



10 November 2021

Market Announcements Office  
Australian Securities Exchange  
Exchange Centre  
20 Bridge Street  
SYDNEY NSW 2000

Dear Sir/Madam

**Constitution of Vicinity Centres Trust**

In accordance with ASX Listing Rule 15.4.2, please find attached the current constitution of Vicinity Centres Trust incorporating the general amendments approved by securityholders at the Annual General Meeting held today.

Authorised for lodgement by:

**Rohan Abeyewardene**  
Group Company Secretary

# Vicinity Centres Trust

ARSN 104 931 928

## Constitution

### **Consolidated Constitution at 10 November 2021**

#### **Consolidates:**

- (1) Constitution dated 29 May 2003;
- (2) First Supplemental Deed dated 12 December 2003;
- (3) Second Supplemental Deed dated 31 March 2004;
- (4) Deed of Retirement or Appointment dated 31 March 2004;
- (5) Third Supplemental Deed dated 5 April 2004;
- (6) Fourth Supplemental Deed dated 1 June 2004;
- (7) Fifth Supplemental Deed dated 4 July 2005;
- (8) Sixth Supplemental Deed dated 10 August 2005;
- (9) Seventh Supplemental Deed dated 12 August 2005;
- (10) Deed of Retirement or Appointment dated 12 August 2005;
- (11) Eighth Supplemental Deed lodged with ASIC on 9 November 2005;
- (12) Ninth Supplemental Deed dated 7 September 2007;
- (13) Tenth Supplemental Deed dated 30 June 2010;
- (14) Eleventh Supplemental Deed dated 10 October 2011;
- (15) Twelfth Supplemental Deed dated 30 November 2011;
- (16) Thirteenth Supplemental Deed dated 12 December 2011;
- (17) Fourteenth Supplemental Deed dated 22 January 2013;
- (18) Fifteenth Supplemental Deed dated 10 November 2014;
- (19) Sixteenth Supplemental Deed dated 28 October 2015;
- (20) Seventeenth Supplemental Deed dated 1 November 2018; and
- (21) Eighteenth Supplemental Deed dated 10 November 2021.

# Table of Contents

<b>1.</b>	<b>Meaning of words and interpretation</b>	<b>6</b>
1.1	Definitions .....	6
1.2	Interpretation .....	11
1.3	Market Price .....	11
1.4	General compliance provision and ASIC Exemptions.....	11
1.5	Inconsistency with the Listing Rules.....	12
1.6	Additional Listing Rule requirements.....	12
1.7	Acquisition of an investment.....	13
1.8	Paramourncy of provisions .....	13
<b>2.</b>	<b>The Trust</b>	<b>13</b>
2.1	Trustee .....	13
2.2	Declaration of Trust .....	13
2.3	Trust .....	14
2.4	Name of Trust.....	14
<b>3.</b>	<b>Interest of Unit Holder</b>	<b>14</b>
3.1	Division into Units .....	14
3.2	Fractions and splitting .....	14
3.3	Issue of Partly Paid Units .....	15
3.4	Joint Holders.....	15
3.5	Classes of Units.....	15
3.6	Benefits and obligations of Unit Holders and Option Holders .....	16
3.7	No further liability.....	16
3.8	Failure to pay instalment on Partly Paid Unit .....	16
3.9	Sale of Forfeited Unit.....	17
3.10	Income and Capital of a Forfeited Unit.....	17
3.11	Notice of sale of Forfeited Unit .....	17
3.12	Cancellation of Forfeiture .....	17
3.13	Consequences of sale and continuing liability .....	18
3.14	Proceeds of sale of Forfeited Unit.....	18
3.15	Lien for Amounts Owing .....	19
3.16	Trustee Units .....	19
3.17	Capital Reallocation.....	19
<b>4.</b>	<b>Application Procedures</b>	<b>19</b>
4.1	Number of Units issued .....	19
4.2	Application for Units or Options.....	20
4.3	Payments to the Trustee .....	20
4.4	Allotment.....	21
4.5	Trustee's discretion on Application.....	21
4.6	Certificates.....	21
4.7	Foreign Unit Holders.....	21
<b>5.</b>	<b>Issues and Redemptions</b>	<b>22</b>
5.1	Powers Cumulative.....	22
5.2	Underwriting of Issue.....	22
5.3	Issues of Options.....	22
5.4	Stapled Securities.....	23
5.5	Issue of Units under Options .....	23
5.6	Issue of Units and Options .....	23
5.6A	Financial Instruments .....	24
5.7	Issues pursuant to a bookbuild.....	24
5.8	Buy-back.....	24
5.9	Transfer of Assets .....	24
5.10	Compulsory redemption of small parcels .....	25
5.11	Effect of Stapling .....	25

<b>6.</b>	<b>Trustee's Powers</b>	<b>25</b>
6.1	General powers .....	25
6.2	Contracting powers.....	25
6.3	Investment powers .....	25
6.4	Power of delegation.....	25
6.5	Exercise of discretion .....	25
6.6	Power to seek information.....	25
<b>7.</b>	<b>Trustee's responsibilities and indemnities</b>	<b>26</b>
7.1	No limitation of other undertakings.....	26
7.2	Limitation of liability .....	26
7.3	Indemnities .....	26
7.4	Trustee may rely on advice .....	26
7.5	Interested dealings by Trustee .....	27
7.6	Effect of Stapling .....	27
<b>8.</b>	<b>Valuation of Assets</b>	<b>27</b>
8.1	Valuation of assets .....	27
8.2	Currency Conversion.....	28
8.3	Trustee to determine Current Unit Value.....	28
<b>9.</b>	<b>Income and Distributions</b>	<b>28</b>
9.1	Income and reserves of the Trust.....	28
9.2	Distributable Amount .....	28
9.3	Distribution of income .....	28
9.4	Separate Accounts .....	29
9.5	Composition of Distribution Entitlements .....	29
9.6	Distribution reinvestment arrangements.....	29
9.7	Tax.....	30
9.8	Excess amounts .....	30
9.9	Capital distribution .....	30
9.10	Ancillary Powers .....	30
<b>10.</b>	<b>Remuneration of Trustee</b>	<b>31</b>
10.1	Trustee's remuneration .....	31
10.2	Waiver of remuneration .....	31
10.3	Form of remuneration .....	31
10.4	Priority of Trustee's remuneration .....	31
10.5	Indemnity .....	32
10.6	Effect of Stapling .....	32
10.7	Proper performance of duties.....	32
<b>11.</b>	<b>Indemnity and insurance</b>	<b>32</b>
11.1	Persons to whom clauses 11.2 to 11.4 apply.....	32
11.2	Indemnity .....	32
11.3	Extent of indemnity .....	32
11.4	Insurance .....	32
11.5	Savings.....	33
<b>12.</b>	<b>Transfers</b>	<b>33</b>
12.1	Transfer .....	33
12.2	Effect of Stapling .....	33
12.3	Transaction advice after transfer.....	34
12.4	No general restriction on transfer.....	34
12.5	Restricted securities .....	34
12.6	Death, legal disability .....	34
12.7	Recognition of Holder.....	34
12.8	Participation in transfer systems .....	34
12.9	Sale by majority of Unit Holders .....	35
12.10	Exchange of Units deemed accepted.....	35
12.11	Partial takeovers.....	35

<b>13.</b>	<b>Options</b>	<b>36</b>
	13.1 Terms and subscription .....	36
	13.2 Nominees .....	36
	13.3 Exercise .....	36
	13.4 Option Holder's rights and interest .....	36
	13.5 Redemption or repurchase .....	36
<b>14.</b>	<b>Retirement or removal of Trustee</b>	<b>37</b>
	14.1 Retirement of Trustee .....	37
	14.2 Name of Trust to be changed .....	37
	14.3 Payment of outstanding or deferred fees .....	37
<b>15.</b>	<b>Alterations to this deed</b>	<b>37</b>
<b>16.</b>	<b>Term of Trust and termination of Trust</b>	<b>37</b>
	16.1 Term of Trust .....	37
	16.2 Procedure on winding up of Trust .....	38
	16.3 Audit of accounts of Trust .....	39
<b>17.</b>	<b>Meetings</b>	<b>39</b>
	17.1 Meetings .....	39
	17.2 Resolutions in writing .....	39
	17.3 Passing of resolution .....	39
	17.4 Effect of Stapling .....	39
<b>18.</b>	<b>Complaints</b>	<b>40</b>
<b>19.</b>	<b>Small holdings</b>	<b>40</b>
	19.1 Sale or redemption of small holdings .....	40
	19.2 Procedure .....	40
<b>20.</b>	<b>Stapling</b>	<b>41</b>
	20.1 Power to staple Securities and give effect to the Stapling .....	41
	20.2 Applications, transfers and distributions in specie .....	41
	20.3 Operation of Stapling provisions .....	42
	20.4 Units to be Stapled .....	42
	20.5 Paramountcy of Stapling .....	42
	20.6 Unstapling Date .....	43
	20.7 Transfer of Stapled Securities .....	43
	20.8 Stapled Security Register .....	43
	20.9 Variation of Stapling provisions .....	44
	20.10 Apportionment of application price .....	44
<b>21.</b>	<b>Proposal Approved by Members</b>	<b>44</b>
	21.1 Power to implement a Proposal and limitation of liability .....	44
	21.2 Appointment of Trustee as agent and attorney .....	44
	21.3 Payment of fees .....	45
	21.4 Paramountcy .....	45
<b>22.</b>	<b>General</b>	<b>45</b>
	22.1 Service of notices .....	45
	22.2 GST .....	46
	22.3 Method of payment, repayment or redemption .....	47
	22.4 Binding conditions .....	47
	22.5 Governing law and jurisdiction .....	48
	22.6 Severability .....	48
	22.7 Schedule .....	48

<b>Schedule 1 – Establishment and Administrative Costs</b>	<b>49</b>
<b>Schedule 2 – Meetings of Holders</b>	<b>51</b>
<b>Schedule 3 – Trustee’s Fees</b>	<b>55</b>

**This Constitution** is made on 29 May 2003 by:

**Vicinity Centres RE Ltd**

ABN 88 149 781 322

of **Chadstone Tower One, Level 4, 1341 Dandenong Road, Chadstone, Victoria, 3148**

("Trustee")

## **This deed witnesses**

---

### **1. Meaning of words and interpretation**

#### **1.1 Definitions**

(a) In this deed, unless the context otherwise requires:

**AMIT** has the meaning given to that word in the Tax Act.

**Application** means any of the following, as the case requires:

- (1) an application for Units;
- (2) a notification of the exercise of or application to exercise Options; or
- (3) an application for Options;

**Application Moneys** means the amount (if any) required to be paid to or the value of any cash or other property to be transferred to the Trustee by an applicant on the making of an Application for Units or Options;

**Approved Financial Product** means a Financial Product in respect of which approval has been given by ASX Settlement Pty Limited (ABN 49 008 504 532) in accordance with the ASX Settlement Operating Rules;

**Approved Valuer** means a valuer appointed by the Trustee;

**ASIC** means the Australian Securities and Investments Commission;

**ASIC Exemption** means an exemption or declaration by ASIC and includes Class Order [CO 13/655] and all related class orders;

**Assets** means all the cash, investments, rights and other property of the Trust;

**Associate** has the meaning given in the Corporations Act;

**ASX** means ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.;

**ASX Settlement Operating Rules** means the operating rules of ASX Settlement Pty Limited (ABN 49 008 504 532) and, to the extent that they are applicable, the operating rules of the Exchange and the operating rules of ASX Clear Pty Limited (ABN 48 001 314 503).

**Attached Security** means a Security which is from time to time Stapled or to be Stapled to a Unit;

**Auditor** means the auditor from time to time appointed by the Trustee to audit the Trust;

**Business Day** has the meaning given to that term in the Listing Rules;

**Class Order [CO 13/655]** means the ASIC class order of that name as amended or replaced;

**Compliance Committee** means the compliance committee for the Trust as required by section 601JA of the Corporations Act;

**Compliance Plan** means the compliance plan for the Trust as required by section 601HA of the Corporations Act;

**Corporations Act** means the *Corporations Act 2001* (Cth);

**Costs** includes costs, charges, fees, expenses, commissions, liabilities, losses, damages and Taxes and all amounts payable in respect of any of them or like payments;

**Direct Vote** means a notice of a Holder's voting intention delivered to the Trustee by post, fax, electronic or other means approved by the Trustee and otherwise in accordance with this deed and regulations, rules and procedures made by the Trustee in accordance with paragraph 6(g) of Schedule 2.

**Distributable Amount** means the amount (if any) determined in accordance with clause 9.2.

**Distribution Calculation Date** means such day or days in each year as the Trustee may determine from time to time;

**Distribution Date** means 61 days after the Distribution Calculation Date for the relevant Distribution Period or such other date determined by the Trustee;

**Distribution Entitlement** means a Unit Holder's entitlement to the Distributable Amount determined in accordance with clause 9.3;

**Distribution Period** means such period or periods as the Trustee may determine from time to time;

**Financial Product** has the meaning given in the ASX Settlement Operating Rules;

**Financial Year** means:

- (1) for the first Financial Year, the period from the date of establishment of the Trust to the next 30 June;
- (2) for the last Financial Year, the period beginning on 1 July before the date the Trust terminates to the date the Trust terminates; and
- (3) in all other circumstances, the 12 month period ending on 30 June in each year;

**Foreign Interests** means the Units or Options a Foreign Unit Holder would have been entitled to but for clause 4.7;

**Foreign Unit Holder** means a Unit Holder whose address appearing in the Register is in a country outside Australia or New Zealand;

**Forfeited Unit** means a Partly Paid Unit which is forfeited under clause 3.8(c) by non-payment of an Instalment;

**Government Agency** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world;

**Gross Asset Value** means the sum of:

- (1) the value of all Assets; and
- (2) any other amounts which, in the opinion of the Trustee should be included for the purpose of making a fair and reasonable determination of the value of the Trust on an undiscounted basis, having regard to generally accepted accounting principles;



**GST** means any goods and services tax or similar value added tax imposed in relation to a supply of any goods, property, service or any other thing;

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

**Holder** means a Unit Holder, Option Holder or Stapled Security Holder (as the context may require);

**Income** means income of the Trust determined in accordance with clause 9.1;

**Instalment** means in relation to a Partly Paid Unit, each instalment of the Issue Price of that Unit which is not paid on Application for the Unit and must be paid at the time specified in the Terms of Issue;

**Issue Price** means the price determined in accordance with clause 5;

**Liabilities** means liabilities of the Trust including any provision the Trustee decides should be taken into account but excluding the amount representing Unit Holders' capital, undistributed profits, interest attributable to Unit Holders accruing on Unit Holder capital, capital reserves, or any other amount representing the value of rights attaching to Units, whether or not redeemable, regardless of whether characterised as equity or debt in the accounts of the Trust;

**Listed** means:

- (1) in respect of the Trust, the Trust being admitted to the Official List; and
- (2) in the case of Stapled Securities or Units, being Officially Quoted;

**Listing Rules** means the Listing Rules of ASX and any other rules of ASX which are applicable to the Trust, including any variation, consolidation or replacement of those rules and is to be taken subject to any waiver or exemption granted to the Trust from compliance with those rules;

**Management Fee** means the management fee payable to the Trustee calculated in accordance with Schedule 3;

**Market Price** has the meaning given in clause 1.3;

**Marketable Parcel** has the meaning given to that expression in the Listing Rules;

**Member** means a Unit Holder for the purpose of clause 1.1(a) and Option Holders, as the case requires;

**Meeting** means a meeting of Holders convened in accordance with this deed;

**Minimum Holding** means:

- (1) if Units are not admitted to the Official List, such number as the Trustee from time to time determines; or
- (2) if Units are admitted to the Official List, such number of Units as may from time to time constitute a Marketable Parcel; and
- (3) in relation to Options, such number of Options (if any) as is specified in the Terms of Offer or Terms of Issue;

**Net Asset Value** means the Gross Asset Value less:

- (1) all amounts required to repay borrowings and to meet Liabilities (including the amount of any provisions the Trustee determines, in consultation with the Auditor, should be made);
- (2) following any Distribution Calculation Date, the amount of any Distributable Amount payable but not paid to Unit Holders on the day on which the Net Asset Value is determined; and

(3) any amount paid in advance of a call on a Partly Paid Unit;

**Net Income** means the income for any Financial Year for the purposes of section 95 of the Tax Act;

**Official List** means the official list of ASX;

**Official Quotation or Officially Quoted** means official quotation by ASX of the Units or Options, as the case requires;

**Operating Income** means the gross income realised by the Trust from its operations including rent, interest, dividends, distributions and otherwise less costs, expenses or outgoings (whether cash or not) arising in deriving that income including, but not limited to:

- (1) property and other outgoings;
- (2) repairs and maintenance;
- (3) interest and other borrowing costs; and
- (4) fees paid to the Responsible Entity.

**Option** means an option granted by the Trustee in respect of unissued Units;

**Option Holder** means the person for the time being registered as a holder of an Option, including any persons jointly registered;

**Ordinary Unit** means a Unit that has not been issued in a specific class of units;

**Paid-up Proportion** in relation to a Unit means the fraction determined by dividing the amount to which the Unit has been paid (excluding any amount paid in advance of a call or any other amount credited in respect of the Unit) by the Issue Price of the Unit;

**Partly Paid Unit** means a Unit in respect of which any portion of its Issue Price remains unpaid;

**Product Disclosure Statement** means a product disclosure statement for the purposes of the Corporations Act in respect of an issue or offer of Units or Options;

**Proposal** means a proposal approved by Members by special resolution;

**Register** means the register of Unit Holders or Option Holders maintained by the Trustee under Chapter 2C of the Corporations Act, as the context requires;

**Security** has the meaning given to that term in section 92(1) of the Corporations Act;

**Standing Determination** means a set of instructions and decisions necessary for the calculation of the Distributable Amount for a Distribution Period which allows the Distributable Amount to be calculated without the requirement for further determinations (refer to the definition of Distributable Amount) by the Trustee and without limitation to the above, includes a determination that the Distributable Amount should be equal to a particular amount (including zero);

**Staple, Stapled or Stapling** means, in relation to a Unit and an Attached Security or Attached Securities, being linked together so that one may not be dealt with without the other or others;

**Stapled Entity** means any trust, corporation, managed investment scheme or other entity the Securities in which are Stapled to Units and the reference to any act matter or thing to be done by a Stapled Entity means for a trust or managed investment scheme its trustee or responsible entity;

**Stapled Security** means a Unit and each Attached Security which are Stapled together, and includes an option over unissued Stapled Securities where expressly stated in this deed;

**Stapled Security Holder** means the holder of a Stapled Security;

**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 20.8;

**Stapling Date** means the date determined by the Trustee to be the day on which all Units on issue in the Trust will be Stapled to an Attached Security or Attached Securities;

**Tax** means any tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Government Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect of any of the above;

**Tax Act** means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth) as applies;

**Taxation Amount** for a Unit Holder or former Unit Holder (the Relevant Person), mean an amount of Tax which is payable or which is anticipated to become payable by the Trustee on its own account or out of the Trust and which is referable to the Relevant Person and a Taxation Amount includes an amount of Tax imposed on account of or in respect of:

- (1) the Relevant Person;
- (2) an amount paid or payable to the Relevant Person;
- (3) a Unit held by the Relevant Person;

**Terms of Issue** in relation to a Stapled Security, Unit or an Option means the terms and conditions upon which that Stapled Security, Unit or Option is issued (including, to the extent permitted by the Corporations Act and any ASIC Exemption, terms and conditions not in this deed);

**Terms of Offer** in relation to an offer to acquire an Option means the terms and conditions upon which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option;

**Trust** means the Vicinity Centres Trust constituted under this deed;

**Trustee** means Vicinity Centres RE Ltd ABN 88 149 781 322 or any other company named in the ASIC's record of registration for the Trust as the trustee or temporary trustee of the Trust;

**Unit** means an undivided interest in the Trust as provided for in this deed and includes all classes of units on issue at the relevant time;

**Unit Holder** means a person registered as the holder of a Unit, including any persons jointly registered;

**Unit Holding** means the total number of Units held by a Unit Holder;

**Units on Issue** means the number of Units created under this deed and not cancelled;

**Unstapled** means, in relation to a Unit, ceasing to be Stapled to an Attached Security; and

**Unstapling Date** means the date determined by the Trustee to be the unstapling date pursuant to clause 20.6.

- (b) Unless otherwise specified in this deed, terms defined for the purposes of the Corporations Act are used in this deed with the same meaning.

## **1.2 Interpretation**

In this deed, unless the context otherwise requires;

- (a) headings and boldings are for convenience only and do not affect the interpretation of this deed;
- (b) words importing the singular include the plural and vice versa;
- (c) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any government or semi-government agency;
- (d) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (e) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document;
- (f) a reference to a document being 'signed' or to 'signature' includes that document being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, includes the document being authenticated in accordance with the Act or any other method approved by the Trustee;
- (g) a reference to 'month' is a reference to a calendar month; and
- (h) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding Business Day.

## **1.3 Market Price**

The **Market Price** for a Stapled Security in a class or an Option (as the case requires), on any Business Day is:

- (a) the weighted average traded price for a Stapled Security in that class or Option in that class for all sales on ASX for the period of 10 Business Days immediately preceding the relevant Business Day (whether or not a sale was recorded on any particular day); or
- (b) if the Trustee believes that the calculation in clause 1.3(a) does not provide a fair reflection of the market price of a Stapled Security or Option, an amount as determined by an Approved Valuer, as being the fair market price of the Stapled Security or Option.

## **1.4 General compliance provision and ASIC Exemptions**

- (a) A provision of this deed which is inconsistent with a provision of the Corporations Act, or the terms of any applicable ASIC instrument (including a class order) or any ASX waiver from time to time does not operate to the extent of, and for the duration of, the inconsistency.
- (b) Clause 1.4(a) is subject to any declarations made by or exemptions granted by ASIC which are current in respect of or applicable to this deed.
- (c) If relief from the provisions of the Corporations Act granted by an ASIC Exemption requires that this deed contain certain provisions or may only be relied on if this deed contains certain provisions, then, despite clause 15, those provisions are taken to be incorporated into this deed at all times at which they are required to be included

and prevail over any other provisions of this deed to the extent of any inconsistency. However, if the relief is granted by class order (rather than specifically in relation to the Trust) then the ASIC Exemption (and the provisions it requires) will not be taken to be incorporated unless the Trustee declares in writing that this is the case. This declaration may be made at any time.

## **1.5 Inconsistency with the Listing Rules**

If the Trust is admitted to the Official List, the following clauses apply:

- (a) despite anything in this deed, if the Listing Rules prohibit an act being done, the act must not be done;
- (b) nothing in this deed prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is taken to contain that provision;
- (e) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is taken not to contain that provision; and
- (f) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is taken not to contain that provision to the extent of, and for the duration of, the inconsistency.

## **1.6 Additional Listing Rule requirements**

At all times that the Trust is admitted to the Official List:

- (a) the Trustee must not remove or change the rights of a Holder to vote or receive distributions in respect of a Unit or Option except in any of the following cases:
  - (1) an Instalment which is due and payable on that Unit under clause 3.8 has not been paid;
  - (2) in the case of the voting right, an instrument appointing a proxy in respect of that Unit or Option has not been deposited in accordance with Schedule 2;
  - (3) in the case of the voting right, the Holder became the holder of that Unit or Option after the time determined under the Corporations Act as the “specified time” for deciding who held the Unit or Option for the purpose of the meeting;
  - (4) the right is removed or changed under Australian legislation or under a provision in this deed that must be included to comply with Australian legislation;
  - (5) the right is removed or changed under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable; or
  - (6) the right is removed or changed under a court order;
- (b) a holder of a Unit or Option must not be divested of that Unit or Option except in any of the following cases:
  - (1) the divestment is under Australian legislation and the mechanism the Trustee adopts for divesting the Unit or Option is set out in the legislation or is approved by ASX as appropriate and equitable;

- (2) the divestment is under a provision in this deed that must be included to comply with Australian legislation;
  - (3) the divestment is under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable;
  - (4) the divestment is under a court order; or
  - (5) the divestment is under clause 3.9; and
- (c) unless the law and relevant ASX Settlement Operating Rules permit otherwise at the time, the Trustee must not divest a Unit Holder of Units or forfeit Units while those Units are in a “CHESS Holding” as that term is defined in the ASX Settlement Operating Rules.

## **1.7 Acquisition of an investment**

- (a) Subject always to the Corporations Act and the Listing Rules, to the extent that the Trustee offers to issue, or issues (or proposes to offer or issue) Units (or Stapled Securities, if Stapling applies) as consideration (in whole or in part) for an acquisition of an investment, property or other asset, the Trustee may determine:
- (1) the relevant date for striking the Issue Price – which may be either the date that the Trustee issues the Units (or Stapled Securities, if Stapling applies), the date that the Trustee enters into an agreement with another party to issue the Units (or Stapled Securities, if Stapling applies) (either conditionally or unconditionally), or any other date the Trustee determines as appropriate (acting in the best interests of Members, and having regard to the nature of the proposed offer or issue of Units to be made and the circumstances in which the proposed offer or issue of Units will be made);
  - (2) the way in which applications for the issue of Units (or Stapled Securities, if Stapling applies) are prepared, completed, conducted and processed; and
  - (3) the way in which Units (or Stapled Securities, if Stapling applies) are offered or issued.
- (b) This clause 1.7 prevails over all other provisions of this deed, to the extent of any inconsistency.

## **1.8 Paramountcy of provisions**

Subject to the Corporations Act and the Listing Rules, the following provisions prevail over other provisions of this deed in the following order to the extent of any inconsistency:

- (a) first, clauses 1.4, 1.5, and 1.6 and provisions taken to be included or amended under them; and
- (b) then, the provisions in clause 20 regarding Stapling.

---

## **2. The Trust**

### **2.1 Trustee**

The Trustee is appointed and agrees to act as trustee of the Trust.

### **2.2 Declaration of Trust**

Each Asset of the Trust is vested in, and held by or for, the Trustee on behalf of the Trust's Unit Holders.

## **2.3 Trust**

The Trust is constituted when the Initial Unit Holder pays \$10 to the Trustee as an Asset of the Trust and is issued with 10 Ordinary Units for that payment. At any time, the assets and property held by the Trustee are held in a single trust pursuant to the terms of this deed.

## **2.4 Name of Trust**

The name of the Trust is Vicinity Centres Trust. The Trustee may change the name of the Trust.

---

# **3. Interest of Unit Holder**

## **3.1 Division into Units**

- (a) The beneficial interest in the Assets is divided into Units. The Unit Holders are beneficially entitled to the Assets, however, no Unit confers an interest in a particular Asset.
- (b) A Holder may not:
  - (1) interfere or seek to interfere with or question the rights, powers, authority or discretion of the Trustee;
  - (2) exercise any right in respect of any Asset or lodge any caveat or other notice in respect of a particular Asset; or
  - (3) require that a particular Asset be transferred to a Holder.
- (c) Holders may not give any directions to the Trustee (whether at a meeting convened under sections 252B, 252C and 252D of the Corporations Act or otherwise) if it would require the Trustee to do or omit doing anything which may result in:
  - (1) the Trust ceasing to comply with the Listing Rules or the Trustee acting inconsistently with clause 4.7; or
  - (2) the exercise of any discretion expressly conferred on the Trustee by this deed or the determination of any matter which under this deed requires the agreement of the Trustee.

## **3.2 Fractions and splitting**

- (a) Units may be issued in fractions at the discretion of the Trustee, and the value of, and all rights and obligations attaching to, a fractional Unit will be in proportion to those of a whole Unit. However, while Stapling applies, a fraction of a Unit may only be issued if a fraction of an Attached Security stapled to the fraction of Unit is also issued.
- (b) Where a holding comprises more than one fraction of a Unit, the Trustee may consolidate such fractions.
- (c) The Trustee may consolidate or split the Units. The Trustee must in respect of any such consolidation or split:
  - (1) immediately amend the Register to record the consolidation or split;
  - (2) notify the Unit Holder within 30 days of the consolidation or split; and
  - (3) ensure that each Unit is consolidated or split on the same basis as each other Unit.

While Stapling applies, Units may only be consolidated or split if the related Attached Securities are also consolidated or split at the same time and to the same extent.

- (d) Subject to any law or Listing Rule or the ASX Settlement Operating Rules, the Trustee may split Units pursuant to clause 3.2(c) to create additional Units of the same class or to split the Units according to rights or characteristics attaching to those Units so that 2 or more additional classes of Units are created comprising a sub-set of rights attaching to the split Units.

### **3.3 Issue of Partly Paid Units**

- (a) The Trustee may offer any Units which are offered for subscription as Partly Paid Units the Issue Price of which is payable on issue and by Instalments.
- (b) The Trustee must set out the Terms of Issue of the Partly Paid Units in the document offering those Units for subscription, which must include the amount and time for payment of the Instalments.
- (c) The whole of the unpaid Issue Price of each Partly Paid Unit is payable immediately upon termination of the Trust and the Trustee must ensure that this is stated in the Terms of Issue.
- (d) A Holder of a Partly Paid Unit must pay the Instalments of the Issue Price in accordance with the Terms of Issue and in accordance with this deed.
- (e) While Stapling applies:
  - (1) Partly Paid Units may not be issued unless there is a contemporaneous and corresponding issue of Attached Securities which are to be partly paid and are to be Stapled to the Partly Paid Units; and
  - (2) any issue of Partly Paid Units must be on the basis that a call will not be regarded as having been validly paid unless any amount payable at the same time in relation to the partly paid Attached Securities Stapled to those Units is also paid.

### **3.4 Joint Holders**

Where two or more persons are registered as the Holders of a Unit or an Option (**joint holders**) they are, for the purposes of the administration of the Trust and not otherwise, taken to hold the Unit or Option as joint tenants, on the following conditions:

- (a) the Trustee is not bound to register more than three persons as the joint holders of the Unit or Option;
- (b) the joint holders are jointly and severally liable in respect of all payments, including payment of Tax, which ought to be made in respect of the Unit or Option;
- (c) on the death of a joint holder, the survivor or survivors are the only person or persons whom the Trustee will recognise as having any title to the Unit or Option, but the Trustee may require any evidence of death which it thinks fit;
- (d) any one of the joint holders may give an effective receipt which will discharge the Trustee in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the joint holders is entitled to delivery of any notices, cheques or other communications from the Trustee, and any notice, cheque or other communication given to that person is taken to be given to all the joint holders.

### **3.5 Classes of Units**

- (a) The Trustee may at any time issue Units in two or more classes (including income and capital units) and, subject to law and the Listing Rules, subject to any terms or conditions and having such rights as the Trustee determines.



- (b) Subject to section 601FC(1)(d) of the Corporations Act, the Trustee may convert any class of a Unit Holder's Units from one class to another class or reclassify Units from one class to another.
- (c) The Trustee must enter on the Register the class or Terms of Issue of Units held by a Unit Holder.

### **3.6 Benefits and obligations of Unit Holders and Option Holders**

- (a) Except where expressly provided in this deed to the contrary, all benefits and obligations in this deed apply for the benefit of and bind each Unit Holder to the extent provided in this deed.
- (b) Except where expressly provided in this deed to the contrary, all obligations in this deed bind each Option Holder to the extent provided in this deed. The benefits in this deed only apply for the benefit of Option Holders where expressly provided in this deed. Where the interests of Option Holders and Unit Holders conflict, the Trustee must prefer the interests of Unit Holders.

### **3.7 No further liability**

- (a) This clause 3.7 is subject to any separate agreement between a Unit Holder and the Trustee and to any call on Partly Paid Units which the Trustee is entitled to make under clauses 3.3 and 3.8 to 3.15.
- (b) The liability of each Holder in its capacity as such is limited to its investment in the Trust.
- (c) 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.
- (d) The recourse of the Trustee and any creditor of the Trustee is limited to the Assets of the Trust.

### **3.8 Failure to pay instalment on Partly Paid Unit**

- (a) The Trustee must serve each Holder of a Partly Paid Unit with a notice not later than 30 Business Days before the due date for payment of an Instalment unless the Terms of Issue for the Partly Paid Unit otherwise provide. The omission to give such notice by the Trustee or the non-receipt of such notice by the Holder of a Partly Paid Unit does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.
- (b) If a Unit Holder does not pay an Instalment on the due date, the Trustee must serve the Unit Holder with a notice not later than 7 days after the due date containing:
  - (1) a demand for payment of all Instalments due and payable in respect of the Partly Paid Units and any interest payable;
  - (2) a statement that interest:
    - A. runs from the due date of the Instalment until the date the Trustee receives payment of the overdue amount in full; and
    - B. is payable at a fair market rate determined by the Trustee;
  - (3) a further due date for payment which may not be earlier than the expiration of 7 days after the date of service of the notice;
  - (4) a warning that if payment in full is not received by the due date specified in the notice, the Partly Paid Unit is forfeited and the Trustee may offer the Forfeited Unit for sale; and

- (5) if Stapling applies, a statement that an equal number of each Attached Security will also be liable to be forfeited.

The omission to give such notice by the Trustee or the non-receipt of such notice by the Unit Holder does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.

- (c) If payment in full is not received by the due date specified in the notice issued under clause 3.8(b), the Partly Paid Unit is forfeited (concurrently with the forfeiture of the same number of each Attached Security if Stapling applies) and the Trustee may offer the Forfeited Unit for sale.
- (d) Payment pursuant to this clause 3.8 may be made by such electronic or other means approved by the Trustee from time to time.

### **3.9 Sale of Forfeited Unit**

- (a) Despite clause 3.9(b), if the Trustee offers a Forfeited Unit for sale it does so as agent for the Holder of the Forfeited Unit (and while Stapling applies as agent for the holder of each Attached Security Stapled to the forfeited Unit).
- (b) If the Trustee sells the Forfeited Unit, it must sell it by public auction in a manner determined by the Trustee. Any such sale must also be with respect to any Attached Security while Stapling applies.
- (c) The Trustee must ensure that the auction is in accordance with section 254Q of the Corporations Act (other than subsections 254Q(1), (9), (10) and (13)) as if the Forfeited Unit was a share, the Trust was the company and the Trustee was each director of the company.
- (d) The Trustee is not liable to the Unit Holder for any loss suffered by the Unit Holder as a result of the sale.

### **3.10 Income and Capital of a Forfeited Unit**

A distribution under clause 9:

- (a) to which the Holder of a Forfeited Unit is entitled; and
- (b) which have not been paid to the Holder before forfeiture,

must be applied in accordance with clause 3.14 as if they formed part of the proceeds of sale of a Forfeited Unit.

### **3.11 Notice of sale of Forfeited Unit**

At least 14 days but no more than 21 days before the date appointed for sale under clause 3.9(b), the Trustee must give notice of the sale of a Forfeited Unit:

- (a) to all Unit Holders in writing; and
- (b) by placing an advertisement in a daily newspaper circulating generally throughout Australia.

### **3.12 Cancellation of Forfeiture**

The Trustee must cancel the forfeiture of a Partly Paid Unit before a sale if the Holder of the Forfeited Unit pays the Trustee the full amount of the Instalment due together with interest on that Instalment calculated under clause 3.8(b) and any other amount payable in respect of the forfeiture (provided that this clause 3.12 will not apply where the Trustee is already under an obligation to sell such Units to a third party).

### **3.13 Consequences of sale and continuing liability**

- (a) On completion of the sale of the Forfeited Unit, the Holder ceases to be the Holder of that Unit but remains liable to the Trustee for the total amount set out in the notice served under clause 3.8(b).
- (b) The Unit Holder's liability under this clause ceases as soon as the Trustee receives:
  - (1) payment in full of the amount set out in the notice under clause 3.8(b) (excluding any amount paid by an underwriter under an underwriting agreement entered into under clause 5.2);
  - (2) the Costs associated with the forfeiture; and
  - (3) the Costs of all proceedings instituted against the Unit Holder to recover the amount due (including any amounts due in respect of the same number of each Attached Security Stapled to those Units if Stapling applies).
- (c) A statement signed by a director or secretary of the Trustee setting out:
  - (1) that a Partly Paid Unit has been forfeited (and referring to the same number of Attached Securities if Stapling applies); and
  - (2) the date of forfeiture,is conclusive evidence against any person claiming entitlement to the Forfeited Unit.
- (d) On completion of the sale the Trustee must apply the consideration paid for a Forfeited Unit in accordance with clause 3.14.
- (e) If the Trustee executes a transfer of a Forfeited Unit (which transfer must include the same number of Attached Securities if Stapling applies), the Trustee must register the transferee as the Holder of the Forfeited Unit.
- (f) The transferee of the Forfeited Unit is not required to verify the application of the purchase money.
- (g) The title to a Forfeited Unit is not affected by an irregularity or invalidity in the proceedings relating to the sale or disposal of a Forfeited Unit.
- (h) The Trustee is authorised to and must execute a transfer of a Forfeited Unit to the purchaser thereof.

### **3.14 Proceeds of sale of Forfeited Unit**

- (a) If a Forfeited Unit is sold under clause 3.9, the Trustee must apply the proceeds of the sale in the following order and manner:
  - (1) by paying any Costs incurred by the Trustee in relation to the sale or disposal of the Forfeited Unit including, but not limited to, commission, stamp duty, transaction duty, transfer fees and advertising and postal charges;
  - (2) by paying any Costs incurred by the Trustee in relation to the forfeiture or any proceedings brought against the Holder of the Forfeited Unit to recover unpaid Instalments (such Costs are to be appropriately weighted between the Trust and each Attached Security if Stapling applies);
  - (3) by holding as an Asset, the interest accrued in respect of the outstanding Instalments calculated under clause 3.8(b);
  - (4) by holding as an Asset, the balance of all Instalments due and payable in respect of the Forfeited Units; and
  - (5) by paying the balance to the Unit Holder whose Units are forfeited.

- (b) If there is a sale of more than one Forfeited Unit, the Trustee must pay the expenses listed in clause 3.14(a)(1) and 3.14(a)(2) pro rata to the number of Forfeited Units being sold.
- (c) Joint Holders of Partly Paid Units are jointly and severally liable for all amounts due and payable on their Partly Paid Units.

### **3.15 Lien for Amounts Owing**

The Trustee has a first and paramount lien over Units for any amounts owing to the Trustee in respect of Units registered in the name of a Unit Holder, including any fees or unpaid calls which are payable to the Trustee in respect of those Units and also for such amounts as the Trustee may be called upon by law to pay and has paid in respect of the Units of such Unit Holders. The lien extends to distributions from time to time declared in respect of such Units but if the Trustee registers any transfer of any Units upon which it has a lien, those Units are freed and discharged from the lien.

### **3.16 Trustee Units**

The Trustee may issue and receive Units on arm's length terms in lieu of fees which are payable to it for the proper performance of its functions and duties under this deed.

### **3.17 Capital Reallocation**

- (a) Subject to the Corporations Act and the Listing Rules, if at any time, a Stapled Entity makes a capital payment to the Trustee as a capital reallocation amount:
  - (1) each Unitholder is taken to have directed the Trustee to accept that capital reallocation amount; and
  - (2) the Trustee must apply that amount as an additional capital payment in respect of each Unit which is Stapled to a Security of the Stapled Entity making the capital payment equally in respect of each Unit.
- (b) The Trustee may at any time make a capital payment to a Stapled Entity as a capital reallocation amount if:
  - (1) the constitution of the Stapled Entity contains provisions to the effect of those in clause 3.17(a); and
  - (2) the Trustee is satisfied that the capital payment will be applied as an additional capital payment in respect of each Attached Security to which a Unit is Stapled equally.

---

## **4. Application Procedures**

### **4.1 Number of Units issued**

- (a) If the Trustee accepts an Application for Units in a class of Units in whole or in part, the number of Units issued is the number determined by the Trustee by dividing the relevant Application Money by the Issue Price of Units in that class of Units.
- (b) If the Trustee accepts an Application for Partly Paid Units in whole or in part, the number of Units issued is the number determined by the Trustee dividing the relevant Application Money by the amount of the Issue Price for a Unit in that class which is to be paid on Application.
- (c) The number of Units issued on the exercise of an Option is to be determined in accordance with the Terms of Issue and Terms of Offer.

## 4.2 Application for Units or Options

A person who wishes to subscribe for Units or Options must:

- (a) complete or make an Application in the form or manner determined by the Trustee;
- (b) lodge or make the Application at the place or address and in the manner determined by the Trustee;
- (c) include with the Application the Application Money in the form or manner specified by the Trustee or by the transfer of property to be vested in the Trustee; and
- (d) while Stapling applies, make an application for an identical number of Attached Securities to be Stapled to those Units.

## 4.3 Payments to the Trustee

- (a) If on Application for Units or Options the payment received or property to be transferred to the Trustee is such that the number of Units or Options which would otherwise be issued would be less than the Minimum Holding the Trustee must hold the payment or property received on trust for the applicant until the Trustee has accepted or rejected the Application.
- (b) If an applicant is to transfer property to the Trustee, the Trustee must not accept the Application unless it has received from the applicant:
  - (1) an effective transfer of the title to the property in favour of the Trustee; and
  - (2) a valuation acceptable to the Trustee stating the current market value of the property or other statement of its current market value.
- (c) Unless the applicant has paid all amounts payable in respect of the issue of Units or the transfer of property (if any) to the Trustee before the Trustee accepting the Application, the Trustee must deduct those amounts before determining the number of Units to be issued under clause 4.1.
- (d) If Units or Options are issued and:
  - (1) the Trustee has not received the Application Money in accordance with the Terms of Issue; or
  - (2) any payment for Units or Options is not cleared or property is not effectively transferred to the Trustee,the Units or Options are void as from their date of issue or such other date as the Trustee determines if the Trustee has not otherwise received payment of an amount equal to the Application Money for the Units or Options.
- (e) Subject to clause 4.3(a), all income in respect of the payment or property received on an Application for Units or Options (which has been accepted by the Trustee) before the issue of those Units or Options forms part of the Assets of the Trust.
- (f) Applications Money for Units or Options issued under a Product Disclosure Statement must be paid to the Trustee, to be placed by the Trustee in a special trust account until the earlier of:
  - (1) the minimum subscription, if any (to be specified in the Product Disclosure Statement) has been reached and the Trustee decides to proceed to allotment of Units; or
  - (2) the date by which the Application Money would need to be repaid under the Corporations Act.

Until the Trustee decides to proceed to the allotment of Units in accordance with this clause 4, it holds such Application Money upon bare trust for the applicant and the Trustee must comply with all obligations imposed on it in the same manner as it would be required to do if it were a company offering shares for subscription or purchase. No interest is payable on that money.

#### **4.4 Allotment**

A Unit or Option created is regarded as issued or granted to the person entitled to it if and when the person's name is recorded in the Register. No rights whatsoever attach to a Unit until it is issued or to an Option until it is granted.

#### **4.5 Trustee's discretion on Application**

The Trustee may in its absolute discretion accept or refuse to accept in whole or in part any Application or subscription for Units or Options (other than on the exercise of an Option). If Stapling applies, the Trustee must reject an application if the application for Units is not also for an identical number of Attached Securities to be Stapled to those Units. Subject to the Listing Rules, the Trustee is not required to assign any reason or ground for such refusal.

#### **4.6 Certificates**

If it is not contrary to the Listing Rules, the Trustee may determine:

- (a) not, to issue a certificate for a Unit; and
- (b) to cancel a certificate for a Unit and not to issue a replacement certificate.

#### **4.7 Foreign Unit Holders**

- (a) While the Trust is included in the Official List, the Trustee may determine that Foreign Unit Holders are not to be offered Units or Options to the extent it is permitted to do so by the Listing Rules and any applicable ASIC Exemption.
- (b) Where the Trust is not included in the Official List, the Trustee may determine that Foreign Unit Holders are not to be offered Units or Options to the extent it is permitted to do so by any applicable ASIC Exemption.
- (c) Without limiting clauses 4.7(a) and (b), while the Trust is not included in the Official List, the Trustee may determine that Foreign Unit Holders are not to be offered Units or Options under a pro rata issue or on reinvestment of all or part of a Unit Holder's Distribution Entitlement where it reasonably considers that it would:
  - (1) be in the best interests of the Holders; and
  - (2) not be unfair to the Foreign Unit Holders. and otherwise in accordance with this deed.
- (d) If the Trustee makes a determination under clause 4.7(c), the Trustee must sell the Foreign Interests (if capable of sale) and pay to each Foreign Unit Holder the amount calculated as follows:

$$AF = NP \times \frac{NF}{N}$$

where:

AF is the amount to be paid to that Foreign Unit Holder;

NP is the net proceeds of sale of the Foreign Interests being the amount (if any) remaining after deducting from the proceeds of sale of the Foreign Interests the aggregate of:

- (1) the Costs of the sale;

- (2) the amounts (if any) payable to the Trustee by any nominee appointed under clause 4.7(e) in respect of the Foreign Interest; and
- (3) any amounts the Trustee would be required by law or otherwise entitled to deduct or withhold under this deed;

N is the aggregate number of Foreign Interests; and

NF is the number of Foreign Interests to which that Foreign Unit Holder would otherwise have been entitled.

- (e) The Trustee may (and in the case of a renounceable pro rata issue, must) appoint a nominee to arrange for the sale of the Foreign Interests under, and pay to each Foreign Unit Holder the amount calculated in accordance with the formula in, clause 4.7(d).
- (f) The Trustee must take reasonable steps to maximise the amount payable to each Foreign Unit Holder under clause 4.7(d).

---

## **5. Issues and Redemptions**

### **5.1 Powers Cumulative**

- (a) The Trustee may issue Units only in accordance with this clause 5, the Listing Rules, current applicable laws and subject to this deed.
- (b) No sub-clause of this clause 5 (other than this clause 5.1) limits any other sub-clause.
- (c) Neither clause 5.1(a) nor any other provision of this deed restricts the Trustee's power to issue Units (or, if Stapling applies, Stapled Securities) in compliance with any ASIC Exemption and the Listing Rules.

### **5.2 Underwriting of Issue**

- (a) The Trustee may arrange for:
  - (1) an offer for sale, subscription or issue of Units or Options;
  - (2) the payment of Instalments in respect of Partly Paid Units;
  - (3) if Stapling applies, an offer for sale, subscription or issue of Stapled Securities or Options; or
  - (4) the exercise of Options,to be underwritten by an underwriter on terms determined by the Trustee.
- (b) The underwriter may, subject to applicable laws and the Listing Rules:
  - (1) be the Trustee or a Related Body Corporate of the Trustee; and
  - (2) take up any Units (or Stapled Securities, if Stapling applies) or Options not subscribed for.
- (c) The Trustee may issue Units (or Stapled Securities, if Stapling applies) and Options to an underwriter under this clause 5.2 at an Issue Price equal to the Issue Price at which the underwritten Units (or Stapled Securities, if Stapling applies) or Options were or would have been issued to persons other than the underwriter or underwriters.

### **5.3 Issues of Options**

The Trustee may issue Options for any consideration (including nil consideration) in accordance with the Terms of Offer and Terms of Issue.

## **5.4 Stapled Securities**

While Stapling applies, there must be a contemporaneous and corresponding issue of the same number of Attached Securities, or Options over unissued Attached Securities on the same terms as the Options, on the basis that Ordinary Units are to be Stapled to Attached Securities and Options over Ordinary Units are to be Stapled with options in respect of unissued Attached Securities.

## **5.5 Issue of Units under Options**

- (a) The Trustee may issue Units upon the exercise of Options in accordance with the Terms of Offer and Terms of Issue.
- (b) While Stapling applies an Option may only be exercised if at the same time as Units are acquired under the Option the same person contemporaneously acquires on exercise of an option over Attached Securities an identical number of Attached Securities which are then Stapled to the Units.

## **5.6 Issue of Units and Options**

In addition to any other power the Trustee has to issue Units or Options under this deed and subject always to compliance with the Corporations Act:

- (a) the Trustee may issue Units or Options at any time to any person by way of issue, placement, rights issue, distribution reinvestment arrangement or interest purchase plan:
  - (1) where the Trust is Listed, Units form part of the Stapled Securities and the Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), at an Issue Price determined by the Trustee;
  - (2) where the Trust is Listed, Units are not part of the Stapled Securities and Units or Options (as the case may be) are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), at an Issue Price determined by the Trustee; or
  - (3) where Units or Stapled Securities (as the case may be) have been suspended from Official Quotation (other than temporarily) or have otherwise ceased to be Officially Quoted or the Trust is no longer Listed, Units at the Current Unit Value on the Business Day before the day the offer to issue the Units is made; and
- (b) the Trustee may issue Units at any time to any person otherwise than by way of placement, rights issue, distribution reinvestment arrangement or interest purchase plan:
  - (1) where the Trust is Listed, Units form part of the Stapled Securities and the Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), at an Issue Price determined by the Trustee based on the reasonably current market price of the Stapled Securities;
  - (2) where the Trust is Listed, Units are not part of the Stapled Securities and Units or Options (as the case may be) are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), at an Issue Price determined by the Trustee based on the reasonably current market price of the Units; or
  - (3) where Units or Stapled Securities (as the case may be) have been suspended from Official Quotation (other than temporarily) or have



otherwise ceased to be Officially Quoted or the Trust is no longer Listed, Units at the Current Unit Value on the Business Day before the day the offer to issue the Units is made.

## **5.6A Financial Instruments**

- (a) Subject to the Corporations Act and Listing Rules the Trustee may, in addition to Units and Options, issue any other interests, rights or instruments relating to the Trust (including derivatives, debentures, convertible notes or other instruments of a debt, equity, quasi-debt, quasi-equity or hybrid nature (Financial Instruments)).
- (b) Subject to the Corporations Act, Financial Instruments may be issued on such terms (including with preferred, deferred or other special rights, obligations or restrictions, with regard to distributions, voting, return of capital, payment of calls, redemption, conversions or otherwise) as the Trustee determines.

## **5.7 Issues pursuant to a bookbuild**

- (a) Subject to the Corporations Act, the Trustee may issue Units (or Stapled Securities if Stapling applies) at a price and on terms determined by it if the Units are issued as part of Stapled Securities pursuant to a bookbuild arranged by a reputable merchant bank with experience in arranging bookbuilds in the Australian equity market (**Initial Placement**) under which a majority of Stapled Securities are issued to persons who are not associates (as those terms are defined in sections 11 to 16 of the Corporations Act) of the Trustee or the Stapled Entities at an issue price for the Stapled Securities determined in accordance with the terms of the bookbuild (**Bookbuild Price**).
- (b) The Trustee may issue Units at an issue price equal to the issue price under an Initial Placement conducted in accordance with clause 5.7(a) if the Units are issued as part of Stapled Securities issued at the Bookbuild Price for the Initial Placement if the issue is:
  - (1) a placement to professional investors (as that term is defined in section 9 of the Corporations Act 2001, which may include an associate of the Trustee) announced at the same time as, or within 15 Business Days of, the Initial Placement; or
  - (2) made pursuant to a disclosure document or Product Disclosure Statement lodged with ASIC pursuant to sections 718 or 1015B of the Corporations Act 2001 respectively within 15 Business Days of the Initial Placement.

## **5.8 Buy-back**

- (a) The Trustee may undertake an on market buy back or any other redemption of Units to the extent permitted by the Listing Rules, the Corporations Act and the terms and conditions of any relevant ASIC Exemption.
- (b) Immediately after the registration of a transfer of a Unit or a Stapled Security (as applicable) following a buy-back under this clause 5.8, the Units purchased are cancelled.

## **5.9 Transfer of Assets**

The Trustee may transfer Assets to a Unit Holder rather than pay cash on the redemption of Units. The Assets transferred must be of equal value to the total proceeds of the redemption due to the Unit Holder (based on a valuation done within one month before the date of the proposed transfer after deducting all costs incurred in valuing and transferring the property).

## **5.10 Compulsory redemption of small parcels**

Subject to section 601FC of the Corporations Act, and while Units are Officially Quoted the Trustee may at any time adopt this clause 5.10 and at its discretion from time to time sell or redeem any Units held by a Unit Holder without request by the Unit Holder where the holding of the Unit Holder is less than a Marketable Parcel as provided in the Listing Rules. The Trustee must give the Unit Holder not less than 6 weeks' written notice of its intention to cause the redemption or sale of the Units and the Trustee may only do so if the Trustee has not received from the Unit Holder a written notice of objection and the Unit Holder has not increased their holding so that they hold at least a Marketable Parcel. If a holding of Units is redeemed under this clause, the redemption price is the Market Price of the holding on the date of redemption. All costs arising from the redemption or sale of Units under this clause are payable out of the Assets of the Trust.

## **5.11 Effect of Stapling**

While Stapling applies the Trustee must not redeem a Unit unless each Attached Security to which the Unit is Stapled is also redeemed, bought back or otherwise cancelled by the Stapled Entity.

---

# **6. Trustee's Powers**

## **6.1 General powers**

- (a) Subject to this deed, the Trustee has all the powers in respect of the Trust that it is possible under the law to confer on a trustee and as though it were the absolute owner of the Assets and acting in its personal capacity.
- (b) The Trustee may, in accordance with the terms of this deed, determine that the Units should be un-Stapled from the Attached Securities and effect that un-Stapling.

## **6.2 Contracting powers**

Without limiting clause 6.1, the Trustee in its capacity as trustee of the Trust has power to borrow or raise money, to grant security and to incur all types of obligations and liabilities.

## **6.3 Investment powers**

Without limiting clause 6.1, the Trustee may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with property and rights in its absolute discretion.

## **6.4 Power of delegation**

- (a) The Trustee may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Trustee's power, including the power to appoint in turn its own agent or delegate.
- (b) The Trustee may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Trustee thinks fit.
- (c) The agent or delegate may be an Associate of the Trustee.

## **6.5 Exercise of discretion**

The Trustee may in its absolute discretion decide how and when to exercise its powers.

## **6.6 Power to seek information**

At any time, the Trustee may request from Unit Holders, and Unit Holders must promptly provide to the Trustee, any information (including personal information and details)

reasonably required by the Trustee for the purposes of administering the Trust or complying with any relevant laws.

---

## **7. Trustee's responsibilities and indemnities**

### **7.1 No limitation of other undertakings**

This clause 7 does not limit or affect any other indemnities given to the Trustee in this deed or at law.

### **7.2 Limitation of liability**

Except where the Corporations Act expressly provides otherwise:

- (a) the Trustee and each director and officer of the Trustee are not personally liable to a Holder or any other person in connection with the office of the Trustee or director or officer of the Trustee; and
- (b) the Trustee will not be liable to any Holder to any greater extent than the extent to which it is entitled to be and is in fact indemnified out of the Assets actually vested in the Trustee in respect of the Trust.

### **7.3 Indemnities**

- (a) The Trustee is not responsible for:
  - (1) any Costs incurred by any fraud, negligence, breach of duty or breach of trust or otherwise, by any agent, delegate, attorney or custodian and any of their agents or delegates;
  - (2) any Costs incurred by relying on any notice, resolution, information, documents, forms or lists unless it reasonably believes such item not to be genuine or not to have been passed, executed or signed by the proper parties; or
  - (3) Costs if a person fails to carry out an agreement with the Trustee or an agent or delegate of the Trustee,except where the Corporations Act expressly provides otherwise.
- (b) The Trustee will not be liable to anyone in respect of any failure to perform or do any act or thing which by reason of:
  - (1) any provision of any present or future law or statute of Australia or any State or Territory; or
  - (2) of any decree, order or judgement of any competent court,the Trustee is prevented, forbidden or hindered from doing or performing.
- (c) The Trustee is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties in relation to the Trust. This indemnity is in addition to any indemnity allowed by law and continues to apply after the Trustee ceases to be trustee of the Trust.

### **7.4 Trustee may rely on advice**

The Trustee may take and act upon:

- (a) the opinion or advice of counsel or solicitors instructed by the Trustee in relation to the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust; and

- (b) the opinion, advice, statements or information from any bankers, accountants, auditors, valuers architects, engineers and other persons consulted by the Trustee who are in each case believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted,

and the Trustee will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statements or information.

## **7.5 Interested dealings by Trustee**

Subject to the provisions in Part 5C.7 of the Corporations Act, the Trustee or an officer or employee or Associate of the Trustee may:

- (a) be a Holder;
- (b) act in any fiduciary, vicarious or professional capacity, including without limitation as a banker, accountant, auditor, valuer, solicitor, underwriter, independent contractor or other consultant or adviser to or representative, delegate, attorney or agent of the Trustee or any Holder or as an executor, administrator, receiver or trustee;
- (c) have an interest in or enter into a contract or transaction with:
  - (1) the Trustee or an Associate of the Trustee;
  - (2) any Holder; or
  - (3) any other person, including one whose shares or other securities form an Asset; or
- (d) hold or deal in or have any other interest in an Asset,

and may retain and is not required to account for any benefit derived by doing so.

## **7.6 Effect of Stapling**

While Stapling applies, the Trustee may in exercising any power or discretion have regard to the interests of the Holders in their capacity as Unit Holders and the interests of Holders in their capacity as Stapled Security Holders which includes having regard to their interests as members of any Stapled Entity. This is the case notwithstanding any other provision of this deed, or any rule of law or equity to the contrary, other than any applicable provision of the Corporations Act.

---

## **8. Valuation of Assets**

### **8.1 Valuation of assets**

- (a) The Trustee may at any time, cause the valuation of any Asset.
- (b) In determining whether a valuation accurately reflects the current value of an Asset, the Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of Assets.
- (c)
  - (1) Each Asset must be valued at its market value unless the Trustee determines:
    - A. there is no market in respect of the Asset; or
    - B. the market value does not represent the fair value of the Asset.
  - (2) Where the Trustee makes a determination under clause 8.1(c)(1) the Trustee must at the same time determine the method of valuation for the Asset.

- (d) Where a valuation is to be performed of any Asset or the determination of the Net Asset Value of the Trust and the number of Units on Issue is to be made it is to be performed or determined as at a time determined by the Trustee.
- (e) Where the calculation of the Issue Price is to be made at a particular date, the Trustee need not cause a valuation of the Assets to be performed at that date but may rely on the most recent valuations for the purposes of that calculation.

## **8.2 Currency Conversion**

Where it is necessary for any purposes to convert one currency to another, the conversion must be made at a time and at such rates quoted by a bank or other financial institution nominated by the Trustee.

## **8.3 Trustee to determine Current Unit Value**

The Trustee may determine the Current Unit Value at any time.

# **9. Income and Distributions**

## **9.1 Income and reserves of the Trust**

The Trustee is to determine whether any item is income or capital and the extent to which reserves or provisions need to be made.

## **9.2 Distributable Amount**

- (a) The Trustee may at any time distribute to Unitholders income or capital out of the Fund.
- (b) For each Distribution Period the Trustee:
  - (1) may determine the Distributable Amount for the Distribution Period; and
  - (2) must calculate and distribute each Unit Holder's Distribution Entitlement.
- (c) If no determination is made or to the extent to which no determination is made under clause 9.2(b)(1) and the Trust is not an AMIT for the Financial Year in which the Distribution Period occurs;
  - (1) the last Distribution Period for that Financial Year shall be taken to end on the last day of that Financial Year; and
  - (2) the Distributable Amount for that last Distribution Period is equal to the greater of the Net Income of the Trust and the Operating Income for that Financial Year less so much of that Net Income or Operating Income as has previously been distributed.

## **9.3 Distribution of income**

- (a) The Unit Holder immediately prior to the end of the last day of each Distribution Period has at that time a vested and indefeasible interest in the Unit Holder's proportionate interest in the Distributable Amount (Distribution Entitlement), determined by multiplying the Distributable Amount for the Distribution Period by the fraction:

$$\frac{UH}{UI}$$

where:

- UH is the sum of the Paid-up Proportion of each Unit held by the Unit Holder, at the close of business on the Distribution Calculation Date; and
- UI is the sum of the Paid-up Proportion of each Unit on issue in the Trust at the close of business on the Distribution Calculation Date.
- (b) If the Trust is not an AMIT in respect of a Financial Year at the end of that Financial Year, a Unit Holder has a vested and indefeasible interest in the aggregate of their Distribution Entitlements (determined in accordance with clause 9.3(a)) for all Distribution Periods in a Financial Year, including for the purposes of section 97 of the Tax Act, notwithstanding whether Units are held by that unit Holder at the end of the Financial Year.
- (c) Subject to section 601FC(1)(d) of the Corporations Act and the operation of clause 9.6, this deed and the Terms of Issue applicable to each class of Unit, for each Distribution Period the Trustee must calculate the Distribution Entitlement of each Unit Holder on or before the Distribution Date and pay or provide the Distribution Entitlement to each Unit Holder:
- (1) in cash;
  - (2) by applying some or all of the Distribution Entitlement for each Unit Holder to the issue of fully paid units in the Trust to those Unit Holders; or
  - (3) by means of any combination of the above as the Trustee may determine.
- (d) The Trustee may retain from each Unit Holder's Distribution Entitlement all amounts which are necessary to avoid distributing a fraction of a cent or which the Trustee determines it is not practical to distribute on a Distribution Date. Any sum so retained will for all purposes be treated as Income for the next following Distribution Period.
- (e) The Trustee may retain from the amounts to be distributed to a Unit Holder or a former Unit Holder an amount in or towards satisfaction of any amount:
- (1) payable by the Unit Holder to the Trustee under this deed;
  - (2) required to be deducted by law; and
  - (3) of Tax or Taxation Amount or any estimate of it.

#### **9.4 Separate Accounts**

The Trustee may keep separate accounts of different categories or sources of income, capital, deductions or credits for tax purposes, and may allocate income, capital, deductions or credits from a particular category or source to particular Unit Holders if the Terms of Issue of any class of Units permits.

#### **9.5 Composition of Distribution Entitlements**

At the end of each financial year the Trustee must notify each Unit Holder of the extent to which its Distribution Entitlements throughout that financial year are composed of, and the type of, income, capital, credits and offsets for income tax purposes.

#### **9.6 Distribution reinvestment arrangements**

- (a) The Trustee may notify Unit Holders from time to time in writing that Unit Holders may on terms specified in the notice participate in an arrangement under which Unit Holders may reinvest all or a proportion of their Distribution Entitlements in additional Units.

- (b) If a Unit Holder agrees to participate in an arrangement notified under paragraph 9.6(a), the Trustee may make provision for and may make payment for the subscription or purchase of the appropriate number of additional Units out of the relevant amount of Distribution Entitlements.
- (c) While Stapling applies, no reinvestment can occur unless contemporaneously with the reinvestment in additional Units the Unit Holder subscribes for or purchases an identical number of Attached Securities which are subsequently Stapled to the Units in question.
- (d) While Stapling applies, the Trustee may make provision for and may make payment for the subscription or purchase of Attached Securities to be Stapled to Units out of any distribution of Income which is otherwise available for investment in Units.

## **9.7 Tax**

Subject to clause 9.3, the Trustee may take any action that it considers is necessary (including without limitation by distributing or applying capital to or for the benefit of the Unit Holders) to ensure to the maximum extent possible that any Tax liability under the Tax Act in respect of the Distributable Amount of a Distribution Period is borne by the Unit Holders in proportions that correspond with their Distribution Entitlement, and that the Trustee incurs no liability to pay Tax under the Tax Act as trustee of the Assets.

## **9.8 Excess amounts**

If the Trustee determines that the total amount of distributions actually made to the Unit Holders during or with respect to a Distribution Period exceeds the Distributable Amount for the Distribution Period, the Trustee may treat the excess as a distribution of capital.

## **9.9 Capital distribution**

The Trustee may distribute to Unit Holders any amount of capital of the Trust. The Trustee when resolving to pay a distribution of income or capital may:

- (1) direct payment of the distribution wholly or partly by the distribution of specific assets, including paid-up Units or other securities of the Trust or of another body corporate, either generally or to specific Unit Holders; and
- (2) unless prevented by the Listing Rules, direct payment of the distribution to particular Unit Holders wholly or partly out of any particular fund or reserve or out of profits derived from any particular source, and to the other Unit Holders wholly or partly out of any other particular fund or reserve or out of profits derived from any other particular source, provided that the Trustee considers that it can maintain equity and fairness based on all grounds it considers relevant, between Unit Holders in doing so.

## **9.10 Ancillary Powers**

- (a) To give effect to any resolution to satisfy a distribution as set out in clause 9.9, the Trustee may:
  - (1) settle as it thinks expedient any difficulty that arise in making the distribution or capitalisation and, in particular:
    - A. make cash payments in cases where Units or other securities become issuable in fractions; and
    - B. decide that amounts or fractions of less than a particular value decided by the Trustee may be rounded up to the next whole number or may disregarded in order to adjust the rights of all parties;

- (2) fix the value for distribution of any specific assets;
- (3) pay cash or issue Units or other securities to any Unit Holder in order to adjust the rights of all parties;
- (4) vest any of those specific assets, cash, Units or other securities in a trustee on the trusts for the persons entitled to the distribution that seem expedient to the Trustee; and
- (5) authorise any person to make, on behalf of all the Unit Holders entitled to any further units or other securities as a result of the distribution, an agreement with the Trustee or other body corporate which provides, as appropriate:
  - A. for the issue to them of those further Units or other securities credited as fully paid up; or
  - B. for payment by the Trust on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Units or other securities by applying their respective proportions of the amount resolved to be distributed.

Any agreement made under an authority referred to in this sub-paragraph is effective and binds all Unit Holders concerned.

- (b) If the Trust distributes to Unit Holders (either generally or to specific Unit Holders) securities in the Trust or in another body corporate or trust (whether as a distribution of income or capital and whether or not for value), each of those Unit Holders appoints the Trustee as his or her agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate.
- (c) Any amount payable to a Unit Holder, whether as or on account of distributions of income or capital or otherwise, may, with the agreement of the Unit Holder or under the terms of issue of the Unit, be paid in the currency of a country other than Australia. The Trustee may fix a time before the payment date as the time at which the applicable exchange rate will be determined for that purpose.

---

## **10. Remuneration of Trustee**

### **10.1 Trustee's remuneration**

The Trustee is entitled to receive out of the Assets of the Trust the remuneration (including the Management Fee) specified in Schedule 3, and any other fees specified in Schedule 3 in relation to the proper performance of its duties.

### **10.2 Waiver of remuneration**

The Trustee may waive or defer the whole or any part of the fees, or any part of any Costs to which it would otherwise be entitled and may defer the due date for payment of such remuneration and Costs.

### **10.3 Form of remuneration**

The Trustee may elect to be issued Units in any class at the then Issue Price of Units in lieu of some or all of any fee to which it is entitled under this deed.

### **10.4 Priority of Trustee's remuneration**

The remuneration of the Trustee has priority over the payment of all other amounts payable from the Assets of the Trust.



## **10.5 Indemnity**

In addition to any other right of indemnity which it may have under this deed or at law, the Trustee is indemnified and entitled to be reimbursed out of the Assets for, or entitled to have paid from the Assets, all Costs incurred in the performance of its duties or the exercise of its powers, the course of its office or in relation to the administration or management of the Trust. Without limitation this includes the amounts specified in Schedule 1.

## **10.6 Effect of Stapling**

While Stapling applies the Trustee may in its absolute discretion agree the apportionment of expenses incurred in connection with the Trust and the Stapled Entities or with Stapled Securities, as between the Trust and the Stapled Entities. Any such apportionment could result in the Trust bearing the entirety of the expenses or it being shared with the Stapled Entities or borne totally by the Stapled Entities.

## **10.7 Proper performance of duties**

The rights of the Trustee to be paid fees out of the Assets of the Trust, or to be indemnified out of the Assets of the Trust for liabilities or expenses incurred in relation to the performance of its duties, are available only in relation to the proper performance of those duties.

---

## **11. Indemnity and insurance**

### **11.1 Persons to whom clauses 11.2 to 11.4 apply**

Clauses 11.2 to 11.4 apply to each person who is or has been a member of the Trust's Compliance Committee.

### **11.2 Indemnity**

The Trustee must, from the Assets of the Trust indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 11.2 applies for Costs (other than Taxes) incurred by the person as a member of the Compliance Committee including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

### **11.3 Extent of indemnity**

The indemnity in clause 11.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 11.2 applies even though that person may have ceased to be a member of the Compliance Committee; and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

### **11.4 Insurance**

The Trustee may, from the Assets of the Trust and to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 11.4 applies against any liability incurred by the person as a member of the Compliance Committee including, but not limited to, a liability for

negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

## **11.5 Savings**

Nothing in clauses 11.2 to 11.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the Trustee to indemnify or provide insurance for any person to whom those clauses do not apply.

---

## **12. Transfers**

### **12.1 Transfer**

- (a) Before the Trust is admitted to the Official List or at, any time after the Trust has ceased to be admitted, all transfers of Units and Options must be effected by a proper instrument of transfer and in a manner approved by the Trustee. The Trustee may decline to register a transfer of Units or Options under this clause 12.1(a) unless the instrument of transfer:
  - (1) is duly stamped; and
  - (2) is accompanied by such evidence as the Trustee requires to prove the title of the transferor.
- (b) While the Trust is admitted to the Official List all transfers of Units or Options must be effected in accordance with the Listing Rules.
- (c) A transferor of Units or Options remains the Holder until the transfer is registered and the name of the transferee is entered in the Register in respect of the Units or Options.

### **12.2 Effect of Stapling**

While Stapling applies:

- (a) a transfer of a Unit forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if, in addition to the requirements of clause 12.1, the transfer is accompanied by a transfer of each Attached Security to which the Unit is Stapled in favour of the same transferee;
- (b) a transfer of a Unit which is not accompanied by a transfer of each Attached Security to which the Unit is Stapled will be taken to authorise the Trustee as agent for the transferor to effect a transfer of each Attached Security to which the Unit is Stapled to the same transferee;
- (c) a transfer of any Attached Security to which a Unit is Stapled (other than a transfer of the Attached Securities to the Trustee as trustee of the Trust) 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 to which the Attached Security is Stapled to the same transferee;
- (d) any provision of this deed which contemplates the transfer of a Unit will be taken to be a reference to the transfer of each Stapled Security unless the contrary intention expressly applies; and
- (e) the same rules as for the transfer of Units and Attached Securities apply to Options over Stapled Securities.

### **12.3 Transaction advice after transfer**

If the Trustee accepts a transfer under this part, the Trustee may issue a transaction advice for:

- (a) the Units or Options which have been transferred; and
- (b) the balance of any Units which were not transferred.

### **12.4 No general restriction on transfer**

- (a) There is no restriction on the transfer of Units and, subject to clause 12.5, the Trustee may not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of Units effected under clause 12.1(b).
- (b) Except as otherwise set out in this clause 12, there is no restriction on any other transfer of Units or Options.

### **12.5 Restricted securities**

Despite any other provisions of this deed:

- (a) restricted securities (as defined in the Listing Rules) cannot be disposed of during the escrow period referred to in the Listing Rules except as permitted by the Listing Rules or ASX;
- (b) subject to the ASX Settlement Operating Rules in respect of Approved Financial Product, the Trustee must refuse to acknowledge a disposal (including registering a transfer), of restricted securities during the escrow period except as permitted by the Listing Rules or ASX; and
- (c) in the event of a breach of the Listing Rules in relation to Units which are restricted securities, the Holder holding the Units in question ceases to be entitled to any distributions and to any voting rights in respect of those Units for so long as the breach subsists.

### **12.6 Death, legal disability**

If a Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated the survivor (in the case of joint Holders), legal personal representative or the person entitled to Units as a result of bankruptcy or liquidation, will be recognised as having a claim to Units or Options registered in the Holder's name.

The Trustee need not register any transfer or transmission under this clause unless the transferee provides an indemnity in favour of the Trustee in a form determined by the Trustee in respect of any consequence arising from the transfer or transmission.

### **12.7 Recognition of Holder**

The Trustee:

- (a) must treat the person entered on the Register as a Holder as the absolute owner of all rights and interests of the Holder; and
- (b) except as required by law or this deed, need not recognise any claim or interest in any Unit or Option by any other person.

### **12.8 Participation in transfer systems**

The Trustee may determine that Units or Options which are Officially Quoted will participate in the "Clearing House Electronic Sub-register System" or any other computerised or electronic system of transfer or registration. The Trustee may with the approval of the ASX, create rules to facilitate such participation which may be additional to or may override this clause 12.

## **12.9 Sale by majority of Unit Holders**

Subject to any law or Listing Rule to the contrary, where 90% or more of Unit Holders in a particular class (**Majority Unit Holders**) agree to sell all their Units in that class to a third person, the remaining Unit Holders must sell their Units on the same terms and conditions as those agreed to by the Majority Unit Holders and the Unit Holders hereby irrevocably appoint the Trustee as their attorney for the purposes of effecting such sale and giving effect to the terms of this clause 12.9.

## **12.10 Exchange of Units deemed accepted**

(a) If, with the approval of the Trustee, an offer is made to Unit Holders or any of them to transfer some or all of their Units to a third party in return for any of:

- (1) the issue or transfer of units in another trusts or other interests in any entity;
- (2) cash; and
- (3) a transfer of Assets,

and at least 21 days notice is given to Unit Holders to accept the offer, then at the end of the notice period, if no election has been communicated by the Unit Holder, they will be deemed to have accepted the Offer. Where the offer is of cash and one or more other alternatives, the Unit Holder is deemed to have accepted the cash alternative. In all other cases, the Trustee will determine the alternative deemed to be accepted.

(b) The Trustee is authorised to complete any application for units, transfer forms or other documents required to give effect to this clause 12.10 on behalf of and in the name of each relevant Unit Holder as their agent or attorney.

## **12.11 Partial takeovers**

(a) Subject to the Corporations Act and the Listing Rules, the Trustee is prohibited from registering any transfer of Units giving effect to a takeover contract under a proportional takeover bid in respect of Units (or, if the proportional takeover bid is in respect of a class of Units, Units in that class) unless and until a resolution to approve the takeover bid is passed in accordance with paragraphs (b) to (e) (inclusive).

(b) Subject to paragraph (c), the only Unit Holders entitled to vote on a resolution to approve a proportional takeover bid are those Unit Holders who, as at the end of the day on which the first offer under the takeover bid is made, held Units in the bid class in respect of which the offer is made. Each Unit Holder entitled to vote has one vote for each Unit in the relevant bid class held by the person at that time.

(c) Neither the bidder under the takeover bid nor any associate of the bidder is entitled to vote on the resolution.

(d) The resolution is to be considered at a meeting convened and conducted by the Trustee of Unit Holders entitled to vote on the resolution. The provisions of this deed relating to meetings of Unit Holders apply to the meeting with any modifications the Trustee decides are required in the circumstances.

(e) The resolution is taken to have been passed only if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than 50%.

(f) If required by the Corporations Act, this clause 12.11 (other than this paragraph (f)) will cease to apply at the end of three years beginning from:

- (1) where it has not been renewed in accordance with the Corporations Act, the date that this clause 12.11 was inserted into this deed; or
  - (2) where it has been renewed in accordance with the Corporations Act, the date on which the clause was last renewed.
- 

## **13. Options**

### **13.1 Terms and subscription**

- (a) This clause 13 applies to all Options.
- (b) The Terms of Offer and the Terms of Issue of any Options which may be issued must be notified to each person being offered Options at the time of the offer.
- (c) A person may subscribe for an Option in accordance with the Terms of Offer. Upon creation an Option binds the Trustee.

### **13.2 Nominees**

- (a) An Option may be subscribed for by a nominee of the person entitled to subscribe for the Option unless the Terms of Offer provide otherwise.
- (b) An Option may be exercised by a nominee of the Option Holder unless the Terms of Issue provide otherwise.

### **13.3 Exercise**

- (a) An Option Holder may only exercise an Option in accordance with the Terms of Issue.
- (b) On the termination or winding up of the Trust, all Options lapse and, subject to any amounts specifically expressed to be payable to the Option Holder on the termination or winding up of the Trust, the liabilities of the Trustee cease in respect of each Option.

### **13.4 Option Holder's rights and interest**

- (a) An Option does not confer on the Option Holder any particular interest in the Assets. Option Holders have only those rights conferred on them by this deed, their Terms of Offer and Terms of Issue and the Listing Rules.
- (b) Option Holders are not entitled to any distribution of income or capital gains or any distribution on winding up or termination of the Trust.
- (c) Option Holders are entitled:
  - (1) to inspect any document which may be inspected by; and
  - (2) to be sent any document which is sent to, Unit Holders in similar circumstances.
- (d) If Options have been issued which have not expired or been exercised or cancelled, then if a new Trustee is appointed under this deed, it must execute any documents and do all things reasonably required by the outgoing Trustee to ensure that it assumes the covenants and obligations of the outgoing Trustee under those Options.

### **13.5 Redemption or repurchase**

- (a) The Trustee may cancel or redeem or buy an Option or any of the rights of exercise of an Option in accordance with the Terms of Issue (provided the Terms of Issue have been approved by the ASX if required) whereupon the Trustee must make any payment to an Option Holder required under the Terms of Issue. Options and rights

may only be cancelled, redeemed or purchased under this clause 13.5(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Trustee and the Trustee may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).

- (b) Options and rights redeemed or purchased under clause 13.5(a) form part of the Assets and the Trustee is recognised as the Holder and may exercise, reissue, resell and otherwise deal with them as it determines. The Trustee retains title in law to each and every Option and right so purchased in its name until the Option or right is resold or lapses and such title in law will not merge in such choses as are constituted by the grant of such Options and rights.

---

## **14. Retirement or removal of Trustee**

### **14.1 Retirement of Trustee**

- (a) Despite any other law, the Trustee may only retire as Trustee of the Trust in accordance with section 601FL of the Corporations Act.
- (b) On retirement or removal the Trustee must give the new Trustee all books, documents and records relating to the Trust.
- (c) Subject to the law, the Trustee may agree to be paid a benefit by another entity who proposes to be the trustee of the Trust (**Proposed Trustee**) in consideration for retiring as trustee or agreeing to convene a meeting of Unit Holders to consider the replacement of the Trustee with the Proposed Trustee. The Trustee is not required to account to Unit Holders for the benefit received.

### **14.2 Name of Trust to be changed**

- (a) If the Trustee has retired or is removed as the Trustee, the new Trustee must promptly take whatever action may be necessary to remove any words or any other letters, words or expressions which might express or imply an association with the Trustee or any of its Associates from the title of the Trust and this deed and such letters, words or expressions must not be used in any connection with the Trust and this deed.
- (b) Clause 14.2(a) does not apply if the new Trustee obtains the consent of the Trustee not to take the action set out in that clause.

### **14.3 Payment of outstanding or deferred fees**

Immediately upon the retirement or removal of the Trustee, all fees or amounts owing to the Trustee and all amounts deferred by the Trustee pursuant to clause 10.2 become due and payable to the Trustee from the Assets of the Trust and the new Trustee must take such action as is necessary to promptly effect all such payments.

---

## **15. Alterations to this deed**

Subject to section 601GC of the Corporations Act (if applicable) and any approval required by law, the Trustee may by deed replace or amend this deed (including this clause).

---

## **16. Term of Trust and termination of Trust**

### **16.1 Term of Trust**

- (a) This Trust is a continuing trust with no provision for termination. The trust may be terminated by operation of law, including by an extraordinary resolution of Unit

Holders pursuant to section 601NB of Chapter 5C of the Corporations Act 2001 or otherwise under the Corporations Act 2001; and

- (b) Notwithstanding clause 16.1(a) the Trust may be continued in operation or existence if it appears to be in the interests of Unit Holders during such period as the Trustee may determine provided that any such continuation would not give rise to any breach of the legal rule against remoteness of vesting of property in so far as such rule applies to the Trust.

## **16.2 Procedure on winding up of Trust**

- (a) In winding up the Trust the Trustee must:
  - (1) realise the Assets;
  - (2) pay any amount due to it under clause 16.2(c);
  - (3) pay all Costs of the Trustee in its capacity as Trustee of the Trust including, but not limited to, liabilities owed to any Unit Holder who is a creditor of the Trust; and
  - (4) subject to any special rights or restrictions attached to or the Terms of Issue of any Unit or the direction in writing of all Unit Holders, distribute the net proceeds of realisation among the Unit Holders pro rata in accordance with the Paid-Up Proportion of Units held by Unit Holders.
- (b) Subject to sections 601FC(1)(c) and 601FC(1)(d) of the Corporations Act, the Trustee may distribute an asset of the Trust to a Unit Holder in specie. The Trustee must determine the value of the Asset to be distributed in specie. Any costs payable on an in specie distribution must be paid by the Unit Holder before the distribution is made.
- (c) The Trustee is entitled to:
  - (1) be paid from the proceeds of realisation of the Trust before any payment is made to the Unit Holders all Costs incurred or which it establishes will be incurred:
    - A. by it before the winding up of the Trust which it has not recouped;
    - B. by it in connection with the winding up of the Trust and the realisation of the Assets of the Trust;
    - C. by or on behalf of any creditor of the Trustee in relation to the Trust;
    - D. by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Trustee in connection with the winding up of the Trust;
  - (2) an indemnity against the amounts referred to in clause 16.2(c)(1) which may be satisfied out of those proceeds before any distribution under clause 16.2(a)(4) is made; and
  - (3) following the termination of the Trust and until the winding up is completed, its remuneration provided for in clause 10.
- (d) Subject to sections 601FC(1)(e) and 601FC(1)(d) of the Corporations Act, the Trustee may postpone the realisation of the Assets for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
- (e) The Trustee may retain for as long as it thinks fit any part of the Assets which in its opinion, may be required to meet any actual or contingent liability of the Trustee or

any amounts payable actually or contingently to the Trustee under this deed, including but not limited to under clause 16.2(c).

- (f) The Trustee must distribute among the Unit Holders in accordance with clause 16.2(a) anything retained under clause 16.2(e) which is subsequently not required.

### **16.3 Audit of accounts of Trust**

The Trustee must ensure that the final accounts of the Trust following the winding-up are audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Trustee.

---

## **17. Meetings**

### **17.1 Meetings**

- (a) The Trustee may convene a meeting at any time.
- (b) Part 2G.4 of the Corporations Act, the Listing Rules and the provisions of Schedule 2 apply to a meeting.

### **17.2 Resolutions in writing**

- (a) A resolution of Holders of the Trust may be passed by the Holders completing, signing and returning copies of a written resolution, which has been sent by the Trustee within a period specified by the Trustee.
- (b) In respect of such a resolution each Holder has the number of votes determined in accordance with section 253C(2) of the Corporations Act. The value of a Holder's total holding must be determined at such time as the Trustee specifies.

### **17.3 Passing of resolution**

A resolution passed:

- (a) at a meeting of Holders held in accordance with this deed and the Corporations Act; or
- (b) under clause 17.2,

is binding on all Holders in their capacity as Holders.

### **17.4 Effect of Stapling**

- (a) While Stapling applies, the directors or other representatives of the Trustee may attend and speak at any meeting of Holders, or invite any other person to attend and speak.
- (b) While Stapling applies, if permitted by the Corporations Act and any applicable ASIC relief, any meeting of Holders may be held with and as part of a meeting of the Holders of the Attached Security. If such a joint meeting is permitted:
  - (1) the joint meeting will be convened and held in accordance with the procedures that apply to the holding of meetings of Holders and the Holders of the Attached Security, with such modifications as the Trustee decides; and
  - (2) any decision made by or resolution passed by the joint meeting will be taken for all purposes as a decision made by or resolution passed by the Holders.



---

## **18. Complaints**

The Trustee must establish and maintain a procedure for dealing with complaints by Unitholders which meets the requirements of section 912A(2) of the Corporations Act.

---

## **19. Small holdings**

### **19.1 Sale or redemption of small holdings**

- (a) Subject to the provisions of this clause 19, the Trustee may in its discretion from time to time sell or redeem any Units held by a Holder without request by the Holder where:
- (1) the market value of Units (together with any Attached Securities Stapled to those Units) held by a Holder is less than \$2000; or
  - (2) while the Trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a Marketable Parcel as provided in the Listing Rules. In this case, the Trustee may only sell or redeem Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

### **19.2 Procedure**

- (a) The Trustee must notify the Holder in writing of its intention to sell or redeem Units (together with any Attached Securities Stapled to those Units) under this clause 19.
- (b) The Trustee will not sell or redeem the relevant Units (together with any Attached Securities Stapled to those Units):
- (1) before the expiry of 6 weeks from the date of notice given under clause 19.2(a); or
  - (2) if, within the 6 weeks allowed by clause 19.2(b)(1):
    - A. the Holder advised the Trustee that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or
    - B. the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to \$2000 or more.
- (c) The power to sell lapses following the announcement of a takeover, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Trustee or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale or redemption as the Trustee decided.
- (e) The proceeds of the sale or redemption will not be sent to the Holder until the Trustee has received the certificate (if any) relating to the Units (together with any Attached Securities Stapled to those Units), or is satisfied that the certificate has been lost or destroyed.
- (f) The Trustee is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 19.

---

## **20. Stapling**

### **20.1 Power to staple Securities and give effect to the Stapling**

- (a) In addition to any power the Trustee has under this deed, the Trustee may, subject to the Corporations Act and, if the Units are Officially Quoted, the Listing Rules:
- (1) cause the Stapling of any Security to the Units; and
  - (2) cause the Stapling of further Securities to the 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,
- so that in every case, there is an equal number of Attached Securities of every kind Stapled to each Unit.
- (b) For the purposes of clause 20.1(a), the Trustee has power to do all things which it considers necessary, desirable or reasonably incidental to cause Stapling.

### **20.2 Applications, transfers and distributions in specie**

- (a) Without limiting clause 20.1(b), the Trustee may:
- (1) make distributions of income or capital or redeem Units and apply the proceeds of the distribution or redemption on behalf of Unit Holders;
  - (2) apply for Securities in the name of a Unit Holder;
  - (3) make a transfer of Securities to all Unit Holders;
  - (4) make an in specie distribution of Securities to all Unitholders;
  - (5) issue Units;
  - (6) transfer Assets; and
  - (7) execute all documents and do all things which it considers are necessary, desirable or reasonably incidental to give effect to the Stapling.
- (b) If the Trustee applies for Securities in accordance with clause 20.2(a)(2), it must apply for Securities for all Unit Holders in the same way and the Securities applied for 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 20.2(a)(3), it must effect the transfer to all Unit Holders in the same way and the Securities transferred to each Unit Holder 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 20.2(a)(4), the Trustee must effect the distribution to all Unit Holders in the same way and the Securities transferred to each Unit Holder 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 20.2(a), each Unit Holder authorises the Trustee to act as the Unit Holder's agent and attorney to:
- (1) apply for Securities in the name of that Unit Holder;
  - (2) accept a transfer of Securities for the Unit Holder;
  - (3) agree that the Unit Holder will become a member of the relevant Stapled Entity; and

- (4) execute all documents and do all things (including giving all consents) which the Trustee reasonably considers are necessary or desirable to give effect to the Stapling.

The Trustee is authorised to execute those documents and to do these things without needing further authority or approval from Unit Holders.

### **20.3 Operation of Stapling provisions**

Clauses 20.4 to 20.9 apply from such a time as determined by the Trustee, and only for so long as, a Unit continues to be a component of a Stapled Security.

### **20.4 Units to be Stapled**

- (a) While Stapling applies, each Ordinary Unit is Stapled to each Attached Security to form a Stapled Security and each Stapled Security must be registered in the Stapled Security Register. The intention being that an Ordinary Unit and each Attached Security which are Stapled together are treated as one security to the extent possible at law.
- (b) The Trustee may at any time staple an Unstapled Unit to an Attached Security which is not Stapled.
- (c) On and from the Stapling Date and prior to the Unstapling Date, the Trustee must not issue Ordinary Units unless satisfied that each of those Ordinary Units will be Stapled to each Attached Security to form a Stapled Security.
- (d) On and from the Stapling Date and prior to the Unstapling Date, the Trustee and the Unit 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 Ordinary Unit no longer being Stapled as a Stapled Security. In particular:
  - (1) the Trustee must not offer any Ordinary Units for subscription or sale unless an offer is made at the same time and to the same person for an identical number of each Attached Security for issue or sale;
  - (2) any offer of Ordinary Units for subscription or sale must require each offeree to subscribe for or buy a number of Attached Securities equal to the number of Ordinary Units subscribed for or bought;
  - (3) the Trustee must not issue or sell any Ordinary Units to any person unless an identical number of each Attached Security is also issued or sold to the same person at the same time;
  - (4) the Trustee must not consolidate, sub-divide, cancel or otherwise reorganise any Ordinary Units unless at the same time there is a corresponding consolidation, subdivision, cancellation or other reorganisation of all Attached Securities;
  - (5) the Trustee must not register the transmission or transfer of Ordinary Units pursuant to clause 12 unless it also causes the transmission or transfer (as the case may be) of a corresponding number of each Attached Security;

but nothing in this sub-clause 20.4(d) prohibits the Trustee from determining the Unstapling Date.

### **20.5 Paramouncy of Stapling**

- (a) While Stapling applies, 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 Ordinary Unit no longer being Stapled as a Stapled Security.

- (b) While Stapling applies, the Trustee must use every endeavour to procure that the Stapled Securities are Listed as one joint security and that Ordinary Units are dealt with under this deed in a manner consistent with the provisions of the Attached Security's constitution as regards Attached Securities Stapled with those Units.

## **20.6 Unstapling Date**

- (a) Subject to the Corporations Act, the Listing Rules and approval by a special resolution of the Unit Holders and the Holders of the Attached Securities respectively, the Trustee may determine that the Stapling provisions of this deed will cease to apply to all Units in the Trust in relation to the Attached Securities in one or more Stapled Entities 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 in the Stapled Entity or Stapled Entities (as the case may be) and the Trustee must do all things reasonably necessary to procure that each Unit is Unstapled.
- (c) If the Trustee makes a determination pursuant to this clause 20.6, this does not prevent the Trustee from:
  - (1) subsequently determining that the Stapling provisions should recommence; and
  - (2) stapling an Unstapled Unit to Attached Securities which are not Stapled.

## **20.7 Transfer of Stapled Securities**

- (a) Until the Unstapling Date:
  - (1) A transfer of a Unit forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if, in addition to the requirements of clause 12, the transfer is accompanied by a transfer of each Attached Security to which the Unit is Stapled in favour of the same transferee.
  - (2) A transfer of a Unit which is not accompanied by a transfer of each Attached Security to which the Unit is Stapled will be taken to authorise the Trustee as agent for the transferor to effect a transfer of each Attached Security to which the Unit is Stapled to the same transferee.
  - (3) A transfer of any Attached Security to which a Unit is Stapled (other than a transfer of the Attached Security to the Trustee as trustee of the Trust) 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 Security to which the aforementioned Attached Security is Stapled to the same transferee.
- (b) Each Unit Holder irrevocably appoints the Trustee as its agent and attorney for the purposes of taking all necessary action (including executing necessary documentation) to effect on a date to be determined by the Trustee the transfer to the Trustee (as trustee of the Trust) or to a person nominated by the Trustee of any Attached Security which was Stapled to a Forfeited Unit which has been cancelled or sold.

## **20.8 Stapled Security Register**

The Trustee must cause to be kept 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 Stapled Attached Securities held by the Holders to which each Holder's Units are Stapled and any additional information required by the Corporations Act or the Listing Rules or determined from time to time by the Trustee.

## **20.9 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 each Attached Security and is simultaneously removed for each Attached Security.

## **20.10 Apportionment of application price**

Where Stapling applies:

- (a) the Trustee, the responsible entity, or (in the case of a corporate entity) the board of each Stapled Entity may determine what part of the Issue Price of the Stapled Security is to be allocated to the Unit and each Attached Security; and
- (b) unless otherwise determined by the Trustee, the responsible entity or (in the case of a corporate entity) the board of each Stapled Entity, the Issue Price must be allocated in proportion to the net assets (adjusted for the net market value of its investments) of the Trust and each Stapled Entity at the relevant date.

---

## **21. Proposal Approved by Members**

### **21.1 Power to implement a Proposal and limitation of liability**

- (a) Having regard to the functions of the Trustee and without limiting anything else in this clause 21 the Trustee has power to and must do all things which it considers are necessary, incidental or desirable to effect a Proposal and those powers apply notwithstanding, and are not limited by, any provision of this deed other than clauses 1.4, 1.5 and 1.6.
- (b) The Trustee will not have any liability of any nature to Holders (which exceeds the extent to which it is actually indemnified out of the assets of the Fund) arising, directly or indirectly, from the Trustee doing or refraining from doing any act (including the execution of a document), pursuant to or in connection with the proper implementation of the Proposal.

### **21.2 Appointment of Trustee as agent and attorney**

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, incidental or desirable to be executed or done on behalf of a Holder to effect a Proposal, including:

- (a) executing applications, withdrawals, transfers and other documents, and receiving, holding and paying money;
- (b) applying for and acquiring (whether by subscription, purchase or otherwise) Securities in the name of a Holder;
- (c) receiving and applying distributions or other payments to pay for the subscription for or purchase of Securities;

- (d) making or accepting transfers of Securities in the name of and for the Holder;
- (e) distributing any asset of the Fund to a Holder by way of an in specie distribution;
- (f) agreeing that the Holder will become a member of an entity and will be bound by its constitution;
- (g) receiving and applying distributions or other payments (otherwise payable to a Holder) to pay for the subscription for or purchase of Securities, or to pay a contribution of capital in respect of Securities held by the Holder;
- (h) receiving and giving a good discharge for money to which a Holder or former Holder is entitled pursuant to the terms of a Proposal, paying that money in accordance with clause 21.3, and paying the balance to each person entitled to them or as that person directs; and
- (i) taking all necessary action to compulsorily transfer all Securities held by each Excluded Foreign Holder.

The Trustee is authorised to execute these documents and do these things without needing further authority or approval from the Holders.

### **21.3 Payment of fees**

If it is a term of a Proposal that, if implemented, the Trustee is:

- (a) entitled to the payment of a fee out of the assets of the Fund or is entitled to pay out of the assets of the Fund a fee to a fund manager, a property manager or any agent or contractor; or
- (b) required to direct a payor (or payors) of money to Holders (or former Holders in the Trust) to withhold a specified sum from such money on account of fees payable to a fund manager, any property manager or any agent or contractor of the Trust and to pay that specified sum to the Trustee or as the Trustee so directs,

the Trustee is authorised to make the payment or provide the direction, provided:

- (c) in the case of a payment to the Trustee, the payment is in full satisfaction of all claims that the Trustee might otherwise have against the assets of the Fund for the payment of any fees; and
- (d) in the case of a payment or a direction to pay a fund manager, any property manager or any agent or contractor, the Trustee procures an acknowledgement in writing from the payee that the payee accepts such payment in full satisfaction of all claims that it might otherwise have against the assets of the Fund or the Trustee.

### **21.4 Paramourncy**

Subject only to the Corporations Act, and if the Units are Officially Quoted, the Listing Rules, this clause 21 has effect notwithstanding any other provision of this deed and any provision of this deed which is inconsistent with this clause 21 does not operate to the extent of any inconsistency.

## **22. General**

### **22.1 Service of notices**

- (a) Any application, notice or other communication to or by the Trustee or a Holder:
  - (1) must be in legible writing and in English addressed:
    - A. if to the Trustee, to its registered office;

- B. if to a Holder, to the Holder's address specified in the register of Unit Holders or Option Holders,  
or as specified to the sender by any party by notice;
- (2) must be signed personally or, in the case of a corporation, by a duly authorised officer or under the common seal of the sender;
- (3) is regarded as being given by the sender and received by the addressee:
  - A. if by delivery in person, when delivered to the addressee; or
  - B. if by prepaid post, at 10:00 am on the next Business Day after the date on which it is posted; or
  - C. if by facsimile transmission, when transmitted to the addressee but where the sender's machine indicates a malfunction in transmission or the addressee notifies the sender of an incomplete transmission within 3 hours after transmission is received, the facsimile transmission is regarded as not given or received;
  - D. if sent by electronic messaging system, when the electronic message is received by the addressee,  
but if the delivery, receipt or transmission is on a day which is not a Business Day or is after 3.00 pm (addressee's time) it is regarded as given and received at 10.00 am on the following Business Day; and
- (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) A notice or other communication to joint Holders is validly given if it is given only to the joint Holder whose name appears first on the Register.
- (c) Where a Holder does not have an address specified in the Register or where the Trustee believes that the Holder is not known at the address specified for that Holder in the Register, the Trustee may give notice to the Holder by exhibiting the GST notice in the Trustee's registered office for a period of 48 hours, in which case the notice will be taken to be served at the commencement of that period.
- (d) A signature to any notice given by the Trustee to a Member under this rule 22.1 may be printed or affixed by mechanical, electronic or other means.

## **22.2 GST**

- (a) Any reference in this clause to a term defined or used in the GST Act is to be taken as a reference to that term as defined or used in the GST Act.
- (b) Except as provided in clause 22.2(c), any amount referred to in this deed (including the Trustee's remuneration and any Costs) which is relevant in determining the amount of any payment to be made to the Trustee is exclusive of any GST component.
- (c) Any payment to be made to the Trustee by way of indemnification or reimbursement for losses, damages or Costs must include any GST component of the losses, damages or Costs for which an input tax credit is not available to the Trustee.
- (d) If GST is levied or imposed on or in respect of any supply made under this deed or in relation to the administration or management of the Trust then the consideration payable for that supply is increased by the rate at which the GST is levied or imposed

on that supply. The additional consideration is payable at the same time and in the same manner as the consideration to which it relates.

- (e) The recipient of any consideration must issue a GST tax invoice to the recipient of the supply as required by the GST Act.

### **22.3 Method of payment, repayment or redemption**

- (a) Any money payable by the Trustee to a Holder under this deed may be paid, at the discretion of the Trustee:
  - (1) by such electronic or other means approved by the Trustee directly to an account (of a type approved by the Trustee) nominated in writing by the Holder; or
  - (2) by cheque sent to the registered address of the Holder or to such other address as the Holder in writing directs.
- (b) A payment made under clause 22.3(a)(1) is made at the Holder's risk.
- (c) A cheque sent under clause 22.3(a)(2):
  - (1) may be made payable to the bearer or to the order of the Holder to whom it is sent or any other person the Holder directs; and
  - (2) is sent at the Holder's risk.
- (d) If the Trustee decides that payments will be made by electronic transfer into an account (of a type approved by the Trustee) nominated by a Holder, but no such account is nominated by the Holder or an electronic transfer into a nominated account is rejected or refunded, the Trustee may credit the amount payable to an account of the Trustee held on behalf of the Trust to be held until the Holder nominates a valid account.
- (e) Where a Holder does not have a registered address or the Trustee believes that a Holder is not known at the Holder's registered address, the Trustee may credit an amount payable in respect of the Holder's Units to an account of the Trustee held on behalf of the Trust to be held until the Holder claims the amount payable or informs the Trustee of the Holder's address.
- (f) An amount credited to an account under clauses 22.3(d) or 22.3(e) is to be treated as having been paid to the Holder at the time it is credited to that account. The Trustee will not be a trustee of the money other than under this deed and no interest will accrue on the money.
- (g) If a cheque for an amount payable under clause 22.3(a)(2) is not presented for payment for at least 11 calendar months after issue or an amount is held in an account under clauses 22.3(d) or 22.3(e) for at least 11 calendar months, the Trustee may stop payment on the cheque and invest or otherwise make use of any such amounts for the benefit of the Trust until claimed or otherwise disposed of according to the laws relating to unclaimed moneys.
- (h) A cheque issued to a Holder which is presented and paid, or where the payment is to a financial institution or nominated person, payment to the institution or person, discharges the Trustee in respect of the payment.

### **22.4 Binding conditions**

The terms and conditions of this deed and any amending deed are binding on the Trustee, each relevant Holder and any other person claiming through any of them as if each was a party to this deed and each supplemental deed.



## **22.5 Governing law and jurisdiction**

The rights, liabilities and obligations of the Trustee and the Holders are governed by the law of Victoria.

## **22.6 Severability**

If any provision of this deed is void, illegal or unenforceable it may be severed without affecting the enforceability of the other provisions of this deed.

## **22.7 Schedule**

Each Schedule to this deed is an operative part of it.

## Schedule 1 – Establishment and Administrative Costs

- 1 All Costs (including, without limitation, travel expenses and accommodation) in connection with:
- (a) the preparation, approval, registration, execution, stamping, interpretation and enforcement of this deed and any amending deeds and the Trust;
  - (b) the underwriting of any issues of Units or Options;
  - (c) salaries or other overhead expenses of the Trustee including but not limited to any lease or utility expenses;
  - (d) the preparation, registration, printing, promotion and distribution of any Product Disclosure Statement or marketing material issued by the Trustee in respect of the Trust, Units or Stapled Securities and the preparation, registration, printing, promotion and distribution of any document required by law, the Listing Rules or this deed to be prepared in respect of the Trust;
  - (e) the investigation, negotiation, acquisition, development, registration, custody, holding, management, supervision, repair, maintenance, valuation, insurance, sale of or other dealing with an Asset (or attempting or proposing to do so) and the receipt, collection or distribution of income or other Assets;
  - (f) raising money or otherwise obtaining financial accommodation, including but not limited to, interest on borrowings and discounts and fees in respect of bill facilities and any Taxes payable in respect of such raising of money or obtaining financial accommodation;
  - (g) convening and holding meetings and carrying out the directions of the meetings;
  - (h) the retirement or removal of the Trustee and the appointment of another (including a temporary Trustee) in its place;
  - (i) the establishment and maintenance of accounts (including bank accounts in respect of the Trust) and the Register and registry services;
  - (j) calculations and determinations under this deed;
  - (k) the establishment and administration of the Trust including:
    - (1) computer operation and development and data processing;
    - (2) computer experts' fees and expenses;
    - (3) office expenses including the cost of postage, transaction advices, accounts, distribution statements, notices, reports and other documents sent to a Unit Holder or Option Holder under this deed;
    - (4) expenses in connection with any dealings with Units or Stapled Securities;
    - (5) holding meetings of the directors of the Trustee, without regard to where any director may reside; and
    - (6) holding meetings of the members of the Trust's Compliance Committee, without regard to where any member may reside;
  - (l) any custodian, actuary, adviser, expert, agent, delegate, lawyer (on a full indemnity basis), contractor, valuer, accountant or auditor (including the auditor of the Compliance Plan, including any who is an associate of the Trustee);
  - (m) fees, remuneration and expenses of members of the Compliance Committee;
  - (n) the indemnity referred to in clause 11.2;

- (o) any insurance purchased or maintained or premium for insurance paid or agreed to be paid as contemplated by clause 11.4;
- (p) all Taxes;
- (q) all fees payable to the ASIC, ASX, or other regulatory authority in respect of the Trust, Units or Options and other expenses incurred by the Trustee in respect of the admission of the Trust to the Official List or in respect of the Official Quotation of any Units or Options;
- (r) in anticipation of any action, suit or proceeding relating to the interpretation and construction of this deed or any provision of this deed or against the Trustee;
- (s) preparation and lodgement of tax returns;
- (t) termination of the Trust;
- (u) the assigning and maintaining of a credit rating to the Trust;
- (v) communications with Holders;
- (w) costs of responding to enquiries in respect of Unit Holdings, preparing and printing accounts, causing the preparation and distribution of accounts, distribution statements, reports, confirmations and cheques in respect of the Trust;
- (x) the establishment of the Trust, the admission of the Trust to the Official List or in respect of the Official Quotation of any Units or Options;
- (y) maintaining the Trust on the Official List or any ability to trade Units or Options or in connection with or arising out of any removal of the Trust from the Official List or suspension of any Units or Options from trading by ASX;
- (z) the services of asset managers, property managers, project managers and collection agents appointed in relation to Assets, despite such asset managers, property managers, project managers and collection agents being the Trustee or a Related Body Corporate of the Trustee;
- (aa) rates, development, insurance and redevelopment costs, insurance broking and quantity surveyor's fees, subdivision and building costs, normal building operating expenses not paid by tenants and costs of leasing any Asset; and
- (bb) underwriting of any subscription or purchase of Units or Stapled Securities, including underwriting fees, handling fees, cost and expenses, amounts payable under indemnity or reimbursement provisions in the underwriting agreement and any amount becoming payable in respect of any breach (other than for negligence, fraud or breach of duty) by the Trustee of its obligations, representations or warranties under any such underwriting agreement.

2 All like amounts or amounts incidental thereto.

## Schedule 2 – Meetings of Holders

---

### 1. Notice of meeting

If the Trustee omits to give a Holder notice of a meeting or if a Holder does not receive notice, the meeting is still valid.

---

### 2. Who may attend and address meeting of Unit Holders

The Trustee, the directors of the Trustee, the Auditor, the auditor of the Compliance Plan, the members of the Compliance Committee and any person invited by any of them is entitled to attend and address a meeting or adjourned meeting.

---

### 3. Quorum

- (a) No business may be transacted at any meeting unless a quorum of Holders is present at the time when the meeting proceeds to business.
  - (b) The quorum for a meeting convened to consider a special resolution to modify, repeal or replace this deed under section 601GC(1)(a) of the Corporations Act is 2 Holders.
  - (c) The quorum for a meeting convened to consider any special or extraordinary resolution (other than the special resolution referred to in paragraph 3(b)) is 2 Holders.
  - (d) The quorum for any meeting (other than the meetings referred to in paragraphs 3(b) and (c)) is 2 Holders.
  - (e) Where a meeting of a particular class of Unit Holders is required, the quorum for that meeting is the number of Holders specified in paragraphs 3(b), (c) and (d) having Units in the relevant class.
  - (f) If a quorum is not present within half an hour from the time appointed for the meeting, the meeting must be adjourned as the chairman directs.
  - (g) At an adjourned meeting the Holders with voting rights who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.
- 

### 4. Adjournments

The chairman may adjourn a meeting for any reason to such time and place as the chairman thinks fit.

---

### 5. Proxies

- (a) Any person including a Holder may act as a proxy.
- (b) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.
- (c) If the appointer of a proxy is a corporation, the instrument of appointment must be:
  - (1) under its common seal (if any);

- (2) under the hand of an officer or attorney who has been authorised by the corporation;
  - (3) under the hand of any 2 directors or a director and a secretary; or
  - (4) in the case of a corporation where the sole director and sole secretary are the same person, under the hand of that person.
- (d) The instrument appointing a proxy and the original or notarially certified copy of the power of attorney or authority under which it is signed must be deposited with the Trustee at least 48 hours, or any shorter period determined by the Trustee from time to time, before the time appointed for the meeting at which the proxy proposes to vote.
  - (e) If paragraph 5(d) is not complied with, the proxy is invalid.
  - (f) The Trustee is not obliged to enquire whether a proxy has been validly given.
  - (g) A vote given under an instrument of proxy is valid even though the principal is insane at the time of the vote, has died or has revoked the proxy or the authority under which the proxy was executed.
  - (h) Paragraph 5(a) does not apply if the Trustee has notice in writing of the death, insanity or revocation before the meeting at which the proxy is to be used.
  - (i) Where the Trustee receives an instrument appointing a proxy or attorney in accordance with paragraph 5(d) and within the time period specified in that paragraph, the Trustee is entitled to:
    - (1) clarify with the appointer any instruction in relation to that instrument by written or verbal communication and make any amendments to the instrument required to reflect any clarification; and
    - (2) where the Trustee considers that the instrument has not been duly executed, return the instrument to the appointer and request that the appointer duly execute the instrument and return it to the Trustee within the period determined by the Trustee and notified to the appointer.

## 6. Voting

- (a) A poll is to be conducted as directed by the Chairman at the meeting or any adjournment of the meeting.
- (b) The demand for a poll does not discontinue the meeting except to decide the question for which the poll is demanded.
- (c) The result of the poll is regarded as the resolution of the meeting.
- (d) A poll may not be demanded on any resolution concerning:
  - (1) the election of the chairman of a meeting; or
  - (2) the adjournment of a meeting.
- (e) If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or trustee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a meeting as if the committee, trustee or other person were the Holder.
- (f) The Trustee may, subject to law, determine that at any meeting of Holders, a Holder who is entitled to attend and vote at that meeting is entitled to give their vote by Direct Vote.

- (g) Where the Trustee makes a determination in accordance with paragraph 6(f) that Direct Voting is permitted at a meeting of Holders, the Trustee may, subject to this deed, prescribe regulations, rules and procedures in relation to the giving of Direct Votes (including specifying the form, method and timing of giving a Direct Vote at or for the purposes of a meeting in order for the vote to be valid) and for revoking a Direct Vote. Without limitation, such regulations, rules and procedures may permit a Holder to give a Direct Vote prior to the relevant meeting. The Trustee must specify in the notice of meeting, or in any document accompanying the notice of meeting or otherwise made available to Holders for the purpose of the meeting, the form, method and timing of giving a Direct Vote in order for the Direct Vote to be valid.

---

## 7. Joint Unit Holders

Subject to the requirements of the Corporations Act, Joint Holders are counted as a single Holder for the purposes of calculating the number of Holders, and where any act or matter or thing is to be done by a Holder then it can be done by any Joint Holder and if done by more than one then the act, matter or thing of the first named Joint Holder is acknowledged or counted.

---

## 8. Admission to meetings

- (a) The chairperson of a meeting may take any action he or she considers appropriate for the safety of persons attending the meeting and the orderly conduct of the meeting and may refuse admission to, or require to leave and remain out of, the meeting any person:
- (1) in possession of a pictorial-recording or sound-recording device;
  - (2) in possession of a placard or banner;
  - (3) in possession of an article considered by the chairperson to be dangerous, offensive or liable to cause disruption;
  - (4) who refuses to produce or permit examination of any article, or the contents of any article, in the person's possession;
  - (5) who refuses to comply with a request to turn off a mobile telephone, personal communication device or similar device;
  - (6) who behaves or threatens to behave, or who the chairperson has reasonable grounds to believe may behave, in a dangerous, offensive or disruptive way; or
  - (7) who is not entitled to receive notice of the meeting.
- The chairperson may delegate the powers conferred by this rule to any person he or she thinks fit.
- (b) A person, whether a Holder or not, requested by the chairperson to attend a general meeting is entitled to be present and, at the request of the chairperson, to speak at the meeting.
- (c) If the chairperson of a meeting considers that there is not enough room for the Holders who wish to attend the meeting, he or she may arrange for any person whom he or she considers cannot be seated in the main meeting room to observe or attend the meeting in a separate room. Even if the Holders present in the separate room are not able to participate in the conduct of the meeting, the meeting will nevertheless be treated as validly held in the main room.

---

## **9. Class Meetings**

The provisions of Part 2G.4 of the Corporations Act, clause 17, and this Schedule 2 relating to meetings apply so far as they can and with such changes as are necessary, to each separate meeting of Holders of Units or Options in a class of Units or Options.

## **Schedule 3 – Trustee’s Fees**

### **Management Fee**

The Trustee is entitled to a Management Fee for its services in managing the Trust in relation to the proper performance of its duties calculated on a daily basis of up to 0.75% per annum of the aggregate value of the Assets of the Trust as at the last day of the month (or such other period as determined by the Trustee from time to time) during which it has accrued. This amount must be paid as soon as practicable after the end of the relevant period, first out of income of the Trust and then out of capital.