

**UNIT TRUST DEED
FOR THE
CARTMILL
INVESTMENT TRUST**

TRUST DEED MADE BETWEEN

DIANNE CARTMILL
“the Initial Unitholder”

AND

CARTMILL INVESTMENT MANAGEMENT PTY LTD
ACN: 079 845 499
“The Trustee”

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2

INDEX:

Clause	Description	Page No.
1	Interpretation	2
2	Trust Fund & Units	6
3	Redemption, Transfer & Transmission of Units	9
4	Period of Trust	12
5	Trust Fund Income	13
6	Powers & Duties of Trustees	15
7	General Provisions	26
	First Schedule	
	Second Schedule	
	Third Schedule	
	Forth Schedule	

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THIS TRUST DEED is made the day mentioned in the First Schedule hereto **BETWEEN** the person or persons named and described in the First Schedule as the Trustee or Trustees (hereinafter called the "Trustee") of the one part AND the person or persons named and described in the First Schedule as the initial Unitholder or initial Unitholders (hereinafter called the "initial Unitholders") of the other part.

WHEREAS the Trust constituted by this Deed shall be known by the distinguishing name if any set forth in the First Schedule and **WHEREAS** the Trustee has received from the initial Unitholders the sums of money in the proportions described in the First Schedule (and hereinafter called the "Initial Sum") to establish the said Trust Fund AND **WHEREAS** the initial sum forms part of the Trust Fund and the Trustee has consented to hold the Trust Fund upon the trusts and subject to the terms hereinafter contained and this deed is made with the intention that the Trustee shall be bound hereby and the Unitholders who are registered as hereinafter provided shall be entitled to the benefits hereof to the extent hereinafter provided.

NOW IT IS AGREED AS FOLLOWS

- A. The Trust Fund shall be divided into the number of initial units as specified in the First Schedule.
- B. The classes of units shall be as specified in the First Schedule.
- C. Any special rights, privileges, obligations and liabilities attaching to any class of units shall be as specified in the First Schedule.
- D. Any additional Trustee powers exercised in accordance with Clause 6 shall be as specified in the First Schedule.
- E. The applicability or otherwise of the Third and Fourth Schedule shall be as set forth in the First Schedule.
- F. The Trustee has received applications for the issue of the initial units and the application moneys from the initial Unitholders in respect thereof.

1. INTERPRETATION

1.1 In this Deed unless the contrary intention appears or there is something repugnant to or inconsistent with the subject matter, the following expressions have the meanings hereunder set out:

"Accounting Period" shall mean each period of twelve months ending on the 30th day of June in each year PROVIDED first that the period commencing on the date hereof and ending on the 30th day of June next shall be an Accounting Period and secondly that the period commencing on the first day of July prior to the Vesting Day and ending on the Vesting Day shall be an Accounting Period.

"Applicable Law" means the law of the State or Territory referred to in the Schedule provided that if this specification may not lawfully be made or will not be given effect to by any Court before which this Deed shall come in question the applicable law shall be the law which such Court determines.

"Capital Profits" means the capital profits arising from a disposal of the Trust Fund or calculated in accordance with the law of trusts and standard accounting procedures for trusts.

"Cash" includes cheques and Bank Cheques;

"Certificate" means a Certificate issued or to be issued under the provisions of this Deed and for the time being outstanding;

"Clause" means a Clause of this Deed.

"Corporation" means any statutory corporation, corporation sole or company formed or incorporated according to law.

"Distribute" means to pay, apply or set aside.

"Foreign Income" means foreign income as defined in Section 6AB(1) of the Tax Act.

"Franked Dividends" means dividends the whole or part of which are taken to have been franked under Part IIIAA of the Tax Act.

"Futures Contract" has the meaning assigned to that term in the Corporations Law.

"Income" means Trust Income but if the Trustee on or before the last day of the Accounting Period declares in writing that of this definition shall not apply in relation to that Accounting Period, then "Income" shall mean the Net Income of the Fund.

"Investment" means any one of the holdings of investments forming for the time being a constituent part of the Trust Fund including the assets and goodwill of any business vested in and/or carried on by the Trustee,

"Investment Fund" means any cash management trust, unit trust, mutual fund, venture capital fund or similar undertaking or similar entity.

"issue" or "issued" with respect to units means registration in the Register of Unitholders in respect of those units.

"Net Income" means the net income of the Trust determined in accordance with Section 95(1) of the Tax Act.

"Pay" includes transfer, assign and convey.

"Property" means real, personal, movable or immovable property of any description and wheresoever situate including (without limiting the generality hereof) policies of assurance or endowment, cash and choses in action.

"Register" means the Register described in Clause 2.3 of this Deed.

"set aside" in relation to a Unitholder includes placing sums to the credit of such Unitholder in the books of the Trust Fund.

"Spouse" includes a defacto spouse, being a woman living with a man as his wife or a man living with a woman as her husband (as the case may be) on a bona fide domestic basis, although not legally married to each other.

"Tax Act" means the Income Tax Assessment Act 1936.

"Trust" means the trust constituted by and comprised in this Deed.

"Trust Fund" means:

- a) the initial sum;
- b) the amounts contributed or credited or paid for any units issued pursuant to this Deed;
- c) any further or additional Property donated to, assigned to, transferred to or vested in or caused to be vested in the Trustee to be held upon the trusts and subject to the powers and provisions of this Trust;
- d) the proceeds of sale, redemption or other dealing with the Initial Sum or other Property at any time vested in the Trustee;
- e) any accumulation of income directed or empowered to be made in this Deed;
- f) money lent to or advanced to the Trustee pursuant to this document;
- g) all accretions to, or the income, profits or gains of, any of those things previously mentioned; and
- h) Property of every description for the time being and from time to time representing the Property referred to in sub-paragraphs (a) to (f) of this definition.

"Trust Income" means the income produced from the investment of the Trust Fund and/or the Property thereof or from any other income producing activity after allowing for the expenses of the Trust calculated in accordance with the law of trusts and standard accounting procedures for trusts and any Capital Profits.

"Trustee" means the person or persons named as such herein or other the Trustees or Trustee for the time being and from time to time hereof whether original, additional, surviving, alternate or substituted and whether the same be a natural person or persons, companies, corporations or otherwise or one or more classes of them severally.

"Unfranked Dividends" means dividends which are not Franked Dividends.

"Units" means units created under the provisions of this deed and for the time being held by unitholders or by the Trustee.

"Unitholders" means the person or persons who for the time being are registered under the provisions of this deed as the holder or holders of units and includes persons jointly so registered and the expression "unitholders" shall include persons corporations and the trustees of trusts or settlements and other legal entities who from time to time until the Vesting Day come within the foregoing descriptions notwithstanding that such persons corporations trustees or other legal entities may not be in existence or have come into the defined category at the date of this deed and in the case of such trustees notwithstanding that the trusts or Settlements of which they are trustees have not been formed or come into existence or do not fall within the defined category at the date of this deed.

"Vesting Day" means whichever shall first occur of the following days:

- a) the day upon which shall expire the period of 80 calendar years commencing on the date of the making of this Deed;
- b) the day upon which shall expire 18 calendar years after the date of the death of the last survivor of the descendants now living of His Majesty King George V;
- c) the day which the Trustee may at any time in the absolute discretion of the Trustee determine to be the vesting day.

provided always that notwithstanding anything in this Deed to the contrary all powers and dispositions made by or pursuant to or contained in this Deed which but for this provision would or might vest take effect or be exercisable after the Vesting Day shall vest and take effect and be exercisable only until the Vesting Day.

The expression the "consent of the unitholders", the "special consent of the unitholders", the "consent of a class of unitholders", the "special consent of a class of unitholders", the "direction of the unitholders", the "special direction of the unitholders", the "direction of a class of unitholders", and the "special direction of a class of unitholders" mean respectively consent or direction given in accordance with clause 7.4 if there are any unitholders and if not the consent of the Trustee.

1.2 In this Deed, unless the context indicates otherwise:

- a) the singular shall mean and include the plural and vice versa and any gender shall mean and include all other genders;
- b) headings in this Deed are for convenience only and shall not affect the interpretation of this Deed;
- c) references to persons shall include a Corporation
- d) references to a person shall include the legal personal representatives, successors and assigns of that person;
- e) reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction);
- f) references to writing include any mode of representing or reproducing words in tangible and permanently visible form, and includes telex and facsimile transaction;
- g) references to authorities and bodies, whether statutory or otherwise, shall be deemed to include references to the delegates of those authorities and bodies whether appointed by statute or otherwise;

the expression "the Beneficiaries", shall include persons, Corporations and the trustee or trustees of trusts who or which from time to time until the Vesting Day come within the definitions contained in this Deed or within any description in this Deed notwithstanding that such persons, Corporations, trustee or trustees may not have been born or be in existence or have come into the defined categories at the date of this Deed and, in the case of such trustee or trustees notwithstanding that the trust or settlement of which he is a trustee or they are trustees have not been formed or come into existence or do not fall within the defined category at the date of this Deed providing that there is no infringement of the rule against perpetuities including the rule against perpetual trusts.

1.3 Nothing in this deed shall constitute or shall be deemed to constitute the relationship of principal and agent between the Trustee and the unitholders nor the relationship of partners as between the Trustee and the unitholders or as between the unitholders inter se nor to give rise to any association between the unitholders inter se. All income payable in accordance with the provisions of this deed to unitholders shall be payable to them separately and income received by the Trustee shall not be received or be construed as received by or on behalf of the unitholders jointly or otherwise.

2. TRUST FUND AND UNITS

2.1 Trust for Unitholders

The Trustee hereby declares that it will henceforth stand possessed of the Trust Fund and the income thereof upon trust for the unitholders upon the trusts and with and subject to the powers and provisions hereinafter expressed concerning the same.

2.2 Issue of Units and Rights Attaching

- a) The beneficial interest in the Trust Fund as originally constituted and as existing from time to time shall be held by the unitholders for the time being subject to the special rights privileges or powers (if any) attaching to any class or classes of unit in proportion to the units registered in their respective names and all units shall subject to any such special rights privileges or powers existing from time to time be of equal value. If there be no unitholders the Trust Fund shall be held for charitable purposes determined by the Trustee.
- b) Each unit shall subject to the special rights privileges or powers (if any) attaching to any class or classes of units entitle the registered holder thereof equally with the registered holders of all other units to the beneficial interest in the Trust Fund as an entirety but subject thereto shall not entitle the unitholder to any particular security or investment comprised in the Trust Fund or any part thereof and (save as provided in Clause 4) no unitholder shall be entitled to the transfer to him of any property comprised in the Trust Fund.
- c) The Trust Fund as originally constituted by the initial sum shall be divided into the number of units set forth in the First Schedule and into the classes (if any) set forth in the First Schedule. The initial Unitholders named in the First Schedule shall be entitled to and be issued the number of Units set opposite their respective names in the First Schedule and each of those person shall be deemed to be recorded in the register of Unitholders in relation to those Units set opposite its name.
- d) Each unitholder shall pay to the Trustee such sum (if any) as such unitholder agrees to pay in applying for the issue to him of such unit.
- e) Save for a liability (if any) referred to in sub-Clause 2.2(d) and for any liability expressly contracted for, no unitholder shall incur any liability under or in connection with this trust deed or by virtue of being or coming a unitholder to the Trustee any other unitholder or any person whomsoever and in particular and without limiting the generality of the foregoing:
 - i. no unitholder shall incur any liability by way of indemnity or otherwise in respect of any contract act or omission of the Trustee whether or not such contract act or omission was made in the course of the carrying on of any business was made at the request direction or with the concurrence of the unitholder or was wrongful and whether or not at the time of such contract act or omission the Trust Fund was solvent or sufficient to meet the Trustee's right of indemnity under Clause 6.2.

- i. to the extent that the law allows any statute or rule of law providing for indemnity of the Trustee by any unitholder is hereby negated;
 - ii. the Trustee agrees with each unitholder that except in conformity with this sub-clause, the Trustee will not claim or seek to enforce against any unitholder any indemnity or other liability and that the Trustee's right of indemnity against the Trust Fund is restricted to the Trustee's rights under Clause 6.2.
- f) The Trustee with the consent in writing of the unitholders (if any) may issue additional units from time to time with power to classify or designate the same with or without special rights privileges powers liabilities or obligations or to reclassify units which are already issued and in respect thereof to create amend or revoke any special rights privileges powers liabilities or obligations in such manner as the Trustee thinks fit provided that unless unitholders waive the operation of this provision in any particular case:
- i. All new issues of units of the classes set forth in the First Schedule shall comprise the same proportion of units of those classes as are set forth in the First Schedule and shall before their issue be offered in the first instance to existing unitholders holding units of that class pro rata as nearly as may be to their existing holdings and without involving fractions.
 - ii. All new issues of units of classes not previously issued shall be offered in the first instance to unitholders (of whatsoever class) pro rata to their existing holdings.
 - iii. Offers of new issues of units shall be made by notice specifying the number and class of units offered and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the units offered, the Trustee may dispose of those units in such manner as it thinks most beneficial to the Trust Fund. The Trustee may likewise so dispose of any new units which (by reason of the ratio which the new units bear to units held by persons entitled to an offer of new units) cannot, in the opinion of the Trustee, be conveniently offered under this proviso.
 - iv. No units shall be issued subject to any special rights privileges powers liabilities or obligations and in respect of existing units no rights privileges powers liabilities or obligations shall be created amended or revoked.
- g) The Trustee may at any time and shall if requested by Unitholders holding a majority of units cause a valuation of the property and assets of the Trust Fund to be made by such competent valuers or experts as the Trustee may decide.

2.3 Register

- a) The Trustee shall keep a register of unitholders in which there shall be entered the following particulars:

- i. the names, addresses and descriptions of the unitholders;
 - ii. the number of units in respect of which they are registered and the distinctive numbers or letters of the certificates held by them respectively;
 - iii. the date at which the name of every unitholder was entered in the register in respect of units standing in his name; and
 - iv. any other details considered necessary by the Trustee.
- b) The certificates for units to be issued shall:
 - i. be in the form or to the effect specified in the Second Schedule;
 - ii. specify the name and address of the unitholder and the number of units to which the certificate relates;
 - iii. bear a distinctive number or letter;
 - iv. be prima facie evidence that the person named in the certificate is entitled to the number and class (if any) of units therein specified; and
 - v. be signed by one or more of the Trustees or by any director of a corporate Trustee.
- c) No notice of any trust express implied or constructive shall be entered in the register and the person from time to time entered in the register as the unitholder shall be the only person recognised by the Trustee as entitled to the units registered in his name or to exercise the rights and privileges of the registered holder thereof pursuant to this deed. No person shall be recognised by the Trustee as holding any unit upon any trust and the Trustee shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable contingent future or partial interest in any unit or any interest therein or (except only as by the provisions of this deed otherwise provided) any other rights in respect of any unit except an absolute right to the entirety thereof in the unitholder. Units held by a trustee in respect of a particular trust may be marked in the register in such a way as to identify them as being held in respect of that trust but no liability shall be created by any such marking and the Trustee shall not be affected with notice of any trust recorded as aforesaid. If a transferee of units so requests in writing the Trustee may issue a certificate of units in the name of a fund which is held by a trust and, subject to the provisions of this deed relating to transfers, may register any transfer signed by the trustees for the time being of the fund and may pay all distribution cheques to such trustees or to the fund by name and any such payments shall be a good discharge to the Trustee who shall not be bound to see to the application of any moneys paid to such fund or to the trustees thereof.
- d) Each person who becomes registered as a Unitholder 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.

3. REDEMPTION, TRANSFER AND TRANSMISSION OF UNITS

3.1 Redemption of Units

- a) If a unitholder in writing requests the Trustee to redeem all or any of his units at a price to be determined in accordance with the provisions hereinafter contained then the Trustee shall redeem the units in respect of which the request is made as soon as reasonably practicable after such request.
- b) The Trustee may at any time and from time to time redeem any unit or units by paying to the unitholder thereof the sum to be determined in accordance with the provisions hereinafter contained. The Trustee may determine to redeem any such units without prior notice to the unitholder thereof of the Trustee's intention to redeem the said units.
- c) For the purpose of redeeming any units the Trustee may:
 - i. pay out of the Trust Fund or any part thereof out of any moneys in the Trustee's hands whether received, held or deemed to be income or being cash contributed to the Trust Fund or representing the proceeds of the sale of any investments of the Trust Fund;
 - ii. raise out of the Trust Fund by borrowing in exercise of the Trustee's powers in that behalf a sufficient sum to provide the redemption sum;
 - iii. realise or sell any investment comprised in the Trust Fund to provide a sufficient sum to provide the redemption sum.
- d) For the purpose of fixing the redemption sum for units to be redeemed by the Trustee under the foregoing provisions, the Trustee shall value the Trust Fund and the units into which the Trust Fund is divided (and if the Trustee thinks it necessary have valuations made by a person or persons competent to make such valuations) and in determining the value of the units regard shall be had to any special rights or restrictions or conditions relating to the entitlement of the units to share in the income or capital of the Trust Fund and in distribution of the capital on the termination of the Trust Fund and to any rights, restrictions or conditions attaching to or affecting the units and the value of the units to be redeemed shall be calculated on the basis of the value of the Trust Fund and the various units in the Trust Fund aforesaid. From the value of the units so to be redeemed shall be deducted all necessary expenses incidental to any realisation by the Trustee of any investment for the purpose of providing the redemption sum and any trusteeship fee payable in respect of the Trust Fund at the rate chargeable by the Trustee on the amount of the value of the units so redeemed shall be deducted all necessary expenses incidental to any realisation by the Trustee of any investment for the purpose of providing the redemption sum and any trusteeship fee payable in respect of the Trust Fund at the rate chargeable by the Trustee on the amount of the value of the units so redeemed computed from the last day of the last preceding accounting period prior to the date on which the units are redeemed by the Trustee.
- e) A Unitholder may request the Trustee in writing to redeem all or any of his units at a price to be determined in accordance with the provisions hereinafter contained and if the Trustee considers that such units may be redeemed without detriment or disadvantage to the other Unitholders the Trustee may in its discretion redeem the units in respect of which the request is made as soon as reasonably practicable after such request.

- f) Upon payment to the unitholder of the purchase price of a unit redeemed the certificate therefor shall be delivered to the Trustee for cancellation, the name of such holder shall be removed from the register as the holder thereof and such unit shall be cancelled. Failure of a unitholder to deliver up the certificate shall not prevent the cancellation thereof by the Trustee.

3.2 Transfer and Transmission of Units

- a) Notwithstanding the following provisions of Clauses 3.2, 3.3, 3.4 and 3.5, the Trustee may in its absolute discretion treat any request for transfer or transmission of units as a request for redemption of units and the provisions of Clause 3.1 shall mutatis apply.
- b) Unitholders may request the Trustee to register transfers of all or any of the units held by them. Subject to Clauses 3.3, 3.4 and 3.5 and unless otherwise provided by this deed, the Trustee may in its absolute discretion refuse to register a transfer (whether voluntary or by operation of law) of units without being bound to assign any reason for such refusal.
- c) Unless a written instrument of transfer of units is required by law, a transfer of units may at the Trustee's discretion be effected without a written instrument of transfer being submitted and in that event an entry made in the register of unitholders with the approval of the Trustee shall, if all unitholders consent and if the transfer is not contrary to the provisions of this deed, be effective as evidence of the rights to the units so transferred. The Trustee may however, if it sees fit require an instrument of transfer in writing before registering a transfer of units.
- d) If the law so requires or the Trustee in its discretion 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 or transferee and shall be duly stamped (if required by law) and be left with the Trustee with the certificate or certificates relating to the units to be transferred.
- e) Upon being satisfied that the provisions of this deed relating to transfers of units have been complied with and, if the Trustee has a discretion, that a particular transfer of units falls within the proper exercise of such discretion, the Trustee shall make appropriate entries in the register of unitholders and shall cancel the existing unit certificate or certificates and shall issue a new certificate or certificates in the name of the transferee and if appropriate a new certificate in the name and of the transferor for the balance of any units retained by him.

3.3 Right to Transfer

If the whole or part of the rules set out in the third schedule relating to permitted transfers is by the first schedule made applicable to this deed, the Trustee shall not subject to Clauses 3.2(b) and 3.2(c) refuse the registration of any transfer of units in accordance with such of the rules in the third schedule as are made applicable to this deed.

3.4 **Restriction on Right to Transfer**

If the whole or part of the transfer procedure set forth in the Fourth Schedule is by the First Schedule made applicable to this deed then subject to Clauses 3.3 and 3.5 but without prejudice to Clause 3.2(b) and 3.2(c) transfers of units shall only be approved of or registered by the Trustee if:

- a) the Trustee is satisfied that there has been substantial compliance with such of the provisions of the Fourth Schedule as are by the First Schedule made applicable to this deed; or
- b) the Trustee has received the consent of the unitholders to the waiver of the said transfer procedure and to the registration by the Trustee of the transfers of units in question.

3.5 **Transmission of Units**

- a) In the case of the death of a unitholder, the survivor or survivors where the deceased was a joint holder and the legal personal representatives of the deceased in all other cases shall be the only persons recognised by the Trustee as having any title to his interest in the units.
- b) Any person becoming entitled to units in consequence of the death lunacy liquidation or bankruptcy of any holder may upon such evidence being produced as may from time to time be required by the Trustee, elect either to be registered himself as the holder of the units or to have some person nominated by him registered as the transferee thereof but the Trustee shall, in either case, have the same right to decline or suspend registration as the Trustee would have had in the case of a transfer of the units of that holder prior to such death lunacy liquidation or bankruptcy.
- c) If a person so becoming entitled elects to be registered himself he shall deliver or send to the Trustee a notice in writing signed by him stating that he so elects. If he elects to have another person registered he shall testify his election by executing a transfer of the units to that person. All provisions of this deed relating to the right to transfer units and the registration of transfers of units shall be applicable to any such notice or transfer as aforesaid as if the death lunacy liquidation or bankruptcy of the unitholder had not occurred and the notice or transfer were a transfer executed by that holder.
- d) A person entitled to units by transmission shall be entitled to receive and may give a good discharge for all moneys payable in respect of the units but except as otherwise provided by this deed shall not be entitled to any of the rights or privileges of a unitholder unless and until he shall become registered in respect of the units.

4. PERIOD OF TRUST

- a) The trusts created by this deed shall commence on the date hereof and shall continue until the Vesting Day.
- b) As soon as practicable after the vesting day the Trustee shall (subject as hereinafter provided) sell call in and convert into money or cause to be sold called in and converted into money the investments and property constituting the Trust Fund, and within the period of six months (or later if approved by the unitholders but not later than the expiration of the perpetuity period) from the giving of the notices to unitholders provided for in the next sub-clause hereof, divide the proceeds of such sale and conversion (less all proper costs and disbursements commissions brokerage fees and other outgoings and all proper provision for liabilities) among the unitholders in proportion to the number of units of which they are at the date of the giving of such notice respectively registered as the holders and upon such registered holders delivering up to the Trustee for cancellation the certificates held by them respectively provided however that the Trustee may in its discretion at the request of any unitholder transfer to such unitholder any assets of the Trust Fund in specie in satisfaction or part satisfaction of the entitlement of the unitholder on the termination of this trust.
- c) The Trustee shall as soon as practicable after the termination of the trust give to each unitholder not less than one month's notice of the impending distribution.
- d) The Trustee may postpone the sale and conversion of any part of the investments and property of the Trust Fund for such time as the Trustee thinks desirable in the interests of the unitholders and shall not be responsible for any loss attributable to such postponement.
- e) The Trustee may if it thinks fit transfer any of the investments of the Trust Fund to the trustee of any other trust (whether or not the Trustee hereof is in any way associated with such other trust) on receiving cash equivalent to the value of such investment at the date of transfer valued in accordance with the foregoing provisions of this deed.

5. TRUST FUND INCOME

5.1 Determination and Classification

- a) The Trustee shall in each Accounting Period determine the Income of the Trust Fund.
- b) In determining the Income of the Trust Fund, the Trustee may classify the Income into one or more such classes as it may in its absolute discretion determine and may account separately for each such class of Income or part thereof. Without limiting the generality of the foregoing in such determination the Trustee may identify and account separately such part of that Income (if any) which represents:
 - i. any Capital Profits;
 - ii. the amount of any Franked Dividends;
 - iii. the amount of any Unfranked Dividends;
 - iv. any Foreign Income;
 - v. the difference between any Trust Income and Net Income before tax.
- c) The Trustee may, if the Unitholders so direct, at any time prior to the expiration of any Accounting Period (or such other time as the Commissioner of Taxation may allow for the purposes of the Tax Act) which ends before or upon the Vesting Day determine with respect to all or any parts of the Trust Income or Income of the Trust Fund for that Accounting Period, to do all or any of the following:
 - i. to Distribute the same or any part thereof to all or one or more of the Unitholders or to any class of Unitholders
 - ii. to accumulate the same or any part thereof.
- d) The following rules shall apply to any determination made pursuant to Clause 5.1(c):
 - i. Any distribution of Income will, unless otherwise specified by the Trustee, be deemed to have firstly been made out of Net Income.
 - ii. Any determination to accumulate income shall be conditional upon the law in force in relation to this Deed giving effect to such determination at the end of the Accounting Period but except as provided in this Clause 5.1(d) each such determination shall be irrevocable;
 - iii. If at the end of any Accounting Period the amounts in respect of which determinations have been pursuant to Clause 5.1(c) exceed the Income of the Trust Fund for the Accounting Period the amount of the excess shall firstly be deducted from the amount or amounts (if any) which the Trustee has determined to accumulate and only the balance of such amount or amounts (if any) shall from that time on be accumulated and if after such deduction the amounts in respect of which determinations have been made pursuant to Clause 5.1(c) still exceed the Income of the Trust Fund for the Accounting Period then the Trustee shall be deemed to that extent to have applied the capital of the Trust Fund pursuant to Clause 3 pro rata across the amounts in respect of which determinations have been made;

- iv. Any determination may be made in writing signed by the Trustee or by resolution duly passed at a meeting of the Trustee;
- v. A determination to Distribute any amount for any Unitholder may be made by, among other things, placing such amount to the credit of the Unitholder in the books of the Trust Fund or drawing a cheque in respect of such amount, made payable to or for the credit or benefit, of the Unitholder or paying the same in cash to or for the beneficiaries of the Unitholder;
- vi. The Trustee shall have a complete discretion as to the making of any determination and shall not be bound to assign any reason for the determination;
- vii. In making any determinations to Distribute any amount the Trustee shall distribute that amount to Unitholders in proportion to the number of Units for which they are respectively registered at the time or in such other proportions as the Unitholders may unanimously agree.

5.2 **Accumulation and Amounts Set Aside**

- a) The amount of any accumulation shall be dealt with as an accretion to the Trust Fund, but so that the Trustee may at any time or times resort to all such accumulations and Distribute the whole or any part or parts of those accumulations as if it or they were Income of the Trust Fund.
- b) If the Trustee shall not by the last day of the Accounting Period have exercised the discretion vested in the Trustee to Distribute or accumulate the whole or any part of such Income in the manner aforesaid then the Trustee shall hold the Income not so Distributed or accumulated for that Accounting Period in trust for the unitholders in proportion to the number of units for which they are respectively registered at the time.
- c) Any amount set aside for any Unitholders or held by the Trustee in trust for a Unitholder pursuant to Clause 5.2(b) shall not form part of the Trust Fund but shall on and from the occurrence of either event be held by the Trustee as a separate trust fund upon trust for the Unitholder absolutely, with the power to the Trustee, pending payment of the amount to such Unitholder, to invest or apply for the benefit of such Unitholder or deal with such fund or any part thereof in the manner provided for this Deed in relation to the Trust Fund.

6. POWERS AND DUTIES OF TRUSTEES

6.1 General, Additional and Specific Powers

- a) The Trustee may at its absolute discretion notwithstanding anything to the contrary herein contained or otherwise provided:
 - i. at any time and from time to time pay or apply the whole or any part of the capital or the whole or any part of any income to which any infant unitholder is entitled to the parent or guardian of such infant without being bound to see to the application thereof by such parent or guardian provided that nothing contained in this Deed shall operate to prevent the Trustee being entitled at any time to distribute any part of the Trust Fund to the Unitholder.
 - ii. subject to the consent of the unitholders at any time or from time to time before the vesting day lend any sum or sums out of the Trust Fund and any moneys held in trust hereunder to any unitholder either with or without security and upon such terms and conditions as to repayment and with or without interest as the Trustee shall in its absolute discretion think fit;
 - iii. allow any unitholder to occupy have custody of or use any immovable property or chattels for the time being forming part of the Trust Fund on such terms or conditions as to rent inventories repair replacement insurance outgoings or otherwise as the Trustee shall think fit and so that the Trustee shall not be liable for any loss or damage which may occur to any property so forming part of the Trust Fund during or by reason of any such occupation custody or use except in so far as such loss or damage shall be occasioned by the conscious and wilful default or neglect of the Trustee.
- b) The Trustee shall in addition to the powers otherwise conferred upon trustees by law or elsewhere in this deed have the following additional powers:
 - i. To apply and invest all moneys at any time forming part of the Trust Fund in any such investments whether involving liabilities or not upon personal credit with or without security and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and to the intent that the Trustees shall have the same powers in all respects as if it was absolute owner beneficially entitled including without diminishing the generality of the foregoing the subscription for, the taking up on allotment and the purchase of any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority or company incorporated in any part of the world and the taking of and the purchase 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 of any real or personal property wheresoever situate or any part or share or interest therein and notwithstanding that the same may not be income producing or may be of a wasting or speculative nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto.

- ii. To make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and they 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 such investments wholly or in part from any future moneys which may come into their hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.
- iii. To enter into any agreement of any kind with; to advance and lend moneys and otherwise extend credit to; to borrow raise moneys and otherwise receive credit from and to give any guarantee and/or indemnity and/or bond for the payment of money or the performance of any contract obligation or undertaking by any person firm company corporation or association (whether incorporated or unincorporated) or governmental or municipal body whatsoever or to incur any obligation of any kind whatsoever in favour of any person firm company corporation or association (whether incorporated or unincorporated) governmental or municipal body whatsoever and upon such terms with or without security or interest as the Trustee shall deem fit and the Trustee is hereby expressly empowered to enter into obligations or to receive obligations jointly or jointly and severally with any person firm company corporation or association (whether incorporated or unincorporated) or governmental or municipal body whatsoever.
- iv. To secure any moneys borrowed raised and other credit received by the Trustee and any obligation including contingent obligation incurred by the Trustee by any mortgage charge lien or other security over all or any part of the property or assets of the Trust Fund including future properties and assets as the Trustee shall think fit.
- v. To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.
- vi. To hold use purchase construct demolish maintain repair renovate reconstruct develop improve sell transfer convey surrender let lease exchange take and grant options or rights in, alienate mortgage charge pledge reconvey release or discharge or otherwise deal with any real or personal property and in particular with shares debentures or securities of any company and with or without deferred restricted qualified or special rights relating thereto and in particular to take on bailment lease or on hire and otherwise purchase and acquire any real and personal property and in particular (without limiting the generality of the foregoing) and chattels machinery plant and stock-in-trade.

- vii. 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 its absolute 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 all the purposes of this deed to be deemed to be sale thereof.
- viii. To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or in carrying out or performing the trusts hereof which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustee may be required to pay as settlement probate estate gift stamp or revenue duties including stamp gift or settlement duties payable in respect of the Trust Fund or on these presents.
- ix. To exercise all rights and privileges and perform all duties and do all such acts, matters and things appertaining to any shares stock or debentures in any corporation for the time being subject to the trusts thereof as the Trustee could do if it was the beneficial owner of the shares stock or debentures or was personally interested or concerned in the corporation and without diminishing the generality of the foregoing with liberty to assent to any arrangements modifying such rights privileges or duties and to agree to any scheme or arrangement for the reconstruction or the increase or reduction of the capital of any corporation and to make any agreement in respect of or in the course of the winding up of any company and for any such purpose to deposit surrender or exchange any of the said shares stock or debentures or the title thereto and to pay any calls or contributions or other necessary expenses in connection with any such shares stock or debentures or any title thereto.
- x. To carry on anywhere in the world either alone or in partnership and under such name as the Trustee thinks fit any trade or business whatsoever and to discontinue the same from time to time.
- xi. To employ any person (including any Trustee hereof) 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 hereof 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 of superannuation retirement benefit or pension for the benefit of any person so employed.

- xii. To partition or agree to the partition of or to subdivide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality or partition.
- xiii. To establish promote or acquire any company or companies or join in the promotion establishment or acquisition of any company or companies.
- xiv. 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 person in the Trust Fund or in or towards the satisfaction of any sum which the Trustee may determine to pay or apply to or for the benefit of any unitholder pursuant to Clause 5 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 may be under a legal disability.
- xv. 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 receipts or payments from for or in connection with any real or personal 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 this deed and every determination of the Trustee in relation to any of the matters aforesaid 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.
- xvi. To open any account or accounts with any bank or banks and to operate by and in all usual ways any such account or accounts and to draw accept endorse and negotiate bills of exchange or to deal with them in any other way whatsoever and to enter into agreements in respect of the drawing acceptance endorsement and negotiation of bills of exchange or any other dealing with them whatsoever.
- xvii. To give effectual receipts and discharges for any monies received by or on behalf of the Trustee or otherwise relating to any of the acts matters and things provided for in these presents and to receive property by gift inter vivos or by will or under the provisions of any other trust or trusts or otherwise and either from any person or persons as additions to the Trust Fund and to hold the same upon the trusts herein set forth and to administer such additions under the provisions hereof.
- xviii. To grant options in respect of any assets held subject to the trusts of this deed to any person firm or company.

- xix. To become a director of any company in which moneys forming part of the Trust Fund are invested or to appoint any person to act as director of any such company and to receive the remuneration attached to such office without accounting to the trust therefor provided that the Trustee executes all proper declarations of trust for any shares held by them on behalf of the trust and accounts to the trust for all dividends and bonuses and to exercise or concur in exercising all of the powers and discretions contained in this deed or otherwise by law conferred notwithstanding that the Trustee or any person being a Trustee or any person being a director or shareholder of a Trustee hereof (being a company) has or may have a direct or personal interest (whether as trustee of any other trust or in his personal capacity or as a director or shareholder of any company or otherwise) 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 and notwithstanding that the Trustee for the time being is the sole Trustee.
- xx. To take such action as the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to take and act upon the opinion (given in writing) of an attorney at law or Counsel practising in any country where the Trust Fund or any part thereof may for the time being be invested in relation to the interpretation or effect of these presents or any other document or statute or as to the administration of the trusts hereof 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 in the provision shall prohibit or impede the Trustee from applying to any court if they shall think fit or prohibit any of the unitholders from doing so and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by the presents.
- xxi. To remunerate any unitholder who is at any time in the employ of the Trustee to the same extent and in the same manner as if the unitholder so employed were not a unitholder hereunder and all bona fide payments made by the Trustee to any such unitholder 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 unitholder of or on account of his or her share in the Trust Fund or the income thereof.
- xxii. 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 to the deeds and other documents belonging or related to the Trust Fund with any bank.

- xxiii. With the consent of the unitholders, in any condition or circumstances which the Trustee thinks expedient to appoint either in respect of the whole of the Trust Fund or any part thereof new Trustees in any country in the world and to transfer assign and set over the investments for the time being representing the Trust Fund or any part thereof to any such new Trustees upon similar trusts and subject to similar terms and conditions to those declared in these presents and either subject to the control of the Trustee of these presents or to the exclusion of such control and the Trustee of these presents shall be indemnified and held harmless against any loss which may arise from the exercise of this power.
- xxiv. With the consent of each class of unitholders at any time or times before the vesting day by any irrevocable deed or deeds (without infringing any rule against perpetuities to this deed) to appoint that the whole or any part of the Trust Fund shall thenceforth be held upon the trusts and with and subject to the powers and provisions of any other trust (not infringing the rule against perpetuities applicable to this deed) and approved by the Trustee in favour or for the benefit of all or one or more exclusively of the others or other of the unitholders registered at the time of such appointment and upon any such appointment being made the Trustee may transfer to the trustees or trustee for the time being of the said other trust property comprised in the said appointment and thereupon the trusts herein declared concerning such property shall cease and determine and the said property shall for all purposes be subject to the trusts powers and provisions contained in the said other trust and be subject to and governed by the proper law of the said other trust whether or not such proper law shall be the proper law of this trust.
- xxv. In the event of any probate succession estate or other duties fees or taxes becoming payable in any part of the world in respect of the trust Fund or any part thereof on the death of any unitholder or any other person at their absolute discretion to pay all or any such duties fees and taxes out of the Trust Fund notwithstanding that part of such duties fees or taxes or some part thereof are not or may not be recoverable from the Trustee or from the Trust Fund by legal process in the place where the same become payable.
- xxvi. To exercise such additional or other powers (if any) as are referred to in The First Schedule.
- c) Notwithstanding anything herein to the contrary or otherwise contained the Trustees shall have power at their absolute discretion:

- i. to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustee in its personal capacity or in its capacity as trustee of other trust funds or otherwise howsoever or to any company or partnership whatsoever notwithstanding that the Trustee or any of them is a shareholder or director or member or partner of such company or partnership or to a wife, husband, child or children of any Trustee absolutely;
 - ii. to buy transfer acquire hire or lease any real or personal property or to borrow any moneys from the Trustee or any of them in its personal capacity or in the capacity of the Trustee or any of them as trustee or trustees of other Trust Funds or otherwise howsoever or from any company or partnership whatsoever notwithstanding that the Trustee or any of them is a shareholder or director or member or partner of such company or partnership or from the husband or wife or child or children of any Trustee;
 - iii. to carry on or carry out any profit making undertaking or scheme in partnership with the Trustee or any of them in its personal capacity or in the capacity of the Trustees or any of them as trustee of other Trust Funds or otherwise howsoever or with any company or partnership whatsoever notwithstanding that the Trustee or any of them is a shareholder or director or member or partner of such company or partnership or with the husband or wife or child or children of any Trustee;
 - iv. to exercise all the powers and discretions vested in the Trustee notwithstanding that the Trustee or any of them may be unitholders and generally to deal with the Trustee or any of them in its personal capacity in all respects as if there were two separate persons to the dealings and without limiting the generality of anything herein contained the Trustee shall have power in its absolute discretion to sell to itself in its 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 company or companies or another joint or undivided interest in the same property are held by the Trustee in such other capacity as aforesaid and to divide assets in specie between the Trust Fund and such other trust funds in such manner as the Trustee shall think fit.
- d) The Trustee if at any time they are more than one shall act jointly and they may in writing delegate 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 instrument necessary to effectuate such purpose.
 - e) The Trustee shall not be bound in any case to act personally but shall be at full liberty to act as managers or to employ any contractors manager solicitor accountant clerks workman employees or servants or any agents to transact all or any business of whatever nature required to be done in these premises including the receipt and payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.

- f) A sole Trustee hereof for the time being is hereby authorised notwithstanding that it is the sole Trustee to receive capital and other moneys and to give valid and effectual receipts therefor 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.
- g) Any Trustee hereof who may be a solicitor or accountant or any firm of which he may be a member shall be entitled to make all usual and proper charges for both his professional and other services in the administration for the trusts hereof and for his time and trouble that he would have been entitled to make if not a Trustee and so employed.

6.2 Trustee's liabilities and indemnities

- a) The Trustee shall be indemnified out of the Trust Fund from and against any expense and liability that may be incurred in prosecuting, defending or intervening in any action or suit in respect of the provisions of this Deed, except where the action or suit arises out of any act of deceit, neglect or default or breach of trust by the Trustee.
- b) The Trustee shall not incur any liability to anyone in respect of doing or performing or failing to do or perform any act or thing which, by reason of any provision of any present or future law of the State of Territory referred to in the First Schedule, the Commonwealth of Australia or any State or Territory thereof or any ordinance rule regulation or by-law made pursuant thereto or of any decree order or judgement of any court of competent jurisdiction either the Trustee is required to do or perform or is hindered prevented or forbidden from doing or performing.
- c) The Trustee shall not incur any liability to anyone in consequence of the Trustee relying in good faith on information provided to the Trustee by any Unitholder or any other person on behalf of a Unitholder which proves to be incorrect.
- d) The Trustee shall not be liable to account to Unitholders or the legal personal representative of a Unitholder for any payments made by the Trustee in good faith to any duly empowered fiscal authority for taxes imposts or other charges made upon or in respect of the Trust or with respect to any transaction hereunder, notwithstanding that any such payment ought or need not have been made except to the extent that such payments may be attributable to the Trustee's own act of deceit, neglect or default.
- e) The Trustee may act upon information obtained from Unitholders or the opinion advice of or information obtained from barristers or solicitors being persons independant of the Trustee and instructed by the Trustee and upon any statement of or information obtained from any bankers accountants or other persons appointed by the Trustee being persons independent of the Trustee and believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted and the Trustee is not liable for anything done or suffered by it in good faith in reliance upon any such opinion advice statement or information.

- f) The Trustee shall not be responsible for any misconduct mistake oversight error of judgement forgetfulness or want of prudence on the part of any auditor, actuary, approved valuer, attorney, banker receiver and manager, barrister, solicitor, agent or other person acting hereunder as agent or adviser of the Trustee except to the extent that such loss is attributable to the Trustee's own act of deceit, neglect or default.
- g) The Trustee shall not be liable for any action taken or thing suffered by the Trustee in reliance upon any notice, resolution, direction, consent, certificate, receipt, affidavit, statement, holding out certificate for stock, plan of re-organisation, application or other paper or document reasonably believed by the Trustee to be genuine and to have been possessed, produced, passed, signed or endorsed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document was not, in fact, genuine or so possessed produced passed signed or endorsed.
- h) Save and except in the case of fraud or of dishonesty or unless the Trustee shall have failed to show the degree of prudence and diligence required of a Trustee having regard to the powers authorities and discretions conferred on the Trustee by this Deed in no event shall the Trustee be bound to make any payment to Unitholders or the legal personal representatives of Unitholders except out of the Trust Fund or be liable to Unitholders or the legal personal representatives of Unitholders to any greater extent than the moneys and assets of the Trust Fund vested in or received by the Trustee in accordance with this Deed.
- i) Should the Trustee purchase or otherwise acquire any authorised investment in regard to which there is a liability, the Trustee will have a right of indemnity out of the Trust Fund in respect of that liability except to the extent that such liability may be attributable to the Trustee's own act of deceit, neglect or default.
- j) In the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms hereof or otherwise as allowed by law to be indemnified in respect of such liability out of the Trust Fund the Trustee may claim such indemnity from the Trust Fund but the Trustee shall not be entitled to be indemnified in respect thereof by any Unitholder unless by a separate agreement with that Unitholder.
- k) Where there is more than one Trustee neither shall be bound to take proceedings against the other for any breach or alleged breach of trust.
- l) All persons claiming any beneficial interest in over or upon the Property subject to this Trust shall be deemed to take with notice of and subject to the protection hereby conferred upon the Trustee.

6.3 Trustee's Determinations

- a) Any determination or exercise by the Trustee of any power discretion or authority conferred on the Trustee by this Deed may be made:
 - i. by oral declaration of the Trustee or resolution of the Trustee recorded in the records or minutes of the Trustee; or

- ii. in writing signed by the Trustee; or
 - iii. every Trustee who is a Corporation may exercise or concur in exercising any discretion or power hereby conferred on the Trustee by a resolution of such Corporation or by a resolution of its board of directors or governing body or may delegate the right and power to exercise or concur in exercising any such discretion or power to one or more members of its board of directors or governing body appointed from time to time by the said board of directors or governing body for that purpose;
 - iv. in the case of a sole corporate Trustee, by a resolution of such Corporation or by a resolution of its board of directors or governing body whether such resolutions were properly recorded in minutes or not.
- b) Once such a decision has been so recorded it shall be irrevocable in so far as it relates to distribution of Income with respect to the Income of the Year to which it relates.

6.4 Trustee's Covenants

The Trustee (and if there be more than one jointly and severally) covenants with the unitholders as follows:

- a)
- i. that the Trustee will act continuously as Trustee under the trusts set forth in this deed until such trusts are determined as herein provided or the trustee has retired in the manner hereinafter provided;
 - ii. that a Trustee will retire or as the case may be procure the retirement of any other Trustee from the trust if being a company such Trustee shall go into liquidation (except for the purpose of amalgamation or reconstruction or some similar purpose) or if a receiver shall be appointed of the undertaking of the Trustee or any part thereof or if it ceases to carry on business or fails or neglects after reasonable notice from the unitholders to carry out or satisfy any duty imposed upon a Trustee by this deed or if the unitholders so direct in writing or if any Trustee being an individual becomes bankrupt or makes any arrangement or composition with his creditors generally or becomes of unsound mind or person whose person or estate is liable to be dealt with in any way under the law relating to mental health.
- b) Any Trustee other than a sole Trustee may retire upon giving one month's notice in writing to the unitholders or without giving such notice with the consent of the unitholders.

- c) Any sole Trustee may retire upon the giving of one month's notice in writing to the unitholders and appointment of a substitute Trustee or without giving such notice upon appointment of a substitute Trustee.
- d) The unitholders may decide at any time to remove any Trustee or to appoint an additional Trustee or Trustees and any new Trustee or Trustees shall effectively be appointed upon execution by such Trustee or Trustees of a deed whereby such Trustee or Trustees undertake to the unitholders performance of the obligations of a Trustee hereunder.
- e) Upon retirement a Trustee shall be released from all obligations under this deed arising after the date of such retirement except an obligation to concur in any assurance necessary or which the then Trustee considers desirable to vest the Trust Fund or any part thereof in such then Trustee.
- f) The costs charges and expenses of and in connection with the retirement and replacement of any Trustee or the appointment of any additional Trustee shall be recouped from the Trust Fund.
- g) The Trustee shall have the sole and absolute discretion in the exercise of all rights appertaining to the shares or other investments comprised in the Trust Fund and no unitholder shall have any right with respect to the Trust Fund to attend meetings of shareholders or to vote or take part in or consent to any corporate or shareholders action or, save as expressly provided by this deed, to interfere with or question the exercise or non-exercise by the Trustee of the rights and powers of the Trustee as the owner of the investments of the Trust Fund.

7. GENERAL PROVISIONS

7.1 Variation of Trust

With the special consent of the unitholders the Trustee may at any time and from time to time by supplemental deed revoke add to or vary all or any of the provisions of this deed or any of the trusts hereinbefore limited or the trusts limited by any variation or alteration or addition made previously and may by the same or any other deed or deeds declare any new or other trusts or powers concerning the Trust Fund or any part or parts thereof the trusts whereof shall have been so revoked added to or varied but so that any law against perpetuities is not thereby infringed and so that such new or other trusts powers discretions alterations or variations:

- a) may relate to the management or control of the Trust Fund or the Trustee's powers or discretions; and
- b) shall not affect the beneficial entitlement to any amount set aside for any unitholder prior to the date of the variation alteration or addition.

7.2 Reporting and Accounts

- a) The Trustee shall keep a complete and accurate record of all receipts and expenditures on account of the Trust Fund.
- b) Promptly after the close of each accounting period the Trustee shall prepare a written accounting report (prepared in accordance with normally accepted accounting procedures) for such period consisting of a balance sheet and statement of income and expenditure and a list of assets held at the cost of such year and a copy thereof shall be furnished upon request to the unitholders.
- c) With the consent of the unitholders the accounting report shall include the names and addresses of all persons or firms having custody of all or any portion of the assets of the Trust Fund.
- d) The Trustee shall at the direction of the unitholders appoint an Auditor to examine and ascertain the correctness of the accounts of the Trust Fund and the Trustee may, in its discretion without such direction, appoint an Auditor if it sees fit.

7.3 Meetings and Notices

- a) The Trustee or the holders of not less than 20 per cent of the registered units or units of a given class may convene a meeting of the unitholders or unitholders of that class (as the case may be).
- b) Subject to the consent of the unitholders or the class of unitholders to shorter notice not less than one day's notice shall be given of any meeting of unitholders and such notice shall specify the general nature of the business to be transacted and the place day and time of the meeting.
- c) Notice of every meeting of unitholders shall be given in any manner hereinbefore authorised to:

- i. every unitholder except those unitholders who (having no registered address within the Commonwealth of Australia) have not supplied to the Trustee an address within the Commonwealth of Australia for the giving of notices to them:
 - ii. every person entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a unitholder who but for his death or bankruptcy would be entitled to receive notice of the meeting;
 - iii. the Auditor (if any) for the time being of the Trust Fund.
- d) The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.
- e) The Chairman of the meeting shall be a person appointed by a majority of the unitholders present at such meeting.
- f) At any meeting voting shall be by a show of hands unless a poll be demanded by unitholders holding not less than 20 per cent of the units or units of the class concerned issued and upon a poll every unitholder present in person or by proxy shall have one vote for every unit held by him.
- g) Votes may be given either personally or by proxy. A proxy may but need not be a unitholder and in the case of a unitholder being a corporation, the proxy may be any officer of such corporation.
- h) In the case of joint registered unitholders any one of such joint holders may vote either personally or by proxy as if he were solely entitled to the units comprised in the joint holding but if more than one of such joint holders be present at any meeting either personally or by proxy that one of the persons to present whose names stands first in the register in respect of the joint holding shall alone be entitled to vote in respect thereof. Several executors or administrators shall for the purpose of this sub-clause be deemed joint holders.
- i) Every instrument of proxy shall be in a form approved from time to time by the Trustee and shall be deposited with the Trustee at any time before the time of holding the meeting at which the person named in such instrument proposes to vote.
- j) A quorum for a meeting of unitholders or a class of unitholders shall be registered unitholders present in person or by proxy and holding not less than 50 per centum of all issued units or units of the class at the date of such meeting.
- k) The Chairman may with the sanction of the meeting adjourn the meeting to such time and place as he shall determine and he shall adjourn any meeting at which a quorum is not present.

- l) A notice may be given by the Trustee to any unitholder either personally or by sending it by post to him at his registered address or (if he has no registered address within the Commonwealth of Australia) to the address (if any) within the Commonwealth of Australia supplied by him to the Trustee for the giving of notices to him. Where a notice is sent by post service of the notice shall be deemed to be effected in the case of a notice of a meeting on the day after the date of its posting and in any other case at the time at which the letter would be delivered in the ordinary course of post. If the Trustee shall so determine a notice may be given by means of telex telegram cablegram facsimile transmission or radiogram and service of such notice shall be deemed to be effected if the telex telegram cablegram facsimile transmission or radiogram is properly addressed paid for and lodged for transmission with a competent authority or body and to have been effected at the time at which in the ordinary course the telex telegram cablegram facsimile transmission or radiogram would be delivered.
- m) A notice may be given by the Trustee to the joint holders of a unit by giving the notice to the unitholder first named in the register of unitholders in respect of the unit.
- n) A notice may be given by the Trustee to the persons entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a unitholder by sending it through the post in a prepaid letter addressed to them by name or by the title of representatives of the deceased lunatic or liquidator or assignee of the bankrupt or by any like description at the address (if any) within the Commonwealth of Australia supplied for the purpose by the persons claiming to be entitled or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death lunacy liquidation or bankruptcy had not occurred.
- o) The signature to any notice to be given by the Trustee may be written or printed or stamped and the signature may be that of one or more of the Trustee or of any Director or Secretary of a corporate Trustee.

7.4 Unitholders Consents

For the purposes of this deed the consent of the unitholders or any class thereof to any act or thing or the direction of the unitholders or any class thereof in relation to any act or thing shall conclusively be deemed to have been given on production of:

- a) a consent in writing executed by or on behalf of all the unitholders or the class thereof as the case may be; or
- b) a minute signed by the chairman of the meeting of the unitholders or a class thereof that at a duly convened meeting of the unitholders or a class thereof a resolution was duly passed in favour of such consent or direction by a majority of (or in the case of special consent or special direction a majority of not less than 75 per cent) of the votes of those present in person or by proxy at the meeting or on a poll if the same be demanded.

IN WITNESS WHEREOF:

The parties have hereto set their hands and seals the day and year first hereinbefore written.

**THE COMMON SEAL OF
CARTMILL INVESTMENT
MANAGEMENT PTY LTD**

ACN: 079 845 499

was hereunto affixed by
the authority of its
Board of Directors in
the presence of:



Director

Secretary

**SIGNED SEALED AND DELIVERED
BY DIANNE CARTMILL**

in the presence of:

Dianne Cartmill

Witness

Dated on the 8th day of October 1997

FIRST SCHEDULE

Date of Deed of Trust	<i>8th October 1997</i>		
Trustee	CARTMILL INVESTMENT MANAGEMENT PTY LTD		
A.C.N.	079 845 499		
Address	1/57 KEMBLA STREET, WOLLONGONG 2500		
Name of Trust	CARTMILL INVESTMENT TRUST		
State or Territory	NEW SOUTH WALES		
Initial Sum	\$100		
Number of Initial Units	100		
	Initial Unitholder's Name	Initial Sums	No. Units
	DIANNE CARTMILL	\$100	100
Classes of Units	Nil		
Special Rights Privileges Obligations and Liabilities attaching to Units	Nil		
Additional Trustee Powers	Nil		
Applicability of Third Schedule	Clauses 1 to 6 applicable		
Applicability of Fourth Schedule	Clauses 1 to 10 applicable		

SECOND SCHEDULE

***Unit Trust Certificate
Cartmill Investment Trust***

Certificate No.
Number of units:
Class (if any): Nil

*This is to certify that
of*

is the registered holder of the abovementioned number of units of the class (if any) shown in the Cartmill Investment Trust constituted by trust deed date: and entered in the Register of Unitholders on the same date.

Signed under seal, for and on behalf of the Trustee

Director of Cartmill Investment Management Pty Ltd

This certificate must be delivered to the Trustee on application to transfer any of the units comprised therein.

THIRD SCHEDULE

The following transfers are permitted transfers under Clause 3.3 namely:

To any of the following permitted transferees -

- a. any other holder of units of the class being transferred;
 - b. any relative of the transferor falling within the following description (called " specified relatives") namely, the spouse son daughter son-in-law daughter-in-law or grandchild or other direct issue;
 - c. 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");
 - d. any corporation, all of the shares in which are beneficially owned by permitted transferees as aforesaid or by one or more of them;
 - e. where the transferor is the trustee of a deed of trust or settlement or is a corporation, then to any specified relative (defined as aforesaid) of any beneficiary under the deed of trust or settlement or of any beneficial owner of shares in the corporation (as the case may be).
2. From any permitted transferee as aforesaid to any other unitholder holding units of the class being transferred or to any other permitted transferee as aforesaid.
 3. From the executors or administrators or other legal personal representatives of a deceased unitholder to any person who is already a unitholder holding units of the class held by the deceased or to the widow or widower of the deceased unitholder or to any of the specified relatives (defined as aforesaid) of such unitholder entitled in each case thereto under or by virtue of the Will of such unitholder or as one of his next of kin.
 4. From the trustees of a family trust to the beneficiary or beneficiaries entitled thereto pursuant to such family trust.
 5. From the trustees of the will of any deceased unitholder or of any family trust on any change of trustees to the trustees for the time being of such will or family trust.
 6. In the case of a unitholder being a body corporate, from such unitholder to another body corporate which is in relation to such unitholder a related body corporate within the meaning stated in the Corporations Law.

FOURTH SCHEDULE

The transfer procedure is as follows:

1. A unitholder desiring to sell or transfer a unit (called the "**proposed transferor**") shall serve the Trustee with a notice (called "**a transfer notice**") of his desire specifying the units which he desires to sell or transfer and the price he fixes as the fair value thereof and such notice shall constitute the Trustee his agent to sell the units at the fair value determined as hereinafter provided.
2. A transfer notice may include several units in which case it shall operate as if it were a separate notice in respect of each unit. A transfer notice shall not be revocable except with the sanction of the Trustee.
3. The Trustee may accept the fair value for the purpose of this clause but if the Trustee is of opinion that it is too high or too low or if no fair value is stated in the transfer notice the Trustee may refer the question to the auditor of the trust or to any registered company auditor to be selected by the Trustee for the determination of the fair value and the fair value as determined by such auditor shall be deemed to be the fair value of the units for the purpose of this clause. Such auditor in making such valuation shall be deemed to be acting as an expert and not as an arbitrator and accordingly the provisions of the Arbitration Act 1990 shall not apply. The costs of obtaining the determination of the auditor shall be borne as to one half by the person giving the transfer notice and as to the other half by the trust.
4. Units comprised in a transfer notice shall in the first instance be offered by notice in writing to all the unitholders (except the proposed transferor) as nearly as may be in proportion to their respective holdings of units provided that where the units are divided into different classes the units comprised in a transfer notice shall in the first instance be offered to the holders of units of that class (excepting the proposed transferor) as nearly as may be proportionate to their respective holdings of units of that class.
5. The offer to unitholders shall state that if the same is not accepted in whole or in part within fourteen days from its receipt it shall be deemed to be declined and such offer shall also require any unitholder who desires to purchase units in excess of his said proportion to state how many additional units he desires to purchase at the fair value.
6. Any units not accepted from the said offer shall be used for satisfying the said request for additional units but if there shall be insufficient of the said unaccepted units to satisfy in full all such requests for additional units the said unaccepted units shall be distributed amongst the unitholders making such request as nearly as may be in proportion to the respective holdings of units (or of units of the particular class in question as the case may be) in like manner to that set out in paragraph 4.

provided that no unitholder shall be bound to take more additional units than those he shall have offered to purchase.

7. If and to the extent to which any offer made as aforesaid is accepted the proposed transferor shall be bound to transfer the units accepted and the unitholder accepting the offer shall be bound to pay the fair value as aforesaid for the units.
8. Any unit comprised in the transfer notice which has not been accepted for sale as aforesaid shall be dealt with as follows:
 - a. the Trustee shall use its best endeavours to find a unitholder or any person selected by the Trustee as one whom it is desirable in the interest of the trust to admit as a unitholder and who is willing to purchase the unit at the fair value thereof fixed as aforesaid.
 - b. if before the expiration of two months from the date of service on the Trustee of such transfer notice the Trustee shall find a unitholder or person selected as aforesaid willing to purchase the units they shall give notice to the proposed transferor and he shall thereupon be bound upon payment of the fair value to transfer the units to the unitholder or person selected as aforesaid willing to purchase the same;
 - c. if before the expiration of the said period of two months the Trustee shall not find a unitholder or person selected as aforesaid willing to purchase the whole of the units mentioned in the transfer notice and give notice in manner aforesaid the proposed transferor shall at any time within three months thereafter be at liberty to sell or transfer the units not so purchased to any person at the fair value and on terms no more favourable than those upon which the Trustee has been authorised to sell.
9. If in any case a unitholder 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 person accepting such units to be entered in the books of the trust as the unitholder thereof and shall hold the purchase money in trust for the unitholder in default. The receipt of the Trustee for the purchase money shall be a good discharge to the person accepting such units and after his name has been entered in the books of the trust in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.
10. The Trustee may with the consent of the unitholders (of whatever class) vary the foregoing procedure to meet the circumstances of any particular case and in particular may give any person or persons a preferential right to acquire any units.