

DEED OF ESTABLISHMENT

OF UNIT TRUST

LEESONDELL UNIT TRUST

FIXED UNIT TRUST

(Income and Capital to be distributed between
Unit Holders according to Unit holding)

All Units are of equal value,
carry equal rights
and have a right to one vote per Unit

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DEED OF ESTABLISHMENT OF UNIT TRUST

A Unit Trust providing for the issue of Units to Unit Holders which are all of equal value, carry equal rights and have a right to one vote per Unit.

**THIS DEED OF ESTABLISHMENT IS MADE ON THE DAY STATED
IN THE SCHEDULE AS BEING THE "DATE OF EXECUTION"**

THIS DEED IS MADE:

BETWEEN the person or persons named and described in the Schedule hereto as the
Trustee (hereinafter called the Trustee) of the one part

AND the person or persons named and described in the Schedule hereto as the
first Unit Holders (hereinafter called the Unit Holders) of the other part.

BACKGROUND:

1. The law permits a person or group of persons (which can also be a Company) to be named as the owner of some property, but to own and use it for the benefit of another person – the Trustee and the Unit Holder.
2. A Trust can be created by one or more persons paying for some property but asking another person to be Trustee of it asking that, that person hold it (The Trust Property) as Trustee for a third person or persons.

RECITALS:

1. The Unit Holders wish to establish a Fund to enable various investment enterprises to be conducted for their mutual benefit.
2. For that purpose the Unit Holders have upon the execution of this Deed transferred or are about to transfer to the Trustee the amount of money (or other property) referred to in the Schedule as "The Sum".
3. The Trustee has agreed to become a Trustee of The Sum (The Trust Property) and any additions that might be made to the Trust Fund upon the Trusts and with and subject to the powers and provisions set out in this Deed.

NOW THIS DEED WITNESSETH AS FOLLOWS:-

1. Establishment of the Trust

The Trustee **HEREBY DECLARES** that the Trustee will henceforth stand possessed of The Sum and all additions that might be made in the future to The Sum (the Trust Fund) and of the income from the Trust Fund upon the Trusts with and subject to the powers and provisions contained in this Deed.

2. Who are the Beneficiaries

The Beneficiaries of this Trust are the Unit Holders.

3. The purpose of this Trust

The purpose of this Trust is to enable the Trustee to hold The Sum, and use The Sum and any additions that might be made to The Sum to accumulate a Trust Fund (the "Trust Fund") and to earn income using the Trust Fund and to distribute income and capital amongst the Unit Holders and for those purposes **the Trustee shall stand possessed of the Trust Fund and any income generated by the investment of the Fund and the income from any enterprise conducted by the Trustee.**

4. Units

The Trust Fund shall be divided into shares or units and for that purpose the following rules shall apply:-

- 4.1 The Trustee shall after execution of this Deed accept from the Unit Holders the sum referred to in the Schedule and the beneficial interest in the Trust Fund shall thereupon be divided into the number of units and sub-units set forth in the Schedule which units shall be held by the original Unit Holders named in the Schedule who shall hold the number of units and or sub-units stated in the Schedule.
- 4.2 The Trustee may accept further sums from time to time to be held on the trusts of this Deed and as when any addition is made to the Trust Fund under this sub-clause an additional number of units and class or sub-class of units of equal value shall be created equal to the amount so lodged.
- 4.3 Unit Holders shall be beneficially entitled to the Trust Fund in proportion to the units registered in their names and all such units shall be of equal value. Each Unit Holder shall at all time be presently entitled to a share of the income of the Trust (subject only to payment of proper expenses by and of the Trustee relating to the administration of the Trust) and a share of the capital of the Trust in proportion to the number of units held one vote for each unit held and shall be taken to be the owners of an equitable estate in proportion to the number of Units held in any land that is owned by the Trust

- 4.4 Each lodgement for the purchase of units shall be accompanied by an application for the number of units or sub-units which will be created on the lodgement and the applicant shall be entered on the register as the holder of the units so created.
- 4.5 All applications made shall be in a form determined by the Trustee.
- 4.6 When in the opinion of the Trustee sufficient funds have been lodged for the purposes of the Trust the Trustee shall inform the Unit Holders and after that date no further units or classes of units or sub-units shall be created except as provided hereafter.
- 4.7 The Trust Fund shall initially be divided into the number and class or classes of units and sub-units stated in the Schedule.

5. Additional Units

The Trustee may from time to time issue further units and for that purpose the following rules shall apply:-

- 5.1 If at any time and from time to time in the opinion of the Trustee it is expedient to do so and if the Trustee has the approval of not less than 62% of the Unit Holders of the issued units carrying voting rights by resolution at a meeting duly called the Trustee shall determine the amount of further moneys to be raised for the purposes of this trust (hereinafter called "the additional sum") and the number of units and sub-units and classes of units to be issued and then:-
 - 5.1.1 the fair value of the Trust Fund (excluding the additional sum) shall be determined by the Trustee in accordance with prudent accounting practices and:-
 - 5.1.2 the fair value of the Trust Fund so established shall be divided by the number of units and sub-units to be issued at the date of the determination and the quotient adjusted to the nearest cent shall be the value of a new unit or sub-unit in the Trust Fund.
 - 5.1.3 the additional sum shall be divided by the new unit price and the resulting figure adjusted to the nearest whole number shall be the number of additional units (hereinafter called "the new units") which may be offered for subscription at the new unit price.
- 5.2 If at any time, the value of a unit shall exceed the sum of One Dollar (\$1.00) the Trustee may, without making any addition to the Trust Fund create such number of additional units and sub-units, and class and sub-class of units as may be necessary for the purpose of reducing the value of each unit for the time being to One Dollar (\$1.00) or any multiple thereof.
- 5.3 Each Unit Holder shall be entitled to purchase the number of new units which number is equal to the percentage of new units that is equal to the percentage of old units of the same class or sub-class held by the Unit Holder on the day of creation.
 - 5.3.1 Each Unit Holder wishing to purchase new units must on the day of creation or within seven (7) days of being notified of the creation by the Trustee notify the Trustee of the desire to purchase and subject to the following sub-clause simultaneously pay for the new units.

- 5.3.2 The Trustee may (but shall not be obliged to) permit a Unit Holder to pay the purchase price by instalments and with or without interest.
- 5.4 All persons to whom new units are to be issued shall sign such form or application as the Trustee may determine and such application shall be taken to include an undertaking to be bound by the terms of this Deed and any Supplemental Deed.
- 5.5 The prices at which units are allotted may be payable upon application, upon allotment, or upon a call or calls being made for the same by the Trustee or any combination thereof as the Trustee exercising a discretion thinks fit.

6. Trustee to hold in Trust

The Trustee shall hold the Trust Fund in trust for the Unit Holders upon the terms and subject to the provisions of this Deed.

7. Investment

It shall be the obligation of the Trustee to invest the Trust Fund for the benefit of the Unit Holders and:-

- 7.1 After the commencement date the Trust Fund held and received by the Trustee shall be invested by the Trustee within a reasonable time in investments chosen by the Trustee provided that any cash in the hands of the Trustee at any time may be retained for such purposes connected with the management improvement and development or other purposes of any land building plant machinery business and equipment being authorised investments as the Trustee may determine.

8. Duties of the Trustee

The Trustee shall manage the Trust Fund and the investments comprised therein and any business for the time being carried on by the Trustee pursuant to this Deed and without in any way limiting the generality of the foregoing the Trustee shall:-

- 8.1 Ensure that the management of the Trust Fund is carried on and conducted in a proper and efficient manner;
- 8.2 Ensure that adequate fire, storm and tempest, burglary, public risk and workers compensation and other insurances are maintained with respect to all properties of the Trust Fund and the contents and occupants thereof and all servants engaged in connection therewith;
- 8.3 Deposit all receipts from the management development and operation of the Trust Fund into a separate bank account and shall pay all current expenses and outgoings with respect to the Trust Fund and provide such reserves for the future and contingent liabilities as the Trustee shall consider necessary;
- 8.4 Keep or cause to be kept proper books of account of all sums of money received and expended by or on behalf of the Trust Fund and the matters in respect of which such receipt and expenditure takes place and of all sales and purchases of investments and of the assets and liabilities of the Trust Fund and without in any way limiting the

generality of the foregoing shall keep or cause to be kept such accounting and other records in respect of any business for the time being carried on by the Trustee pursuant to the provisions of this Deed as will sufficiently explain the transactions and financial position of the said business and enable true and fair profit and loss accounts and balance sheets and any other accounts from time to time required to be prepared in respect of the said business and shall cause those records to be kept in a form that shall enable the records to be retained for a period of not less than 10 years.

9. **Determination of Income**

Throughout the life of the Trust the Trustee shall with the prior consent of the Unit Holders make determinations concerning the income of the Trust Fund and for that purpose the following rules shall apply:-

9.1 Determine income at the end of each financial year

The Trustee shall at the end of each financial year commencing on the 30th day of June immediately following the **Commencement Day** determine the net income of the Trust Fund arising during that financial year having regard to the provisions of the next sub clause.

9.2 Determine whether income or capital

The Trustee in determining the net income of the Trust Fund (whether that shall result in a profit or a loss) during each financial year may determine whether any receipt or outgoing or any sum of money or investment is to be regarded as being on account of corpus or on account of income or on some other account and may:-

9.2.1 Treat as income any receipt profit or gain which is assessable income of the Trust Fund for the purpose of determining the "net income" of the Trust Fund in accordance with the Taxation Law current at that time;

9.2.2 Distinguish income of any type or character from income of another type or character;

9.2.3 Pay or deal with income of any type or character in one manner and the income of another type or character in a different manner, and

9.2.4 Pay or deal with the whole or part of any receipt profit gain or loss arising or derived from another identified asset or source in a different manner.

9.3 If the Trustee should fail to make a determination in accordance with the preceding sub clauses then the income of the Trust Fund for that financial year shall be the "net income" of the Trust Fund determined in accordance with the Taxation Law and normal accounting practice at that time.

9.4 The Power of the Trustee concerning income

For the purposes of any decision by the Trustee concerning the income of the Trust Fund and/or for determining the income of the Trust Fund under any part of this Deed;

9.4.1 The Trustee shall have the power to decide if income is to be of a particular type or character or to decide to distribute or accumulate the income according to the nature, type, source or character of the income.

9.4.2 In making a decision concerning income the Trustee shall have regard to the income source and whether the source is:-

- 9.4.2.1 A business operated by the Trust;
- 9.4.2.2 Real estate rented, leased or occupied for profit;
- 9.4.2.3 A deposit with a Bank, Building Society, Credit Union or other Financial Institution;
- 9.4.2.4 A bond;
- 9.4.2.5 A debenture;
- 9.4.2.6 A loan of whatever nature whether secured or unsecured;
- 9.4.2.7 A share in the capital of a Corporation whether fully franked partly franked or unfranked;
- 9.4.2.8 Ex Australian;
- 9.4.2.9 Entitled to or has attached to it a foreign tax or other credit;
- 9.4.2.10 A capital gain;
- 9.4.2.11 Exempt from or otherwise not liable to be taxed;
- 9.4.2.12 Of a character or status that has or gives rise to any other separate identifiable taxation consequence or benefit;
- 9.4.2.13 A gift;
- 9.4.2.14 A windfall;
- 9.4.2.15 An activity permitted by this Deed;
- 9.4.2.16 Any combination of the above.

9.5 Character of Income if Trustee fails to make a decision concerning Income

In the event that the Trustee shall fail to make a decision for a particular income year concerning the nature of the trust income the trust income shall for that year have the character and be distributed in accordance with the decisions made in the year immediately preceding the year of income and, if the Trustee shall have failed to make a determination in the preceding year, the income shall maintain the type and character attributed to it at its source and there shall be no deemed distribution and there shall be no distribution until such time as the Trustee makes a decision.

9.6 Expenses to be paid out of Gross Income

The Trustee shall pay out of the gross income of the Trust Fund all costs and disbursements commissions fees taxes management charges and other proper outgoings in respect of the investments and administration of the Trust Fund.

10. **Distribution of Income**

The Trustee shall at the end of each Accounting Period, determine the net Trust income earned during that Accounting Period and as soon as practicable after the Trustee has determined the amount of any distribution in respect of an accounting period the Trustee shall distribute amongst the Unit Holders in accordance with the entitlement of the units so held the income in respect of the accounting period PROVIDED HOWEVER that in making such distribution of income the Trustee may with the consent of all of the Unit Holders entitled to vote issue to the Unit Holders additional or further units either in whole or part satisfaction of the distribution of income.

10.1 Income

Notwithstanding anything to the contrary in this Deed (and solely to remove any doubt) the Unit Holders shall be entitled to all of the income of the Trust (in proportion to the number and class of units held) after payment of the proper expenses by and of the Trustee relating to the administration of the Trust.

10.2 Net Income to be held in Trust until a decision made

The Trustee shall hold that part of the net income of the Trust Fund for any particular accounting period that has not been the subject of a decision effectively made at or prior to the end of an accounting period in Trust, until such time as a decision shall be made or the Date of Termination (The Vesting Day) shall occur.

10.3 Trustee may make interim distribution

The Trustee shall be entitled to make any interim distribution of income at such time or times as the Trustee shall decide during any accounting period.

11. **General Reserve**

11.1 With the prior consent of all of the Unit Holders which consent must be renewed each year the Trustee may establish a reserve and the Trustee may before making any payment of income to the Unit Holders set aside out of the income of the Trust Fund such sums as the Trustee thinks proper as such reserve (to be known as "the General Reserve").

11.2 Any General Reserve so established may be invested and dealt with in accordance with the provisions of this Deed for the benefit of the Trust Fund as decided by the Trustee.

11.3 The General Reserve at the discretion of the Trustee may be drawn against from time to time for all or any of the following purposes:-

11.3.1 To increase the distribution (whether annual or interim) to be made to the Unit Holders in any half years as the Trustee thinks fit.

11.3.2 To meet expenses of any unusual character in the preservation utilisation restoration extension repair demolition or rebuilding of any property or assets or otherwise arising in the administration of the Trust Fund.

11.3.3 In maintaining the value of the Trust Fund in the event of depreciation or loss on any authorised investment.

11.3.4 Generally and without restriction by the foregoing as a reserve against all or any liabilities or contingencies arising under or in this Deed or in relation to the Trust Fund generally.

12. **Powers of the Trustee**

To enable the Trustee to administer this Trust Fund the Trustee shall have the legal capacity, powers and privileges of a natural person and shall in addition to the powers otherwise conferred upon Trustees by law, and in any other part of this Deed have the following powers and may exercise all or any of these powers either alone or jointly, with any person or persons, natural or Corporate, including a Trustee for any other Trust Fund or the Trustee in the Trustee's personal capacity or as Trustee of any other Trust Fund and to assume joint, or

joint and several liability in respect of any exercise of the powers and to delegate such powers, namely:-

12.1 Invest Money

To apply and invest all moneys at any time forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustee shall exercising an absolute discretion think fit and to the intent that the Trustee shall have the same powers in all respects as if the Trustee were absolute owner beneficially entitled including without diminishing the power the subscription for and the taking up on allotment and the purchase of any shares stocks bonds mortgages debentures obligations or securities of any Government Authority or Corporation Incorporated in any part of the world and the taking of and the purchase or acquisition of the whole or any part or share or interest in (including a minority part or share or interest in) any business or partnership and the goodwill and assets thereof and the purchase or acquisition of any real or personal property wheresoever situate or any part or share or interest therein and notwithstanding that the same not be income producing or be of a wasting or speculative nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto.

12.2 Purchase Investments

To make or purchase any investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in the Trustee's absolute discretion think fit and may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and the Trustee may agree to pay for any such investment wholly or in part from any future moneys which may come into the Trustee's hands including dividends profits interest or other income paid or payable in respect of any such investments.

12.3 Lend and Borrow Money

To advance and lend moneys and to borrow and raise moneys from and to secure by mortgage or otherwise howsoever the payment of money to any persons firms Corporations or Government or Municipal Bodies (including any Beneficiary or Unit Holder) and upon such terms with or without security or interest as the Trustee shall deem fit and the Trustee is hereby expressly empowered to join with any Corporation or natural person in executing any mortgage bond covenant guarantee or other document for the purpose of securing the payment of money to the Trustee or the Trustee jointly with any Corporation or natural person or for the purpose of securing the payment of money to any Corporation or natural person including entering into any option agreement relating to any lending or financing facility, agreement or transaction.

12.4 Give Guarantees

To guarantee and give any indemnity or covenant or assume any obligation (whether alone or jointly with any person or persons natural or corporate) for the payment of moneys or the performance of any agreement, contract, obligation or undertaking by any person, Firm, Company, Corporation or Association (including the Trustee in the Trustee's personal capacity or as Trustee of any other trust) and to secure the liability arising from any such guarantee, indemnity, covenant or obligation by charging or mortgaging (whether by fixed or floating charge or otherwise) the whole or any part of the

Trust Fund including any property which may subsequently be acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage or charge shall be valid in all respects irrespective of the purpose for which such guarantee, indemnity, covenant or obligation has been given and the rights of the Mortgagee or Chargee shall have priority in all respects over the rights of the Unit Holders and all other persons whatsoever, and the Trustee is hereby expressly empowered to join with any Company, Corporation or natural person in executing any mortgage, charge, deed, option agreement or other document for the purposes of this clause.

12.5 Vary Investments

To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of any property comprised in any investment or security.

12.6. Deal with Property

To hold use buy construct demolish maintain repair renovate reconstruct develop improve sell transfer convey surrender let lease exchange take and grant option or rights in any mortgage charge pledge reconvey release discharge or otherwise deal with any real or personal property and in particular with shares debentures or securities of any Corporation and with or without deferred restricted qualified or special rights relating thereto.

12.7. Purchase Insurance

To purchase or acquire any reversionary or deferred property or rights of any description or any life or life endowment or sinking-fund or term or other policy or policies of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and to pay out of the income or capital of the Trust Fund as the Trustee in the Trustee's discretion thinks fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any policy or policies of insurance (whether owned by the Trustee or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy or policies shall for the purposes of this Trust Fund be deemed to be a sale.

12.8. Pay Costs and Taxes

To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the preparation of this Deed and the setting up and management of the Trust Fund and the exercise of any power authority or discretion herein contained or in carrying out or performing the trusts hereof which may at any time be incurred and whether or not the Trustee shall be liable all Income Tax or other Taxes payable in respect of the Trust Fund and all moneys which may be paid as Settlement Gift Stamp or Revenue Duties in respect of the Trust Fund or any application thereof or any accretion or addition thereto or on this Deed and to give effect to the Trustee's power to pay Income Tax or other taxes payable in respect of the Trust Fund. The Trustee may exercising an absolute discretion set aside in respect of any amount of income paid applied or set aside for any Beneficiary or Unit Holder under any part of this Deed and pay a sum out of the income of the Trust Fund as is in the opinion of the Trustee sufficient to meet the obligations of the Trustee for Income Tax or other Tax for that financial year on that amount pursuant to any law which imposes Income Tax or other Tax on the Trust Fund or the Trustee and:-

12.8.1. to the extent that any sum so set aside is inadequate to meet the Tax actually assessed the Trustee may without prejudice to any other rights given to the Trustee by Law or by this Deed resort to the income of the Trust Fund for any subsequent financial year or may recover the amount of any inadequacy from any funds held by the Trustee on behalf of a Beneficiary or Unit Holder in respect of whose income the assessment is issued.

12.8.2. if and whenever it shall appear to the Trustee that any sum so set aside was in excess of any Tax liability the excess shall be credited in the books of account of the Trust Fund to the Unit Holder in respect of whose income the assessment was made and shall be treated as though it had been paid applied or set aside for that Beneficiary or Unit Holder in the financial year in which the provision was first made.

PROVIDED THAT nothing in this Clause shall oblige the Trustee to set aside any sum or affect any rights of the Trustee in the event of any assessment of Tax being made against the Trustee in respect of any amount so paid or applied or set aside to any Beneficiary or Unit Holder.

12.9. Deal with Corporation in which Trustee may have an Interest

With respect to any Corporation in which the Trustee holds shares stocks or debentures or is otherwise interested or concerned or is a Director or Executive Officer the Trustee may exercise all such powers and do all such acts matters and things as the Trustee could do if the Trustee were the beneficial owner of the shares stocks or debentures and to exercise all or any of the following powers:-

- 12.9.1. to pay calls on any shares or to permit any such shares to be forfeited and sold;
- 12.9.2. to purchase any further shares stock or debentures of a new issue of any such Corporation;
- 12.9.3. to lend money to any such Corporation whether secured by debentures or in any other way or not secured and at such rate of interest and upon such terms as the Trustee thinks fit;
- 12.9.4. to hold any shares stocks or debentures acquired by the Trustee pursuant to the powers conferred by statute or otherwise by law or by this clause for as long as the Trustee thinks fit;
- 12.9.5. to sell any shares stocks or debentures held by the Trustee at such price as the Trustee thinks fit (whether or not such price is less than the sum that appears from the accounts of the Corporation to be the value of such shares stocks or debentures) and upon such terms with or without security as the Trustee thinks fit;
- 12.9.6. to assent to or join in any arrangement relating to the sale or transfer or exchange of any such shares stocks debentures or interest or modifying any rights or privileges or interest in relation thereto and to agree to any scheme or arrangement for the increase or reduction of the value or amounts of any shares or stocks or of the capital of any Corporation in which any shares stocks or investments forming the whole or any part of the Trust Fund for the time being may be invested or by which any such shares stocks or investments are substituted or given in exchange either wholly or partly for other shares stocks or investments whether in the

same Corporation or not and for any such purpose to deposit surrender or exchange any scrip or document of title relating thereto and to pay out of the capital of the Trust Fund or the income thereof any contribution or incur any necessary expense in connection with such scheme or arrangement and generally to manage and deal with any such shares stocks or investments as if the Trustee owned them beneficially;

- 12.9.7. to agree in respect of a winding up of any Corporation in which the Trustee may for the time being hold shares or is otherwise concerned or interested with the Liquidator of such Corporation or any member or members of such Corporation or any person in all things as the Trustee shall in the Trustee's absolute discretion think fit for the division or partition in kind or specie of the assets or property of whatsoever nature of such Corporation and to accept any of such assets and property in payment or satisfaction of any interest of the Trustee in such Corporation with power to pay any moneys by way of equality of division or partition.

12.10. Carry on Business

To carry on anywhere in the world and either alone or in partnership any trade or business whatsoever and to discontinue the same from time to time.

12.11. Employ Persons

To employ any person (including any Trustee and/or Beneficiary or Unit Holder of this Trust Fund) in connection with any trade or business carried on by the Trustee or in connection with anything required to be done pursuant to the provisions of this Deed including the receipt and payment of money and to decide the remuneration to be allowed and paid and the amount of all charges and expenses and to create or arrange any Scheme or Superannuation Retirement Benefit or Pension for the benefit of any person so employed.

12.12. Partition and Subdivision of Land

To partition or agree to the partition of or to subdivide or agree to the subdivision of any land or other property (or any interest in same) which may for the time being be subject to the Trusts hereof and to pay any moneys by way of equality or partition.

12.13. Establish Corporations

To establish promote or acquire any Corporation or Corporations or join in the promotion establishment or acquisition of any Corporation or Corporations

12.14. Set Aside Part of Fund for Benefit of Beneficiaries and Unit Holders

To appropriate any part or parts of the Trust Fund in the actual condition or state of investment thereof in or towards the satisfaction of the interest of any Beneficiary or Unit Holder of the Trust Fund (whether that be as to income or capital) and in making such appropriation to estimate the value of the component parts of the Trust Fund or to employ such persons to make such valuation as in the circumstances the Trustee deems proper without obtaining any consents otherwise required by law and every appropriation so made shall bind all persons interested in the Trust Fund notwithstanding that they may not yet be in existence or be under a legal disability.

12.15. Determine Whether Capital or Income

To determine whether any real or personal property or any increase or decrease in amount number or value of any property or holdings of property or any receipt or payments from for or in connection with any real or person property shall be treated as and credited or debited to Capital or to Income and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the Trusts and powers of the Trust Fund and every determination of the Trustee in relation to any of those matters whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

12.16. Operate Accounts

To open any account or accounts with any Bank Banks Building Society or Building Societies Credit Union or Credit Unions or other Financial Institutions and to operate by and in all usual ways any such account or accounts and to draw make accept endorse discount issue or otherwise deal with any Promissory Note Bill of Exchange Bill of Lading Cheque or other negotiable or transferable instrument.

12.17. Receive Moneys

To give effective receipts and discharges for any moneys received by or on benefit of the Trust or otherwise in any way touching upon the Trust Fund.

12.18. Grant Options

To grant options in respect of any Trust Assets to any person Firm or Corporation.

12.19. Become a Director

To become a Director of any Corporation in which moneys forming a part of this Trust Fund are invested or to appoint any person to act as a Director of any such Corporation and to receive the remuneration attached to such office without accounting to the Trust Fund for that remuneration **PROVIDED THAT** the Trustee executes all proper declarations of Trust for any shares held by the Trustee on behalf of the Trust Fund and accounts to the Trust Fund for all dividends and bonuses.

12.20. Take Action to Protect the Trust Fund

To take any action that the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to do all such things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by this Deed and at Law.

12.21. Act on Opinion of Lawyer

To take and act upon the opinion (given in writing) of any Legal Practitioner Attorney at Law or Counsel practising in any country where the Trust Fund or any part of the Trust Fund may for the time be invested in relation to the interpretation or effect of this Deed or any other document or statute or as to the administration of the Trust Fund without being liable to any of the persons beneficially interested in respect of any act done by the Trustee in accordance with such opinion **PROVIDED THAT** nothing shall prohibit or impede the

Trustee from applying to any Court if the Trustee shall think fit or (subject to the Mediation provisions of this Deed) prohibit any of the Beneficiaries from so doing.

12.22. Appoint Trustee

In any conditions or circumstances which the Trustee thinks expedient to appoint either in respect of the whole of the Trust Fund or any part thereof a Trustee in any Country or State in the World other than the Place of Proper Law and to transfer assign and set over the investments for the time being representing the Trust Fund or any part of the Trust Fund to any such Trustee upon similar trusts and subject to similar terms and conditions to those stated in this Deed and either subject to the control of the Trustee or to the exclusion of such control AND the Trustee shall be indemnified and held harmless against any loss which may arise from the exercise of this power.

12.23. Sell or Lease Properties

To sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any monies to the Trustee or where the Trustees be individuals any of them in their personal capacity or in the capacity of Trustee of another Trust Fund or otherwise howsoever or to any Corporation or Partnership whatsoever notwithstanding that the Trustee may be a Shareholder or where the Trustees be individuals a Shareholder or Director or Member or Partner of such Corporation or Partnership or to a spouse child or children of the Trustee.

12.24. Acquire property from Trustee

To buy transfer acquire hire or lease any real or personal property or to borrow any monies from the Trustee in a personal capacity or in a capacity as Trustee of other Trust Funds or otherwise howsoever or from any Corporation or Partnership or where the Trustee be individuals from the spouse or child or children of the Trustee or any of them.

12.25. Carry on partnership with Trustee

To carry on or carry out any profit making undertaking or scheme in partnership with the Trustee personally or as Trustee of other Trust Funds or otherwise howsoever or with any Corporation or Partnership whatsoever notwithstanding that the Trustee is a Shareholder or where the Trustee be individuals a Director or Member or Partner of such Corporation or a spouse or child or children of the Trustee or any of them.

12.26. Deal with Trustee

To deal with the Trustee or where the Trustees be individuals any of them in their personal capacity in all respects as if there were two separate persons to the dealings and without limiting the generality of this power the Trustee shall have the power and an absolute discretion to sell to it him her or themselves in a capacity as Trustee of other Trust Funds either for cash or upon terms any assets being shares or a joint or undivided interest in property where other shares in the same Corporation or Corporations or other joint or undivided interest in the same property are held by the Trustee in any other capacity.

12.27. Divide in Specie

To divide in specie between the Trust Fund and any other Trust Funds in any way the Trustee shall think fit **PROVIDED HOWEVER** that the Trustee shall act bona fide in the best interests of the Trust Fund.

12.28. Pay Beneficiaries and Unit Holder to Work

To remunerate any Beneficiary and/or Unit Holder who is at any time in the employ of the Trustee to the same extent and in the same manner as if the Unit Holder so employed were not a person entitled to benefit hereunder and all bona fide payments made by the Trustee to any such person in the form of remuneration for services rendered or to be rendered or on account of expenses in connection with such employment shall not be or be deemed to be payment to the person of or on account of his, her, or their share in the Trust Fund or the income of the Trust Fund.

12.29. Permit Nominee to Hold Property

To permit any asset of the Trust Fund to be held or registered in the name of any Nominee of the Trustee and to deposit securities and other documents belonging or related to the Trust Fund with any Bank, Building Society, Credit Union, Trustee Corporation, Financial Institution, Legal Practitioner, Accountant, Financial Adviser or the like.

12.30. Appoint Attorney

To delegate in writing the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustee and execute any Powers of Attorney or other instruments necessary to give effect to such purpose.

12.31. Lease Property to a Beneficiary or Unit Holder

To lease any Capital Real or Capital Personal property to any Beneficiary or Unit Holder upon such terms as to payment of rent or otherwise and for such period as the Trustee shall decide is appropriate.

12.32. The Trustee May Act Notwithstanding any Interest in Transaction

To exercise or concur in exercising all powers and discretions hereby or by Law given to the Trustee notwithstanding that the Trustee may have a direct or other personal interest in the mode or result of exercising any such power or discretion and the Trustee may further exercise or concur in exercising all powers and discretions hereby or by law given notwithstanding that it or any person being a Trustee or any person being a Director or Shareholder of a Trustee of the Trust Fund that is a Corporation, may have a direct or personal interest in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion or may have a conflict of interest between the interest of the Trustee and the interest of the Trust Fund.

12.33. Acquire Units

To acquire units or sub-units of any fixed or flexible Unit Trust whatsoever either by way of application purchase or by way of Settlement by the Trustee in the establishment of a Unit Trust and to exercise all rights including voting rights and perform all obligations as a holder of any units in a Trust and to accept all distributions by the Trustee of a Unit Trust as Income or Capital of the Trust fund.

12.34. Mix and Blend

To mix and blend the Trust Fund or the income of the Trust Fund or any separate Trust Fund or the income thereof or any part or parts thereof respectively with any monies held by the Trustee as Trustee or otherwise or any other person as Trustee or otherwise and to invest the money so mixed and blended in any investments or common investment with any other Trustee or other person and to exercise all powers authorities and discretions with respect to the mixed and blended fund which the Trustee is by this Deed or by Law authorised to exercise with respect to the Trust Fund so mixed and blended and in particular to make such arrangements with respect to the monies and the investment as the Trustee would be authorised or empowered by Law or this Deed to make as if the Trustee were the absolute beneficial owner.

12.35. Determine all Matters

Generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the Trusts and powers of the Trust Fund and every determination of the Trustee in relation to any of those matters whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questions on any ground whatsoever.

12.36. To act as Service Entity

To act as a Service Entity in providing office services, supplies, employees and the like including professional other employees, office furniture and equipment, stationary, telephone, electrical services, management, administration, consultancy services and any services incidental thereto.

12.37. To acquire Franchises

To acquire by means of purchase or otherwise and to sell, dispose of, relinquish or otherwise deal in Franchises, Franchise Agreements, Licences or things of a like nature.

12.38. Appropriate the Trust Fund in Specie

To appropriate in specie any portion of the Trust Fund or any investment representing the same to or towards the share or entitlement of a Beneficiary or Unit Holder and for this purpose the Trustee may fix the value of any real or personal property to be distributed in specie. This power being in addition to any other power to distribute in specie contained in this Deed.

12.39. To make gifts and donations

To make gifts or donations out of the Trust Fund for any charitable, scientific, educational or like purposes.

12.40. Obtaining Licences (including Liquor Licences)

To apply for and purchase and hold any permit, agency or licence which may be required to enable or facilitate the carrying on of any business conducted by the Trustee and to surrender, relinquish, sell, vary or assign the same at any time and without limiting the generality of the foregoing to apply for, become the Guarantee or Transferee of, acquire and hold as and when permitted by law so to do any licence, permit or authority under any Act, Regulation, By-Law or other statute or legislation of any State of Territory of Australia relating to or controlling or regulating the consumption and/or supply of liquor and to renew, transfer or

surrender such licence, permit or authority and to hold any such licence, permit or authority through a Nominee and to comply with any relevant law concerning the change of Trustee, Trustees or Director of a Trustee Corporation.

12.41. Act Generally

Generally to do all such acts and things in relation to the management and administration of the Trust Fund as are permitted by Law and as the Trustee could do if the Trust Fund were the Trustee's own property.

12.42. Arrangements with the Commonwealth of Australia

The Trustee may enter into any arrangements with the Commonwealth which would be of advantage to the Trust Fund and in particular which may provide a grant, subsidy or other benefit.

12.43 Enter Into Derivative Transactions

To enter into and perform:

12.43.1 any transaction involving, or in connection with, an exchange of streams of payment between counterparties whether directly or indirectly;

12.43.2 any transaction involving, or in connection with, trading commodities, securities or currency at a fixed price for delivery or settlement, whether immediately or at a future date;

12.43.3 any transaction for managing, lessening, hedging, or protecting against movements in currency exchange, interest or discount rates against costs of borrowing, lending or obtaining financial accommodation. And without limiting the generality of the foregoing, the power conferred on the Trustee as aforesaid shall include power for any purpose to enter into and perform any interest rate swap or exchange transaction, currency swap or exchange transaction, rate cap, rate floor, rate collar, option contract relating to swaps, futures contract, currency option and forward rate agreement or any interest and or currency protection transaction or any combination of such transactions, contracts of a kind or class similar to the transactions herein referred to; and

12.43.4 to give and execute any mortgage, charge or other security over all or any part or parts of the assets of the Trust as may be required to secure the payment or performance of any contract obligation under or in connection with any transaction of the type referred to in this clause.

12.44. Exercise Additional Powers

To exercise such additional powers (if any) as are set out in the Schedule.

13. Act Jointly and through an Agent

The Trustee if more than one shall act jointly. The Trustee will not be bound in any case to act personally, but will be at full liberty to act through any agent to transact any business of any nature which the Trustee is required or permitted to do including to receive and pay money.

14. **Appoint Alternative Trustee**

Each of the Trustees may with the consent of the other or others (if there be another or others) appoint any person to be an alternative Trustee in his her their or its place but so that any such appointment shall have effect only during such period as a Trustee (and in the case of a Corporation all the Directors) shall be absent from the place where the Trust Fund is being administered or in the case of an individual be subject to an illness lasting for more than one month and the Trustee may by writing revoke or alter any such appointment.

15. **Trustee's Decisions Absolute**

Subject always to any express provision to the contrary herein contained and in particular Clause 35.2 every discretion vested in the Trustee shall be absolute and uncontrolled and every power vested in the Trustee shall be exercisable in the Trustee's absolute and uncontrolled discretion without any obligation to consider competing claims of Unit Holders.

16. **Trustee Not Responsible**

The Trustee shall not be responsible for:-

16.1 Any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by an failure to exercise any such discretion or power, or

16.41. Any breach of duty or trust whatsoever

UNLESS it shall be proved to have been committed or omitted knowingly in bad faith by the Trustee.

17. **Trustee to be Indemnified**

The Trustee acting in good faith shall be entitled to be indemnified out of the Trust Fund in respect of all liabilities incurred by the Trustee relating to the execution of any powers duties authorities or discretions vested in the Trustee under this Deed and in respect of all actions proceedings costs claims and demands in relation to any matter or thing done or omitted to be done concerning the Trust Fund **PROVIDED ALWAYS** that the right of the Trustee to be indemnified in respect of any liability incurred by the Trustee or arising in or about the investment and administration of the Trust Fund in the conduct and management of any business forming part of the Trust Fund in the acquisition of any investment under any Contract entered into by the Trustee or by reason of the execution of any power duty authority or discretion vested in the Trustee shall be limited always to the assets of the Trust Fund in the hands of the Trustee for the time being and shall not extend to enable the Trustee to recover any loss or obtain reimbursement for such liability from any Unit Holder.

18. **Sole Trustee May Act**

A Sole Trustee for the time being is hereby authorised notwithstanding that he she or it is sole Trustee to receive capital and other moneys and to give valid and effective receipts for

all purposes and for the purposes of any statutory enactments including the receipt of Capital moneys which may or may not be deemed to be Capital moneys for the purpose of any Statute and to exercise any of the powers granted to a Trustee under this Deed and at Law.

19. Legal Practitioner, Accountant or Financial Adviser May Charge Fees

Any Trustee who may be a Legal Practitioner, Accountant or Financial Adviser and any firm of which he she or it may be a member shall be entitled to make all usual and proper charges for both professional and other services in the administration of the Trust Fund and for time and trouble that would have been chargeable for if the Trustee was not a Trustee and so employed.

20. Trustee Must Keep Accurate Records

The Trustee must keep complete and accurate records of all receipts and expenditure on account of the Trust Fund and details of all dealings undertaken by the Trustee on account of or in the name of the Trust Fund, and must:-

- 20.1 Promptly after the close of each Accounting Period prepare a written accounting report for the period which must consist of a balance sheet, a statement of receipts and disbursements and a list of assets held at the end of that Accounting Period; and
- 20.2 Give a copy of the accounts, to each Unit Holder; and
- 20.3 Include in the accounting reports, the names and addresses of all persons or firms having custody of all or any portion of the assets of the Trust Fund; and
- 20.4 Give each Unit Holder a Statement of the distribution made to or for the benefit of the particular Unit Holder which Statement shall include details of any Tax Benefit or Credit attaching to the distribution.

21. Distribution of Assets

With the consent of the Unit Holders the Trustee may at any time and from time to time before the date of termination of the Trust out of the capital of the Trust Fund raise any sum or sums and pay the same, or subject to any limitation on any class of units distribute any trust assets in specie to the Unit Holders in proportion to the units registered in their names as at the date of the decision to distribute for their own use and benefit in addition to any income to which the said Unit Holders may from time to time so be entitled.

22. Certificates

Each Unit Holder shall be issued with a Certificate in a form determined by the Trustee.

- 22.1 Every such Certificate shall be signed by or on behalf of the Trustee and shall specify the name of the Unit Holder the number and class of units to which it relates, any restrictions or conditions and shall bear a distinctive number or letter.
- 22.2 If a Certificate becomes mutilated worn-out or defaced the Trustee may exercising a discretion cancel the Certificate and issue a new Certificate in its place.

- 22.3 If any Certificate is lost or destroyed the Trustee shall issue a duplicate Certificate to the Unit Holder on application accompanied by-
- 22.3.1 a Statutory Declaration that the Certificate has not been lost or destroyed and has not been pledged sold or otherwise disposed of and if lost that proper searches have been made; and
 - 22.3.2 an undertaking in writing that if it is found or received by the Unit Holder it will be returned to the Trustee.

23. **Transfer of Units**

23.1 Requests for Transfers:

- 23.1.1. Unit Holders may request the Trustee to register transfers of all or any of the units held by them. Where so required or permitted the Trustee shall upon delivery to the Trustee of the relevant Certificate register a transfer (where voluntary or by operation of law) of units transferred to the transferee and if appropriate a new Certificate in the name of the transferor for the balance of any units retained.
- 23.1.2. Unless a written instrument of transfer of units is required by law a transfer of units may at the Trustee's discretion but subject always to the provisions hereof be effected without a written instrument of transfer being submitted and in the event any entry made in the register of Unit Holders with the approval of the Trustee shall if the transfer is not contrary to the provisions of this Deed be effective as evidence of the right to the units so transferred. The Trustee may however require an instrument of transfer in writing before registering a transfer of units or an undertaking to be signed by or on behalf of the transferee to be bound by the terms of this Deed and of any supplemental deed.
- 23.1.3. If the law requires or the Trustee determines that a written instrument of transfer is necessary the instrument of transfer shall be in a form from time to time approved by the Trustee. Before registration of the transfer the instrument of transfer shall be executed by or on behalf of both transferor and transferee and shall be duly stamped (if required by law).

23.2 The following transfers are permitted transfers namely:-

- 23.2.1 To and from any of the following : -
 - 23.2.1.1 any relative of the transferor falling within the following description (called "specified relative") namely, the grandparents, parents, spouses, brothers and sisters and brothers-in-law and sisters-in-law, uncles, aunts, cousins, children, grandchildren and all relations by descent and any person filling any of those categories by reason of a bona fide domestic relationship which relationship may be between persons of the same gender;
 - 23.2.1.2 the Trustee or Trustees of any deed of trust or settlement made solely for the benefit of one or more of the specified relatives of the transferor to be held by such trustee or trustees upon the terms of such deed (called a "Family

Trust") and the Trustee of a Superannuation Fund of which such person or persons are members;

- 23.2.1.3 from the executors or administrators or other legal person representatives of a deceased Unit Holder to the person or persons who have become entitled to such units by virtue of the Will of such Unit Holder or upon on intestacy.
- 23.2.1.4 from the Trustees of a family trust to the Unit Holder or Unit Holders entitled thereto pursuant to such family trust or to the Trustee of any other Trust which in the opinion of the Trustee of this Trust is primarily for the benefit of the same family.
- 23.2.1.5 from the Trustees of the Will of any deceased Unit Holder or of any Family Trust on any change of trustees to the trustees for the time being of such Will or Family Trust.
- 23.2.1.6 in the case of a Unit Holder being a body corporate from such Unit Holder to any body corporate which is in relation to such Unit Holder a related company as defined in the Corporations Law.
- 23.2.1.7 to a mortgagee or person taking security.

23.3 Save as otherwise specifically provided no transfer of units shall be permitted unless the following procedure is followed:-

- 23.3.1 A Unit Holder proposing to transfer any units (hereinafter called "the proposing transferor") shall give notice in writing to the Trustee (hereinafter called "a transfer notice") of the desire to transfer the units specified in the notice and shall specify in the notice the price per unit fixed as the fair value thereof. A transfer notice shall not be revocable (except with the sanction of the Trustee) except where the fair value has been fixed by arbitration as hereinafter provided at a price lower than the price fixed by the proposing transferor in which case the proposing transferor may revoke the transfer notice by notice in writing to the Trustee within seven days after receiving notice of the result of such arbitration.
- 23.3.2 A transfer notice may include several units or parcels of units and in such case shall operate as if it were a separate notice in respect of each parcel but a separate transfer notice shall be served in respect of units of each class.
- 23.3.3 The service of a transfer notice shall be deemed to constitute the Trustee the agent of the proposing transferor for the sale of the units therein specified to a purchaser to be nominated by the Trustee as hereinafter provided at a price equal to the fair value thereof as specified by the proposing transferor or as fixed by arbitration in the manner hereinafter provided as the case may be.
- 23.3.4 Units comprised in a transfer notice shall in the first instance be offered by the Trustee by notice in writing to all the Unit Holders (except the proposing transferor) as nearly as may be in proportion to their respective holdings of units of the same class. Where any fraction of a unit is involved the units offered shall be taken to the next lowest whole number and any units left over shall be offered to Unit Holders as determined by lot and the Trustee shall issue sufficient units at such price as is reasonable in all the

circumstances to those who do not draw the lots to enable the proportion to be exactly maintained.

- 23.3.5 The offer to Unit Holders shall state that if the same is not accepted in whole or in part within twenty-one days from its receipt it shall be deemed to be declined and such offer shall also require any Unit Holder who desires to purchase units in excess of the proportion to state how many additional units the unit holder desires to purchase at the fair value specified or fixed. The offer shall also request the Unit Holders to state whether they desire the fair price of the units to be fixed by arbitration.
- 23.3.6 Any units so offered and not accepted shall be used for satisfying the request for additional units but if there shall be insufficient of the unaccepted units to satisfy in full all requests for additional units the unaccepted units shall be distributed amongst the Unit Holders making requests as nearly as may be in proportion to the respective holdings of units of the same class provided that no Unit Holder shall be bound to take more additional units than those offered to purchase.
- 23.3.7 Any unit comprised in the transfer notice which has not been accepted for sale may be offered by the Trustee to any Unit Holder or other person selected by the Trustee as one whom it is desirable in the interests of the Trust to admit as a Unit Holder and who is willing to purchase the unit at the fair value specified or fixed as aforesaid.
- 23.3.8 Within thirty (30) days after being served with a transfer notice the Trustee shall by notice in writing to the proposing transferor nominate the Unit Holders (described in the manner aforesaid) or other persons whom in the opinion of the Trustee it is desirable in the interest of the Trust to admit as Unit Holders (and each such Unit Holder or other person in this paragraph called "the purchaser") and who wish to purchase forthwith for cash all or any of the units comprised in the transfer notice and the transferor shall be bound upon payment of the fair value of the units to transfer the units to the purchaser or purchasers set out in the notice.
- 23.3.9 The Trustee shall if so required by the purchaser or purchasers of a majority of the units to be purchased require the fair value of the units to be fixed by arbitration pursuant to the arbitration law of the Place of Proper Law in force on the date of the notice in lieu of the fair value fixed in the transfer notice and all Unit Holders hereby or by becoming Unit Holders submit to arbitration accordingly PROVIDED ALWAYS that in the event of the fair value so fixed by arbitration exceeding the fair value fixed in the transfer notice the Trustee shall forthwith give notice thereof to the purchasers and all or any of such purchasers may by notice in writing to the proposing transferor not later than fourteen (14) days after the determination elect not to continue with the purchase and PROVIDED FURTHER that the costs of the arbitration shall be borne by the party requiring the same unless in the opinion of the arbitrator there are special circumstances or the price specified in the transfer notice was excessive.
- 23.3.10 If in any case the proposing transferor having become bound to transfer any units shall make default in so doing the Trustee may receive the purchase money and shall thereupon cause the name of the purchaser to be entered into the books of the Trust as the Unit Holder thereof and shall hold the purchase money in trust for the transferor. The receipt of the Trustee for the purchase money shall be a good discharge to the purchaser and after the purchaser's name has been entered in the books of the Trust in exercise of

the power the validity of the proceedings shall not be questioned by any person.

23.3.11 If at the expiration of thirty (30) days after the transfer notice the Trustee shall not have found a Unit Holder or person selected as aforesaid willing to purchase forthwith for cash any units mentioned in the transfer notice the proposing transferor shall be entitled to any time within one month after the expiration of the said period of thirty (30) days to sell and transfer those units to any person at a price not less than the price fixed by the transferor in the transfer notice.

23.3.12 The Trustee may with the unanimous consent of all the Unit Holders having voting rights vary the foregoing procedure to meet the circumstances of any particular case and in particular may give any person or persons preferential right to acquire any units and may use a different method of valuation.

23.3.13 If any Unit Holder without the consent of the Trustee executes a Deed of Trust or other disposition of units in favour of any person other than a person who is a permitted transferee the Unit Holder shall be deemed to have served a transfer notice in respect of those units on the date on which the Trustee became aware of such Deed of Trust or other disposition and to have fixed as the fair value thereof an amount to be determined by the Auditor of the Trust and if there is no Auditor by an independent Accountant to be selected by the Trustee.

23.3.14 The person in making such determination shall be deemed to be acting as an expert and not as an arbitrator and accordingly the provisions of the arbitration law of the Place of Proper Law shall not apply but the person making the determination shall consider any evidence as to the value which may be presented by the Transferor or by the Trustee. The cost of obtaining the determination shall be borne by the Unit Holder in default and may be deducted from the proceeds of sale.

23.4.15 In the event of a Unit Holder in any capacity and whether as creditor or otherwise, commencing proceedings in any Court to terminate the Trust on any ground whatsoever the Unit Holder shall be deemed on the day prior to the commencement of such proceedings to have served a transfer notice in respect of all units owned by the Unit Holder.

24 Death or Bankruptcy of Unit Holder

24.1 In the case of the death of any one of the joint Unit Holders of any unit the survivor or survivors will be the only persons recognised by the Trustee as having any title to or interest in such units.

24.2 The executors and administrators of a deceased Unit Holder (not being one of several joint holders) shall be the only person recognised by the Trustee as having any title to such units.

24.3 Any person becoming entitled to any units in consequence of the death of a Unit Holder upon producing such evidence that sustains the character in respect of which that person proposed to act under this subclause or of that person's title as the Trustee thinks sufficient and in the case of a legal personal representative of a deceased Unit Holder (not being one of the several joint holders) upon making a declaration in a form determined by the Trustee shall on delivery of the Certificate for such units to the Trustee for cancellation be registered as the holder of such units and be entitled to a new Certificate.

- 24.4 The Trustee will recognise the Unit Holder or the Unit Holder's executors or administrators as the only persons having any right or interest in the units in respect of which such person is registered or in the Certificate representing the same and shall not save as ordered by a Court of competent jurisdiction be bound to take notice of any trust or equity affecting any unit or certificate or the rights incidental thereto and the receipt of such Unit Holder or the executors or administrators of such holder for any money payable hereunder or any property transferable hereunder to a Unit Holder shall be a good discharge to the Trustee.
- 24.5 Any person becoming entitled to any units in consequence of the bankruptcy of a Unit Holder upon producing such evidence as to title as the Trustee considers sufficient may upon making a written request to the Trustee for cancellation be registered as the Unit Holder of such units and be entitled to a new Certificate.

25. Meetings of Unit Holders

- 25.1 The Trustee may at any time convene a meeting of the Unit Holders and the Trustee shall at the request of the Unit Holders having voting rights who at the date of the requisition hold between them not less than 25 per centum (25%) of the units carrying voting rights forthwith proceed to convene a meeting.
- 25.2 Not less than fourteen days' notice shall be given of every such meeting and such notice shall specify the general nature of the business to be transacted.
- 25.3 At a meeting convened at the request of such Unit Holders some person nominated by the meeting shall preside and at any other meeting convened by the Trustee some person nominated by the Trustee (whether or not a Unit Holder) shall preside. The Chairperson shall have a casting vote (in the event of an equality of votes) in addition to the vote or votes to which such person may be entitled as a Unit Holder.
- 25.4 Every question arising at any meeting of Unit Holders shall be decided in the first instance by a show of hands unless:-
- 25.4.1 it be a question which under this Deed must be decided by a specified majority of the votes of the unit holders, or
- 25.4.2 a poll be demanded.
- 25.5 A poll may be demanded by any Unit Holders before or immediately after any question is put to a show of hands.
- 25.6 Upon a poll every Unit Holder carrying voting rights present in person or by proxy shall have one vote for every unit held. Joint Holders shall be entitled to only one vote being that of the first named holder on the Register.
- 25.7 The quorum for a meeting shall be Unit Holders having voting rights present in person or by proxy not being less than three in number and holding (or representing by proxy) between them not less than twenty five per centum (25%) of the units carrying voting rights.
- 25.8 The Chairperson may with the sanction of the meeting adjourn it to such time and place as he or she shall determine. The Chairperson may adjourn any meeting at which a quorum is not present or proceed with the meeting, however all decisions will be interim decisions and notice of all interim decisions must be forwarded to all

Unit Holders having voting rights within 14 days of the meeting. A further meeting is only required if twenty five per centum (25%) of the Unit Holders having voting rights give notice to the Trustee in writing within 28 days of the meeting stating that they require a further meeting to be convened. The interim decisions become binding decisions of the Unit Holders if such a request is not received within 28 days of the date of the meeting or in any other case when confirmed at a later meeting.

- 25.9 Votes at a meeting of the Unit Holders may be given either personally or by authorised representative (who must be so authorised in writing) who may speak or demand a poll and generally act as a proxy.

26. **Proxy Votes**

Each Unit Holder entitled to vote may appoint Proxy.

- 26.1 If the Unit Holder is entitled to cast two or more votes at a meeting the Unit Holder may appoint two Proxy's.
- 26.2 If the Unit Holder appoints two Proxy's and the appointment does not specify the proportion or number of the Unit Holder's votes each Proxy may exercise half (1/2) of the votes of the Unit Holder.
- 26.3 The instrument appointing a Proxy may appoint several persons in the alternative.
- 26.4 In determining what number constitutes half (1/2) of the votes the Chairperson of the relevant meeting shall disregard any fractions of votes resulting from the division.
- 26.5 A Proxy appointed to attend and vote for a Unit Holder has the same rights as a Unit Holder:-
- 26.5.1 to speak at the meeting; and
 - 26.5.2 to vote (but only to the extent allowed by the appointment); and
 - 26.5.1 join in a demand for a poll.
- 26.6 The Proxy shall be entitled to vote by show of hands.
- 26.7 In the event that a Unit Holder shall be present at a meeting at which a Proxy appointed by the Unit Holder is in attendance, then the authority of the Proxy to speak, vote and demand a poll shall be suspended while the Unit Holder is present at the meeting.
- 26.8 A Proxy need not be in any special form. An appointment of a Proxy is valid if it is signed by the Unit Holder making the appointment and contains at least the following information:-
- 26.8.1 the Unit Holder's name and address;
 - 26.8.2 the name of the Unit Trust;
 - 26.8.3 the Proxy's name and address;
 - 26.8.4 the meeting at which the appointment may be used;

- 26.8.5 if a Unit Holder wishes to make a specific direction to the Proxy, how the Proxy must vote on any particular matter, then the matter in which the vote must be exercised.
- 26.9 A Proxy may be a standing Proxy which shall continue until the Trustee receives notification in writing of the termination of the Proxy.
- 26.10 A latter appointment revokes an earlier appointment if both appointments can only be validly exercised at a particular meeting.
- 26.11 A Proxy shall only be valid for a meeting if at least 24 hours before the meeting the Trustee has received the Proxy's appointment and if the appointment is signed by the Unit Holder's Attorney, the authority under which the appointment was signed or a certified copy of the authority.

27. **The Auditor**

- 27.1 The Trustee may appoint an Auditor of the Trust Fund who shall hold office until such time as he or she may voluntarily retire by notice in writing or shall be removed or be disqualified from holding office.
- 27.2 The Auditor may be the Auditor of the Trustee.
- 27.3 If at any time at least 62% of the Unit Holders having voting rights by resolution at a duly convened meeting or by notice in writing request any Auditor appointed pursuant to this clause to retire then in either such event the Trustee shall by notice in writing to the Auditor remove him or her and the Trustee shall then appoint another Auditor.
- 27.4 The Auditor shall be disqualified from holding office if the Auditor:-
- 27.4.1 becomes subject to the Laws concerning the affairs of persons who are subject to a mental disability; or
 - 27.4.2 is certified by a Medical Practitioner as suffering from a mental disability; or
 - 27.4.3 becomes subject to bankruptcy laws; or
 - 27.4.4 remains out of the place in which the Trust Fund is for the time being administered for more than twelve months; or
 - 27.4.5 is found guilty (or admits guilt) in respect of an act of dishonesty touching or concerning the Trust Fund;

28. **Remuneration of Trustee**

The Trustee may from time to time charge and retain out of the Trust Fund a Trustee's remuneration. The following rules shall apply to the payment of the remuneration:-

28.1 The Trustee shall be reimbursed for expenses, costs and time

The Trustee shall be reimbursed for expenses and costs properly incurred in acting as a Trustee of the Trust Fund or otherwise incidental to the provisions of this Deed and

shall also be entitled to be remunerated for the time and effort and expertise involved in discharging the Trustee's duties, that remuneration however, must be reasonable in all circumstances. In the case of there being disagreement between the Unit Holders and the Trustee as to the amount of the Trustee's remuneration, the remuneration shall be fixed by the Unit Holder holding 62% in number of the issued units carrying voting rights.

28.2 Professional persons may be remunerated

Any Trustee being a Legal Practitioner, Accountant, Financial Adviser or other person engaged in a Profession or any Firm of which such Trustee is a member shall be entitled to be engaged and shall be entitled to charge and be paid all professional charges for services rendered by the Trustee or the Firm in connection with the Trust Fund or matters incidental to the Trust Fund NOTWITHSTANDING that such services or part thereof could have been rendered by a non professional Trustee but subject to the proviso that such fees must be reasonable in all the circumstances.

29. **Commencement and Termination of Trust**

29.1 Commencement of Trust

This Trust shall commence on the Commencement Day and shall terminate on the Termination Day unless it has been terminated prior to that date.

29.2 Termination of Trust

Within a period of not more than eighteen (18) months prior to the Termination Day or prior to the earlier termination of this Trust whichever shall be the earlier the Trustee shall convene a meeting of the Unit Holders for the time being to consider:-

- 29.2.1 the continuation of the Trust; or
- 29.2.2 its conversion into an alternative type of Trust; or
- 29.2.3 the sale and realisation of the Trust Fund; or
- 29.2.4 the termination of this Trust by distribution of the Trust Fund assets in specie; or
- 29.2.5 the termination of this Trust in some other way.

29.3 The Trust may be terminated at any time before the Termination Day

If the Unit Holders determine by a resolution passed or agreed to by a majority of the Unit Holders to terminate this Trust the termination shall take effect at the expiration of thirty (30) days from the date of the resolution or such later date as may be decided at the time the resolution is passed.

29.4 Upon the Trust terminating or being terminated the Trustee shall proceed as follows

- 29.4.1 To carry out any directions given by Unit Holders holding a majority of the Units carrying voting rights at that time (which shall include the right to direct the Trustee to distribute the assets of the Trust in specie to the Unit Holders in proportion to the units held). The intention of this proviso being that the Unit Holders may require the Trustee to wind up the Trust

and distribute either the real estate owned by the Trust or the net proceeds of the sale of the real estate.

29.4.2 To sell all investments of the Trust Fund by public auction, by tender, by private treaty or otherwise and convert the Trust Fund to cash. All investments shall be sold to the highest bidder if sold at auction and for the best achievable price if otherwise. Any Unit Holder may bid at such public auction.

29.4.3 To distribute cash available in the Trust Fund to Unit Holders in proportion to units, class of units, and entitlement of units held until the proceeds of sale of the assets of the Trust Fund have been fully distributed PROVIDED that the Trustee shall make full provision for all costs charges expenses claims taxed and demands incurred or expected by the Trustee.

In the alternative if the Unit Holders carrying voting rights unanimously agree the Trustee may distribute the assets of the Trust Fund in specie in proportion to units, class of units, and entitlement of units held until all the assets of the Trust Fund have been fully distributed. The distribution may be wholly in specie to one or more classes of units or wholly in cash to one class and wholly in specie to another or partly in cash and partly in specie as directed by unanimous vote of the Unit Holders entitled to vote.

29.4.4 Every distribution shall be made only against production of the relevant Certificates accompanied by a request for payment in such form as the Trustee requires. For any interim distribution the Trustee shall endorse Certificates with a notice of the payment made and for the final distribution each Certificate shall be surrendered to the Trustee.

30. Valuation of Investments

At the end of every tenth year from the Commencement Date and at any other time if Unit Holders holding between them not less than 50% of the units carrying voting rights by written notice signed by them so request or if at a duly convened meeting a majority of Unit Holders present in person or by proxy and holding between them not less than 62% of the units carrying voting rights so resolve a valuation of the investments of the Trust Fund shall be made by the Trustee. The cost of any such valuation of the Trust Fund shall be paid out of the Trust Fund.

31. The Trustee may amend this Deed

The Trustee, may at any time and from time to time with the consent of a Resolution of not less than 62% of the Unit Holders entitled to vote by Resolution, Deed or Deed Poll revoke, add to, vary or amend all or any of the provisions of this Deed or the Trust Fund that has been created by this Deed or any variation or alteration or addition that has been made to this Deed before that date and may declare new or other Trusts or Trust powers concerning the Trust Fund or any part of the Trust Fund but this power shall be subject to the following restrictions:-

31.1 no amendment may cause the Trust to offend against the rule concerning Perpetuities of the Place of Proper Law;

- 31.2 no amendment shall prejudice the interests of the Unit Holders;
- 31.3 an amendment will be invalid to the extent that the variation, alteration, addition or revocation may create a re-settlement except in the case that the Holders of all issued units shall unanimously in writing approve the re-settlement.

32 Administrative Provisions

32.1 Name of the Trust

The name of this Trust shall be the name stated in the Schedule.

32.2 Unit Holders Bound by Deed

All Unit Holders shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and any Supplemental Deed.

32.3 The Perpetuity Period

The perpetuity period applicable to the trusts and powers of and under this Deed shall be 79 years terminating on the seventy-ninth anniversary of the Commencement Date unless the Proper Law of the Trust Fund shall provide for some other period.

32.4 Negation of Agency and Partnership

Nothing in this Deed and no act or thing done pursuant to this Deed shall constitute the relationship of principal and agent between the Trustee and the Unit Holders nor the relationship of partners as between the Trustee and the Unit Holders or as between the Unit Holders inter se nor to give rise to any association between the Unit Holders inter se. All income payable in accordance with the provisions of this Deed to Unit Holders shall be payable to them separately and income received by or on behalf of the Unit Holders jointly or otherwise.

32.5 Mediation

Because it is desirable that if there is a dispute it be resolved without the need to resort to litigation if there shall be any dispute touching upon the management of the Trust Fund, the parties in dispute must attempt to resolve the dispute by mediation and the following rules shall apply:-

32.5.1 either party may start mediation by serving a Mediation Notice on the other;

32.5.2 the Notice must state that a dispute has arisen and identify what is in dispute;

32.5.3 the parties must jointly appoint a Mediator. If the parties fail to agree on the appointment within fourteen days of service of the Notice a Mediator will be appointed by the President for the time being of the Law Institute or Law Society (as the case requires) of the Place of Proper Law upon the application of either party.

32.5.4 The parties must observe the instructions of the Mediator about the conduct of the mediation execute any written agreement that the Mediator may

reasonably ask them to execute and make a genuine and determined effort to resolve the dispute.

- 32.5.5 if the dispute is not resolved within twenty days after the Mediator is appointed or any other time that the parties are agreed to in writing the mediation ceases.
- 32.5.6 No proceedings may be commenced until such time as the parties have attended a mediation meeting.
- 32.5.7 Each party must pay an equal share of the cost of the mediation to the Mediator.
- 32.5.8 If the dispute is resolved each party must sign the Terms of the Agreement and the terms are binding on the parties.
- 32.5.9 The mediation procedure is confidential and written statements prepared for the Mediator or for a party and any discussions between the parties and between the parties and the Mediator before or during the mediation procedure cannot be used in any legal proceedings. The Mediator shall destroy any notes made during the mediation at the end of the mediation.

32.6 Notices

Any notice, approval, request, demand or other communication which has to be given for the purposes of the management of the Trust Fund must be in writing and may be:-

- 32.6.2 served personally or sent by ordinary or registered post – person to person mail (air mail if overseas) to the address of the person to whom it is sent at the last address recorded in the books of the Trust Fund for that person or Corporation;
- 32.6.3 sent by facsimile transmission or by other electronic means to the facsimile number or electronic address of that person or Corporation last recorded in the books of the Trust Fund.

32.7 Service of Notices

Notices given:-

- 32.7.2 personally will be served on delivery;
- 32.7.3 by post will be served three days after posting if posted to an address within Australia and ten days after posting if posted to an address outside of Australia;
- 32.7.4 by facsimile transmission will be served on receipt of a transmission report by the machine from which the facsimile was sent indicating that the facsimile had been sent in its entirety to the facsimile number specified in the books of the Trust Fund;
- 32.7.5 by electronic means other than by facsimile transmission will be served four hours after the electronic transmission shall be sent to the address for electronic communication specified in the books of the Trust Fund (unless the receiving party has given the sending party another electronic address to use).

32.8 Directors Disclosures

Nothing in this Deed shall prevent the Directors or Officers of the Trustee (if the Trustee be a corporation) from subscribing for, purchasing, holding, dealing in or disposing of units or from otherwise at any time contracting or acting in any capacity as insurer, representative or agent, or entering into any insurance, financial, banking, agency, business, or commercial or any other transaction, with the Trustee or any Unit Holder or from being interested in any such contract or transaction or otherwise **PROVIDED THAT** any Director or Officer doing any act referred to in this clause shall disclose the same promptly to the Trustee.

32.9 Severability

If any provision in this Deed does not comply with any Law or is so vague as to be meaningless or contains an obvious typographical error then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be treated as severable from the rest of this Deed so as to preserve as much as possible of the remainder of the Deed which shall continue to have full force and effect.

32.10 Waiver

The failure or omission or delay of a person at any time to enforce, or require strict observance of or compliance with any of the provisions of this Deed or to exercise any election or discretion under this Deed or to take any action or enforce any right under this Deed will not operate as a waiver of the right or an acquiescence to the action, whether express or implied.

32.11 Register of Unit Holders

The Trustee shall keep and maintain an up to date Register of the registered Unit Holders and shall enter into such Register the names and addresses of the Unit Holders and the number of units in respect of which they are registered and the distinct numbers of the certificates held by them respectively. Any change of address on the part of any Unit Holder shall be notified to the Trustee who shall alter the Register accordingly. No notice of any Trust express implied or constructive shall be entered upon the register. Each person who becomes registered as a Unit Holder shall be deemed to have agreed to become a party to this Deed and any supplemental Deed and shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and any supplemental Deed.

32.12 Sole Trustee May Act

A sole Trustee hereof for the time being is hereby authorised notwithstanding that he she or it is the sole Trustee to receive capital and other monies and to give valid and effectual receipts therefore for all purpose and for the purposes of any statutory enactments including the receipt of capital monies which may or may not be deemed to be capital monies for the purposes of any Statute.

34. **Appointment and Removal of Trustee**

The person, persons or Corporation named in the Schedule as Trustee shall be the first Trustee and shall continue to hold office until being removed or ceasing to hold office as a consequence of the following rules:-

- 33.1 The Trustee may resign at any time upon giving written notice to each of the Unit Holders entitled to vote.
- 33.2 The office of Trustee shall be ended and vacated if being an individual the Trustee:-
- 33.2.1 becomes subject to the Laws concerning the affairs of persons who are subject to a mental disability; or
 - 33.2.2 is certified by a Medical Practitioner as suffering from a mental disability; or
 - 33.2.3 becomes subject to bankruptcy laws; or
 - 33.2.4 remains out of the place in which the Trust Fund is for the time being administered for more than twelve months; or
 - 33.2.5 is found guilty (or admits guilt) in respect of an act of dishonesty touching or concerning the Trust Fund; or
 - 33.2.6 a vote of Unit Holders holding sixty two per cent (62%) of the issued units carrying voting rights in writing , or at a duly convened meeting determines that the Trustee's appointment is terminated
- 33.3 The office of Trustee shall be ended and vacated if being a Corporation:-
- 33.3.1 it shall enter into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction); or
 - 33.3.2 if any of its Directors be found guilty (or admit guilt) in respect of any act of dishonesty touching or concerning this Trust Fund, except that if the Director or Directors involved in the act or acts of dishonesty make good the loss and immediately resign his her or their position as Director/ Directors upon being found guilty or making the admission of guilt, the Trustee being a Corporation may continue
 - 33.3.3 a vote of Unit Holders holding sixty two per cent (62%) of the issued units carrying voting rights in writing , or at a duly convened meeting determines that the Trustee's appointment is terminated.
- 33.4 Appointment of New Trustee
- Upon the Trustee ceasing to hold the office of Trustee (for whatever reason) the Unit Holders holding sixty-two per centum (62%) of the issued Units carrying voting rights shall, as soon as is reasonably practicable after the Unit Holders become aware of the Trustee's retirement or removal, appoint some other Trustee to be Trustee of the Trust Fund.
- 33.5 A Third Party may rely upon a copy of this Deed
- Any person dealing with the Trustee of the Trust Fund may rely upon a copy of this Deed and of the notices endorsed or attached to it, certified by the Trustee or the Trustee's Legal Practitioner to the same extent as he she they or it might rely on the original.
- 33.6 A new Trustee may rely upon previous Trustee

Any person becoming a Trustee of the Trust Fund may accept the account rendered and the property delivered to the new Trustee by a continuing Trustee or a predecessor of the Trustee without being bound to enquire any further as to the assets of the Trust Fund, the accuracy of those records or the honesty of the Trustee in discharging the Trustee's duties relating to the Trust Fund and any person ceasing to be a Trustee may be given a full and complete discharge by the Appointor or the person authorised at the relevant time to remove and appoint a Trustee (there shall however be no obligation to give such a discharge).

34 Receipts

The receipt of a Unit Holder for any money payable from the Trust Fund shall be a good discharge to the Trustee and if several persons are registered as joint Unit Holders one of them and if one or several persons are registered in consequence of the death or bankruptcy of a Unit Holder one of them may give receipts.

35 Decisions of Trustee

The decisions of the Trustee in the exercise of any power discretion or authority conferred on the Trustee by this Deed may be made in writing and signed by all the Trustees or by a resolution passed at a meeting of the Trustee or by a resolution of the Directors of a Corporate Trustee.

In the event of a disagreement between the Trustees or Directors as to any matter affecting the Trust Fund or as to the exercise or omission or abstention from exercising any of the Trustee's powers and discretions, the following rules shall apply:-

36.1 All decisions will be subject to a vote

The matter for decision shall be referred to a vote of all the Trustees or all the Directors (either at a meeting of the Trustee or by post, telephonic or electronic medium);

36.2 Decisions for or against will be by a simple majority

In the event of there being a majority for or against the proposal the Trustee shall give effect to the wishes of the majority as though it were a decision by all the Trustees or all the Directors. No record of the vote or the number of votes for and against will be recorded other than a record as to whether or not there was a majority vote for or against the proposal.

The Trustee must not exercise any Discretion granted to the Trustee in the administration of the Trust without first obtaining the consent of the Unit Holders;

36.3 Action in event of Deadlock

In the event of deadlock the matter shall if any Trustee or where the Trustee is a Corporation any Director of the Trustee so requires be referred for Mediation.

IN THE EVENT that the deadlock cannot be resolved by Mediation if any Trustee so requires and in the case of the Trustee being a Corporation any Director of the Trustee so requires the matter shall be referred for the decision of an Arbitrator to be appointed by agreement but in the default of agreement by the President for the time being of the Institute of Arbitrators and Mediators Australia (or the successor of

such organization) pursuant to any Arbitration Law in force at that time of the Place of Proper Law.

The Trustee shall give effect to the award of the Arbitrator as though it were a decision by all Trustees or Directors and this Clause may be produced and pleaded as a bar to the commencement of any proceedings where there has been no Mediation and no Arbitration except in the case that the Trustee or Trustees shall fail to give effect to the Arbitrator's decision (except in the case of an appeal of the Arbitrator's decision).

35.4 Record Book

The Trustee shall at all times and from time to time maintain a record book in which the Trustee must record the decisions made by the Trustee concerning the Trust Fund and any other matters that the Trustee considers desirable. That record book shall constitute prima face evidence of the matters recorded in it. Where the Trustee is a Corporation the record of the meetings of the Directors of that Corporation, so far as they relate to the Trust Fund shall suffice for the purposes of this paragraph. The record book may be handwritten, typed or printed or maintained in an electronic form **PROVIDED HOWEVER** that the record book must be of such a nature that it is capable of lasting for at least the life of the Trust Fund plus seven (7) years.

35.5 The Trustee has no obligation to disclose

Without prejudice to any rights under the General Law allowing the Trustee to refuse disclosure of any documents relating to the Trust Fund, the Trustee shall not be bound to disclose to any person any of the following documents:-

35.5.1 Any document disclosing any deliberations of the Trustee (or any of them) or any Director/s of a Corporate Trustee as to the manner in which the Trustee should exercise any power or any discretion or disclosing the reason for any particular decision or exercise of any power or any such discretion or the material upon which a decision was or might have been based.

35.5.2 Any other document relating to the exercise or proposed exercise of any power or any discretion conferred on the Trustee by this Deed other than legal advice obtained by the Trustee at the cost of the Trust Fund.

36.5 Merger

Notwithstanding that the Trust Fund created by this Deed may come to an end or any part of this Deed may cease to have effect, the obligations contained in this Deed will continue beyond the life of the Deed or the part until the obligation is fully satisfied.

35.7 The Trustee's powers to be deemed Adequate

No person dealing with the Trustee shall be concerned to enquire as to the adequacy of the powers of the Trustee in relation to such dealing or as to the proper exercise by the Trustee of any of the powers authorities and discretions vested in the Trustee by the provisions of this Deed or as to the propriety or regularity of any transaction affecting the Trust Fund or any of the assets of the Trust or to see to the application of any moneys paid to the Trustee (including any moneys advanced or accommodation granted by any bank, financial institution or other lender) or to any person or corporation at the Trustee's discretion and in the absence of fraud on the part or any such person dealing the Trustee such dealing shall be deemed so far as

the safety and protection of such person is concerned to be within the powers of the Trustee and to be valid and effectual accordingly and the receipt of the Trustee or the receipt of any person or corporation paid as aforesaid at the direction of the Trustee shall effectually discharge any such person dealing with the Trustee from all liability in respect thereof.

35.8 Definitions and Interpretations

- 35.8.1 **"Accounting Period"** shall mean each period of twelve months ending on the 31st day of December in each year PROVIDED that the period commencing on the Commencement Day and ending on the 31st of December immediately after that date shall be an Accounting Period and the period commencing on the first day of January immediately prior to the Vesting Day and ending on the Vesting Day shall be an Accounting Period.
- 35.8.2 **"Authorised Administration"** shall mean any act in the administration of the Trust that is either permitted by this Deed or authorised by a 62% majority of the Unit Holders.
- 35.8.3 **"child"** shall mean and include an adopted child and shall also mean and include a child forming part of a family unit established by reason of a bona fide domestic relationship and by reason of a bona fide domestic relationship between persons of the same gender as if the child had been adopted.
- 35.8.4 **"Distribute"** shall mean pay, transfer, assign, set aside and in relation to a Unit Holder shall include placing a sum to the credit of a Unit Holder in the books of account of the Trust or by otherwise appropriating the same to a Unit Holder and shall include a distribution in specie.
- 35.8.5 **"person"** shall mean and include a natural person, a Corporation, a legal entity, an individual or body of persons.
- 35.8.6 **"Place of Proper Law"** shall mean the State or Country named in the Schedule and if none be named the place of residence of the Trustee (and if more than one a majority) and if the Trustee be a Corporation then the State or Country in which the Trustee shall have its registered office.
- 35.8.7 **"remoter issue"** shall mean and include any issue of any child of a Unit Holder and shall include any adopted child or children of such child or issue.
- 35.8.8 the **"Schedule"** and **"Schedule"** shall mean the Schedule to this Deed which is part of this Deed.
- 35.8.9 **"Signature"** shall mean the impression of a mark by hand facsimile mechanical electronic or other means which is properly authorised by the person purported to have signed the document, signed shall mean the result of a signature produced by any means defined above and in the case of a Corporation shall include the signatures of the Directors and if there be only one Director the signature of the single Director.
- 35.8.10 **"Special Provision"** and **"Special Provisions"** shall mean and include any provision or provisions set out in the Schedule as Special Provisions.
- 35.8.11 **"spouse"** shall mean and include:-

- 35.8.11.1 the wife or husband for the time being of a Unit Holder;
 - 35.8.11.2 any previous wife or husband of a Unit Holder;
 - 35.8.11.3 any person who the Trustee shall determine from time to time to be or have been in a bona fide domestic relationship with a Unit Holder who may if the Trustee so determines be a person of the same gender;
 - 35.8.11.4 the widow or widower for the time being of a Unit Holder whether such person shall have remarried or not;
 - 35.8.11.5 any person who the Trustee shall determine after the death of a Unit Holder to have been in a bona fide domestic relationship with a Unit Holder during the life of such Unit Holder which person may include a person of the same gender as the deceased Unit Holder.
- 35.8.12 **"Taxation Law"** shall mean the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997, a new Tax System (Goods and Services Tax) Act 1999 and all amendments to and substitutions for and regulations and rules made from time to time under those Acts.
- 35.8.13 **"Trust and Trust Fund"** shall mean the Settled Sum and all moneys and investments and property paid to or transferred to and accepted by the Trustee as additions to the Trust Fund and the accumulations of income and capital in this Deed directed or empowered to be made and all accretions and additions to the Trust Fund from whatsoever source and the investments and property from time to time representing the money investments property accumulations accretions and additions or any part or parts of them respectively, and may be divided into such number, category or class or parts as the Trustee may from time to time for the benefit of the Trust or any Unit Holder or class of Unit Holders determine.
- 35.8.14 **"The name of the Trust"** shall be the name stated in the Schedule.
- 35.8.15 **"The Commencement Day"** and the **"Commencement Date"** shall mean the date stated in the Schedule as the Date of Execution.
- 35.8.16 **"the Trustee"** shall mean the person named as such in the Schedule or any other Trustee or Trustees for the time being of this Trust and shall include two or more Trustees and in the event that "the Trustee" shall be a Corporation, a Corporation.
- 35.8.17 **"the Termination Day"** shall mean the first to occur of the following dates, namely:-
- 35.8.17.1 the day if any specified in the Schedule;
 - 35.8.17.2 the day upon which the Perpetuity Period applicable to this Trust expires;
 - 35.8.17.3 the day appointed by the Trustee.
- 35.8.18 **"In writing"** and **"written"** shall include printing and lithography and other modes of reproducing or representing words in a visible form and shall

include electronic means provided the same can be recorded in a permanent form.

35.8.19 Reference to any statutory enactment shall mean and be construed as reference to the enactment as amended and modified and re-enacted from time to time.

35.8.20 Where any doubt exists as to the interpretation of any part, word or phrase the same shall be interpreted in accordance with the rules of common sense and the Law in force in the Place of Proper Law at the relevant time and as far as possible for the benefit of a Unit Holder or class of Unit Holders.

35.8.21 Words importing the singular shall include the plural and vice versa and words importing one gender shall include any other gender and a Corporation.

35.9 Section 3A Land Tax Management At 1956 New South Wales provisions

Notwithstanding any provision herein to the contrary :-

36.9.1 This clause shall be read and shall take precedence over any other provision in this Deed

36.9.2 The Beneficiaries of this Trust are at all time presently entitled to the income of the Trust subject only to payment of proper expenses by and of the Trustee relating to the administration of the Trust; and

36.9.3 The Beneficiaries of this Trust are at all times presently entitled to the capital of the Trust and may require the Trustee to wind up the Trust and distribute the Trust property or the net proceeds of the Trust property; and

36.9.4 These entitlements cannot be removed restricted or otherwise affected by the exercise of any discretion or by failure to exercise any discretion conferred on the trustee or any other person by a provision of this Deed.

35.10 Special Provisions

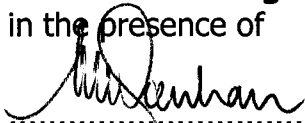
If a provision or provisions are included in the Schedule as "Special Provisions" **THEN PROVIDED** the same shall not be inconsistent with the intention of this Deed then as far as is possible the Trustee shall give effect to the "Special Provisions".

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EXECUTED as a Deed on the day stated in the Schedule as the date of execution.

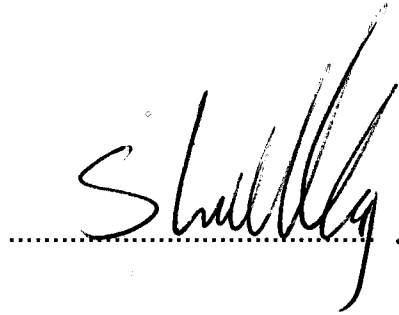
THE TRUSTEES

Signed sealed and delivered by
Steven Lundberg
in the presence of

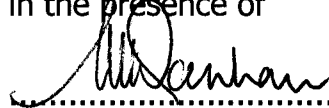


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Witness

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Signed sealed and delivered by
Barry Fook
in the presence of

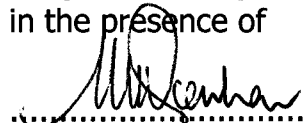


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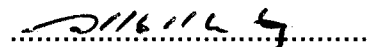


Signed sealed and delivered by
Stephen Monty
in the presence of

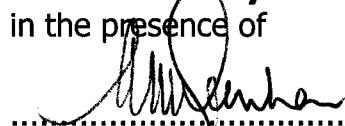


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Signed sealed and delivered by
Matthew Monty
in the presence of



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