking dated 18 October 2011, Urusharta Cemerlang (KL) Sdn Bhd ("UCKL") has undertaken to the Trustee that with effect from the Listing Date to the expiry of:

- (i) five years from the date of the letter of undertaking; or
- (ii) two years from the date of the issuance of the certificate of practical completion for Pavilion Extension,

whichever is later, and subject to Pavilion REIT remaining listed on Bursa Securities, UCKL shall not dispose Pavilion Extension without giving the ROFR to the Trustee to purchase Pavilion Extension for and on behalf of Pavilion REIT.

### (d) USJ ROFR

By a letter of undertaking dated 18 October 2011, Equine Park Country Resort Sdn Bhd ("EPCR"), a wholly-owned subsidiary of Equine Capital Berhad, has undertaken to the Trustee that with effect from the Listing Date to the expiry of:

- (i) five years from the date of the letter of undertaking; or
- (ii) two years from the date of the issuance of the certificate of practical completion for the proposed development of a 6-storey retail mall to be erected on part of the land with title bearing the details of GRN 43632 Lot 42697, Mukim Pekan Subang Jaya, Daerah Petaling, Negeri Selangor ("USJ Subang Asset"),

whichever is later, and subject to Pavilion REIT remaining listed on Bursa Securities, EPCR shall not dispose USJ Subang Asset without giving the right of first refusal to the Trustee to purchase the USJ Subang Asset for and on behalf of Pavilion REIT.

#### 14.4.2 For the Existing ROFRs, in the event that:

- (i) the Trustee fails or does not enter into a binding commitment for the purchase of the Relevant Asset within thirty (30) days (or such other period as may, in the case of a proposed offer of sale by a third party under the General ROFR, be stipulated by the relevant third party or mutually agreed by the Trustee and the third party; or, in the case of a proposed disposal by the respective selling entity under the Existing ROFRs, mutually agreed by the Trustee and the selling entity) from the date of the Trustee's receipt of the written notice together with the relevant transaction documents;
- (ii) the Trustee indicates in writing to the Sponsor, the Sponsor Entity or, as the case may be, the selling entity that it shall not be purchasing the Relevant Asset; or
- (iii) the proposed acquisition of the Relevant Asset is aborted by the Trustee,

## 14. ADDITIONAL INFORMATION (Cont'd)

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the Trustee shall be deemed to be unable to, or not to have, exercised the ROFR and:

- (i) the selling entity shall be entitled to dispose of its interest in the Relevant Asset to a third party at a price higher than or equal to the indicative price set out in the transaction documents and on other terms and conditions no more favourable to the third party than those offered by the Relevant Entity to the Trustee; and
- (ii) in relation to the General ROFR only, the Sponsor or the Sponsor Entity shall be entitled to acquire the Relevant Asset on such terms and conditions no more favourable to than to those offered by the third party to the Trustee.

### 14.4.3 For the purposes of this Section 14.4:

**“Controlling Shareholder”** means a person who holds directly or indirectly 20.0% or more of the nominal amount of all voting shares of the company.

**“Controlling Unitholder”** means a person who holds directly or indirectly 20.0% or more of the nominal amount of all issued Units in Pavilion REIT.

**“General Asset”** refers to real estate used solely or predominantly for retail purposes (including mixed-use developments with a retail component) in Malaysia. Where such real estate is held through a single purpose company, vehicle or entity (a **“SPV”**) established solely to own such real estate, the term **“General Asset”** shall refer to the shares or equity interests, as the case may be, in that SPV.

**“Sponsor Entity”** means any of the Sponsor’s existing or future wholly-owned subsidiaries and where such subsidiaries are not wholly-owned by the Sponsor, and whose other shareholder(s) is/are third parties, such subsidiaries will be subject to the ROFR only upon obtaining the consent of such third parties.

**“Relevant Asset”** refers to the General Asset, fahrenheit88, Pavilion Extension or the USJ Subang Asset, as the case may be.

**“related corporation”** has the meaning as given to it under Section 6 of the Act.

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## **14. ADDITIONAL INFORMATION (Cont'd)**

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### **14.5 CONSENTS**

- (i) The written consents of the Trustee, the Joint Principal Advisers, the Joint Global Coordinators, the Joint Underwriters, the Joint Bookrunners, the principal bankers, the Issuing House, the solicitors, the Property Manager, the Registrar to the inclusion in this Prospectus of their names in the manner and form in which such names appear in this Prospectus have been given before the issue of this Prospectus and have not subsequently been withdrawn.
- (ii) The written consent of the Auditors/Reporting Accountants to the inclusion in this Prospectus of their letter on Profit Forecasts as well as the letter relating to the Consolidated Pro Forma Statement of Financial Position and their names in the manner, form and context in which they appear have been given before the issue of this Prospectus and have not subsequently been withdrawn.
- (iii) The written consent of the Tax Consultants to the inclusion in this Prospectus of their letter on taxation of Pavilion REIT and Unitholders and their names in the manner, form and context in which it appear in this Prospectus have been given before the issue of this Prospectus and have not subsequently been withdrawn.
- (iv) The written consent of the Independent Property Valuer to the inclusion in this Prospectus of their Valuation Certificates and their names in the manner, form and context in which it appear in this Prospectus have been given before the issue of this Prospectus and have not subsequently been withdrawn.
- (v) The written consent of the Independent Property Market Consultant to the inclusion in this Prospectus of their Independent Property Market Report and their names in the manner, form and context in which it appear in this Prospectus have been given before the issue of this Prospectus and have not subsequently been withdrawn.

### **14.6 DOCUMENTS AVAILABLE FOR INSPECTION**

Copies of the following documents are available for inspection at the registered office of the Manager, for a period of 12 months from the date of this Prospectus:

- (i) the material contracts referred to in Section 14.2 "Material Contracts" of this Prospectus;
- (ii) the Deed;
- (iii) the Independent Property Valuation Certificate dated 19 October 2011 as set out in Appendix A of this Prospectus as well as the full valuation report dated 29 June 2011 for the Subject Properties;
- (iv) the Independent Property Market Report dated October 2011 set out in Appendix B of this Prospectus;
- (v) the Tax Consultant's Letter on Taxation of Pavilion REIT and Unitholders as set out in Appendix C of this Prospectus;
- (vi) the Reporting Accountants' Letter on the Consolidated Pro Forma Statement of Financial Position of Pavilion REIT as set out in Appendix D of this Prospectus;

#### **14. ADDITIONAL INFORMATION (Cont'd)**

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- (vii) the Reporting Accountants' Letter on the Profit Forecasts as set out in Appendix E of this Prospectus;
- (viii) the letters of consent referred to in Section 14.5 of this Prospectus; and
- (ix) the writ and cause papers in respect of the material litigation of the Trustee as referred to in Section 8.8 "Material Litigation and Arbitration" of this Prospectus, which shall only be made available at the Trustee's registered office.

#### **14.7 RESPONSIBILITY STATEMENTS**

- (i) This Prospectus has been reviewed and approved by the Directors and they collectively and individually accept full responsibility for the accuracy of the information. Having made all reasonable inquiries, they confirm to the best of their knowledge and belief, there are no false or misleading statements, or omission of other facts which would make any statement in the Prospectus false or misleading. The Directors accept full responsibility for the Profit Forecasts included in this Prospectus and confirm that the Profit Forecasts have been prepared based on the assumptions made.
- (ii) The information pertaining to the Trustee and the Property Manager were provided by the management and/or directors of the Trustee and the Property Manager. The responsibility of the Directors is therefore restricted to the accurate reproduction of such relevant information as included in this Prospectus.

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