

Trust deed

Samuel Terry Absolute Return Fund

Samuel Terry Asset Management Pty Ltd

ABN 71 108 611 785 (**Trustee**)

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DETAILS

Date

PARTY

Name **Samuel Terry Asset Management Pty Ltd**

Short form name **Trustee**
ABN 71 108 611 785

Notice details
120B Underwood Street, Paddington 2021
Attention Mr Fred Woollard

TERMS

1 Defined terms & interpretation

1.1 Defined terms

In this deed:

Accrual Time means the time determined by the Trustee as to which the number of Units on issue is calculated for the purpose of making a distribution under clause 36.2.

A - IFRS means the Australian Accounting Standards Board standards relating to the International Financial Reporting Standards on Managed Investment Schemes.

Application Transaction Costs has the meaning given to it in clause 13.3.

Application Money means any form of valuable consideration received by the Trustee for Units and any application fee and other moneys paid upon application for any Application Units or Units.

Application Unit means a Unit in the Trust issued pursuant to clause 8.

Application Unit Holder means a person recorded on the Register as holder of an Application Unit.

ASIC means the Australian and Securities Investments Commission.

Attached Securities means a Security which is from time to time Stapled or to be Stapled to a Unit.

Business Day means a day that is not a Saturday, Sunday or public holiday in Sydney or Melbourne.

Business Hours means 9.00am to 5.00pm on a Business Day.

Calculation Period means the period in relation to which the relevant calculation is made.

Class Rights means the rights, liabilities, obligations and restrictions attaching to a class of Units as set out in this deed (including in Schedule 2) and in the offering documents issued by the Trustee in respect of the issue of Units in that class.

Corresponding Number means in relation to an Attached Security means at any time the number of those Attached Securities that are stapled to an issued Unit at that time.

Corporations Act means the *Corporation Act 2001* (Cth).

Distributable Amount means the distributable income of the Trust determined under clause 36.1 or while the Trust is an AMIT (as defined in clause 38.2) any amount distributable under clause 38.

Distribution Reinvestment means the re-investment in the Fund of distributions.

Entry Fee means a fee described as such in clause 32.5(a).

Exit Fee means a fee described as such in clause 32.5(b).

Final Call Date means the date specified in the first disclosure document of the Trust as being the last date by which the Trustee may make calls on Holders.

GST has the meaning given to it in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Holder means a holder of a Unit or Units.

Initial Minimum Investment means the amount determined by the Trustee from time to time as the minimum number of Units or value of Units for which application may be made by a new Holder.

Issue Price means the price at which a Unit is created and issued.

Meeting means a meeting of Holders, including Application Unit Holders, or a class of Holders or Application Unit Holders.

Minimum Balance means the amount determined by the Trustee from time to time as the minimum number of Units or value of Units to be held by a Holder.

Minimum Redemption Amount means an amount determined by the Trustee from time to time as the minimum number of Units or value of Units for which a Redemption Request may be made by a Holder.

Net Trust Value means the total value of the Trust Property as determined under clauses 11 and 12, less the Trust Liabilities. Net Trust Value may be calculated as appropriate on a class by class basis.

Ordinary Resolution means a resolution passed by a simple majority of votes cast by Holders (including Application Unit Holders) entitled to vote on the resolution.

Original Trust Deed means the trust deed dated 28th April 2003 by which the Trustee constituted the Trust, as amended from time to time, including by deed of 1st October 2003.

Paid Up Proportion means the proportion which the total of all amounts paid up on a partly paid Unit represent of the aggregate of the amounts which have been paid and which remain to be paid for that partly paid Unit to become a fully paid Unit.

Performance Fee means the performance fee calculated in accordance with clause 32.

Redemption Price means the price payable on the redemption of a Unit calculated under clause 14.3.

Redemption Request means a request by a Holder to the Trustee to redeem Units.

Redemption Transaction Costs has the meaning given to it in clause 14.4.

Register means the register of Holders and Application Unit Holders referred to in clause 22.

Security has the meaning given to that term in section 92(1) of the Corporations Act and includes a unit in a trust and a share in a company.

Special Resolution means a resolution passed by at least 75% of the votes cast by Holders (including Application Unit Holders) entitled to vote on the resolution.

Specified Time means a time specified by the Trustee from time to time under clause 9 for the purpose of accepting applications for, issuing or redeeming Units.

Stapled Entity means any trust, corporation, managed investment scheme or other entity the Securities in which are Stapled to Units of any class.

Stapled Security means a Unit and each Attached Security that are Stapled together.

Stapled Security Register means the register of Stapled Securities to be established and maintained by or on behalf of the Trustee in accordance with clause 28.7.

Stapling means the stapling of a Unit and an Attached Security so that each of them must trade together in accordance with the provisions of clause 28.

Stapling Date means the date determined by the Trustee to be the first day on which all Units on issue are Stapled to an Attached Security or Attached Securities.

Subsequent Minimum Investment means the amount determined by the Trustee from time to time as the minimum number of Units or value of Units for which application may be made by an existing Holder.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth) (as applicable).

Taxes means all taxes, including income, capital gains, recoupment, debits, land, sales, payroll, fringe benefits, group, profit, interest, property, undistributed profits, withholding, GST and wealth taxes, stamp, documentary, financial institutions, registration and other duties, municipal rates, and all other imposts, deductions and charges, related interest, penalties, charges, fees or other amounts assessed, charged, assessable or chargeable by or payable to any national, state or municipal taxation authority.

Termination Date means the date specified by the Trustee in the notice terminating the Trust under clause 29.1, or the effective date of a resolution under clause 29.2, as appropriate.

Terms of Issue means the terms applicable to any class of Units as set out in this deed (including in Schedule 2) and in the offering documents issued by the Trustee in respect of the issue of Units in that class.

Trust means Samuel Terry Absolute Return Fund.

Trust Administrator means Link Fund Solutions Pty Limited or such other entity as the Trustee appoints from time to time to conduct administration and unit pricing for the Trust and its Stapled Entities.

Trustee means the trustee of the Trust from time to time.

Trust Liabilities include borrowings, accrued costs, charges, expenses and outgoings, contingent liabilities, provisions the Trustee decides to make (including a provision for accrued management fees), unpaid distributions due to Holders and other unpaid remuneration (if any) due to the Trustee.

Trust Property means all property, rights and income of the Trust.

Unit means a beneficial interest in the Trust.

Unstapling Date means the date determined by the Trustee to be the Unstapling Date pursuant to clause 28.5.

Valuation Time means a time the Trustee calculates the Net Trust Value under clause 12.2.

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;

- (j) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (k) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it; and
- (l) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 **Headings**

Headings are for ease of reference only and do not affect interpretation.

2 The Trust

2.1 **Unit trust**

By the Original Trust Deed, the Trustee constituted a unit trust called Samuel Terry Absolute Return Fund.

2.2 **Benefit of the trust**

The Trust is constituted for the benefit of Holders.

2.3 **Trustee**

The Trustee is the trustee of the Trust.

2.4 **Deed binding**

This deed replaces the Original Trust Deed in its entirety and binds the Holders and the Trustee.

3 Application for registration of the Trust as a registered scheme

If an application for registration of the Trust as a registered scheme is made to ASIC, this deed is changed in accordance with Schedule 1 and any other changes determined by the Trustee to be necessary to register the Trust. This deed so changed is the constitution of the Trust for the purposes of the Corporations Act.

4 Duration

The Trust ends 80 years (less one day) after the date of the Original Trust Deed or at an earlier time provided by this deed or by law.

5 Vesting

The Trust Property vests in the Trustee on trust for the Holders.

6 Fund

6.1 Separate fund

The Trustee must hold the Trust Property as a separate fund which is not available to meet liabilities of any other trust. The Trustee may mingle Trust Property with other property to the extent legally permitted.

6.2 Trust Liabilities

Trust Liabilities are determined in accordance with generally accepted accounting principles or, if the Trustee considers that such principles are inappropriate in any case to provide an adequate view of the Trust Liabilities, on such other basis as the Trustee may determine acting reasonably.

7 Units

7.1 Beneficial interest

The beneficial interest in the Trust is divided into Units.

7.2 Rights of Holders

A Unit confers on its Holder an undivided beneficial interest in the Trust Property as a whole, subject to any Class Rights and the Trust Liabilities, not in parts or single assets. All Units confer identical interests and rights except as otherwise provided in this deed or by their respective terms of issue (including, for the avoidance of doubt, the Class Rights).

7.3 Dealing with Units

A Holder must not dispose of or otherwise deal with its Units other than in accordance with this deed. Any disposal or other dealing in a Holder's Units other than in accordance with this deed has no effect unless the Trustee determines otherwise.

7.4 Consolidation, division and issue of Units

The Trustee may at any time consolidate, divide, or issue Units, create and issue Units of different classes with such Class Rights as determined by the Trustee in its absolute discretion, or grant options to subscribe for Units. If the Trust has more than one class of Units in issue, Trust Liabilities may be determined and allocated by the Trustee on a class by class basis and the Trustee may, as appropriate, determine Trust Property to mean all the property, rights and income of the Trust properly attributable to that class of Units.

7.5 **Parts of Units**

A part of a Unit may be created and issued and dealt with in the proportion that the part bears to a whole Unit.

7.6 **Holders not to interfere**

A Holder may not interfere with, or seek to interfere with the rights, powers, authority or discretion of, the Trustee and has no right to lodge a caveat affecting any Trust Property or require that any part of the Trust Property be transferred to any Holder.

8 **Application Units**

8.1 **Issue of Application Units**

- (a) The Trustee may issue an Application Unit to a person at any time in response to an application, where the Issue Price of the Units to which the application relates cannot practicably be calculated at the relevant time.
- (b) The Trustee may issue different classes of Application Units with such Class Rights as determined by the Trustee in its absolute discretion.

8.2 **Nature of an Application Unit**

An Application Unit:

- (a) is an interest in the Trust (including for the purposes of the Corporations Act);
- (b) is taken to be issued when the Trustee records the person's name in the Register;
- (c) cannot be redeemed without the consent of the Trustee; and
- (d) subject to clause 8.3, entitles its holder to the rights (excluding economic rights) under this deed that would apply to a Holder holding the number of Units of the relevant class that is equal in value to the Application Money less any Application Transaction Costs.

8.3 **No entitlement to economic rights**

An Application Unit does not entitle the holder to any economic rights conferred by this deed including, without limitation, the right to participate in any Distributable Amount.

8.4 **Conversion of Application Units**

- (a) As soon as reasonably practicable after the number of Units to be issued in respect of the application is determined, the Trustee must convert an Application Unit into the number of Units that is equal to the amount of

Application Money, less any Application Transaction Costs, divided by the Issue Price for that class of Units determined by the Trustee.

- (b) The number of Units to be issued following the conversion of an Application Unit on issue during any period of suspension of new issues will be calculated using the Issue Price of Units next determined after the end of the period of suspension.

9 Specified Time

The Trustee may nominate (and whenever it elects, vary) days and times for the purposes of any or all of:

- (a) applications for Units;
- (b) the issue of Units; and
- (c) Redemption Requests,

different days and times being applicable to different locations or methods of communication or payment. The days and times relevant to applications, issues and to Redemption Requests may differ.

10 Applications

10.1 Application for Units

Except as otherwise provided in this deed, a person intending to subscribe for Units must:

- (a) give the Trustee an application in a form and manner approved by the Trustee on or before a Specified Time; and
- (b) pay the Application Money or transfer other property (or in the case of partly paid Units, that part of the Issue Price payable on application) to the Trustee or custodian (where there is one) in payment of any Entry Fee and by way of subscription for Units.

10.2 Payment in kind

A person intending to subscribe for Units may only transfer property (other than money) to pay for those Units, if:

- (a) the Trustee permits; and
- (b) the property is in a form permitted by the Trustee.

10.3 Trustee may deduct

The Trustee may deduct costs, expenses, outgoings and Taxes, incurred in

- (a) receiving consideration, and
- (b) calculating the value of Units or the Issue Price (including any amount referred to in clause 34(z),

for Units, from such consideration before issuing Units. Any Entry Fee is payable to the Fund and may be added to the Issue Price or deducted from it in the Trustee's discretion.

10.4 **Separate bank account**

The Trustee may hold Application Money for Units in a single account containing Application Money for one or more trusts.

10.5 **Trustee may set investment minimums**

The Trustee from time to time may determine and may vary the current Initial Minimum Investment, Subsequent Minimum Investment and Minimum Balance.

10.6 **Amount or value of consideration for Units**

The amount or value of the consideration for Units on application must equal or exceed the Initial Minimum Investment (or in the case of a subsequent investment, Subsequent Minimum Investment) except if:

- (a) the consideration is paid by the Trustee on behalf of a Holder; or
- (b) the Trustee elects to accept lower consideration.

10.7 **Trustee may reject applications**

The Trustee may reject an application for Units without giving a reason.

10.8 **Issue of Units**

- (a) Units are created and issued when the consideration for them becomes Trust Property or if an Application Unit has been issued, on the conversion of the Application Unit to Units in accordance with clause 8.4.
- (b) Units paid for by cheque subsequently dishonoured, are void.

11 Valuation

11.1 **Trustee's expertise**

The Trustee does not have any special expertise in valuing property.

11.2 **Value**

The value of any Trust Property is the market value, the net fair value, or other value appropriate to the nature of the property and the nature of the Trust and meeting applicable Australian Accounting Standards from time to time. Property acquired must be valued at cost until revalued.

11.3 Determining value

The value of any Trust Property must be determined by;

- (a) a valuer who is independent of the Trustee; or
- (b) a method determined by a valuer who is independent of the Trustee; or
- (c) the Trustee using any other appropriate method the Trustee decides to adopt which is capable of being verified independently by a registered company auditor including estimates of value based on objective criteria where actual figures are not available and the Trustee reasonably considers that there is no significant detriment to a Holder.

11.4 Revaluation

The Trustee may cause Trust Property to be revalued whenever it sees fit.

12 Net Trust Value

12.1 Calculation of Net Trust Value

The Trustee must calculate the Net Trust Value by deducting the Trust Liabilities (other than liabilities representing rights attaching to Units) from the value of the Trust Property (determined on the basis of the most recent valuation of each item) as at the Valuation Time, adding together the positive and negative amounts of Performance Fee for each Calculation Period which have been calculated but not paid (**Accrued but unpaid Performance Fee**), and making the following adjustments in relation to the Performance Fee amounts:

- (i) where the Accrued but unpaid Performance Fee is negative, it will not be treated as either an asset or a liability of the Trust for the purposes of this clause;
- (ii) where the Accrued but unpaid Performance Fee is positive, it will be treated as a liability of the Trust.

12.2 Time of calculation

The Trustee may calculate the Net Trust Value as at any time determined by the Trustee. The Trustee may calculate Net Trust Value more than once a day.

13 Issue

13.1 Issue Price

The Issue Price of Units in an existing class of Units issued after the commencement of this deed is the sum of:

(a) the Net Trust Value of that class of Units as at the first Valuation Time after the next applicable Specified Time, after receipt of both the application for Units and (unless the Trustee waives this requirement) the consideration for them; plus

(b) any Application Transaction Costs applicable to that issue of Units,

divided by the sum of the number of applicable Units of that class on issue at that Valuation Time, or such other issue price as may be reasonably determined by the Trustee (subject to any requirements of the Corporations Act) having regard to the interests of all Holders.

13.2 Issue Price of New Classes of Units

The Issue Price of Units in a new class of Units issued after the commencement of this deed is the amount of the Application Money (plus Application Transaction Costs) received by the Trustee in respect of that issue divided by the number of Units in that class which the Trustee determines that it will issue upon receipt of that Application Money (or such other issue price as may be reasonably determined by the Trustee (subject to any requirements of the Corporations Act) having regard to the interests of all Holders), provided that the total Net Trust Value of such class of Units on the date of issue shall be equal to the value of the Application Money for those Units (excluding Application Transaction Costs).

13.3 Application Transaction Costs

The Application Transaction Costs are:

- (a) an estimate by the Trustee of the total transaction costs the Trust would incur to acquire afresh the Trust Property (and which may be made by reference to a fixed buy/sell spread of up to +1% / - 1%);
- (b) if appropriate having regard to the actual cost which would be incurred because of the issue or sale of the Units, the Trustee's estimate of a portion of the total transaction costs, which may be zero; or
- (c) if the Trustee makes no estimate, zero.

14 Redemption of Units

14.1 Redemption Request

- (a) Holders can make Redemption Requests in the form specified by the Trustee on or before a Specified Time.
- (b) The Trustee may, but is under no obligation to, redeem Units the subject of a Redemption Request at the Redemption Price from capital, and if insufficient or if the Trustee otherwise determines, the Trust income.
- (c) If the Trustee disposes of an asset of the Trust in order to fund a redemption, the Trustee may determine that some or all of the taxable gain in respect of that asset is included in the Redemption Price.

14.2 No obligation on Trustee to redeem

In no circumstances is the Trustee obliged to:

- (a) redeem Units; or
- (b) pay any part of the Redemption Price out of its own funds.

14.3 Redemption Price

The Redemption Price per Unit is the sum of:

- (a) the Net Trust Value of the relevant class of Units as at the first Valuation Time after the next applicable Specified Time following communication to the Trustee of a Holder's Redemption Request; less
- (b) any Redemption Transaction Costs,

divided by the number of applicable Units in that class on issue at that Valuation Time. In the case of a partly paid Unit, any uncalled amount in respect of that Unit is to be deducted from the Redemption Price but if the uncalled amount is greater than the Redemption Price, then the Holder must pay the amount of that excess to the Trustee before redemption of the Unit.

14.4 Redemption Transaction Costs

The Redemption Transaction Costs are:

- (a) an estimate by the Trustee of the total transaction costs the Trust would incur to sell the Trust Property (and which may be made by reference to a fixed buy/sell spread of up to +1% / - 1%);
- (b) if appropriate having regard to the actual cost which would be incurred because of the redemption, the Trustee's estimate of the total transaction costs, which may be zero; or
- (c) if the Trustee makes no estimate under either clause 14.4(a) or clause 14.4(b), zero.

14.5 Deduction of Exit Fee and Taxes

The Trustee may deduct any Exit Fee and any amount referred to in clause 34(aa) from the Redemption Price. Any Exit Fee is payable to the Trust.

14.6 Determination of Minimum Redemption Amount

The Trustee may from time to time determine or vary the Minimum Redemption Amount.

14.7 Redemption Requests for less than the Minimum Redemption Amount

The Trustee may reject a Redemption Request if the amount payable to the Holder is less than the Minimum Redemption Amount for the Trust.

14.8 Deemed Redemption Request for all Units

If a Redemption Request would leave a holding worth, at the Redemption Price, less than the current Minimum Balance, the Trustee may treat the Redemption Request as applicable to all Units held by that Holder.

14.9 Transfer of assets on redemption

The Trustee may satisfy the amount payable on a redemption of Units (partly or fully) by transferring those assets in specie as the Trustee in its discretion may select, to be credited at asset values determined as at the same time the Redemption Price is determined, without deduction for any costs or Taxes payable by the Holder in respect of the transfer.

15 Suspension or refusal of redemption

15.1 Trustee may suspend or refuse redemption

The Trustee at any time may in its absolute discretion:

- (a) suspend the Redemption of Units in the Trust or the conversion of Application Units to Units; or
- (b) refuse to redeem Units in accordance with a Redemption Request,

including where it is impracticable for the Trustee to calculate the Net Trust Value, for example because of closure of, or trading restrictions on, stock or securities exchanges, or because of an emergency or other similar state of affairs.

15.2 Redemption Requests during suspension

A Holder's Redemption Request lodged during any period of suspension is taken to be lodged immediately after the end of the period.

15.3 Application of proceeds to units in other trust

Where this facility is offered by the Trustee, a Holder may request the Trustee, in a manner acceptable to the Trustee, to apply proceeds from a Redemption Request to subscribe for units in another trust in which case any Application Money for the units in the other trust is taken to be paid to the trustee of the other trust when the relevant Units in this Trust are redeemed in accordance with this deed.

16 Trustee's Powers

16.1 General powers

Subject to this deed, the Trustee has within and outside Australia all the powers in relation to the Trust, its Trust Property and Trust Liabilities, that it is legally possible for a natural person, corporation or trustee to have, including to invest in real or personal property of any nature, to dispose of or otherwise deal with Trust Property,

to borrow or raise money, give guarantees and incur liabilities and obligations of any kind, and to fetter its own discretion, as if it were the absolute and beneficial owner of all Trust Property.

16.2 **Trustee may delegate powers**

The Trustee, by power of attorney, agency, contract or otherwise, may authorise one or more persons whether or not related to or associated with it, to do anything that it may lawfully delegate, including holding any Trust Property and executing documents on its behalf.

16.3 **Trustee's AMIT powers**

- (a) The terms "AMMA Statements", "AMIT", "Determined Trust Component", "Over", "Trust Component" and "Under" have the meaning given in clause 38 of this deed.
- (b) The Trustee may, in its discretion, take any steps necessary to:
 - (i) enable the Trust to qualify as, and continue to qualify from time to time as, an AMIT; and
 - (ii) if there is more than one class of Units in the Trust, to enable each class of Units to qualify as, and continue to qualify from time to time as, a separate AMIT in accordance with section 276-20 of the Tax Act.
- (c) The Trustee may make a choice for the purpose of the Tax Act:
 - (i) for the Trust to be an AMIT; and
 - (ii) if there is more than one class of Units in the Trust, for each class of Units to be a separate AMIT.
- (d) The Trustee may, subject to its duties, determine to exercise or not to exercise any rights or powers granted to it under Divisions 275 and 276 of the Tax Act, in its absolute discretion as it sees fit.
- (e) Subject to the Tax Act, if while the Trust is an AMIT the Trustee becomes aware of an Under or Over for a Trust Component in respect of a Financial Year calculated in accordance with clause 38.5, the Trustee may reconcile the Under or Over by, in its absolute discretion:
 - (i) attributing the Under or Over (as applicable) to Unit Holders in a later Financial Year by adjusting the Determined Trust Component for that later Financial Year;
 - (ii) revising the Determined Trust Component for the relevant Financial Year to which the Under or Over (as applicable) relates and reissue AMMA Statements for that Financial Year; or
 - (iii) otherwise dealing with any such Under or Over in a manner that is fair and reasonable to Holders,

and in accordance with the most recent Trust offer documents, information memoranda or product disclosure statements.

16.4 Holders' clearly defined interests

While the Trust is an AMIT and is not a registered scheme, to the extent required by the Tax Act:

- (a) the Trustee may not exercise any right, whether it is one provided to the Trustee under this deed or any statutory or general law rights or powers of a trustee, which would materially diminish or expand the entitlement of a Holder to the capital or income of the Trust;
- (b) the Trustee must treat Holders who hold Units of the same class equally and Holders who hold Units of different classes fairly; and
- (c) no amendment can be made to this deed (including for the avoidance of doubt, the Class Rights) which would or may cause the requirements of this clause 16.4 to not be met.

17 Buy Back of Units

The Trustee may, but is under no obligation to, offer to acquire Units as Trust Property. The Trustee may elect that Units so acquired may be retained as Trust Property, sold or redeemed.

18 Discretion

The Trustee may determine whether to exercise, and the manner, mode and time of exercise of its powers, in its absolute discretion.

19 Management of the Trust

19.1 Trustee to manage Trust

The Trustee must manage the Trust and its Trust Property and Trust Liabilities while any remain.

19.2 Trustee may engage advisers

The Trustee may, as it sees fit, in connection with performance of its duties, engage (whether or not related to or associated with the Trustee) investment managers, property managers, administrators, custodians and any advisers, agents, brokers, contractors, underwriters or other persons.

20 Indemnity

- (a) The Trustee is indemnified out of the Trust Property for any liability incurred by it in performing properly any of its duties or exercising any of its powers in relation to the Trust or attempting to do so. The Trustee is not required to do anything for which it does not have a full right of indemnity out of Trust Property available for that purpose. Any indemnity to which the Trustee is entitled under this deed is in addition to any indemnity legally permitted. When calculating the amount of any liability incurred or to be incurred by the Trustee for which it is entitled to be reimbursed or indemnified under this deed, the Trustee must deduct an amount equal to any input tax credit (as defined in the GST Act) to which the Trustee is entitled in connection with the liability.
- (b) Without limiting any other provision of this deed the Trustee is indemnified and is to be kept indemnified on a full indemnity basis and is entitled to pay or to be paid or reimbursed out of the Trust Property in respect of, or in connection with, any tax or other liability or cost which it may pay or incur pursuant to Divisions 275 or 276 of the Tax Act or pursuant to Schedule 1 of the Taxation Administration Act 1953 (Cth) (as amended) in properly performing or exercising any of its powers, duties, rights or obligations in connection with the Trust or the Holders or as a consequence of any act or omission of any Holder.

21 Investment policy

The Trustee will determine, and from time to time may vary, its investment policy for the Trust.

22 Register

22.1 Unit register

The Trustee must establish the Register.

22.2 Branch registers

The Trustee may establish branch unit registers anywhere in Australia.

22.3 Notice of trust

The Trustee need not enter notice of any trust on the Register.

22.4 Registered Holder is owner

The Trustee may treat a registered Holder as the holder and absolute owner of Units, including Application Units (as applicable), registered in the Holder's name on the Register and is not bound to take notice of any trust or equity affecting a Unit. Entry on the Register is conclusive evidence of a Holder's title to Units, including Application Units (as applicable).

23 No Unit certificates

- (a) Certificates are not issued for Units, including Application Units.
- (b) The Trustee at any time may send:
 - (i) a Holder details of Units, including Application Units held by and Unit transactions of that Holder; or
 - (ii) a Holder details of distributions.

24 Transfers of Units

24.1 Timing of Transfers

A Holder may transfer Units in the manner as the Trustee from time to time prescribes. A transfer of Units takes effect only when recorded in the Register. The Trustee is not obliged to register a transfer where the transferee does not meet the Trustee's criteria for a Holder, the transfer is not duly stamped (where required), or any amount payable by the transferee to the Trustee in respect any of the transferor's Units remains unpaid.

25 Mortgage

25.1 Recording of mortgagee

On the Holder's written request, the Trustee may record a mortgagee (sole or joint) of Units in the Register and on the mortgagee's written request may delete that record.

25.2 Payments to mortgagees

Redemption proceeds of Units, capital distributions (not representing part of any Distributable Amount) and distributions after termination of the trust must be paid to the recorded mortgagee of the Units in the Register (or unless it directs otherwise in writing).

25.3 Transfer of mortgaged Units

A transfer of Units is subject to any existing mortgagee record so that Units in respect of which a mortgagee is recorded on the Register cannot be transferred without the written consent of the mortgagee.

25.4 Trustee not have notice of mortgage or charge

The Trustee is not taken to have notice of the terms of any mortgage or charge and has no liability to a mortgagee of Units.

26 Death and insolvency

26.1 Persons with an interest in the Holder's Units

The Trustee only recognises the following persons as having an interest in a Holder's Units in the following circumstances:

- (a) if a Holder dies, or becomes subject to a legal disability, the Holder's legal personal representative;
- (b) if a joint Holder dies, the surviving joint Holder or Holders; and
- (c) if a Holder becomes bankrupt or enters into liquidation, the person legally entitled to the Holder's Units consequent on bankruptcy or liquidation.

27 Restructure

The Trustee may convene a Meeting to consider Special Resolutions to amend this deed or approve other proposed actions for the purpose of facilitating a restructure of the Trust by merging or combining the Trust with one or more other trusts, including:

- (a) for the Trust to acquire assets of other trusts;
- (b) to issue Units or Application Units to holders of units in other trusts at a price different from the price then provided for in this deed;
- (c) to authorise the Trustee on behalf of each Holder or Application Unit Holder to subscribe for units in other trusts;
- (d) to cancel or redeem some or all existing Units or Application Units;
- (e) to terminate the Trust (but without limiting any other rights of the Trustee in respect of termination); or
- (f) otherwise to authorise actions that the Trustee proposes in order to facilitate the proposed restructure. For this purpose, the Trustee is irrevocably appointed the agent and attorney of each Holder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Holder to effect the proposed restructure.

28 Stapling

28.1 Power to staple Securities

In addition to any power the Trustee has under clause 27, the Trustee may at any time, cause the Stapling of any Security to any Unit (including any class of Unit) and may cause the Stapling of further Securities to Units whether those Securities are a different class of Securities of a Stapled Entity from those Stapled at the time

or Securities of an entity that is not a Stapled Entity at the time but so that in every case, the Corresponding Number of Attached Securities of every kind is Stapled to each Unit (or class of Unit as applicable).

28.2 Applications, transfers and distributions in specie

- (a) For the purposes of Stapling, the Trustee is irrevocably appointed the agent and attorney of each Holder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Holder to give effect to the Stapling, including, without limitation:
 - (i) applying for Securities in the name of a Holder;
 - (ii) making a transfer of Securities to all Holders; or
 - (iii) making a transfer of Securities by way of an in specie distribution of Securities to all Holders.
- (b) If the Trustee applies for Securities in accordance with clause 28.2(a)(i), it must apply for Securities for all Holders of Units in a class in the same way and the Securities applied for referable to Units in that class must be of the same type, have the same rights and be fully paid upon issue.
- (c) If the Trustee effects a transfer made in accordance with clause 28.2(a)(ii) it must effect the transfer to all Holders of Units in a class in the same way and the Securities transferred to each Holder of Units in that class must be of the same type, have the same rights and be fully paid.
- (d) If the Trustee makes an in specie distribution under clause 28.2(a)(iii) the Trustee must effect the distribution to all Holders of Units in a class in the same way and the Securities transferred to each Holder of Units in that class must be of the same type, have the same rights and be fully paid.
- (e) Where Securities are to be applied for or transferred by the Trustee in accordance with clause 28.2(a), each Holder authorises the Trustee to act as the Holder's agent to:
 - (i) apply for Securities in the name of that Holder;
 - (ii) accept a transfer of Securities for that Holder; and
 - (iii) agree to become a member of the relevant Stapled Entity.

The Trustee may exercise any of its powers as agent or attorney under this clause 28 even if it benefits from exercising the power, and may at any time appoint or remove any substitute, delegate or sub-agent.

28.3 Operation of Stapling provisions

Clauses 28.4 to 28.12 apply only, and for so long as, a Unit is a component of a Stapled Security.

28.4 Units to be Stapled

- (a) Details of all Stapled Securities sufficient to identify the Securities which comprise the Stapled Security must be registered in the Stapled Security Register.
- (b) On and from the Stapling Date and prior to the Unstapling Date, the Trustee must not issue Units in a class unless satisfied that each of those Units will be Stapled to the Corresponding Number of each Attached Security referable to that class to form a Stapled Security.
- (c) On and from the Stapling Date and prior to the Unstapling Date, the Trustee and the Holders must neither do any act, matter or thing nor refrain from doing any act, matter or thing if to do so or refrain from doing so (as the case may be) would result directly or indirectly in any Unit no longer being a component of a Stapled Security and must do or not do all such acts as may be necessary to give effect to the intended operation of the Stapling. In particular:
 - (i) the Trustee must not offer a Unit in a class for subscription or sale unless an offer is made at the same time and to the same person for the Corresponding Number of each Attached Security referable to that class for issue or sale;
 - (ii) any offer of a Unit in a class for subscription or sale must require the offeree to subscribe for or buy the Corresponding Number of each Attached Security referable to that class;
 - (iii) the Trustee must not issue or sell a Unit in a class to any person unless the Corresponding Number of each Attached Security referable to that class is also issued or sold to the same person at the same time;
 - (iv) the Trustee must not consolidate, sub-divide, cancel, redeem or otherwise reorganise any Units in a class unless at the same time there is a corresponding consolidation, subdivision, cancellation, redemption or other reorganisation of all Attached Securities referable to that class; and
 - (v) the Trustee must not register the transmission or transfer of Units in a class unless it also causes the transmission or transfer (as the case may be) of a Corresponding Number of each Attached Security referable to that class.

28.5 Unstapling Date

- (a) Subject to approval by a Special Resolution of the Holders and the members of each Stapled Entity respectively, the Trustee may determine that the Stapling provisions of this deed will cease to apply and that a particular date is to be the Unstapling Date.
- (b) On and from the Unstapling Date, each Unit ceases to be Stapled to the Attached Securities and the Trustee must do all things reasonably necessary to procure that each Unit ceases to be Stapled.

- (c) If the Trustee determines to un Staple the Stapled Securities pursuant to this clause 28.5, this does not prevent the Trustee from subsequently determining that:
 - (i) the Stapling provisions should recommence; and
 - (ii) Units should be Stapled to another Security.

28.6 Transfer of Stapled Securities

- (a) Until the Unstapling Date:
 - (i) a transfer of a Unit in a class forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if, in addition to any other requirements of this deed, the transfer relates to or is accompanied by a transfer of the Corresponding Number of each Attached Security referable to that class from the same transferor in favour of the same transferee;
 - (ii) a transfer of a Unit in a class which is not accompanied by a transfer of the Corresponding Number of each Attached Security referable to that class will be taken to authorise the Trustee as agent for the transferor to effect a transfer of the Corresponding Number of each Attached Security referable to that class from the same transferor to the same transferee; and
 - (iii) a transfer of any Attached Security to which a Unit in a class is Stapled which is not accompanied by a transfer of the Unit will be taken to authorise the Trustee as agent for the transferor to effect a transfer of the Unit and any other Attached Securities to which the Unit is Stapled to the same transferee.

28.7 Stapled Security Register

The Trustee must cause to be set up and maintained a Stapled Security Register which:

- (a) may incorporate or form part of the Register;
- (b) records the names of the Holders, the number of Units held, the number of Attached Securities held by the Holders to which each Holder's Units are Stapled and any additional information required by the Corporations Act or determined from time to time by the Trustee.

28.8 Holder meetings

- (a) Representatives of a Stapled Entity may attend and speak at any meeting or invite any other person to attend and speak.
- (b) Meetings of Holders may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act and the other provisions of this deed, the Trustee may make such rules for the conduct of such meetings as the Trustee determines.

28.9 Variation of Stapling provisions

Prior to the Unstapling Date, the consent of each other Stapled Entity must be obtained to any amendment to this deed which:

- (a) directly affects the terms on which Units are Stapled; or
- (b) removes any restriction on the transfer of a Stapled Unit unless that restriction also exists for all other Attached Securities and is simultaneously removed for all Attached Securities.

28.10 Powers and duties of Trustee

While Stapling applies, the Trustee is entitled to have regard to the fact that the Trust is operating with the Stapled Entities as part of a stapled group with common members and with the intention that the economic and other interests of the Trust and the Stapled Entities are aligned. Accordingly, in exercising any power or discretion or in fulfilling any of its obligations the Trustee may, except to the extent otherwise required by law, have regard to the interests of Holders as beneficiaries of the Trust and as holders of other Attached Securities.

28.11 Fees

While Stapling applies, and notwithstanding any other provision of this deed, the Trustee may calculate fees by reference to the aggregate assets and performance of the Trust and all Stapled Entities and may deduct such fees and any costs, expenses, outgoings or indemnified amounts referable to the Trust and any Stapled Entity from the assets of the Trust and any or all of the Stapled Entities in proportion to the relative net values of each such entity or in such other proportions as the Trustee may reasonably determine.

28.12 Capital Reallocation

- (a) If at any time, a Stapled Entity makes an income or a capital payment to the Trust as a capital reallocation amount:
 - (i) each Holder is taken to have directed the Trustee to accept that capital reallocation amount; and
 - (ii) the Trustee must apply that amount as an additional capital payment in respect of each Unit that is Stapled to a Security of the Stapled Entity making the payment equally in respect of each Unit in that class.
- (b) The Trustee may at any time make an income or capital payment from the Trust to another Stapled Entity as a capital reallocation amount provided that:
 - (i) the constitution of the Stapled Entity contains provisions to the effect of those in rule 28.12(a); and
 - (ii) the Trustee is satisfied that the payment will be applied as an additional capital payment in respect of each Attached Security to which a Unit is Stapled equally.

29 Termination

29.1 Trustee may terminate

The Trustee at any time may terminate the Trust by written notice to the Holders with effect from the date specified in the notice.

29.2 Holders may terminate

The Holders may at any time terminate the Trust by Special Resolution.

29.3 Issue and redemption stops

From the date that a notice is given under clause 29.1 or the effective date of the resolution under clause 29.2 (as appropriate), the issue and redemption of Units stops.

29.4 Action on termination

The Trustee must:

- (a) realise all Trust Property;
- (b) pay, discharge or provide for all Trust Liabilities and expenses of termination; and
- (c) distribute the net proceeds among Holders pro rata to the number of Units held on the Termination Date.

29.5 Realisation of Trust Property

The Trustee may postpone realising Trust Property and is not responsible for any resulting loss unless caused by its negligence or breach of trust.

29.6 Distributable Amount

Each Holder registered on the Termination Date continues to be entitled to their proportionate share of any Distributable Amount during the winding up period. The Trustee may make partial distributions of Trust proceeds during the winding up period.

29.7 Auditing of winding-up accounts

The Trustee must, if a court so requires, cause the accounts of the winding-up to be independently checked and signed-off by a registered company auditor or firm of chartered accountants of which at least one partner is a registered company auditor, and in either case independent of the previous auditor of the Trust.

30 Independent rights

The Trustee, and any related body corporate or other associate of the Trustee, may, subject always to acting in good faith to Holders and Application Unit Holders:

- (a) hold Units and Application Units;
- (b) represent or act for, or contract with, individual Holders and Application Unit Holders;
- (c) deal in any capacity with the Trustee or with any related body corporate or associate of the Trustee or with any trust;
- (d) act in any capacity in relation to any other trusts; or
- (e) receive and retain profits or benefits of any nature, in connection with the Trust or otherwise, including buying or selling Trust Property from or to itself in another capacity,

without being liable to account to the Trust, to the Trustee, to a Holder, or to an Application Unit Holder.

31 Trustee's liability

To the extent legally permitted, where the Trustee acts without fraud, negligence or a breach of trust involving a failure to show the degree of care and diligence required of it having regard to the powers, authorities or discretions conferred on it by this deed, the Trustee is not liable to any future trustee, any Holder or any other person:

- (a) for loss caused by:
 - (i) the Trustee's acts or omissions in reliance on:
 - (A) the Register;
 - (B) the authenticity of any document;
 - (C) the opinion, advice or information of any barrister, lawyer, accountant, valuer or other expert instructed by the Trustee; or
 - (D) information from any banker or the auditor of the Trust;if the Trustee has no reason to believe the relevant material not to be authentic, the instructions not to be authorised, or the expert not to have the relevant expertise;
 - (ii) any act, omission, neglect or default of another person;
 - (iii) any act or omission required by law or by a court of competent jurisdiction;

- (iv) any particular price or reserve not having been realised;
 - (v) any unnecessary payment having been made to a fiscal authority;
 - (vi) any act or omission of an operator of a securities title, transfer or holding system;
 - (vii) any other reason; or
- (b) in any event, to a greater extent than the investments, cash and other property to which the Trustee is entitled and does recover through its right of indemnity from Trust Property actually vested in the Trustee in accordance with this deed.

32 Trustee's fees and Trust Fees

32.1 Trustee's Fees

Before and after the Termination Date, the Trustee is entitled to (but for the Trust or any Holder or Application Unit Holder, may elect to receive less than and subject always to any Class Rights):

- (a) a management fee of 5% per annum (plus GST) of the total value of all Trust Property, calculated and payable on the last Business Day of each calendar month or calendar quarter or at other times as the Trustee in its discretion may determine out of the Trust income, but if Trust income is insufficient then out of the Trust capital;
- (b) a Performance Fee (plus GST) in respect of each Unit on issue at the end of the Calculation Period calculated:
 - (i) as at the end of each calendar month in respect of that month in arrears and paid at the end of the Trust's financial year, or
 - (ii) calculated as at such other times or in respect of such other intervals, or paid at such other times, as the Trustee in its discretion may determine;

(the relevant period in respect of which the calculation is made being a **Calculation Period**), provided that (except as the Trustee may determine acting reasonably in the interests of Holders) the Performance Fee shall be calculated as at each time as at which the Unit Price is calculated, in respect of the period since the preceding time as at which the Performance Fee was calculated, so that the Performance Fee so calculated accrues immediately prior to the Unit Price calculation.

The Performance Fee per Unit is calculated in respect of each Calculation Period in accordance with the following formula, and accrues until it is paid:

$$APF1 = APF0 + (20\% \times \{CTV - [OTV \times (1+BR)]\})$$

Where:

APF1 is the accrued Performance Fee at the end of the current Calculation Period

APF0 is the accrued and unpaid Performance Fee (where positive) or accrued Performance Fee that has not been recouped (where negative) at the end of the previous Calculation Period

CTV is the Closing Trust Value

OTV is the Opening Trust Value, and

BR is the Benchmark Return in respect of the relevant Calculation Period expressed as a percentage.

For the purpose of this clause, the dollar value of the Trust shall be calculated subject to any Class Rights (including to take into account the Trust Property and Trust Liabilities properly attributable to a class of Units if the Performance Fee is to be calculated on a class by class basis) and in accordance with applicable accounting standards including, where the Trustee considers appropriate, the Australian Investment Performance Standards and the Australian Version of the Global Investment Performance Standards, and any standards amending or replacing them, and adjusted so that any amount that would otherwise be deducted as a liability representing rights attaching to Units shall not be deducted.

Closing Trust Value means the dollar value of the Trust at the end of the relevant Calculation Period, adjusted so that:

- all liabilities for any fees, including the Performance Fee, accrued during the Calculation Period are deducted;
- the amounts of any franking, foreign tax or other applicable taxation credits attaching to dividend or other income actually received by the Trust during the Calculation Period (except to the extent that those credits can not be made available to Holders) are added;
- the amount of any distribution of a Distributable Amount declared payable during the Calculation Period is added; and
- the Closing Trust Value is calculated before any subscriptions to the Trust or redemptions from the Trust which take place at the end of the relevant Calculation Period.

No allowance will be made in the calculation of the Closing Trust Value for the effect of subscriptions to or redemptions from the Trust at the end of the Calculation period.

Opening Trust Value means the dollar value of the Trust at the beginning of the relevant Calculation Period, except where the Benchmark Return is based on an index or indices, in which case the Opening Trust Value is that amount or the highest previous Opening Trust Value during the current financial year of the Trust, whichever is the higher. The Opening Trust Value includes the effect of any subscriptions to or redemptions from the Trust at the beginning of the Calculation Period.

Benchmark Return means such rate or index or indices as the Trustee reasonably determines is appropriate or convenient from time to time. The Trustee must notify Holders at least 30 days prior to making any change to the Benchmark Return.

If the amount of the accrued Performance Fee at the end of any Calculation Period, including the end of the financial year of the Trust, is negative (**Accrued Negative Fee**), the Trustee will not be required to rebate any amount of Performance Fee, but the amount of the Accrued Negative Fee will be carried forward to the next Calculation Period or Periods, and deducted to the extent possible from any positive amount that would otherwise have been payable as Performance Fee in respect of that Calculation Period or Periods, until such time as the amount of the Accrued Negative Fee has been met in full **provided that** where the value of the Trust has fallen by 20% or more during a Calculation Period,

- (1) the Trustee shall at its own expense calculate or cause to be calculated the Accrued Negative Fee in accordance with the principles described adapted in so far as is necessary in order to calculate the performance of each Unit against the Benchmark Return since the Unit was issued or since the end of the previous Calculation Period,
- (2) the maximum amount which may be carried forward as the Accrued Negative Fee in respect of that Calculation Period shall be reset to reflect the aggregate gains and losses relative to the Benchmark Return that existing Holders have incurred on a per Unit basis since the later of;
 - (A) when the Unit was issued; or
 - (B) the last Calculation Date when a Performance Fee became payable to the Trustee.

32.2 **Payment of Performance Fee**

The Performance Fee payable by a Holder will be paid out of Trust income but if the Trust income is insufficient then out of Trust Property for the Calculation Period.

32.3 **Adviser Service Fee**

Where a Holder agrees with any adviser through whom it has acquired Units to pay a fee (**Adviser Service Fee**) (before and after the Termination Date) of an agreed percentage per annum of the total value of that part of the Holder's Unit holding to

which the Adviser Service Fee relates, the Trustee may from time to time agree with the Holder and the adviser to pay the fee and, if the parties agree, any GST payable by the Holder on that fee, to the adviser out of the Holder's Distributable Amount, but if that income is insufficient then by way of Redemption by the Trustee of so many of the Holder's Units as are sufficient for that purpose. The fee will be calculated and paid at such times as the Trustee agrees from time to time with the adviser and notifies the Holder, whether by offer document or otherwise. A Holder can alter the amount of the fee (provided the fee as altered does not exceed any maximum set by the Trustee from time to time) or cancel its agreement to pay the fee, by 30 days' notice in writing to the Trustee or such lesser notice as the Trustee may from time to time determine in notices to Holders or in any current offer document. The Trustee may at its discretion, by 30 days' notice to a Holder, limit the percentage of the Adviser Service Fee which it will pay under this clause, or terminate any such arrangement.

32.4 Trustee may receive less fees

The Trustee in its discretion may from time to time elect to receive less than the fees referred to in clause 32.1 in respect of all or any Units (whether determined by reference to a minimum balance or on another basis and whether for the life of a particular offer document or otherwise) and may pay a Holder, from its own resources, any amount which it in its discretion so determines by way of offset or rebate of fees.

32.5 Entry and Exit fees

The following fees are payable by Holders to the Trust:

- (a) an entry fee of 5% of the consideration payable on an application for Units (plus GST); and
- (b) an exit fee of 5% of the Redemption Price payable on redemption (plus GST);

The Trustee in its discretion may from time to time elect that the Trust receives less than the fees (including, for the avoidance of doubt, no fees) referred to in this clause in respect of all or any Units (whether determined by reference to a minimum balance or on another basis and whether for the life of a particular offer document or otherwise).

33 GST

33.1 Interpretation

In clause 33, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the same meaning given to it in that Act.

33.2 GST gross up

If the Trustee is liable for GST on any supply made under or in connection with this deed (including the supply of any goods, services, rights, benefits or things), the Trustee is entitled to receive, unless the consideration for the supply is specifically

described in this deed as being inclusive of GST, in addition to any consideration for the supply, an additional amount on account of GST, equal to the GST payable by the Trustee, and the Trustee is entitled to be reimbursed or indemnified for the amount out of the Trust Property. The Trustee must issue a tax invoice in respect of the supply before it is entitled to be reimbursed or indemnified.

Where the consideration for a Supply made under or in connection with this Trust Deed is specifically described as being inclusive of GST and:

- (a) the Supply is not subject to GST, and the GST rate is the same as at the date of this Trust Deed, the consideration to be provided for that Supply will be reduced by 1/11th; or
- (b) there is a change to the prevailing rate of GST, the consideration will be increased or decreased in proportion to the change in the rate of GST.

34 Outgoings

All costs, charges, expenses and outgoings reasonably and properly incurred by the Trustee in the proper performance of its duties, including in connection with the following matters or of the following nature in relation to the Trust, are payable or reimbursable out of Trust Property (and if referable to more than one trust, apportioned in a manner determined by the Trustee):

- (a) preparation, approval, stamping, execution and printing of this deed and any deed amending this deed;
- (b) retirement and appointment of the Trustee and any custodian or Fund administrator;
- (c) institution, prosecution, defence and compromise of any court proceedings, arbitration or dispute resolution proceedings in relation to this deed or the Trust (but the Trustee must repay to the Trust any amount it has been advanced in respect of outgoings in connection with proceedings in which it is found by a court to be liable for its own negligence, fraud, breach of trust or breach of duty);
- (d) convening and holding a Meeting and implementing a resolution of the meeting;
- (e) bank fees, interest, discount and acceptance fees for bill facilities and like amounts;
- (f) all Taxes;
- (g) any actual or proposed investment, acquisition, realisation, disposal, valuation, maintenance, alteration, improvement, enhancement, receipt, collection or distribution of any Trust Property;
- (h) fees payable to a person authorised by the Trustee to hold Trust Property;
- (i) fees payable to any regulatory authority;

- (j) establishing and maintaining the Register, the Trust accounting system and records and the investment register (including operation and development of computer facilities, both software and hardware, salaries and on-costs);
- (k) preparing and printing accounts, cheques and documents, posting them to Holders, or paying Holders;
- (l) any offer or invitation in respect of Units, including preparation, lodgement, registration, distribution and promotion of Trust offer documents, prospectuses, information memoranda or product disclosure statements;
- (m) complying with representations made by the Trustee in Trust prospectuses, information memoranda or product disclosure statements;
- (n) amounts payable to administrators, advisers, agents, brokers, contractors, custodians, investment managers, underwriters or other persons engaged by the Trustee under the deed, including costs of appointment and retirement and legal costs on a full indemnity basis;
- (o) fees incurred by an auditor of the Trust;
- (p) preparation and lodgement of taxation and other returns for the Trust;
- (q) fees payable to the Australian Securities and Investments Commission including for relief, or registration of this deed as a constitution of a registered scheme;
- (r) costs and expenses incurred in relation to the conversion of the Trust into a registered scheme and registration of the Trust as a registered scheme;
- (s) costs incurred in relation to A-IFRS including in order to comply with or clarify the effect of A-IFRS;
- (t) terminating and winding up of the Trust;
- (u) entering the Trust in a survey;
- (v) fees payable to a ratings organisation;
- (w) fees payable to a securities system authorised by the Trustee to hold Trust Property;
- (x) performance of the Trustee's duties, exercise of the Trustee's rights or powers, compliance with the law or administration of the Trust;
- (y) establishment, development, maintenance and operation of computer facilities, both software and hardware for the administration of the Trust;
- (z) dealing with applications for Units, and determining the Issue Price; and
- (aa) dealing with redemption of Units, and determining the Redemption Price
- (bb) the Stapling or unstacking of any Securities.

35 Recoveries

35.1 Holders' liabilities

Each Holder is liable for all fees ,Taxes and costs in relation to the following:

- (a) the Holder's entitlement to, or payment of, income or capital to the Holder;
- (b) any act requested by the Holder;
- (c) unpaid amounts; and
- (d) fees determined and chargeable by the Trustee from time to time for any act or work carried out at the Holder's request which goes beyond the Trustee's duties under the deed, charged at market rates for the services provided.

35.2 Trustee may withhold or recover

The Trustee may:

- (a) withhold payment of any money payable to a Holder until the liability is discharged; or
- (b) meet the liability and recover the amount:
 - (i) from any money or property held for the Holder in the Trust or any Stapled Entity;
 - (ii) from any distribution or other payment payable to the Holder in the Trust or any Stapled Entity; or
 - (iii) by redeeming any or all of the Holder's Units (including Application Units, if applicable) in accordance with clause 14.

36 Distributions

Clauses 35 and Clause 36 apply in respect of any Financial Year (as that term is defined in clause 37.2) in which the Trust is not an AMIT (as that term is defined in clause 38.2).

36.1 Distributable Amount

Subject to any Class Rights, the Distributable Amounts of the Trust or each class of Units will be such amount or amounts as the Trustee determines in its discretion, however, if the Trustee has not made a determination, then it will be the greater of the net income of the Trust for the purposes of section 95 of the Tax Act (whether or not that provision applies to the Trust) as reduced by any amounts included in that net amount for the Trust that have neither been received nor are receivable (such as amounts included in the net income by virtue of section 207-45 of the Tax Act), and \$1.

36.2 Distributions

Subject to any Class Rights, before and after termination of the Trust, the Trustee shall distribute the Distributable Amount for each class of Units in respect of every tax year, and at any time may elect that an amount (capital or income) be distributed from the Trust to Holders, pro rata to the number of applicable Units held to the number of Units on issue in each class as at an Accrual Time or in accordance with this deed. Each Holder registered at midnight on the last day of each year of income for purposes of the Tax Act is presently entitled to a share of any Distributable Amount for that year not previously distributed in the proportion of the number of applicable Units held to all Units in each class then on issue in the Trust.

In calculating the 'number of Units held' by a Holder and the number of Units 'on issue', each partly paid Unit is to be counted as a Unit multiplied by the Paid Up Proportion applicable to the partly paid Unit.

36.3 Trustee taxation

If the Trust or the Trustee becomes subject to Taxes on income and gains derived by the Trust even where all available income is distributed to Holders, or regardless of the present entitlement of the Holders, then the Trustee does not have to make distributions in accordance with clause 36 and instead the Trustee, at its discretion, may choose when to make distributions of profits, income, capital or any taxation or imputation credits that have become available in relation to the Trust.

37 Distribution reinvestment

37.1 Discretion of Trustee

The Trustee may offer or require Distribution Reinvestment.

37.2 Distribution reinvestment at Holder's Request

If the Trustee offers Distribution Reinvestment, a Holder may request the Trustee to invest future income distributions wholly (or with the Trustee's approval, partly) in subscriptions for additional Units at the Issue Price next determined after the Accrual Time at which the entitlement arises. A request or cancellation in respect of the distribution entitlement arising at that and subsequent Accrual Times must be received in a mode and by a time determined by the Trustee.

37.3 Distribution Reinvestment by Trustee for and on behalf of Holder

If the Trustee requires Distribution Reinvestment:

- (a) at the Accrual Time each Holder has an absolute vested and indefeasible interest in the share of the Distributable Amount to which the Holder is presently entitled;
- (b) that amount of the Distributable Amount will be applied by the Trustee for and on behalf of the Holder in subscriptions for additional Units at the Issue

Price next determined after the Accrual Time at which the entitlement arises, and

- (c) the Holder may lodge a Redemption Request at any time in respect of the Units acquired as a result of the Distribution Reinvestment.

38 Distributions while the Trust is an AMIT

38.1 Application

This clause 38 applies in respect of any Financial Year in which the Trust is an AMIT and will prevail to the extent of any inconsistency with any other provision of this deed.

38.2 Definitions

The following words have the following meanings in this clause 38 and clause 16.3:

"AMMA Statement" has the meaning set out in section 276-460 of the Tax Act;

"AMIT" means attribution managed investment trust as defined in section 276-10 of the Tax Act;

"Determined Member Component" has the meaning set out in section 276-205 of the Tax Act;

"Determined Trust Component" has the meaning set out in section 276-255 of the Tax Act;

"Financial Year" means, unless the Trustee determines otherwise, a financial year in respect of the Trust being:

- (a) for the first financial year, the period commencing on the date on which the Trust commences to the next 30 June;
- (b) for the last financial year, the period commencing on the 1 July immediately before the date the Trust is wound up to the date the Trust is wound up; and
- (c) for all other periods, the 12 month period ending 30 June in each year;

"Member Component" has the meaning set out in section 276-210 of the Tax Act;

"Over" has the meaning set out in section 276-345 of the Tax Act;

"Period" means any period prescribed by the Trustee;

"Trust Component" has the meaning set out in section 276-260 of the Tax Act; and

"Under" has the meaning set out in section 276-345 of the Tax Act.

38.3 Distributions

- (a) The Trustee may make a distribution of any amount, whether of income or capital, or otherwise according to such terms, as are prescribed by the Trustee and must make distributions as disclosed in any current Trust offer documents, information memoranda or product disclosure statements and otherwise in accordance with this clause 38.
- (b) The Trustee must calculate the income of the Trust and may decide:
 - (i) the classification of any item including as being on income or capital account; and
 - (ii) the extent to which reserves or provisions need to or should be made.
- (c) The Trustee may determine standing principles for calculating the income of the Trust for any Period and may change the principles from time to time. However, the Trustee may not determine standing principles, and may not change any existing standing principles, in such a way that is not fair and reasonable to existing Holders.

38.4 Entitlement to distributions

- (a) Any distribution must be distributed to persons who were Holders on the Register immediately before midnight on the last day of the relevant Period.
- (b) Each Holder is entitled to a share of a distribution in respect of each class of Units held by that Holder calculated as follows:

$$A \times B/C$$

where:

- A = the total distribution for a class of Units for the Period less any income paid pursuant to clause 38.9 or as part of a Redemption Price during that Period;
- B = the total Units held by the Holder in that class of Units immediately before midnight on the last day of the Period; and
- C = the total Units held by all Holders in that class of Units immediately before midnight on the last day of the Period.

38.5 Trust Components

Each Financial Year the Trust is an AMIT, the Trustee must:

- (a) calculate each Trust Component of a particular character in accordance with the Tax Act in respect of:
 - (i) the Trust; and

- (ii) if there is more than one class of Units in the Trust, each class of Units that is a separate AMIT; and
- (b) document (including by electronic means) each Determined Trust Component of a particular character in accordance with the Tax Act in respect of:
 - (i) the Trust; and
 - (ii) if there is more than one class of Units in the Trust, each class of Units that is a separate AMIT.

38.6 Member Components

Subject to clauses 16.3(e) and 38.5, each Financial Year the Trust is an AMIT, the Trustee must in accordance with the Tax Act:

- (a) calculate each Member Component of a particular character on a fair and reasonable basis in respect of each Holder; and
- (b) issue an AMMA Statement to each Holder that reflects each of the Holder's Determined Member Components of a particular character.

38.7 Manner in which a distribution is effected

Subject to any contrary determination made by the Trustee, a distribution must be distributed to the Holders in accordance with this deed.

38.8 Participation in distributions

Subject to preferred, deferred or other special rights, obligations or restrictions with respect to distributions of any class of Unit issued from time to time:

- (a) where there is only one class of Units in issue, each Unit ranks equally for distributions from the day it was created;
- (b) where there is more than one class of Units in issue, each Unit of that class ranks equally for distributions for that class from the day it was created.

38.9 Return of capital or income

Without limiting any other clause, the Trustee may at any time distribute, or may direct the custodian to distribute:

- (a) where there is only one class of Units in issue, any amount of capital or income of the Trust to the Holders as at a date specified by the Trustee, in proportion to the number of Units held by them immediately before midnight on that date compared to all Units then in issue, by the payment of cash or the issue of Units; and
- (b) where there is more than one class of Units in issue in respect of a class of Units, any amount of capital or income properly attributable to that class of Units to the Holders holding Units in that class of Units, in proportion to the number of Units held by them in that class of Units immediately before

midnight on that date compared to all Units then in issue in that class of Units, by the payment of cash or the issue of Units.

38.10 **Payment of distributions**

Subject to clause 38.12, the Trustee must pay:

- (a) a distribution as soon as practicable after the end of the relevant Period;
- (b) an income distribution made under clause 38.9, within two months of the relevant date for determining entitlements to the distribution; and
- (c) a capital distribution made under clause 38.9, within two months of the relevant date for determining entitlements to the distribution.

38.11 **Records**

The Trustee must keep separate accounts of different categories or sources of income or capital or deductions or credits for tax purposes.

38.12 **Reinvestment**

- (a) The Trustee may offer Holders the right to, or require a Holder to, reinvest some or all of any distribution by acquiring Units in the Trust.
- (b) If a reinvestment under clause 38.12(a) is offered and a Holder elects to participate (including by not electing out) or is otherwise required to reinvest, the Trustee is deemed to have received and accepted an application from the Holder for the amount to be reinvested on the day the Holder becomes entitled to the distribution for Units.
- (c) The procedure for reinvestment of distributions is to be prescribed by the Trustee and notified to Members from time to time.

38.13 **Trust taxed as a company**

Notwithstanding the other provisions of this deed, the Trustee has complete and absolute discretion as to how much of a distribution will be distributed to Holders in respect of any Financial Years in which the income of the Trust is subject to tax under the Tax Act as if the Trust were a company, including under the provisions of Division 6C of Part III of the Tax Act.

39 Regular Withdrawal

Where the Trustee offers regular withdrawal, any Holder may request the Trustee to deposit into an account nominated by the Holder with a bank or other institution, approved by the Trustee, a series of specified sums or sums calculated in a specified manner (each being not less than such sum as the Trustee specifies) at specified intervals (**Specified Sums**). The Holder appoints the Trustee as agent to pay such amounts out of any distributions of a Distributable Amount owing to the Holder, to the extent that Distribution Reinvestment does not apply, and failing that to effect the redemption of such of the Holder's Units in the Trust as the Trustee

from time to time in its discretion judges necessary to cover the Specified Sums due or payable to or at the direction of the Holder, with any surplus redemption proceeds to be paid to the Holder. The Trustee may reject, or accept subject to such conditions as it may require, or at any time terminate any Regular Withdrawal. Unless the Trustee otherwise determines, Distribution Reinvestment will apply to the extent that any Distribution is not distributed as part of a Specified Sum.

40 Closely held trusts

40.1 Holder must give notice if trustee

If a Holder holds Units (including Application Units) in their capacity as trustee of a trust estate, the Holder must:

- (a) immediately give the Trustee notice accordingly;
- (b) as and when required by the Trustee, provide all information as may be required for the Trustee to make a 'correct UT statement' under section 102UG of the Tax Act.

40.2 Holder not trustee if not give notice

Each Holder warrants to the Trustee that a Unit is not held by the Holder or an Application Unit is not held by the Application Unit Holder in their capacity as trustee of a trust estate unless the Holder gives notice under clause 40.1.

40.3 Deduction from distributions

Each Holder irrevocably directs the Trustee to deduct from any distribution (and apply towards any tax that might be payable by the Trustee under Division 6D of Part III of the Tax Act) an amount equivalent to 46.5% of that Holder's share of the Net Income, if:

- (a) the Holder has given notice under clause 40.1, but the Trustee considers (in its absolute discretion) that the Holder may not be able to comply with clause 40.1; or
- (b) the Holder has not given notice under clause 40.1, but the Trustee (in its absolute discretion) believes that notice should have been given by the Holder.

40.4 Application of clause

Clause 40 does not apply to a Holder if the Trustee considers that it will not be subject to the requirements of Division 6D of Part III of the Tax Act in respect of the Holder.

41 Payments

41.1 Means of payment

Any money payable by the Trustee to a Holder may:

- (a) be deposited into an account with a bank or other financial institution approved by the Trustee and nominated by the Holder;
- (b) applied in another manner as the Trustee is directed in writing by the Holder (if the Trustee agrees); or
- (c) paid by cheque posted to the Holder.

The obligations of the Trustee are fully discharged in respect of any money so paid.

41.2 If payment not effective

If a distribution cheque or a cheque issued in payment of a Redemption Request is returned unclaimed, or is not presented for payment within a reasonable period (which the Trustee may determine from time to time), or an attempted deposit is rejected, the Trustee must reinvest the relevant amount for the Holder in the Trust as from the date the Trustee selects as appropriate.

42 Auditor

The Trustee may appoint and may at any time replace as auditor of the Trust either a registered company auditor, or a firm of chartered accountants of which at least one partner is a registered company auditor.

43 Meetings

43.1 Convening Meetings

The Trustee may at any time and must at the request of Holders with at least 5% of the Units on issue convene a Meeting.

43.2 Postponing or cancelling Meetings

If the Trustee has convened a Meeting (except at the request of Holders) it may in its absolute discretion postpone or cancel the Meeting by giving reasonable notice to all Holders.

43.3 Notice

Unless the Holders otherwise consent in writing, at least seven days notice in writing must be given to each Holder of every Meeting and the notice must specify the general nature of the business to be transacted and the date, time and place of the proposed Meeting.

43.4 Failure to give notice

Accidental omission to give notice to, or non-receipt of notice by, a Holder, does not invalidate a Meeting nor a resolution passed at a Meeting.

43.5 Proxy rights

A proxy may attend, speak and vote for a Holder even if the Holder is present at the Meeting.

43.6 Proxy appointments

An appointment of a proxy is valid even if it does not include the Holder's address or the Trust's name. An appointment of a proxy for a Meeting is effective if received by the Trustee:

- (a) before:
 - (i) the Meeting is due to start; or
 - (ii) any adjournment of the Meeting is due to start; and
- (b) by any method the Trustee considers appropriate, subject to any specific directions in the notice of the Meeting.

43.7 Other types of Units

Clause 43 applies also, to the extent appropriate, to Meetings of Holders of any type or class of Unit.

44 Conduct of Meetings

44.1 Quorum

A quorum for a Meeting is two Holders holding, in aggregate, 10% of the Units or, if there is only one Holder, that Holder, and the quorum must be present at all times during the Meeting. In determining whether a quorum is present, individuals attending as proxies or body corporate representatives will be counted. However, if a Holder has appointed more than one proxy or representative, only one of them will be counted.

44.2 Quorum not present

If a quorum is not present within 30 minutes after the time for the start of the Meeting set out in the notice of Meeting, the Meeting is dissolved if it was to consider any proposal to remove the Manager or adjourned to such date, time and place as the Trustee specifies. At any adjourned meeting, those Holders present in person or by proxy constitute a quorum.

44.3 **Adjourning Meetings**

The chairperson may adjourn a Meeting to a time and place as the chairperson sees fit. The Holders may also by Ordinary Resolution resolve to adjourn any Meeting.

44.4 **Closing of Register**

When a Meeting is to be held the Trustee must close the Register at an appropriate date and time to determine those Holders entitled to vote at the Meeting, and entitled to notification of the meeting.

44.5 **Joint Holders**

The first named of joint Holders shown in the Register (or if that person does not vote, the next named joint Holder, or if that person does not vote, the next named, and so forth) may exercise the voting rights of jointly-held Units.

44.6 **Voting**

Each Holder is entitled to one vote on a show of hands and one vote per Unit held on a poll. The first named of joint Holders shown in the Register (or if that person does not vote, the next named joint Holder, or if that person does not vote, the next named, and so forth) may exercise the voting rights of jointly-held Units.

44.7 **Who may demand a poll**

A poll may be demanded by:

- (a) at least five Holders present and entitled to vote on the resolution; or
- (b) Holders present with at least 5% of the votes that may be cast on the resolution on a poll; or
- (c) the chairperson.

The percentage of votes that Holders have is worked out as at the close of business on the day before the poll is demanded.

44.8 **When a poll may be demanded**

The poll may be demanded:

- (a) before a vote is taken; or
- (b) before the voting results on a show of hands are declared; or
- (c) immediately after the voting results on a show of hands are declared.

44.9 **Validity of vote**

The chairperson's declaration of the validity of any vote and the result of voting is conclusive.

44.10 Resolution binds all Holders

A resolution duly passed binds all Holders, whether or not present at the Meeting.

44.11 Written resolutions

A resolution in writing signed by all Holders will be deemed to have been duly passed at a meeting.

44.12 Minutes

Minutes of a Meeting signed by the chairperson constitute conclusive evidence of the proceedings of the Meeting.

44.13 Postal ballot

A Meeting may be conducted by postal ballot in accordance with arrangements the Trustee may determine reflecting, as closely as may be practicable, the provisions of this deed.

44.14 Destruction of proxy forms and ballot papers

In the absence of any resolution to the contrary, all proxy forms and ballot papers may be destroyed 14 days after the closure of a Meeting.

44.15 Other types of Units

Clause 44 applies also, to the extent appropriate, to meetings of Holders of any type or class of Unit.

45 Trustee's retirement

45.1 Retirement or removal

- (a) The Trustee may retire as trustee of the Trust by giving not less than one month's prior notice to the Holders, effective on the appointment of a replacement Trustee.
- (b) The Trustee must retire as trustee of the Trust when directed to retire by a Special Resolution, provided that the Trustee must not retire until a new Trustee is appointed.

45.2 Trustee's indemnity

On the Trustee retiring or being removed from the Trust or otherwise ceasing to be the retiring Trustee, to the extent legally permitted (and in no way limiting or purporting to exclude, or reduce liability under any laws) the retiring Trustee is completely released from this deed as it affects the Trust and is indemnified out of Trust Property against any claims arising out of its conduct as Trustee of the Trust except claims in respect of gross neglect or default by the retiring Trustee and without limiting liability of the retiring Trustee to the Holders.

45.3 Replacement Trustee to execute deed

The replacement Trustee and retiring Trustee must execute a deed of retirement and appointment in the form required by the retiring Trustee in which the replacement Trustee undertakes to be bound from the effective date of the deed of retirement and appointment by the provisions of this deed. From the effective date of the deed of retirement and appointment the replacement Trustee will have the same powers, rights and obligations under this deed as if the replacement Trustee were originally a party to this deed.

45.4 If replacement Trustee not appointed

If the office of Trustee becomes vacant and a replacement Trustee is not appointed within six months of the vacancy, the Holders may resolve by Special Resolution, effective immediately, to terminate the Trust. If the Holders do not resolve to terminate the Trust, a temporary trustee must be appointed by the Holders from among themselves, unless otherwise agreed by all Holders. The temporary trustee in this case shall be the Holder with the largest unitholding, or as otherwise agreed by the Holders.

46 Liability of Holders

Subject to this deed, the liability of each Holder is limited to the amount subscribed, or agreed to be subscribed by the Holder, for Units. Recourse of the Trustee and Trust creditors is limited to the Trust Property and a Holder is not required to indemnify the Trustee or a creditor of the Trustee against any liability of the Trustee in respect of the Trust. Any relationship of partnership or agency between the Trustee and a Holder in relation to the Trust, this deed or anything done under this deed, is expressly excluded.

47 Amendments to deed

The Trustee may by supplemental deed, make any modification, addition or deletion to this deed if:

- (a) in its opinion the modification, addition or deletion is:
 - (i) of a formal or technical nature;
 - (ii) made to correct a manifest error;
 - (iii) necessary to comply with the provisions of any statute or the requirements of any statutory authority;
 - (iv) necessary to apply for registration of the Trust as a registered scheme;
 - (v) not adverse to the interests of Holders as a whole;

- (vi) in the view of the Trustee, necessary or desirable as a result of the **A - IFRS**, including in order to
 - (A) comply with or clarify the effect of A-IFRS, or
 - (B) avoid effects of A-IFRS which are inconsistent with the basis on which the Trust has been established or offered, or with any important existing feature of the Trust,and provided that the Trustee shall give Holders at least 30 days' prior written notice of such proposed variation; or
- (b) the modification, addition or deletion is authorised or required by a Special Resolution, except if it relates to the Trustee's entitlement to fees, costs, expenses or outgoings under this deed in which case the Trustee's consent is also required; or
- (c) all Holders and the Trustee consent in writing to the modification, addition or deletion.

48 Calculations

Any calculation for the purposes of this deed must be to the fourth decimal place or, in any case, as otherwise determined by the Trustee from time to time.

49 Notices

49.1 Notices sent by mail

Subject to clause 49.2, any consent, notice, report, statement given, or required to be given, in writing, or cheque may be sent to a Holder or joint Holders by prepaid post to the address of the Holder, or of the first named of joint Holders, shown in the Register and is taken to be received on the next Business Day after posting.

49.2 Notices sent by email or facsimile

If a Holder, or the first named of joint Holders shown on the Register, has given its electronic address or facsimile number to the Trustee, any consent, notice, report or statement given or required to be given in writing may be sent to the Holder or joint Holders electronically at the address of number given to the Trustee from time to time, and is taken to be received on the Business Day it was sent but if it is sent before or after Business Hours, it is taken to be received on the next Business Day.

50 Change of Name

If **Samuel Terry Asset Management Pty Ltd** (or a related body corporate) is no longer the Trustee of the Trust, then from that time the name of the Trust and relevant references in this Trust Deed will, unless otherwise agreed by **Samuel**

Terry Asset Management Pty Ltd, be deemed to be amended to omit the words "Samuel Terry" and replace them with the name of the new Trustee.

51 Governing law

This deed is governed by the law of NSW.

Schedule 1 - Changes to the deed if application is made to have the Trust registered (clause 3)

If an application for registration of the Trust as a registered scheme is made to ASIC, this deed is changed as follows.

1. Replace all references to 'Trustee' with 'Responsible Entity'. Unless otherwise indicated in this Schedule 1, all references to 'trustee' remain unchanged.
2. In clause 1.1, insert the following definitions:

'CPI Adjusted' means increased each year by an amount not exceeding any percentage increase during the previous year ended 30 June, in the Consumer Price Index (All Capital Cities) or any replacement index.'

'Extraordinary Resolution' means a resolution passed by at least 50% of the total votes that may be cast by Holders entitled to vote on the resolution (including Holders that are not present in person or by proxy).'

'Relief' means any declaration made or exemption granted by ASIC that is applicable to the Trust and that is in force.'

'Responsible Entity' means the body named in this deed as Responsible Entity while it remains responsible entity of the Trust and also means any subsequent responsible entity of the Trust from time to time.'

'Switch' means an application for Units in the Trust by a person who is (or was) a holder of units in another fund of which the Responsible Entity is also the responsible entity (or in the case of a superannuation or retirement product, the trustee), where the consideration for the application represents an amount payable to the applicant on redemption in respect of units in that other fund.'

'Switching Fee' means a fee in relation to a Switch.'
3. In clause 2.3 insert at the end of the sentence: 'and the responsible entity of the Trust for the purposes of the Corporations Act.'
4. In clause 10.3, insert a fullstop after 'the Fund' and delete "and may be added to the Issue price or deducted from it in the Trustee's discretion.'
5. In clause 12.2, insert at the end of the first sentence: ', but must do so at least monthly'
6. In clause 13.3(a), insert after 'Trust Property', 'provided that the Responsible Entity's estimate of the total transaction costs is independently verifiable;''
7. In clause 14.1:
 - (a) insert 'while Trust is liquid' in the heading: and
 - (b) replace 'The' at the beginning of the sentence in clause 14.1(b) , with "If the Trust is liquid, the'

8. In clause 14.4(a), insert after 'Trust Property', 'provided that the Responsible Entity's estimate of the total transaction costs is independently verifiable;".

9. Insert the following clause after clause 15.1:

' 15.2A If Trust is not liquid

If the Trust is not liquid, a Holder may request the Responsible Entity to redeem the Holder's Units only in accordance with the terms of any current withdrawal offer made by the Responsible Entity in compliance with the Corporations Act. If there is no withdrawal offer currently open for acceptance by Holders, a Holder has no right to make a Redemption Request.

The Responsible Entity does not have to make a withdrawal offer.'

10. In clause 20, replace 'The' at the beginning of the first sentence with 'To the extent permitted from time to time by the Corporations Act, the'.

11. In clause 29.1, replace 'The' at the beginning of the first sentence with 'Subject to the Corporations Act, the':

12. In clause 29.2, replace 'Special Resolution' with 'Extraordinary Resolution':

13. Replace clause 29.3 with the following clause:

' 29.3 Issue, Switching and redemption stops

From the date on which the notice is given, the issue, Switching and redemption of Units stops.'

14. In clause 29.7 replace 'if a court' with 'if ASIC policy'.

15. In clause 34, insert the following paragraph after clause 34(h):

'(ha) all expenses in connection with the establishment and conduct of any compliance committee including:

- (i) remuneration of committee members,
- (ii) the expenses of independent legal, accounting or other professional advice or assistance properly commissioned by the compliance committee,
- (iii) to the extent permitted by the Corporations Act, directly or indirectly, indemnifying or insuring a person who has been a compliance committee member for or against any liability, including costs, expenses and liabilities incurred by the person in defending civil or criminal proceedings.'

16. In clause 34, insert the following paragraph after clause 34(i):

'(ia) fees payable to ASIC or another regulatory authority;'

17. In clause 34(p), insert at the end of the sentence: 'or the compliance plan'.
18. In clause 42, delete 'The Trustee may appoint and may' and replace with 'The Responsible Entity must appoint and may subject to the Corporations Act,'
19. Replace clause 43.1 with the following clause:

' 43.1 Convening Meetings

A Meeting may be convened and conducted in accordance with this deed and the Corporations Act.'
20. Replace clause 43.3 with the following:

' 43.3 There is no clause 43.3 '
21. Replace clause 44.1 with the following:

' 44.1 There is no clause 44.1 '
22. Replace clause 44.6 with the following:

' 44.6 There is no clause 44.6 '
23. Replace clause 44.7 with the following:

' 44.7 There is no clause 44.7 '
24. Replace clause 44.8 with the following:

' 44.8 There is no clause 44.8 '
25. In clause 45.1(a), replace 'The' at the beginning of the first sentence with 'Subject to the Corporations Act, the'.
26. In clause 45.1(b), replace 'The' at the beginning of the first sentence with 'Subject to the Corporations Act, the'.
27. Delete clauses 45.3 and 45.4.
28. After clause 46, insert the following clause:

' 46A. Corporations Act

46A.1 Compliance with Relief and things required to be in this deed

The Responsible Entity and each Holder must, subject to the Corporations Act and to any Relief applicable to the Trust, comply with:

(a) any conditions of, and any covenants required to be contained in this constitution as a condition of any Relief, for so long as it applies, and

- (b) all provisions required from time to time to be contained in this constitution as a condition of any class order applicable to the Trust, for so long as it applies.

46A.2 Matters required to be in this deed

- (a) Any covenants required to be contained in this deed as a condition of any Relief are taken to be contained in this deed for so long as the Relief applies.
- (b) All provisions required from time to time to be contained in this deed as a condition of any class order applicable to the Trust are taken to be contained in this deed to the extent that they are not specifically set out in this deed for so long as the class order applies.'

29. Replace clause 47 with the following clause: '

47. Amendments to deed

- (a) The Responsible Entity may by supplemental deed modify, add, or delete from, this deed or replace this deed with a new deed in accordance with the requirements of the Corporations Act.
- (b) The Corporations Act governs the timing of the effect of the modification, addition, deletion or replacement.'

30. After clause 49 insert the following clause and renumber the subsequent clauses accordingly:

' 50. Complaints

The Responsible Entity must:

- (b) within 30 days acknowledge any complaint received from a Holder;
- (c) within 60 days (or longer period as may reasonably be required having regard to the nature of the complaint, the information given by the complainant and the nature and extent of the investigation and other activities necessary to deal fully with the complaint), investigate, properly consider and decide what action (if any) to take or offer regarding the complaint;
- (d) within a further 30 days, communicate its decision to the Holder, at the same time informing the Holder of remedies available to the Holder of which the Responsible Entity is aware and any available avenue of appeal against the decision to an external industry complaints tribunal or other body; and
- (e) include in any disclosure document an explanation of its procedures for handling complaints.'

Schedule 2 – Class Rights

The Trustee may issue Units in one or more classes.

Where more than one class of Units is on issue:

- (a) the Trustee must record on the Register the relevant class of Unit held by the Holder;
- (b) the Issue Price for each Unit in a class of Units shall be determined in accordance with clause 13;
- (c) except as otherwise provided in their Terms of Issue each Unit in a class shall have one vote exercisable in person or by proxy on a show of hands or on a poll at a meeting of the Holders, or of that class;
- (d) Units in a class rank equally among themselves in all respects;
- (e) the Terms of Issue of any class of Units may specify the rights of that class of Units as to:
 - (i) rights to distributions of income and capital;
 - (ii) voting;
 - (iii) the share of a total Net Trust Value referable to that class of Units, on a winding up or on a redemption;
 - (iv) any priority of distributions between different classes;
 - (v) liability for the payment of trust fees or other costs, expenses or outgoings; and
 - (vi) any other matter.
- (f) Except as otherwise provided in the Terms of Issue of any class of Units:
 - (i) The Net Trust Value referable to any Unit in a class shall be the Net Trust Value referable to that class divided by the number of Units in that class. The Net Trust Value referable to any class of Units is a proportion of the total Net Trust Value as determined by the Trustee in good faith having regard to standard unit pricing policies and methodologies applied by the Trust Administrator, taking into account the Application Money received in respect of Units in the relevant class as a proportion of the total Net Trust Value at the time of issue and adjusted over time by reference to any differential distributions or liabilities for fees (or costs, expenses or outgoings) as contemplated in the Terms of Issue, any further issues of Units in the Trust, and otherwise in accordance with the unit pricing policies and methodologies commonly applied by the Trust Administrator in respect of trusts similar to the Trust.
 - (ii) a Holder of any class of Unit will be entitled on any redemption or winding up to the Net Trust Value referable to that Unit less any

amount unpaid on the Unit and any applicable transaction costs
referrable to that Unit as determined by the Trustee.

F.R. Woollard

FRED WOOLLARD



NIGEL BURGESS

DIRECTORS

SAMUEL TERRY ASSET

MANAGEMENT PTY LTD

24/6/2019