

# WINGATE

A CapitalLand Investment Group Company

Wingate Property Senior Debt Fund

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**Trustee:** Wingate Financial Services Pty Ltd ABN 69 106 480 602, AFSL 276899

**Manager:** Wingate Property Funds Management Pty Ltd ACN 612 109 556

## Representations and Warranties, Declarations and Acknowledgements

By submitting an application for Units (**Application**), you are making the following representations, warranties and declarations to the Trustee and the Manager (**Issuer**) and agree with the Issuer to be bound by the application.

### 1. Representations and warranties

#### A. Capacity, powers and terms

- (a) You have read and agree to be bound by the Trust Deed, Investment Overview and this Application (**Constituent Documents**) as amended from time to time.
- (b) You have the power and authority to execute, deliver and perform your obligations under the Constituent Documents, and to subscribe for the Units hereunder.
- (c) The execution and delivery of the Constituent Documents will not conflict with, or result in any default under, any provision of any agreement or instrument to which you are bound.
- (d) The Constituent Documents are your legal, valid and binding obligations, enforceable against you in accordance with their respective terms.
- (e) You and any person that subscribes for or acquires Units in the Fund on your behalf under this Application is a wholesale client (as defined in the *Corporations Act 2001* (Cth)) and the Units are being acquired for your own account for investment purposes unless otherwise disclosed to the Issuer in writing.
- (f) You confirm that you have the financial capacity to hold the Units for the term of the Fund, and bear associated risks and obligations and meet all further calls on your unpaid Application Amount.
- (g) You confirm that all details in this Application are true and correct as of the date hereof.

#### B. Sophisticated investor with understanding

You are a sophisticated investor and acknowledge that:

- (a) an investment in the Fund is speculative and subject to material risk including loss of all invested capital and an obligation to pay uncalled Application Amount;
- (b) an investment in the Fund is illiquid; and

- (c) there can be no expectation of returns other than through the distribution of proceeds from the realisation of portfolio investments, and you have taken this into account in deciding to invest.

### **C. Reliance**

You acknowledge and understand that you have relied in every respect on your own independent investigation, enquiries and appraisals in deciding to subscribe for Units and you have not relied on any representations or warranties made by the Issuer or any of their officers, directors, advisers, associates, affiliates or representatives (including placement agents and legal counsel) (each a **Relevant Person**) in connection with the Fund or the performance of the Fund other than those contained in the Constituent Documents.

### **D. Default**

You acknowledge and understand that if you fail to pay calls on your Application Amount when determined and requested by the Manager, interest on the unpaid instalment will be charged to you and the Manager may, pursuant to the Constituent Documents, sell, redeem or forfeit your Units in which event monies paid up previously by you in respect of the Units may be entirely forfeited.

### **E. Accountant's certificate**

If applicable, you have provided the Manager with an accountant's certificate which is true and correct and is less than 2 years old indicating that you have either net assets of at least A\$2.5 million or a gross income for each of the last 2 financial years of at least A\$250,000 a year.

### **F. Prevention of money laundering**

You represent that the Units are or will be purchased with funds that are from legitimate sources. You are not aware and have no reason to suspect:

- (a) that the monies used to fund your investment in the Fund have been or will be derived from or related to proceeds of crime, money laundering, terrorism financing or similar activities illegal under applicable laws or regulations or otherwise prohibited under any international convention or agreement; and
- (b) the proceeds of your investment in the Fund will not be used to finance any illegal activities.

## **2. Confidentiality and Personal Information**

### **A. Confidentiality**

You agree that you shall not disclose or cause to be disclosed any confidential proprietary information concerning the Fund or Relevant Persons to any person or use any such confidential information for your own purposes or your own account, except as permitted under the Constituent Documents.

### **B. Personal Information**

- (a) You agree to us collecting, holding and using your personal information and consent to it being used for:
  - (i) administration purposes and in relation to your holding and all transactions relating to the holding and for providing or marketing products and services to you;
  - (ii) ensuring compliance with all applicable regulatory or legal requirements including the requirements of regulatory bodies or relevant exchanges including the requirements of the superannuation law; and

(iii) any other purpose prescribed in the Constituent Documents.

We may not be able to process or accept your application or you may be compulsorily redeemed from the Fund in accordance with the Constituent Documents if you do not provide this and other information required under the Constituent Documents or to comply with applicable laws.

- (b) You agree that Relevant Persons and their service providers may disclose any of the information contained in this application and any other information you furnish to any of them to their agents, contractors or third party service providers as otherwise required or permitted by law and permitted under the Constituent Documents.
- (c) If you decide not to provide to the Manager your tax file number or Australian Business Number or your reason for exemption, tax at the highest marginal tax rate plus Medicare levy (where applicable) may be deducted from your income as required by the tax legislation.
- (d) You agree to provide the Manager with any information it reasonably requests to assist it in fulfilling its tax or legal obligations and in connection with obtaining any exemption, reduction or refund of any withholding or other taxes imposed upon the Manager or the Fund.

### **3. Covenants and declarations**

- (a) You agree that the obligation under the Constituent Documents to pay or indemnify any amounts that the Manager is required to withhold or pay with respect to you or on your behalf will survive your withdrawal from the Fund or the termination or dissolution of the Fund.
- (b) You acknowledge and agree that the Manager reserves the right in its absolute discretion to allocate Units or to not accept or to scale back an application for Units in its absolute discretion and to cancel the offer of Units.
- (c) You acknowledge and agree that to the extent there is any variance or inconsistency between any of the Constituent Documents and any other document or agreement relating to the Fund, the Trust Deed shall prevail.
- (d) You acknowledge and agree that subscription monies will be held in an account which may be interest bearing until invested in the Fund (or returned to you). Interest (if any) will be paid to the Fund.

### **4. Additional applications**

You agree that:

- (a) all of the representations and warranties contained in this application are deemed repeated and reaffirmed by you on each date that you acquire additional Units;
- (b) all of your covenants and agreements contained in this application apply with respect to such additional Units; and
- (c) you must notify the Manager if you are not able to repeat and reaffirm the representations and warranties in the Constituent Documents or such representations and warranties cease to be true.

### **5. Survival of representations and warranties; Indemnity**

- (a) You indemnify, keep indemnified and hold harmless the Fund and each Relevant Person from and against any and all claims, liabilities and losses relating to or arising out of any breach of

any representation, warranty or declaration made by you in this application or in any other document provided by you to the Trustee and/or Manager in connection with your investment, or any failure to fulfil any covenants or agreements contained in the Constituent Documents.

- (b) You confirm your obligation under the Constituent Documents to pay or indemnify any amounts that the Issuer is required to withhold or pay with respect to you or on your behalf. You agree that this obligation will survive your withdrawal from the Fund or the termination or dissolution of the Fund.

## **6. Transfer and Assignments**

- (a) You understand and acknowledge that Units can only be transferred and redeemed subject to the Constituent Documents.
- (b) You agree that neither this Application, nor any of your rights or interests contained in any Constituent Document, are transferable or assignable except in a manner permitted under the Constituent Documents.

## **7. Subscribing for Units on behalf of another**

- (a) If you are subscribing for Units as trustee, agent, representative, custodian, sub-custodian or nominee, you understand and acknowledge that the representations, warranties and agreements made herein are made by you:
  - (i) with respect to you; and
  - (ii) with respect to such underlying applicant (this subclause does not apply to a trust which has two or more members).
- (b) You have all requisite power and authority from such underlying applicant(s) to apply for the Units and perform the obligations under this application. If you are not subscribing for Units on your own account, you agree to provide any additional documents and information that the Issuer may reasonably request.

## **8. Referrals**

You acknowledge and agree that:

- (a) From time-to-time Wingate may make an introducer fee payment to a referral party. This is at the discretion of Wingate. If they elect to make this payment, the referral party that introduced you to Wingate will receive a payment based on a percentage of the initial sum you have invested. These fee(s) payables will be made by Wingate, and not by the Fund. This payment will not affect the performance of the Fund.
- (b) Wingate Group may also elect to pay:
  - (i) a recurring fee to the referral party;
  - (ii) an additional fee to the referral party in the event you choose to make additional top ups to your initial investment; and/or
  - (iii) an additional fee to the referral party for any subsequent new investments made by you.

- (c) By submitting this application, you confirm that you have had the opportunity to speak to your Wingate Relationship Manager about any queries that you have and understand and consent to fees being paid to a referral party.

**9. Limitation of liability**

The Issuer has made the Offer only in their capacity as manager or trustee of the Fund (as the case may be). You agree not to bring proceedings against the Issuer in their personal capacity or seek to wind up, dissolve or appoint an administrator, manager, receiver, liquidator or similar to the Issuer or its assets except to the extent allowed under the Constituent Documents. You agree that any liability of the Issuer is several and not joint.