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## THE TRUST DEED

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*The Trust Deed is a complex document and the following is a summary only. Investors should refer to the Trust Deed itself to confirm specific information or for a detailed understanding of Sunlight REIT. The Trust Deed is available for inspection at the registered office of the Manager at 30th Floor, 248 Queen's Road East, Wanchai, Hong Kong.*

### **The Trust Deed**

Sunlight REIT is a real estate investment trust constituted by the Trust Deed and regulated by the SFO, the REIT Code, Chapter 20 of the Listing Rules and the Listing Agreement.

The Trust Deed was entered into on 26 May 2006 between Uplite Limited as settlor, Henderson Sunlight Asset Management Limited as the manager of Sunlight REIT and HSBC Institutional Trust Services (Asia) Limited as the trustee of Sunlight REIT, and the same parties entered into two supplemental deeds to amend the Trust Deed on 1 June 2006 and 28 November 2006 respectively. Sunlight REIT was constituted by the Trustee holding HK\$100 in cash as assets of Sunlight REIT (settled by the settlor on the date of the Trust Deed) on trust for the benefit of the settlor and upon the issue of Units, the settlor shall cease to have any interests of any nature whatsoever in the assets of Sunlight REIT and the Trustee shall thereafter hold the assets of Sunlight REIT for the benefit of the Unitholders *pari passu* according to the number of Units held by each Unitholder.

The terms and conditions of the Trust Deed and any supplemental deed are binding on the Trustee and the Manager, as well as each Unitholder (and any other person with an interest in Sunlight REIT and any persons claiming through or under any such Unitholder) as if such Unitholder had been a party to and had executed the Trust Deed and any supplemental deed and had thereby covenanted for such Unitholder and all such other persons to observe and be bound by all the provisions of the Trust Deed and had authorised and required the Manager and the Trustee respectively to do all such acts and things as the Trust Deed may require or authorise the Trustee or the Manager (as the case may be) to do.

The provisions of the REIT Code prescribe certain terms of the Trust Deed and certain rights, duties and obligations of the Manager, the Trustee and the Unitholders under the Trust Deed.

### **REIT Structure**

Sunlight REIT is established in the form of an unit trust under Hong Kong law to invest in real estate (either directly or indirectly through REIT Group Companies). The Manager must manage Sunlight REIT so that the principal investments of Sunlight REIT are real estate. For further details of the investment policy and objective of Sunlight REIT, see the section headed "Strategy" in this Offering Circular. The assets of Sunlight REIT will be held by the Trustee on trust for the benefit of the Unitholders.

### **The Units and Unitholders**

The rights and interests of Unitholders are set out in the Trust Deed. Under the Trust Deed, the Trustee must exercise all due diligence and vigilance in protecting the rights and interests of Unitholders.

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The beneficial interest in Sunlight REIT is divided into Units. However, a Unitholder is not entitled to the transfer to it of or claim or exercise any right in respect of any asset (or any part thereof) or of any estate or interest in any assets (or any part thereof) of Sunlight REIT. Further, a Unitholder is not entitled to interfere or seek to interfere with the rights, powers, authority or discretion of the Trustee or the Manager to the extent those are exercised in accordance with the terms of the Trust Deed.

### Issue of Units and Issue Price

The Units will be listed and quoted in Hong Kong dollars. The following is a summary of the provisions of the Trust Deed relating to the issue of Units in Sunlight REIT.

The Manager has the exclusive right to effect for the account of Sunlight REIT, the creation and issue of Units in accordance with the Trust Deed. The issue of Units on the Listing Date for the purpose of the Offering shall be at an issue price determined on the basis disclosed in this Offering Circular.

After the Listing Date, new Units may be offered on a pro rata basis as a Rights Issue without the prior approval of Unitholders other than where any such issue increases the market capitalisation of Sunlight REIT by more than 50%, in which case such issue shall require the prior approval of Unitholders by Ordinary Resolution at a meeting to be convened by the Manager in accordance with the provisions of the Trust Deed. For this purpose, a “**Rights Issue**” means an offer on a pro rata basis to all existing Unitholders which, to the extent that such exclusion without obtaining the prior approval of Unitholders referred to above is not prohibited under the REIT Code, excludes for that purpose any Unitholder that is resident in a place outside Hong Kong provided the Manager considers such exclusion to be necessary or expedient on account either of the legal restrictions under the laws of the relevant place or the requirements of the relevant regulatory body or stock exchange in that place.

Subject to restrictions on new issues to connected persons, Units may be issued, or agreed (conditionally or unconditionally) to be issued, in any financial year (whether directly or pursuant to any Convertible Instruments), otherwise than pursuant to a Rights Issue as referred to above, without the approval of Unitholders, if:

- (i) the total number of new Units issued, or agreed (conditionally or unconditionally) to be issued, in that financial year pursuant to the general mandate, without taking into account:
  - (A) any new Units issued or issuable in that financial year pursuant to any Convertible Instruments issued (whether in that or any prior financial year) pursuant to and in compliance with the general mandate, to the extent that such new Units are covered by the aggregate number of new Units contemplated under paragraph (ii) below at the Relevant Date applicable to the relevant Convertible Instruments or were previously taken into account in the calculation made under this paragraph (i) (whether in that or any prior financial year) at any time after such Relevant Date;
  - (B) such number of new Units issued or issuable pursuant to any such Convertible Instruments or any agreement referred to in paragraph (i)(C) below, in each case as a result of adjustments arising from the consolidation or sub-division or re-designation of Units;

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- (C) any new Units issued in that financial year pursuant to any agreement for the issuance of Units, to the extent that such new Units were previously taken into account in the calculation made under this paragraph (i) (whether in that or any prior financial year) at the Relevant Date applicable to that agreement; and/or
- (D) any new Units issued, or agreed (conditionally or unconditionally) to be issued, otherwise than pursuant to a Rights Issue as referred to above and in respect of which the specific prior approval of Unitholders in accordance with the relevant requirements hereunder and under applicable laws and regulations (including the REIT Code) has been obtained;

plus (to the extent not included in paragraph (i) above):

- (ii) (A) the maximum number of new Units issuable at the Initial Issue Price (as defined below) pursuant to any Convertible Instruments issued, or agreed (conditionally or unconditionally) to be issued, otherwise than pursuant to a Rights Issue as referred to above and whose Relevant Date falls within that financial year; and
- (B) the maximum number of any other new Units which may be issuable pursuant to any such Convertible Instruments as at the Relevant Date thereof as estimated or determinable by the Manager in good faith and using its best endeavours and based on such assumptions as may be considered appropriate by the Manager and confirmed in writing to the Trustee and the SFC, having regard to the relevant terms and conditions of such Convertible Instruments (including any additional new Units issuable under any adjustment mechanism thereunder other than adjustments arising from the consolidation or sub-division or re-designation of Units),

does not increase the number of Units that were outstanding at the end of the previous financial year (or, in the case of an issue of, or an agreement (whether conditional or unconditional) to issue, Units or Convertible Instruments during the first financial year, the number of Units that were outstanding as at the Listing Date) by more than 20% (or such other percentage of outstanding Units as may, from time to time, be prescribed by the SFC) (the “**Percentage Threshold**”), provided that such threshold in terms of number of Units shall in the event of any consolidation or sub-division or re-designation of Units during that financial year be proportionally adjusted to give effect to such consolidation, sub-division or re-designation of Units.

Any issue of, or any agreement (whether conditional or unconditional) to issue, new Units exceeding the Percentage Threshold shall require specific prior approval of Unitholders by Ordinary Resolution, except that agreements to issue new Units exceeding such Percentage Threshold which are conditional upon specific prior approval of Unitholders by Ordinary Resolution may be entered into without first obtaining such prior approval.

After the Listing Date, and for so long as the Units are admitted for trading on the Hong Kong Stock Exchange, the Manager, subject to the provisions in the Trust Deed regarding Rights Issue as referred to above, may effect or agree to effect the issue of Units (whether directly, or pursuant to any Convertible Instruments) on behalf of Sunlight REIT (either for cash or other consideration) on any Business Day at an Issue Price per Unit that is equal to the market price or, in its discretion, at a discount of no more than

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20% (or such other percentage as may, from time to time, be prescribed by the SFC) to the market price or at a premium (of any amount) to the market price. The Issue Price shall, in the case of any Convertible Instruments or agreements, mean the initial price per Unit at which Units are to be issued pursuant to such Convertible Instruments or agreements, before any adjustments which may apply thereunder (the “**Initial Issue Price**”). An issue of new Units at an issue price that is at a discount of more than 20% (or such other percentage as may, from time to time, be prescribed by the SFC) to the market price shall require specific prior approval of Unitholders by Ordinary Resolution. These restrictions do not apply to (a) any rights issue, bonus issue on a pro-rata basis or issue of Units in lieu of the payment of fees to the Manager pursuant to the Trust Deed; or (b) any issue of Units for cash consideration where the Manager can satisfy the SFC that Sunlight REIT is in a serious financial position and that the only way it can be saved is by an urgent rescue operation which involves an issue of Units at a discount of more than 20% (or such other percentage as may, from time to time, be prescribed by the SFC) to the market price or that there are other exceptional circumstances. For these purposes, “market price” means the price as determined by the Manager, being the higher of:

- (i) the closing price of the Units on the Hong Kong Stock Exchange on the date of the relevant agreement or other instrument for (A) the proposed issue of Units, or (B) the proposed issue of any Convertible Instruments; and
- (ii) the average of the closing prices of the Units on the Hong Kong Stock Exchange in the ten (10) trading days immediately prior to the earliest of:
  - (A) the date of announcement of (1) the proposed issue of Units, or (2) the proposed issue of any Convertible Instruments;
  - (B) the date of the relevant agreement or other instrument for (1) the proposed issue of Units, or (2) the proposed issue of any Convertible Instruments; and
  - (C) the date on which the issue price is fixed.

### **Repurchase or Redemption of Units**

Unitholders have no right to demand for the repurchase or redemption of their Units. The Trust Deed does not permit the Manager to repurchase or redeem any Units on behalf of Sunlight REIT until permitted to do so by the relevant codes and guidelines issued by the SFC from time to time. The Manager shall only effect any repurchase of Units in accordance with applicable codes and guidelines as may be issued by the SFC.

### **Minimum Prescribed Public Holdings**

The Manager shall use best efforts to ensure that a minimum of 25% (or such lower percentage as may be permitted by the SFC) of the outstanding Units are held in public hands. In the event that the Manager becomes aware that such percentage has fallen below 25% (or such lower percentage as may be permitted by the SFC) of outstanding Units, the Manager shall use its best efforts to restore the percentage of Units held in public hands to a minimum of 25% (or such lower percentage as may be permitted by the SFC) of outstanding Units.

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

The key rights of Unitholders include rights to:

- (a) receive income and other distributions attributable to the Units held;
- (b) receive audited financial statements and annual reports of Sunlight REIT; and
- (c) participate in the distribution of assets on the termination of Sunlight REIT by receiving a share of all net cash proceeds derived from the sale or realisation of the assets of Sunlight REIT less any liabilities, in accordance with their proportionate interests in Sunlight REIT at the date of termination of Sunlight REIT in accordance with the provision of the Trust Deed.

The Trust Deed contains provisions that are designed to limit the liability of a Unitholder to the amount paid or payable for any Unit. The provisions seek to ensure that if the consideration to acquire the Units held by a Unitholder has been fully paid, no such Unitholder, by reason alone of being a Unitholder, will be personally liable to indemnify the Trustee or any creditor of Sunlight REIT in the event that the liabilities of Sunlight REIT exceed its assets.

### **Investment Restrictions**

Subject to the restrictions and requirements of the REIT Code, the Manager shall ensure that investment restrictions are complied with by Sunlight REIT and by each REIT Group Company. Such restrictions include but are not limited to the following:

- (a) Sunlight REIT shall not invest in vacant land or engage or participate in any property development activities (excluding, for the avoidance of doubt, refurbishment, retrofitting and renovations);
- (b) Sunlight REIT shall not lend, assume, guarantee, endorse or otherwise become directly or contingently liable for or in connection with any obligation or indebtedness of any person, nor shall any part of the Deposited Property be used to secure the indebtedness of any person or any obligations, liabilities or indebtedness, without the prior written consent of the Trustee; and
- (c) Sunlight REIT shall not acquire any investment which involves the assumption of any liability that is unlimited.

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### **Amendment of the Trust Deed**

The Trustee and the Manager shall be entitled by any supplemental deed and, if so required, with the prior approval of the SFC, amend, vary, modify, alter or add to the provisions of the Trust Deed in such manner and to such extent as they may consider expedient for any purpose, provided that:

- (a) unless the Trustee certifies in writing that, in its opinion, such amendment, variation, modification, alteration or addition:
  - (i) does not materially prejudice the interests of the Unitholders, does not operate to release to any material extent the Trustee or the Manager from any responsibility to the Unitholders under the Trust Deed and does not increase the costs and charges payable out of the Deposited Property;
  - (ii) is necessary in order to comply with applicable fiscal, statutory or official requirements (whether or not having the force of law); or
  - (iii) is necessary to correct a manifest error,

no such amendment, variation, modification, alteration or addition shall be made without the sanction of a Special Resolution; and

- (b) no such amendment, variation, modification, alteration or addition shall impose upon any Unitholder any obligation to make any further payments in respect of his Units or to accept any liability in respect thereof.

### **Meeting of Unitholders**

Under the provisions of the Trust Deed, the Manager will at least once in every calendar year convene a general meeting of Unitholders as the annual general meeting of Sunlight REIT.

In addition, the Trustee or the Manager may respectively (and the Manager shall, at the request in writing of not less than two Unitholders registered as together holding not less than 10% of the Units for the time being in issue and outstanding) at any time convene a meeting of Unitholders at such time or place in Hong Kong in accordance with the provisions of the Trust Deed.

A meeting of Unitholders when convened may, by Special Resolution and in accordance with the Trust Deed:

- (a) sanction any modification, variation, alteration or addition to the Trust Deed which shall be agreed by the Trustee and the Manager as provided in the Trust Deed;
- (b) remove the Trustee;
- (c) remove the Manager;

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- (d) approve the disposal of an investment within two years from the date of its acquisition;
- (e) approve the termination of Sunlight REIT;
- (f) approve the merger of Sunlight REIT;
- (g) change the investment policies and objective of Sunlight REIT; and
- (h) approve any change to the maximum remuneration under the Trust Deed which are payable to the Trustee or the Manager (other than the Trustee's Additional Fee referred to below), or any change to the structure of the Trustee's or Manager's remuneration.

Any decision to be made by resolution of Unitholders other than the above shall be made by Ordinary Resolution, unless a Special Resolution is required by the REIT Code or the provisions of the Trust Deed.

At least 14 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of the meeting shall be given to Unitholders in the manner provided in the Trust Deed, except that at least 21 days' notice (exclusive of the day on which the notice is served or deemed to be served and of the day for which the notice is given) of the meeting shall be given to the Unitholders where a Special Resolution is proposed for consideration at such meeting. Each notice shall specify the place, day and hour of the meeting and the terms of any resolution to be proposed. A copy of the notice shall be sent by post to the Trustee, unless the meeting is convened by the Trustee in which case a copy of the notice shall be sent by post to the Manager. No resolution passed or proceedings at any meeting shall be invalidated by the accidental omission to give notice to or the non-receipt of notice by any of the Unitholders.

Voting on resolutions at a meeting shall be by way of a poll. On a poll, every Unitholder who is present, by corporate representative or by proxy shall have one vote for each Unit of which he is a Unitholder provided such Unit(s) is (are) fully paid up. However, (a) Unitholder(s) shall be prohibited from voting his (their) own Unit(s) at, or being counted in the quorum for, a meeting at which he (they) has (have) a material interest in the business to be conducted and that interest is different from the interests of other Unitholders as determined by the Manager (where the Unitholder(s) concerned is (are) not connected persons of the Manager under the REIT Code) or the Trustee (where the Unitholder(s) concerned is (are) connected persons of the Manager under the REIT Code) in accordance with the provisions of the Trust Deed. The Trust Deed does not contain any limitation on non-Hong Kong residents or foreign Unitholders holding Units or exercising the voting rights with respect to their unitholdings.

The instrument appointing a proxy and (if required by the Manager) the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited at the place specified in the notice convening the meeting or in any notice of any adjournment or, in either case, in any document sent therewith (or, if no such place is specified, at the registered office of the Unit Registrar) not less than 48 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll taken subsequently to the date of a meeting or adjourned meeting, not less than 48 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date stated in

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it as the date of its execution. Delivery of any instrument appointing a proxy shall not preclude a Unitholder from attending and voting in person at the meeting or poll concerned and, in such event, the instrument appointing a proxy shall be deemed to be revoked. A person appointed to act as a proxy need not be a Unitholder.

### **Powers, Duties and Obligations of the Trustee**

Under the Trust Deed, the powers, duties and obligations of the Trustee include (but are not limited to):

- (a) upon directions by the Manager (which direction shall not conflict with the Trust Deed, the REIT Code or any applicable laws or regulations), acquiring property as authorised investments on behalf of Sunlight REIT in accordance with the powers of investment contained in the Trust Deed;
- (b) holding the Deposited Property on trust for the benefit of the Unitholders;
- (c) overseeing the activities of the Manager for compliance with, amongst others, the Trust Deed; and
- (d) ensuring that all the investment activities carried out by the Manager are in line with the investment policy and objective of Sunlight REIT and the constitutive documents (as defined in the REIT Code) of Sunlight REIT, and are in the interests of the Unitholders.

The Trustee shall exercise all due diligence and vigilance in carrying out its functions and duties, and in protecting the rights and interests of Unitholders.

The Trustee may, upon the Manager's direction, arrange and incur liabilities (including but not limited to borrowings) and obligations on behalf of Sunlight REIT (and so as to bind the Deposited Property), and to create and grant security of any form or nature for or in respect of such liabilities and obligations and to perform and discharge such liabilities and obligations from the Deposited Property on behalf of Sunlight REIT, in all cases subject to the restrictions under applicable law and in the REIT Code and the Trust Deed.

The Trustee may also appoint an agent to exercise all or any of the trusts, powers and discretions vested in it by the Trust Deed provided that such delegation or appointment of an agent shall be approved by the Manager in advance and subject to such terms and conditions of the delegation or appointment as the Trustee may think fit.

Although the Trustee may, upon the written request of the Manager, borrow or raise money for the purpose of Sunlight REIT both on a secured and unsecured basis, the Manager must not direct the Trustee to incur any borrowing if to do so would mean that the aggregate borrowings of Sunlight REIT exceed 45% (or such other higher or lower percentage as may be permitted by the REIT Code or as may be specifically permitted by the relevant authorities) of the total gross asset value of the Deposited Property as set out in Sunlight REIT's latest published audited accounts immediately prior to such borrowing being effected (subject to adjustments contemplated by the Trust Deed).

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### **Trustee's Right to Reimbursement**

Subject to the REIT Code and all applicable laws, rules and regulations, the Trustee is entitled to apply, or to be reimbursed from, the Deposited Property (at such times and over such periods as the Trustee and the Manager may determine in any particular case) for all liabilities, fees, costs, charges and expenses that may be properly suffered or incurred by the Trustee in the performance of its obligations or the exercise of its powers under the Trust Deed, or otherwise arising out of or in connection with, amongst others, the Trust Deed or other constitutive documents (as defined in the REIT Code) of Sunlight REIT (including but not limited to the costs of insurance in relation to the liabilities of the directors and officers of the REIT Group Companies and all costs, fees and expenses (including but not limited to all roadshow, advertising, promotion and marketing-related expenses) in connection with any offering or issue of Units).

### **Limitation of Trustee's Liability**

In the absence of fraud, negligence, wilful default, breach of trust or breach of the Trust Deed, the constitutive documents (as defined in the REIT Code) to which the Trustee is a party, the REIT Code, or relevant law and regulations by the Trustee (including its directors, employees, agents and delegates), the Trustee shall not be in any way responsible to Sunlight REIT, the Unitholders, the Manager or any person for any loss, costs, damage or inconvenience that may result from the exercise or non exercise of its powers. In addition, save to the extent where the resulting loss or damage arises out of or is caused by or is attributable to the fraud, negligence, wilful default, breach of the Trust Deed, or a breach of trust, the constitutive documents (as defined in the REIT Code) to which the Trustee is a party, the REIT Code, or relevant law and regulations by the Trustee (including its directors, employees, agents and delegates), the Trustee shall have no liability for any act or omission of the Manager, the Unit Registrar, any approved valuer or any REIT Group Company or any directors of the foregoing, provided that any such liability of the Trustee shall not exculpate the Manager, the Unit Registrar, any approved valuer or any REIT Group Company or any directors of the foregoing from their own liabilities to Sunlight REIT for any act or omission provided herein. Further, in the absence of fraud, negligence, wilful default, breach of the Trust Deed, or breach of trust, the constitutive documents (as defined in the REIT Code) to which the Trustee is a party, the REIT Code, or relevant law and regulations by the Trustee (including its directors, employees, agents and delegates), any liability incurred and any indemnity to be given by the Trustee shall be limited to the Deposited Property over which the Trustee has recourse.

### **Trustee's Right of Indemnity out of Deposited Property**

Subject to the provisions of the Trust Deed and without prejudice to any right of indemnity at law given to the Trustee, the Trustee and any director, employee, servant and agent of the Trustee will be indemnified out of, and shall be entitled for the purpose of indemnity to have recourse to, the Deposited Property or any part thereof against any actions, costs, claims, damages, expenses or demands to which it may be put as Trustee and as director, employee, servant and agent of the Trustee save where such action, cost, claim, damage, expense or demand is occasioned by the fraud, negligence, wilful default, breach of trust or breach of the Trust Deed, the constitutive documents (as defined in the REIT Code) to which the Trustee is a party, the REIT Code, or relevant law and regulations by the Trustee or any director, employee, servant, agent or delegate of the Trustee.

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### Retirement or Removal of the Trustee

The Trustee may retire or be removed under the following circumstances:

- (a) The Trustee shall not be entitled to retire except upon the appointment (with, for so long as Sunlight REIT is authorised by the SFC, the prior written consent of the SFC) of a new trustee. The retirement of the Trustee shall take effect at the same time as the appointment of the new trustee.
- (b) The Trustee may be removed by prior notice in writing to the Trustee by the Manager:
  - (i) if the Trustee goes into liquidation (except a voluntary liquidation for the purpose of reconstruction or amalgamation upon terms previously approved in writing by the Manager) or if a receiver is appointed over any of its assets or if a judicial manager is appointed in respect of the Trustee (or any analogous process occurs or any analogous person is appointed in respect of the Trustee);
  - (ii) if the Trustee ceases to carry on business; or
  - (iii) if the Unitholders by a Special Resolution duly passed at a meeting of Unitholders held in accordance with the provisions of the Trust Deed and of which not less than 21 days' notice has been given to the Trustee and the Manager shall so decide.

### Trustee's Fees

Sunlight REIT will pay the Trustee an one-off inception fee of not more than HK\$200,000 and, in each financial year, an annual fee of such amount as agreed between the Manager and the Trustee from time to time of not more than 0.03% per annum of the value of the Deposited Property as at the end of such financial year (which may be increased to a maximum of 0.06% per annum of the value of the Deposited Property), subject to a minimum of HK\$50,000 per month ("Trustee's Annual Fee"). Such remuneration of the Trustee will be payable out of the Deposited Property quarterly in arrears within 30 days after the last day of every calendar quarter by reference to the unaudited quarterly management accounts of Sunlight REIT, subject to adjustment according to the provisions of the Trust Deed.

The Trustee's Annual Fee for a broken period will be pro-rated on a time basis. The Trustee's Annual Fee for the period from the date of commencement of Sunlight REIT to the day immediately before the Listing Date (both days inclusive) shall be the minimum fee of HK\$50,000 per month pro-rated on a time basis.

If the Trustee finds it expedient or necessary or is requested by the Manager to undertake duties of an exceptional nature or otherwise outside the scope of the Trustee's normal duties in the ordinary and normal course of business of Sunlight REIT, including but not limited to any services in relation to the acquisition of or divestment or disposal of any real estate by Sunlight REIT after the Offering, the Trustee is entitled to charge, out of the Deposited Property, such fees on a time cost basis as agreed with the Manager ("Trustee's Additional Fees"), provided that, unless otherwise approved by the Unitholders by way of an Ordinary Resolution:

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- (i) the aggregate amount of Trustee's Additional Fees that may be charged by the Trustee in relation to each transaction to be entered into by Sunlight REIT shall not exceed 0.05% of (a) the acquisition price (in the case of an acquisition of real estate whether directly or indirectly by Sunlight REIT); or (b) the sale price (in the case of a sale or disposal of real estate whether directly or indirectly held by Sunlight REIT); and
- (ii) the aggregate amount of Trustee's Additional Fees that are not related to any acquisition or sale or disposal of real estate as referred to in (i) above that may be charged by the Trustee for each financial year shall not exceed an amount equal to 20% of the Trustee's Annual Fee for that financial year.

Such fees in connection with the Offering and related acquisition of the Properties form part of the inception fee as mentioned above and the Trustee shall not charge any additional fees for services provided in connection therewith.

The Trustee and the Manager may, by giving not less than one month's prior written notice to Unitholders, increase the rate of the Trustee's Annual Fee up to and including the maximum percentage of 0.06% per annum of the value of the Deposited Property without obtaining Unitholders' approval. Any increase in the maximum rate of the Trustee's Annual Fee or any change to the structure of the Trustee's remuneration may only be permitted by Special Resolution at a Unitholders' meeting convened in accordance with the provisions of the Trust Deed.

### **Termination of Sunlight REIT**

Sunlight REIT will terminate without Unitholders' approval in the event that the Units are not listed on the Hong Kong Stock Exchange by 31 January 2007 or such later date as may be agreed in writing between the Manager and the Trustee. Otherwise, Sunlight REIT will continue until the expiration of 80 years less one day from the date of commencement of Sunlight REIT as provided in the Trust Deed, being 25 May 2086, or until it is terminated in the manner described below or as set out in the sub-section headed "Merger of Sunlight REIT" below unless it is wound up by a court order or otherwise terminated by the operation of law.

Under the provisions of the Trust Deed, Sunlight REIT may be terminated by Special Resolution in accordance with the provisions of the Trust Deed.

Where a proposal to terminate Sunlight REIT is recommended by the Manager, the Manager and its connected persons shall abstain from voting if they hold interests in the Units and if their interest (as determined by the Trustee) in terminating Sunlight REIT is different from that of all other Unitholders, except where the Manager and its connected persons are the only Unitholders. The Trustee will have no liability for any consequences arising out of such termination recommended by the Manager and approved by Special Resolution in the absence of fraud, negligence, wilful default or breach of trust, the Trust Deed or relevant law. The Manager will inform Unitholders as soon as reasonably practicable of the intention to terminate Sunlight REIT by way of an announcement.

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The Manager will serve on the Unitholders, within 21 days of the announcement of the termination of Sunlight REIT, a circular convening an extraordinary general meeting containing the following information:

- (a) the rationale for the termination of Sunlight REIT;
- (b) the effective date of the termination;
- (c) the manner in which the Deposited Property is to be dealt with;
- (d) the procedures and timing for the distribution of the proceeds of the termination;
- (e) a valuation report of Sunlight REIT prepared by an approved valuer which is dated not more than three months before the date of the circular;
- (f) the alternatives available to Unitholders;
- (g) the estimated costs of the termination and the bearer of such costs; and
- (h) such other material information that the Manager determines that the Unitholders should be informed of.

Upon approval of the proposal to terminate Sunlight REIT, the Trustee will oversee the realisation of the assets of Sunlight REIT by the Manager (which the Manager shall effect as soon as practicable). Following such disposal and the distribution of the proceeds (if any) thereof, Sunlight REIT will terminate.

In the event that the Manager is removed and no new manager duly qualified under the REIT Code and acceptable to the SFC is willing to take the place of the existing Manager within 60 days of the removal of the Manager (or such longer period as the Trustee considers appropriate), the Trustee may terminate Sunlight REIT.

### **Merger of Sunlight REIT**

Sunlight REIT can be merged subject to specific prior approval of the Unitholders by Special Resolution at a meeting to be convened by the Manager in accordance with the provisions of the Trust Deed.

Where the proposal to merge Sunlight REIT is recommended by the Manager, the Manager and its connected persons who hold interests in the Units shall abstain from voting if their interest (at the sole determination of the Trustee) in merging Sunlight REIT is different from that of all other Unitholders. Where upon any such merger the Trustee retires, any deed effecting the merger by which the Deposited Property and liabilities of Sunlight REIT are so merged shall include indemnification of the Trustee to its satisfaction. The Trustee shall cease to be liable for obligations and liabilities of Sunlight REIT subsisting at the time of merger to the extent such obligations and liabilities are subsequently discharged from and

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out of the merged entity, and shall have no other liability for the consequences arising out of any merger of Sunlight REIT which is recommended by the Manager and approved by Special Resolution (other than any liability arising from the fraud, negligence, wilful default or breach of trust, the Trust Deed or relevant law by the Trustee).

The Manager will inform Unitholders by way of an announcement as soon as reasonably practicable of the intention to merge Sunlight REIT. The Manager will send a circular to the Unitholders within 21 days of such announcement, including the following information therein:

- (1) the rationale for the merger of Sunlight REIT;
- (2) the effective date of the merger;
- (3) the manner in which the Deposited Property is to be dealt with;
- (4) the procedures and timing for the issuance or exchange of new Units arising from the merger;
- (5) a valuation report of Sunlight REIT prepared by an approved valuer which is dated not more than three months before the date of the circular;
- (6) the alternatives available to Unitholders;
- (7) the estimated costs of the merger and the bearer of such costs; and
- (8) such other material information that the Manager determines that Unitholders should be informed of.

Any merger pursuant to the provisions of the Trust Deed may only take effect upon the successor entity assuming responsibility for the performance and discharge of all obligations and liabilities of Sunlight REIT subsisting at the time of merger.

### **Deemed Application of Part XV of the SFO**

Subject to certain exceptions and modifications, the Trust Deed deems the provisions of Part XV of the SFO to have effect, *mutatis mutandis*, and binding on the Manager, the directors and chief executive officer of the Manager and on each Unitholder and all persons claiming through or under such person (including, without limitation, each CCASS participant to whose account any Units are for the time being credited by HKSCC) as if:

- (a) Sunlight REIT is a “listed corporation” for the purposes of Part XV of the SFO;
- (b) the references in Part XV of the SFO to the “relevant share capital” of such listed corporation were references to:
  - (i) the Units which are issued and outstanding from time to time; and

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- (ii) the Units which the Manager has agreed to issue, either conditionally or unconditionally, from time to time;
- (c) a Unit is a share comprised in the relevant share capital of such listed corporation;
- (d) a person who is interested in a Unit is interested in a share in the relevant share capital of such listed corporation;
- (e) the Manager itself is a director of such listed corporation;
- (f) the Directors and chief executive of the Manager are the directors and chief executive respectively of such listed corporation;
- (g) “**percentage level**”, in relation to a notifiable interest, means the percentage figure found by expressing the aggregate number of Units in which the person is interested immediately before or (as the case may be) immediately after the relevant time as a percentage of all the Units in issue at the relevant time as published by the Manager and rounding that figure down (if it is not a whole number) to the next whole number;
- (h) “**percentage level**”, in relation to a short position, means the percentage figure found by expressing the aggregate number of Units in which the person has a short position immediately before or (as the case may be) immediately after the relevant time as a percentage of all the Units in issue at the relevant time as published by the Manager and rounding that figure down (if it is not a whole number) to the next whole number.

A reference to:

- (a) an interest in Units of a person shall be construed in the same manner as an interest in shares under section 322 of the SFO;
- (b) a short position in Units of a person shall be construed in the same manner as a short position in shares under sections 308 and 322 of the SFO;
- (c) an interest in Units of the Manager or a director or chief executive of the Manager (as the case may be) shall be construed in the same manner as an interest in shares under section 346 of the SFO;
- (d) a short position in Units of the Manager or a director or chief executive of the Manager (as the case may be) shall be construed in the same manner as a short position in shares under sections 308 and 346 of the SFO.

Where a duty of disclosure arises by virtue of the deemed application of Part XV of the SFO, the relevant person shall give notice to the Manager and the Hong Kong Stock Exchange.

If a person who has a duty of disclosure under the code for disclosure of interests in the Units adopted by the Manager and the relevant provisions of the Trust Deed fails to comply with such notification

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requirements in accordance with the code for disclosure of interests in the Units adopted by the Manager and the provisions of the Trust Deed, irrespective of whether that person is a Unitholder or not, the Units in which that person is (or is deemed to be) interested in (“Affected Units”) shall be subject to the relevant provisions of the code for disclosure of interests and the Trust Deed. When the person interested in the Affected Units is a person other than the Manager, the Manager may, in its absolute discretion, take any or all of the following actions in respect of any or all of the Affected Units:

- (a) declare that the voting rights attached to any or all of the Affected Units to be suspended (and, upon such declaration, such voting rights shall be suspended for all purposes in connection with Sunlight REIT);
- (b) suspend the payment of any distributions in respect of any or all of the Affected Units (and, upon such suspension, any such distributions shall be retained in a trust account in the name of Sunlight REIT pending the application of such distributions);
- (c) impose an administrative fee of up to HK\$0.10 per Affected Unit for each day of non-compliance from the date on which disclosure is due to be made by the person; and
- (d) suspend registration and/or decline to register any transfer of part or all of the Affected Units, until the relevant provisions of the Trust Deed are fully complied with to the satisfaction of the Manager.

The administrative fee referred to above shall be retained by the Manager for its use as it sees fit. If such fee is not paid by the relevant Unitholder or any other person, the Manager may (in its absolute discretion) withhold and deduct such fee from any distributions to be made in respect of the relevant Affected Units (and, pending the recovery of such fee, the Manager may (in its absolute discretion) exercise any of its rights set out above). To the extent that any money is held in the trust account referred to above, the Manager may apply such money against any such fee imposed in respect of the relevant Affected Units.

Irrespective of whether any Unitholder is in default of the relevant provisions of the Trust Deed, each Unitholder shall be bound by the decision of the Manager and his/her Units shall be bound by such decision if the Manager declares (in its absolute discretion) that any or all of such Units are (or are deemed to be) Affected Units.

Where the person interested in the Affected Units is the Manager:

- (a) the Trustee may exercise the powers of the Manager in sub-paragraphs (a) to (d) above in respect of any or all of the Affected Units;
- (b) the Trustee may exercise the powers of the Manager above to retain the administrative fee for the benefit of Sunlight REIT and to take action if the fee is not paid; and
- (c) irrespective of whether the Manager is in default of the relevant provisions of the Trust Deed, the Manager shall be bound by the decision of the Trustee and its Units shall be bound by such decision if the Trustee declares (in its absolute discretion) that any or all of such Units are (or are deemed to be) Affected Units.

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Under the Trust Deed, each Unitholder and all persons claiming through or under him expressly acknowledge and agree to the grant of the rights and powers set out above to the Manager and the Trustee and agree to be bound by any action taken by the Manager or the Trustee (as the case may be) pursuant thereto in good faith.

Investors are urged to familiarise themselves with the provisions in relation to their duty of disclosure in the Trust Deed and the deemed application of Part XV of the SFO. The forms for notification shall be the same as those required with respect to “interests” and “short positions” under Part XV of the SFO (subject to any modification as may be prescribed by the Trustee and the Manager from time to time, which modification shall also be subject to the prior consent of the SFC).