

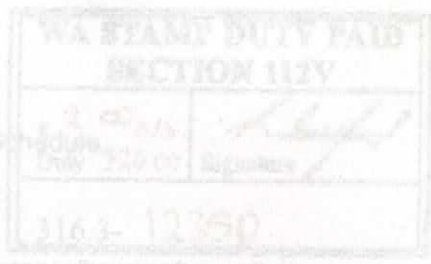
INDEX

1.	INTERPRETATION AND EFFECT OF THE DEED	7
2.	DECLARATION OF MUSTER HOLDINGS PTY LTD A.C.N. 067 599 544	8
3.	THE UNITS	4
	("The Trustee")	
4.	REGISTER OF UNIT HOLDERS AND UNIT CERTIFICATES	5
5.	TRANSFER AND TRANSMISSION AND UNITS	8
6.	MEETINGS OF UNIT HOLDERS	11
	RICHARD DESMOND SMITH DIANA JOY SMITH MUSTER HOLDINGS PTY LTD A.C.N. 067 599 544	
7.	PROXIES	19
8.	THE ADVISORY COMMITTEE	14
	("The Original Unit Holders")	
9.	POWERS AND DUTY OF ADVISORY COMMITTEE	16
10.	DURATION AND TERMINATION OF THE TRUST	17
11.	INCOME OF THE TRUST FUND	20
12.	INVESTMENT POWERS	22
13.	GENERAL PROVISIONS RELATING TO THE TRUSTEES	31
14.	RESIGNATION AND APPOINTMENT OF TRUSTEES	32
15.	ACCOUNTS AND AUDIT	33
16.	THE OAKDALE UNIT TRUST	34
17.	NOTICES	34
	SCHEDULES	

GODFREY VIRTUE & CO.

Barristers & Solicitors

IRWIN CHAMBERS
Level 5, Cnr Hay and Irwin Streets,
Perth, Western Australia, 6000.
Telephone: (09) 325 6188
Fax: (09) 221 1745



THIS DEED OF TRUST is made on the **INDEX** filed in the First Schedule

BETWEEN

- 1. INTERPRETATION AND EFFECT OF THE DEED 1
- 2. DECLARATION OF TRUST 3
- 3. THE UNITS 4
- 4. REGISTER OF UNIT HOLDERS AND UNIT CERTIFICATES 5
- 5. TRANSFER AND TRANSMISSION OF UNITS 6
- 6. MEETINGS OF UNIT HOLDERS 11
- 7. PROXIES 13
- 8. THE ADVISORY COMMITTEE 14
- 9. POWERS AND DUTY OF ADVISORY COMMITTEE 16
- 10. DURATION AND TERMINATION OF THE TRUST 17
- 11. INCOME OF THE TRUST FUND 20
- 12. INVESTMENT POWERS 22
- 13. GENERAL PROVISIONS RELATING TO THE TRUSTEES 31
- 14. RESIGNATION AND APPOINTMENT OF TRUSTEES 32
- 15. ACCOUNTS AND AUDIT 33
- 16. VARIATION OF TRUSTS 34
- 17. NOTICES 34

SCHEDULES

"Accounting Period" means the period from the date hereof to the next ensuing thirtieth day of June and thereafter each period of twelve months ending on the thirtieth day of June in each year and if the date of termination of the Trust is not the thirtieth day of June in any year the last Accounting Period shall be the period commencing on the first day of July next preceding the date of termination of the Trust and terminating on the date of termination of the Trust;

"the Advisory Committee" means the Advisory Committee established in accordance with Clause 8 hereof;

"cash" includes cheque and Bank cheque;

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

WA STAMP DUTY PAID	
SECTION 112V	
2.00015 Duty \$20.00	Signature <i>[Handwritten Signature]</i>
316.3-12350	

THIS DEED OF TRUST is made on the date specified in the First Schedule

BETWEEN:

The person or persons described in the First Schedule as the Trustees (hereinafter called "the Trustees") of the one part

AND

The person or persons described in the First Schedule as the Original Unit Holders (hereinafter called "the Original Unit Holders") of the other part

WHEREAS:

- A. It is intended by this Deed to establish a Trust to be known by the name described in the First Schedule.
- B. The Original Unit Holders have paid on the execution hereof to the Trustees the initial sum specified in the First Schedule as the Original Unit Holders contribution.
- C. The said sum is to form part of the Trust Fund as hereinafter defined and the Trustees have consented to hold the Trust Fund upon the trusts and subject to the terms hereinafter contained.
- D. This Deed is made with the intention that the benefits of the trusts herein declared shall enure to the extent herein provided for the benefit of every Unit Holder who shall hold units as herein provided and that every such Unit Holder shall be bound by the provisions hereof.
- E. It is expressly stipulated that the provisions of Section 58 of the Trustees Act 1962 shall not apply to the Trust constituted by these presents.

NOW THIS DEED WITNESSETH :

INTERPRETATION AND EFFECT OF THE DEED

- 1.1 In this Deed and the Schedules hereto and in all documents referred to herein the following terms where the context admits shall have the following meanings:
 - "Accounting Period"** means the period from the date hereof to the next ensuing thirtieth day of June and thereafter each period of twelve months ending on the thirtieth day of June in each year and if the date of termination of the Trust is not the thirtieth day of June in any year the last Accounting Period shall be the period commencing on the first day of July next preceding the date of termination of the Trust and terminating on the date of termination of the Trust;
 - "the Advisory Committee"** means the Advisory Committee established in accordance with Clause 8 hereof;
 - "cash"** includes cheque and Bank cheque;
 - "Certificate"** means a Certificate issued under the provisions of this Deed and for the time being outstanding;

"Company" includes a Unit Trust Scheme; mean and be construed as references to such enactment as amended and modified from time to time.

"Investment" means any one of the assets or 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 Trustees;

"net income of the Trust Fund" shall include, unless the Trustees otherwise determines, the amount of any receipt by the Trustees of money, shares, debentures or other securities or of any other property which is, or the value of which would be, included in the amount calculated as the "net income" of the Trust Fund for an accounting period, pursuant to Section 95(1) of the Income Tax Assessment Act (Commonwealth);

"pay" includes transfer convey and assign;

"person" includes company corporation firm or body of persons;

"present" in relation to a meeting means present in person or by proxy;

"register" means the register described in Clause 4 of this Deed;

"Set aside" in relation to a Unit Holder includes placing sums to the credit of the Unit Holder in the books of account of the Trust Fund;

"Special Resolution" means a resolution passed as special business at a duly convened general meeting of Unit Holders by such majority of the votes cast by those present and voting on the resolution as is set out in the First Schedule and if no majority is set out therein by a three quarters majority;

"the State" means the State of Western Australia;

"the Trust" means the Trust hereby established;

"Trust Fund" means the Original Unit Holders contribution all moneys paid to and accepted by the Trustees upon the issue of Units pursuant to Clause 3 hereof the accumulations of income hereinafter directed or empowered to be made all accretions to the Trust Fund and the investments and property from time to time representing the said money and accumulations or any part or parts thereof respectively;

"Trustees" means the person or persons hereinbefore named as the Trustees or other the Trustee or Trustees for the time being of this Trust whether original additional or substituted;

"Unit" means an undivided part or share in the Trust Fund having the characteristics hereinafter provided;

"Unit Holder" means the person for the time being registered under the provisions of this Deed as the holder of a Unit and includes persons jointly so registered;

"Vesting Day" means the date specified in the First Schedule;

the singular shall mean and include the plural and vice versa and gender shall mean and include all other genders;

3. references to any statutory enactment shall mean and be construed as references to such enactment as amended and modified from time to time;
- 3.1 The beneficial interests in the Trust Fund as originally constituted and as existing the headings contained in this Deed shall not be taken into account in the construction hereof.
- 3.2 Each person who becomes registered as a Unit Holder shall be deemed to have
- 1.2 The perpetuity period in relation to all dispositions made by this Deed shall be the period of eighty years commencing on the date hereof.
- 1.3 This Deed shall be construed and take effect in accordance with the laws of the State and the rights liabilities and obligations inter se of the Trustees and the Unit Holders shall be governed by the laws of the State and any proceedings to enforce such rights liabilities or obligations shall be taken in the Courts of the State and not otherwise.
- 1.4 Nothing in this Deed shall constitute or shall be deemed to constitute the relationship of principal and agent between the Trustees and the Unit Holders or between the Trustees and the Advisory Committee 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 and realised capital gains received by the Trustees shall not be received or be construed as received by or on behalf of the Unit Holders jointly or otherwise.
- 3.3 The Original Unit Holders shall hold the number of Units of the classes (if any) set
- 1.5 It is expressly declared that -
- 3.4
- 3.5
- (1) notwithstanding anything contained or implied in this Deed;
- (2) but for this provision an obligation at law or in equity might arise;
- (3) any Unit Holder or his nominee is a member of the Advisory Committee; or
- (4) any obligation incurred by the Trustees has been incurred by or with the authority or at the request of the Unit Holders as a whole or of any Unit Holder or by the Advisory Committee;
- 3.6 The Trustees shall have power from time to time to issue additional Units of any

no Unit Holder or member of the Advisory Committee shall by reason of any matter aforesaid or by reason of his relationship with the Trustees be under any obligation to indemnify the Trustees against any liability or obligation incurred by the Trustees in the course of exercising their duties rights powers or authorities in relation to the Trust Fund or arising therefrom or in the course of carrying on any business hereby authorised or in the event of there being any deficiency in the assets of the Trust Fund as compared with the liabilities of the Trustees in relation thereto.

3.7 The Trustees shall have power from time to time to issue additional Units of any such price as the Trustees shall think fit provided that no Units shall be issued unless the issue is approved by a unanimous vote of all

2. **DECLARATION OF TRUST**

- 2.1 In consideration of these premises the Trustees **HEREBY DECLARE** that the Trustees shall henceforth stand possessed of the Trust Fund and the income thereof upon the trusts and with and subject to the powers and provisions hereinafter expressed concerning the same.

(1) the Trustees may satisfy any payment due to be made to the Holders of Units of any class by the issue to such Holders (in proportion to their respective holdings of such Units) of additional Units of any class at such price as the Trustees think reasonable;

3. **THE UNITS**

- 3.1 The beneficial interest in the Trust Fund as originally constituted and as existing from time to time shall be vested in the Unit Holders for the time being;
- 3.2 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 the Deed and of any supplemental deed;
- 3.3 Each Unit shall entitle the registered holder thereof together with the registered holders of all other Units to a beneficial interest in the Trust Fund as an entirety but subject thereto shall not entitle a Unit Holder to any particular security or investment comprised in the Trust Fund or any part thereof and subject to Clause 10 no Unit Holder shall be entitled to the transfer to him of any property comprised in the Trust Fund;
- 3.4 The Trust Fund as originally constituted by the said Original Unit Holders contribution shall be divided into Units of such sum specified in the First Schedule which shall be held by the Original Unit Holders the names and addresses of which are set out in the First Schedule and shall be divided into the classes (if any) specified in the Second Schedule;
- 3.5 The Original Unit Holders shall hold the number of Units of the classes (if any) set out opposite their names in the First Schedule respectively;
- 3.6 There shall be a class of Special Units which may be issued by the Trustees and shall confer the rights and be subject to the restrictions and be differentiated in the manner set out in the Second Schedule. Unless otherwise provided in the Second Schedule or except to the extent provided in the Second Schedule or by the terms of which any new class of units is created pursuant to the provisions of Clause 3.7 all Units shall comprise one class and shall at any and all times be of equal value;
- 3.7 The Trustees with the unanimous approval of all the Unit Holders may:-
- (1) create whether in respect of issued or unissued Units such new class or classes of Units with such preferred deferred or other special rights or subject to such rights of redemption whether at par or otherwise or subject to such restrictions or limitations in respect of any matter as the Trustees may determine;
 - (2) reclassify any Unit whether issued or unissued;
- 3.8 The Trustees shall have power from time to time to issue additional Units of any class in such manner and at such price as the Trustees shall think fit provided that no Units shall be issued unless the issue is approved by a unanimous vote of all the Unit Holders or unless the issue is made in accordance with the following provisions and approved by a Special Resolution of the Unit Holders and where the Units are divided into more than one class of the Unit Holders of each class:-
- (1) the Trustees may satisfy any payment due to be made to the Holders of Units of any class by the issue to such Holders (in proportion to their respective holdings of such Units) of additional Units of any class at such price as the Trustees think reasonable;

(2) units shall be offered in the first instance to existing Unit Holders as nearly as may be proportional to their existing holdings of Units and without involving fractions;

(3) the Trustees shall give notice specifying the number and class of the 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 receipt of an intimation from the person to whom the offer is made that he declines to accept the Units offered the Trustees may dispose of those Units in such manner as they think most beneficial to the Trust Fund;

(4) the Trustees 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 Trustees be conveniently offered under Clause 3.8(2);

3.9 All persons to whom new Units are to be issued other than persons who are already Unit Holders shall sign such form of application as the Trustees may from time to time prescribe including an undertaking to be bound by the terms of this Deed and of any supplemental Deed;

3.10 The Trustees may at any time and shall if so directed by the Advisory Committee cause a valuation of the property and assets of the Trust Fund to be made by such competent valuers or experts as the Advisory Committee may recommend and in default of recommendation as the Trustees may select.

4. REGISTER OF UNIT HOLDERS AND UNIT CERTIFICATES

4.1 The Trustees shall keep a register of Unit Holders in which there shall be entered the following particulars:-

- (1) the names addresses and descriptions of the Unit Holders;
- (2) the number of Units in respect of which they are registered and the distinctive numbers or letters of the Certificates held by them respectively;

5. TRANSFER AND TRANSMISSION OF UNITS

5.1 (3) the date at which the name of every Unit Holder was entered in the register in respect of Units standing in his name; and

- (4) any other details considered necessary by the Trustees.

4.2 The Certificates for Units to be issued shall:-

- (1) be in the form or to the effect of the Unit Certificate annexed hereto;
- (2) specify the name and address of the Unit Holder and the number and class of Units to which it relates;

5.2 (3) bear a distinctive number or letter;

(4) be prima facie evidence that the person named in the Certificate is entitled to the number and class of Units therein specified; and

- (5) be signed by one or more of the Trustees or bear the Common Seal of a corporate Trustee duly affixed.
- 4.3 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 Unit Holder shall be the only person recognised by the Trustees 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 Trustees as holding any Unit upon any trust and the Trustees shall not be bound by or compelled in any way to recognize (even when having notice thereof) any equitable contingent future or partial interest in any Unit or any interest therein or (except only as the provisions of this Deed otherwise provide) any other rights in respect of any Unit except an absolute right to the entirety thereof in the Unit Holders. Units held by a Unit Holder as trustee 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 Trustees shall not be affected with notice of any trust recorded as aforesaid.
- 4.4 If any Unit Certificate issued in accordance with this Deed be delivered to the Trustees and be mutilated worn-out or defaced the Trustees may at their discretion and upon such evidence and indemnity being given to the Trustees as they consider adequate cancel the Unit Certificate and issue a new Unit Certificate in its place to the Unit Holder;
- 4.5 If any Unit Certificate issued in accordance with this Deed is lost or destroyed the Trustees shall on payment of a fee not exceeding fifty cents issue a duplicate certificate in lieu thereof to the Unit Holder on his application accompanied by:-
- (1) a Statutory Declaration that the Certificate has been lost or destroyed and has not been pledged sold or otherwise disposed of and if lost that proper searches have been made;
 - (2) an undertaking in writing that if it is found or received by the owner it will be returned to the Trustees.
- 5. TRANSFER AND TRANSMISSION OF UNITS**
- 5.1 Unit Holders may request the Trustees to register transfers of all or any of the Units held by them. Where so required by Clauses 5.9, 5.10 and 5.11 hereof (unless otherwise provided by this Deed) the Trustees shall upon delivery to the Trustees of the relevant Unit Certificate register a transfer (whether voluntary or by operation of law) of Units and issue a new Unit Certificate for the Units transferred to the transferee and if appropriate a new Unit Certificate in the name of the transferor for the balance of any Units retained by him. Unless so required by Clauses 5.9, 5.10 and 5.11 hereof the Trustees may in the Trustees 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;
- 5.2 Unless a written instrument of transfer of Units is required by law a transfer of Units may at the Trustees' discretion but subject always to the provisions thereof be effected without a written instrument of transfer being submitted and in that event any entry made in the register of Unit Holders with the approval of the Trustees and with the approval of the Advisory Committee 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 Trustees may however if they see fit require an instrument of transfer in writing before registering a transfer of Units or any 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;

- 5.3 If the law requires or the Trustees in the Trustee's discretion determine that a written instrument of transfer is necessary the instrument of transfer shall be in a form from time to time approved by the Trustees. 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).
- 5.4 In the event of the death of any one of the joint Unit Holders of any Units the survivor or survivors shall be the only persons recognised by the Trustees as having any title to or interest in such Units. Satisfactory evidence as to such Unit Holder's death and any necessary statutory certificate enabling assets to be dealt with shall be produced to the Trustees;
- 5.5 The executor or administrator of a deceased Holder of Units (not being one of several joint Holders) shall be the only person recognised by the Trustees as having any title to such Units. Satisfactory evidence as to such Unit Holder's death and any necessary statutory certificate enabling assets to be dealt with shall be produced to the Trustees;
- 5.6 An executor or administrator of a deceased Unit Holder (not being one of several joint Holders) on becoming entitled to any Units in consequence of the death of such deceased Unit Holder upon producing such evidence as to his title as the Trustees consider sufficient shall on delivering up the Unit Certificates comprising such Units to the Trustees for cancellation be registered himself as the Holder of such Units and be entitled to a new Unit Certificate in his name;
- 5.7 Any person becoming entitled to any Units in consequence of the bankruptcy of a Unit Holder upon producing such evidence as to his title as the Trustees consider sufficient may upon making a written request to the Trustees for cancellation be registered himself as the Holder of such Units and be entitled to a new Unit Certificate in his name;
- 5.8 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 Unit Holder unless and until he shall become registered in respect of the Units.
- 5.9 The following transfers are permitted transfers namely:-
- (1) to any of the following permitted transferees :-
- 5.11 Save as (a) any relative of the transferor falling within the following description (called "specified relative") namely the wife husband son daughter son-in-law daughter -in-law or grandchild or other direct issue;
- (b) 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");

- (c) where the transferor is the trustee of a deed of trust or settlement then to any specified relative (defined as aforesaid) of any beneficiary under the deed of trust or settlement;
- (2) from the executors or administrators or other legal personal representatives of a deceased Unit Holder to the widow or widower of the deceased Unit Holder or to any of the specified relatives (defined as aforesaid) of such Unit Holder entitled in each case thereto under or by virtue of the Will of such Unit Holder or as one of his next-of-kin;
- (3) from the Trustees of a family trust to the beneficiary or beneficiaries entitled thereto pursuant to such family trust;
- (4) from the Trustees of the Will of any deceased Unit Holders or of any family trust on any change of trustees to the trustees for the time being of such Will or family Trust;
- (5) in the case of a Unit Holder being a body corporate from such Unit Holder to another body corporate which is in relation to such Unit Holder a related company as defined in the Companies Code in force in the State referred to in Clause 1.1 hereof or in the case of a body corporate incorporated outside that State which would be so related if the company concerned were incorporated in that State;
- (6) to a mortgagee or person taking security who has been approved by the Trustees pursuant to Clause 5.10(1) hereof;
- (7) to such person or company as the Trustees and all of the Unit Holders shall unanimously agree is or are (as the case may be) a permitted transferee for the purposes of this clause.

5.10 Save as provided in Clause 5.9 hereof:-

- (1) a Unit Holder shall not mortgage pledge or give any security over a Unit without the consent of the Trustees and of a majority of the Unit Holders first had and obtained provided that it shall be a condition of any such consent that:-
- (a) the proposed mortgagee or party taking security is a Bank or lending institution of sound financial standing which bona fide carries on the business of lending money on security;
- (b) the proposed mortgagee or party taking security undertakes in writing to the Trustees that in exercising any power of sale it will comply with the provisions of this Clause.

5.11 Save and except for a permitted transfer of Units pursuant to the operation of Clause 5.9 hereof no transfer of Units shall be permitted unless the following procedure is followed:-

- (1) a Unit Holder proposing to transfer any Units (hereinafter called "the proposing transferor") shall give notice in writing to the Trustees (hereinafter called "a transfer notice") that he desires to transfer the Units specified in the notice and he shall specify in the notice the price per Unit which he fixes as the fair value thereof. A transfer notice shall not be

- (1) revocable except with the sanction of the Trustees except where the fair value has been fixed by valuation 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 Trustees within seven days after he has received notice of the result of such valuation from the Trustees;
- (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;
- (3) the service of a transfer notice shall be deemed to constitute the Trustees the agent of the proposing transferor for the sale of the Units therein specified to a purchaser to be nominated by the Trustees as hereinafter provided at a price equal to the fair value thereof as specified by the proposing Transferor or as fixed by valuation in the manner hereinafter provided as the case may be;
- (4) Units comprised in a transfer notice shall in the first instance be offered by the Trustees 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 Trustees 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;
- (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 his said proportion to state how many additional Units he desires to purchase at the fair value specified or fixed as aforesaid. The offer shall also request the Unit Holders to state whether they desire the fair price of the Units to be fixed by valuation as hereinafter provided;
- (6) any Units so offered and not accepted 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 Unit Holders making such request as nearly as may be in proportion to their respective holdings of Units of the same class provided that no Unit Holder shall be bound to take more additional Units than those he shall have offered to purchase;
- (7) any Unit comprised in the transfer notice which has not been accepted for sale as aforesaid may be offered by the Trustees to any Unit Holder or other person selected by the Trustees 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 by valuation as herein provided;

- (8) within thirty days after being served with a transfer notice the Trustees shall by notice in writing to the proposing transferor nominate one or more Unit Holders or other persons whom in the opinion of the Trustees it is desirable in the interests of the Trust to admit as Unit Holders (in this Clause 5.11 hereinafter then called "the purchaser") and (subject to Clause 5.11(9) hereof) who wish to purchase forthwith for cash all or any of the Units comprised in the transfer notice as purchaser or purchasers of such Units whereupon the proposing transferor shall be bound upon payment of the fair value specified or fixed by valuation as herein provided of the Units to transfer the Units to the purchasers as set out in the said notice in writing and in the absence of any agreement to the contrary such purchase price shall be paid by the purchaser within 30 days of the said notice in writing from the Trustees or 30 days of the purchaser receiving notice from the Trustees of the fair value of the Units fixed by valuation as provided in Clause 5.11(9) hereof;
- (9) the Trustees shall if so required by the purchaser or purchasers of a majority of the Units to be purchased by the same notice as is referred to in this Clause 5.11(8) require the fair value of the Units to be fixed by valuation in lieu of the fair value fixed in the transfer notice. In such event such fair value shall be fixed on the application of either the proposing transferor or the Trustees by an independent valuer nominated by the Chairman for the time being of the Western Australian Branch of the Australian Institute of Chartered Accountants (or his successor) or if for any reason he refuses neglects or is unable to make a nomination within ten (10) days of receipt of such application then to be nominated by the President of the Western Australian Law Society (or his successor thereof) (either such person referred to as "the valuer"). The valuer shall act as an expert and not as an arbitrator and accordingly the provisions of the Commercial Arbitration Act 1985 shall not apply. The valuer shall value the assets of the Trust Fund and shall make a valuation of the Units on such basis that he considers appropriate and he shall consider such evidence as to the value which may be presented to him by the proposing transferor or by the Trustees. The date for ascertaining the fair value of the Units shall be the day of receipt by the Trustees of the transfer notice. The valuer shall give written notice to both the proposing transferor and the Trustees of the sum that he determines to be the fair value for the Units. The costs of the valuation shall be paid by the Trustees or by such of the parties to the transaction and in such proportions as the Trustees shall determine **PROVIDED ALWAYS** notwithstanding anything to the contrary herein that in the event of the fair value so fixed by valuation exceeding the fair value fixed in the transfer notice the Trustees shall forthwith give notice thereof to the purchasers and all or any of the purchasers may by notice in writing to the proposing transferor not later than seven days after the determination elect not to continue with the purchase;
- (10) if in any case the proposing transferor having become bound to transfer any Units shall make default in so doing the Trustees may receive the purchase money and shall thereupon cause the name of the purchaser to be entered in the books of the Trust in purported exercise of the aforesaid power and the validity of the proceedings shall not be questioned by any person;
- (11) if at the expiration of thirty days after the transfer notice the Trustees shall not have found a Unit Holder or person selected as aforesaid willing to

- 6.4 All business transacted at any meeting shall be valid notwithstanding that some of the members of the Trustees or the Advisory Committee were not present at the meeting.
- (12) the Trustees may with the unanimous consent of all the Unit Holders 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;
- (13) if any Unit Holder without the consent of the Trustees executes a mortgage of Units or if any Unit Holder executes a Deed of Trust or other disposition of Units in favour of any person other than a person who is a permitted transferee pursuant to Clause 5.9 hereof that Unit Holder shall be deemed to have served a transfer notice in respect of those Units on the date on which the Trustees became aware of such mortgage Deed of Trust or other disposition and to have fixed as the fair value thereof an amount to be determined by the valuer appointed in the manner provided in Clause 5.11(9) hereof. Such valuer in making his determination shall be deemed to be acting as an expert and not as an arbitrator and accordingly the provisions of the said Commercial Arbitration Act shall not apply but he shall consider any evidence as to value which may be presented to him by the transferor or by the Trustees. The costs of obtaining the determination shall be borne by the Unit Holder in default and may be deducted from the proceeds of sale;
- (14) in the event of a Unit Holder in any capacity and whether as creditor or otherwise presenting to the Court any petition to wind up dissolve or terminate the Trust on any ground whatsoever the Unit Holder shall be deemed on the day prior to the presentation of the petition or institution of the proceeding to have served a transfer notice in respect of all Units owned by him.

6. **MEETINGS OF UNIT HOLDERS**

- 6.1 If any Unit Holder so requests an annual general meeting of the Unit Holders shall be held between 1st August and 31st December in each year. All general meetings other than the annual general meeting shall be called extraordinary general meetings.
- 6.2 The Trustees or the Advisory Committee may whenever they think fit convene an extraordinary general meeting and extraordinary general meetings shall be convened on the requisition of the Unit Holders of not less than ten per centum of the issued units from time to time or in default may be convened by such Unit Holders.
- 6.3 Fourteen days notice at the least (inclusive of the day on which the notice is served or deemed to be served but exclusive of the day for which notice is given) of all general meetings specifying the place the day and the hour of the meeting and in case of special business the general nature of the business shall be given to the Unit Holders.

- 6.4 All business shall be deemed special that is transacted at an extraordinary general meeting and all that is transacted at an annual general meeting shall also be deemed special with the exception of the consideration of the accounts and Balance Sheets the reports of the Auditor (if any) the nomination (if thought fit) of the Auditor and the fixing of his remuneration the fixing of the remuneration of the Trustees and the election of the members of the Advisory Committee. The demand for a poll may be withdrawn.
- 6.5 No business shall be transacted at any general meeting unless at the time when the meeting proceeds to business there are present at least two Unit Holders who between them hold at least the number of issued Units of the class entitled to vote at the meeting as set out in the First Schedule and if no number is set out therein at least forty per centum of such Units.
- 6.6 If within fifteen minutes from the time appointed for the meeting a quorum is not present:-
- (1) the meeting if it is convened upon the requisition of Unit Holders shall be dissolved; and
- (2) in any other case it shall stand adjourned to the same day in the next week at the same time and place and if at the adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting the meeting shall be dissolved.
- 6.7 The Chairman (if any) of the Advisory Committee shall preside as Chairman at every general meeting or if there is no such Chairman or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act the persons present shall choose someone of their number to be Chairman.
- 6.8 The Chairman may with the consent of any meeting at which a quorum is present (and shall if so directed by the Meeting) adjourn the meeting from time to time and from place to place but so that:-
- (1) no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place;
- (2) when a meeting is adjourned for ten days or more at any one time notice of the adjourned meeting shall be given as in the case of an original meeting;
- (3) save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 6.9 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:-
- (1) by the Chairman;
- (2) by at least three persons present; or
- (3) by any Unit Holder or Unit Holders present or representing not less than one-tenth of the total voting rights of all the Unit Holders having the right to vote at the meeting

- 7.2 The instrument appointing a proxy and the power of attorney or other authority (f)
- Unless a poll is so demanded a declaration by the Chairman that a resolution has on a show of hands been carried or carried unanimously or by a particular majority or lost and an entry to that effect in the book containing the minutes of the proceedings shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution. The demand for a poll may be withdrawn.
- 6.10 If a poll is duly demanded it shall be taken in such manner and either at once or after an interval or adjournment or otherwise as the Chairman directs and the result of the poll shall be the resolution of the meeting at which the poll was demanded; provided that a poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith.
- 6.11 In the case of an equality of votes whether on a show of hands or on a poll the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a second or casting vote.
- 6.12 Subject to any special rights or restrictions provided in the Second Schedule in relation to Units of any class each Unit Holder present shall be entitled to vote at general meetings of Unit Holders and on a show of hands shall have one vote and on a poll shall have one vote for each Unit he holds.
- 6.13 In the case of joint Holders the vote of the senior present who tenders a vote shall be accepted to the exclusion of the votes of the other joint Holders and for this purpose seniority shall be determined by the Order in which the names stand in the register of Unit Holders.
- 6.14 A Unit Holder who is of unsound mind or a patient or an infirm person within the meaning of any Act may vote whether on a show of hands or on a poll by his committee or by the Public Trustee or by such other person as properly has the management of his estate and any such Committee Trustee or other person may vote by proxy or attorney.
- 6.15 A Unit Holder who is an infant may vote by either of his parents or by his guardian upon such evidence being produced of the relationship or of the appointment of the guardian as the Trustees may from time to time properly require.
- 6.16 A resolution in writing signed by all the Unit Holders entitled to vote at a general meeting of Unit Holders or of Unit Holders of any class shall be as valid and effectual as if it had been passed at a duly called and constituted general meeting of Unit Holders or of Unit Holders of that class as the case may be. Any such resolution may consist of duplicate copies of one document one of which copies shall have been signed by each Unit Holder.
7. **PROXIES**
- 7.1 The instrument appointing a proxy shall be in writing in any usual form under the hand of the appointor or of his attorney duly authorised in writing of if the appointor is a corporation either under seal or under the hand of an officer or attorney duly authorised and may name two or more persons to act as proxies in the alternative. A proxy need not be a Unit Holder.

- 7.2 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of that power or authority shall be deposited with the Trustees not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid.

5.9 Notwithstanding any rule of law or equity to the contrary:-

8. THE ADVISORY COMMITTEE

- 8.1 There may if the Trustees or the Unit Holders so resolve be a Committee (herein referred to as "the Advisory Committee") consisting of such number of members (not exceeding ten and being not less than one for each separate and single holding of not less than ten per centum of the total number of issued Units from time to time) as the Unit holders may in general meeting determine from time to time.
- 8.2 Every Unit Holder and every director of or shareholder of a corporate Unit Holder and every beneficiary of a family trust which is a Unit Holder shall be eligible to become a member of the Advisory Committee.
- 8.3 Each Unit Holder who holds not less than ten per centum of the issued Units from time to time shall be entitled to appoint and remove one member of the Advisory Committee. Any other members of the Advisory Committee for whom there is a vacancy shall if the Advisory Committee comes into existence by resolution of the Trustees be appointed by the Trustees and if the Advisory Committee comes into existence by resolution of a general meeting of the Unit Holders be elected by the Unit Holders.
- 8.4 Each member of the Advisory Committee appointed by the Trustees or elected by the Unit Holders shall hold office until the annual general meeting next ensuing his appointment or election or until he resigns or is removed or vacates office as provided in this Clause.
- 8.5 The Unit Holders may in general meeting remove any member of the Advisory Committee appointed by the Trustees or elected by the Unit Holders to fill any casual vacancy and appoint additional members.
- 8.6 A member of the Advisory Committee may with the consent of the Trustees hold any office or place of profit in any business being conducted or investment or owned by the Trustees on behalf of the Trust and may be appointed thereto upon such terms as to remuneration termination of office and otherwise as may be arranged by the Trust.
- 8.7 The members of the Advisory Committee shall be paid out of the fund of the Trust by way of remuneration for their services such sum as the Unit Holders may from time to time in general meeting determine. The members shall also be entitled to be paid any outlay or expenses incurred by them on behalf of the Trust with the sanction of the Trustees.
- 8.8 A member of the Advisory Committee shall cease to be a member if he
- (1) becomes bankrupt or makes any arrangement or composition with his creditors generally;

- (2) becomes of unsound mind or a patient or an infirm person under any Act;
- (3) resigns his office by notice in writing to the Trustees; or
- (4) is removed from office pursuant to this Deed.
- 8.9 Notwithstanding any rule of law or equity to the contrary:-
- (1) a member of the Advisory Committee shall not be disqualified by his office from contracting with the Trustees whether as vendor purchaser or otherwise or from being employed or acting in any capacity professionally or otherwise by or on behalf of the Trust;
- (2) no contract made by a member of the Advisory Committee with the Trustees and no contract or arrangement entered into by or on behalf of the Trustees with any company or partnership of or in which any such member is a director member or otherwise in any way interested and no contract or arrangement entered into by or on behalf of the Trustees in which any member is in any way interested shall be liable to be impeached affected or avoided by reason of such member holding his office or of the fiduciary relation thereby established or by reason of the member being a party thereto or otherwise interested therein;
- (3) no member of the Advisory Committee so contracting or being such director member or so interested shall be liable to account to the Trustees for any profit realised by any such contract or arrangement by reason only of such member holding his office or of the fiduciary relation thereby established or by reason of his interest but he shall be bound to declare the nature of his interest in any such contract or arrangement at any meeting of the Advisory Committee at which the contract or arrangement is discussed if his interest then exists or in any other case at the first meeting of the Advisory Committee after the acquisition of his interest; it shall be the duty of the Trustees to record such declaration in the Minutes of the meeting but failure to record such declaration shall not in any way affect the validity of such contract or arrangement;
- (4) a member of the Advisory Committee shall not vote in respect of any contract or arrangement in which he is so interested as aforesaid.
- 8.10 The quorum for meetings of the Advisory Committee shall be determined from time to time by the Unit Holders in general meeting and until otherwise determined shall be two.
- 8.11 Any member of the Advisory Committee may by seven days prior notice in writing to the other members and to the Trustees specify the place and day and time of meeting summon a meeting of the Advisory Committee. The Trustees may by like notice summons a meeting of the Advisory Committee.
- 8.12 All decisions agreements recommendations approvals and any other actions whatsoever made given or undertaken by the Advisory Committee shall be made given or undertaken by a majority vote and each member shall have one vote.
- 8.13 The Trustees shall be entitled to appoint a representative to attend all meetings of the Advisory Committee and such representative shall be Chairman of all such

meetings. The representative of the Trustees shall not be entitled to vote at any meeting of the Advisory Committee except as hereinafter provided.

- 8.14 In the event of an equality of votes for and against any resolution proposed or submitted at any meeting of the Advisory Committee the Chairman shall have a casting vote.
- 8.15 Any notice given pursuant to Clause 8.11 shall specify the general nature of the business to be transacted at the meeting and unless otherwise agreed unanimously by the members within fourteen days of such meeting minutes of the meetings signed by the Chairman shall be prima facie evidence of the business transacted at such meeting.
- 8.16 Minutes of the proceedings at meetings of the Advisory Committee shall be kept and copies thereof circulated to all members by the Trustees within fourteen days of such meeting. Minutes of the meetings signed by the Chairman shall be prima facie evidence of the business transacted at such meeting.
- 8.17 A resolution in writing signed by all the members shall be as valid and effectual as if it had been passed at a meeting of the Advisory Committee duly called and constituted. Any such resolution may consist of duplicate copies of a document one of which copies shall have been signed by each member.
- 8.18 Any member with the approval of the Advisory Committee may appoint any person (whether qualified himself to be a member or not) to be an alternate or substituted member in his place during such period as he thinks fit. Any person while he so holds office as an alternate or substitute member shall be entitled to notice of meetings of the Advisory Committee and to attend and vote thereat accordingly and to exercise all the power of the appointor in his place. An alternate or substitute member shall ipso facto vacate office if his appointor ceases to be a member or removes the appointee from office. Any appointment or removal under this paragraph shall be effected by notice in writing to the Trustees and to the person concerned under the hand of the member who makes the same.
- 8.19 The Advisory Committee may from time to time appoint any person to be an associate member of the Advisory Committee and may from time to time cancel any such appointment. A person so appointed shall not have any right to attend or vote at any meeting of the Advisory Committee except by the invitation and with the consent of the Advisory Committee.
- 8.20 Wherever in this Deed it is provided that the consent of the Advisory Committee is necessary in respect of any act or decision of the Trustees such consent shall be necessary only if an Advisory Committee has in fact been appointed and is in office at the time of the act or decision in question.

9. POWERS AND DUTY OF ADVISORY COMMITTEE

- 9.1 The Advisory Committee shall have the power and duty to advise the Trustees and the Trustees shall be obliged to seek prior advice from the Advisory Committee in relation to all matters arising in connection with any business carried on by the Trustees and as to the acceptance of cash and/or authorised investments into the Trust Fund and the issue of new Units in respect thereof and as to the method and manner of investing the Trust Fund from time to time and dealing with all or any of

the investments thereof and as to all other matters which under the Deed require the approval of the Advisory Committee.

- 9.2 Except where otherwise expressly provided the Trustees shall not be bound to accept the advice or follow the recommendations of the Advisory Committee but the rights powers authorities and discretions conferred on the Trustees under or by virtue of the provisions contained in this Deed howsoever expressed shall at all times be exercised after consideration of the recommendations of the Advisory Committee.
- 9.3 The Advisory Committee shall be entitled to inspect all books of account records vouchers and other documents of or relating to the Trust or any company shares which are owned by the Trust.
- 9.4 The Advisory Committee shall be entitled to report to the Unit Holders as to any matter affecting or relating to the Trust and in particular but without limiting the generality of the foregoing it may recommend to the Unit Holders the removal of any Trustees hereof and/or the appointment of any additional or substituted Trustees.

10. DURATION AND TERMINATION OF THE TRUST

- 10.1 Subject to the provisions of Clause 10.2(1) the Trust created by these presents shall commence on the date hereof and shall terminate on the Vesting Day unless it has been terminated prior to that date under the provisions of this Deed.
- 10.2 (1) On a date to be selected by the Trustees being not less than one year nor more than eighteen months prior to the Vesting Day the Trustees shall convene a meeting of the Advisory Committee to determine whether the Advisory Committee desires any plan for the continuation of the Trust or for its conversion into an alternative type of Trust or for the sale and realisation of the Trust Fund in any manner other than as herein provided.
- (2) Any such plan shall:-
- (a) not offend any law against perpetuities in relation to this Deed or in relation to any new Deed which may be called for by the plan;
- (b) be subject to ratification by a Special Resolution of the Unit Holders; and
- (c) shall operate fairly as between the Unit Holders.
- (3) The Trustees shall on the Vesting Day deal with all or any part of the Trust Fund in accordance with the plan so ratified.
- 10.3 The Trust may be terminated at any time before the Vesting Day if so resolved by a Special Resolution of the Unit Holders and such termination shall take effect from a date to be named in the Resolution.
- 10.4 Upon the termination of the Trust but subject to any plan hereinbefore referred to the Trustees shall proceed as follows:-

- (1) the Trustees shall unless otherwise authorised by a Special Resolution of the Unit Holders sell by public auction to the highest bidder all property and investments constituting the Trust Fund. Any Unit Holder may bid at the auction.
 - (2) subject to any special rights or restrictions provided in the Second Schedule in relation to Units of any class the Trustees shall from time to time and as soon as is practicable distribute the cash available in the Trust Fund to Unit Holders proportionally to their holdings until the assets of the Trust Fund have been completely turned into cash and distributed to Unit Holders **PROVIDED ALWAYS** that the Trustees shall retain full provision for all costs disbursements commissions brokerage fees expenses claims and advertising costs and demands incurred or expected by the Trustees in the liquidation of the Trust.
 - (3) every distribution under the provisions of Clause 10.4(2) shall be made only against production of the relevant Unit Certificates accompanied by a request for payment in such form as the Trustees require. For any interim distribution the Trustees shall endorse Certificates with a notice of the payment made and for the final distribution Certificates shall be surrendered to the Trustees.
- 10.5
- (1) Notwithstanding anything herein contained the Trustees may at any time and from time to time before termination of the Trust with the unanimous consent of all the Unit Holders affected apply any property or investment or part thereof or share therein or any cash for the time being surplus to the immediate requirements of the Trust Fund in satisfaction of the interest in the Trust Fund conferred by the holding of a number of Units of any class to be determined by the trustee.
 - (2) Each such Unit shall be satisfied by payment of such sum for each such Unit as in the opinion of the Trustees represents the reasonable value thereof.
 - (3) Any sum applied in satisfaction of Units of any class shall be paid to the Holders of Units of that class in proportion to the number of such Units held by them respectively.
- 10.6 The Trustees shall whenever practicable give to each Unit Holder not less than one month's notice of each impending distribution and of the anticipated amount thereof.
- 10.7 The Trustees may at any time and from time to time with the unanimous consent of all of the Unit Holders redeem the whole or any part of the Units held by any Unit Holder (herein called the "Retiring Unit Holder") by giving to the Retiring Unit Holder notice in writing of the redemption and such Units (herein called the "Redeemed Units") shall be deemed to be redeemed as from the expiration of seven days from the date of such notice whereupon the following provisions shall take effect subject to any special rights or restrictions provided in the Second Schedule to Units of any Class:-
- (1) The value of the Trust Fund less any liabilities shall be determined by the Trustees or by an independent valuer appointed by the Trustee for that purpose and the decision as to such valuation by the Trustees or such independent valuer (who shall respectively be deemed to be acting as an

expert and not as an arbitrator) shall be final and binding upon all Unit Holders;

- (2) Unless agreed otherwise between the Trustees and the Retiring Unit Holders the value of the Redeemed Units shall be that proportion of the net value of the Trust Fund less the liabilities as calculated above as the number of the Redeemed Units bear to the total number of Units into which the Trust Fund is for the time being divided.
- (3) The value of the Redeemed Units shall be deemed to be debt owing by the Trustees to the Retiring Unit Holders and shall be paid by the Trustees to the Retiring Unit Holders upon such terms and conditions as may be mutually agreed by them and failing agreement, by two equal annual payments free of interest.
- (4) For the purpose of paying to the Retiring Unit Holder the value of the Redeemed Units the Trustees may in its absolute discretion:-
- (a) realise any of the assets or investments comprised in the Trust Fund;
- (b) borrow such moneys as shall be necessary, pursuant to the powers conferred on the Trustees by this Deed;
- (c) pay out of the Trust Fund any moneys in the hands of the Trustees whether or not received or held or deemed to be income or being cash contributed to the Trust Fund by the issue of further Units or whether representing the proceeds of the sale of any investments of the Trust Fund;
- (d) set aside, transfer, distribute, vest or otherwise convey to the Retiring Unit Holder any of the assets of the Trust Fund in specie, in whole or partial satisfaction of the amount due to the Retiring Unit Holder upon the redemption of the Redeemed Units.
- (5) Upon redemption as aforesaid the Retiring Unit Holder shall deliver up his Unit certificate to the Trustees and the Unit certificate shall be cancelled as to the Redeemed Units the Trustees shall remove the name of the Retiring Unit Holder from the Register in respect of the number of Redeemed Units and the Trustees shall issue to the Unit Holder a Unit Certificate relating to the balance (if any) of Units held by him.
- (6) Any Redeemed Units may be reissued by the Trustees pursuant to Clause 3.8 hereof as if they were an issue of additional or new Units.
- (7) In addition to the value of the Redeemed Units the Trustees shall pay to any Retiring Unit Holder that part of the net income of the Trust Fund which shall have accrued during the Accounting Period in which the Redeemed Units are redeemed, up to the date of such redemption as bears the same proportion to the total income of the Trust Fund for such period as the number of Redeemed Units bears to the total number of Units into which the Trust Fund is for the time being divided to the extent that such income shall not have been accumulated or capitalised or otherwise taken into account in determining the value of the Redeemed Units.

11.7 If the Trustees so chooses at any time and from time to time, the Trustees may in its

11. INCOME OF THE TRUST FUND

- 11.1 The Trustees shall collect receive and get in all dividends interest rents and other income from the investments of the Trust Fund.
- 11.2 The Trustees shall pay out of the gross income of the Trust Fund all costs and disbursements commissions fees taxes (including land tax and income tax) management charges and other proper outgoings in respect of the Investments and administration of the Trust Fund.
- 11.3 Subject to any special rights or restrictions provided in the Second Schedule in relation to Units of any class the Trustees shall in each Accounting Period until the Vesting Day or the date of the termination of the Trust whichever shall first occur pay apply or set aside the net income of the Trust Fund of the Accounting period to or for the benefit of the Unit Holders in proportion to the number of Units of which they are respectively registered as Holders at the end of the Accounting Period.
- 11.4 Notwithstanding anything contained in Clause 11.3 the Trustees may with the consent of the holders of a majority of the issued voting Units and subject to any law in force at the time in relation to this Deed so permitting accumulate all or any part of the net income of the Trust Fund arisen or arising during such period and such accumulation shall be dealt with as an accretion to the Trust Fund but so that the Trustees may at any time or times resort to all such accumulations and pay or apply the whole or any part or parts thereof as if they were net income of the Trust Fund.
- 11.5 Subject to any special rights or restrictions provided in the Second Schedule in relation to Units of any class the Trustees may make one or more interim distributions of the net income of the Trust Fund during any Accounting Period such interim distributions to be made among the Unit Holders in proportion to the number of Units of which they are respectively registered at the time.
- 11.6 A determination to pay apply or set aside any amount for any Unit Holder and the implementation of such determination may be made by:-
- (1) placing such amount to the credit of the Unit Holder in the books of the Trust Fund; or
 - (2) by drawing a cheque in respect of such amount made payable to or for the credit or benefit of the Unit Holder; or
 - (3) by paying same in cash to or for the benefit of the Unit Holder; or
 - (4) by issuing additional Units to the Unit Holder as provided in Clause 3.8 hereof; or
 - (5) by a resolution of the Trustee that a sum out of or portion of the net income of the Trust Fund or the net income as defined by section 95 of the Income Tax Assessment Act 1936 of the Trust Fund for the Accounting Period be paid, applied or set aside to or for the unit holder or otherwise dealt with for the benefit of the unit holder **AND** any resolution of the Trustee as provided in this sub-paragraph shall be irrevocable and the net income of the Trust Fund shall be dealt with as required by the resolution.
- 11.9 The Trust Fund for each Accounting Period as shall not be the subject of a determination effectively made at

- 11.7 If the Trustee so chooses at any time and from time to time, the Trustee may in its absolute discretion determine to -
- (1) treat any profit, gain (whether of a capital or income nature) or receipt which is assessable income for the purposes of the Income Tax Assessment Act 1936 as income of the Trust Fund or which enters into the calculation of a taxpayer's assessable income for the purposes of the same Act as net income of the Trust Fund;
 - (2) treat any expenditure, payment or loss which is an allowable deduction for the purposes of the Income Tax Assessment Act 1936 as expenditure against income of the Trust Fund;
 - (3) distinguish between income of a particular nature or character or from a particular source as defined or referred to in the Income Tax Assessment Act 1936 and deal with income of a particular nature or character or from a particular source in one manner and income of any other nature or character or from any other source in a different manner; or
 - (4) identify and segregate the net income of the Trust Fund from different sources for the purpose of dealing with the same separately and where the net income of the Trust Fund of any Accounting Period is directly or indirectly derived from different sources and making a determination to apply or set aside the net income of the Trust Fund for the benefit of the Unit Holders in full or partial satisfaction of their entitlement or to accumulate the same or to determine from what source or sources that net income of the Trust Fund is derived;
 - (5) determine the particular type or source of the Net income of the Trust Fund against which the losses and outgoings incurred in deriving the net income of the Trust Fund or capital loss calculated pursuant to section 160Z(1)(b) of the Income Tax Assessment Act shall be set off;
12. INVESTMENT
- 12.1 The Trustees shall in addition to the power otherwise conferred upon Trustees by
- (6) where the Trustees have decided to treat a net capital gain (as referred to in Part IIIA of the Income Tax Assessment Act 1936) as income of the Trust Fund:
 - (a) distinguish between such income and other income of the Trust Fund and deal with the income consisting of or attributable to the net capital gain or the capital gain in one manner and all other income in a different manner;
 - (b) distribute any income consisting of or attributable to the net capital gain or the capital gain to the Unit Holders.
- 11.8 If at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to Clause 11.3 exceed the net income of the Trust Fund for the Accounting Period the amount of the excess shall in the first place be deducted from the amounts which the Trustees have determined to accumulate and in the second place should any deficiency remain the Trustees shall be deemed to have applied the capital of the Trust Fund the value of which shall thereupon be adjusted accordingly.
- 11.9 The Trustees shall hold so much of the net income of the Trust Fund for each Accounting Period as shall not be the subject of a determination effectively made at

or prior to the end of such Accounting Period pursuant to the foregoing provisions of this Clause in trust for the Unit Holders in proportion to the number of Units of which they are respectively registered as Holders on the last day of such Accounting Period.

- 11.10 Any amount set aside for any Unit Holder pursuant to Clause 11.9 shall not form part of the Trust Fund but upon being set aside shall be held by the Trustee as a separate trust fund in trust for that Unit Holder with power in the Trustees pending payment of the amount to the Unit Holder to invest, apply or deal with the whole or any part of the separate fund or its income in any manner authorised by this Deed in respect of the Trust Fund.
- 11.11 The Trustees may satisfy any amount payable to a Unit Holder who is an infant by paying the same to a parent or guardian of such infant and the Trustees shall not be bound to see to the application thereof by such parent or guardian.
- 11.12 The Trustees may with the sanction of a Special Resolution of Unit Holders at any time or times and from time to time before the date of the termination of the Trust out of the capital of the Trust Fund raise any sum or sums and pay the same to Unit Holders in proportion to the Units registered in their respective names as at the date of such Resolution for their own use and benefit in addition to any income to which the said Unit Holders may from time to time be entitled.
- 11.13 Upon the Trustees making such determination pursuant to clauses 11(3), 11(6) and 11(7) hereof any amount thereby paid to any such Unit Holder shall retain its character and shall be of the same type nature and substance in the hands of such Unit Holder as was the case in the hands of the Trustees prior to such distribution payment or application in favour of any such Unit Holder.

12. INVESTMENT POWERS

- 12.1 The Trustees shall in addition to the power otherwise conferred upon Trustees by law have the following powers:-
- (1) to apply and invest all moneys at any time forming part of the Trust Fund in any such investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and to the intent that the Trustees shall have the same powers in all respects as if they were absolute owners 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 of 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 hazardous speculative or reversionary nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto AND without limiting the generality of the foregoing to invest the whole or any part of the Trust Fund in a mixed contributory

- mortgage secured over real property through the agency or in the name of a nominee or nominees acting as such for the contributors of the mortgage;
- (2) 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 Trustees shall in their 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 they may agree to pay for any 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;
 - (3) to deal with, manage, transpose and realise any investments and all property constituting the Trust Fund or any property comprised in any security as the Trustees think fit in all respects as if the Trustees were the absolute and beneficial owners of the Trust Fund **AND** the Trustees shall not be accountable in any way whatsoever for any loss arising out of the making of any investment or out of the failure to realise any investment or out of the management of any investment;
 - (4) to sell or otherwise dispose of any real or personal property or a share or interest therein of the Trust Fund and to join with any co-owner or co-owners or partner or partners in selling or otherwise disposing of the real or personal property by public auction, tender or private treaty at such price or prices and whether for cash or on terms and generally upon such terms and conditions as the Trustees think fit;
 - (5) to borrow or raise monies from any person (including any Unit Holder or Trustees) or any firm or banker on current account or otherwise at such rate of interest and whether to be capitalised according to the custom of bankers or not and on such terms and conditions as the Trustees think fit **AND** as security therefor or for the purpose of securing or joining in securing any monies and interest thereon to sign and execute mortgages, bills of sale and other securities over all or any part of the real and personal property of the Trust Fund, such mortgages, bills of sale and other securities to be in such form as the Trustees think fit and so that no person, firm or banker lending money to the Trustees or taking any securities for any monies and interest shall be concerned to see or enquire as to the proper application of any monies lent or as to the power of the Trustees to give or join in giving any security **AND** the Trustees are expressly empowered to join with any person in executing any mortgage, bill of sale or other security for the purpose of securing the payment of money by the Trustees jointly with any person or for the purpose of securing the payment of money to any person;
 - (6) to advance and lend monies to any person upon such terms and conditions with or without security or interest as the Trustees think fit **AND** the Trustees are expressly empowered to join with any person in executing any mortgage, bill of sale or other security for the purpose of securing the payment of money to the Trustees jointly with any person or for the purpose of securing the payment of money to any person;
 - (7) to give any guarantee or indemnity alone or jointly and severally with any other persons for the payment of money or the performance of any contract obligation or undertaking by any person firm company corporation or

- association **AND** to secure by mortgage charge bill of sale or security or otherwise howsoever the obligation in respect thereof or to secure an obligation howsoever arising of any person and without in any way limiting the foregoing for any or all of the purposes aforesaid the Trustees whether alone or jointly or jointly and severally may sign and as security therefore to sign and execute mortgages charges bills of sale and other securities over all or any part of the real and personal assets of the Trust Fund or over any property whatsoever and to be in such form as the Trustees think fit;
- (8) (a) to hold use purchase take on hire construct demolish maintain renovate repair improve hire reconstruct develop improve sell transfer convey let lease surrender 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 including but not limited to shares debentures or securities of any company and with or without deferred restricted qualified or special rights relating thereto;
- (b) to take and take out and accept on lease or hire purchase or bailment or any other agreements or arrangements any plant machinery vehicles goods equipment articles and chattels of every description for any term and on any conditions and for any purpose and to enter into such leasing agreements and hire purchase agreements in relation thereto as the Trustees shall in the Trustees' absolute discretion determine and to pay out of the moneys of the Trust all such moneys as shall be required to be paid pursuant to the terms of such agreements;
- (c) to enter into agreements to take on lease hire or otherwise any real or personal property and to enter into "floor-plan" or dealer agreements and do any act or thing ancillary to or incidental to any agreement entered into pursuant to this Clause in order to give effect thereto.
- (9) 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 Trustees in their absolute discretion think 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 Trustees 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 purposes of the Deed be deemed to be a sale thereof;
- (10) to grant an annuity to any person and to cancel or redeem the annuity on any terms as the Trustees think fit;
- (11) 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 Trustees may at any time incur including all income tax or other taxes payable in respect of the Trust

Fund and costs in any way connected with the preparation and execution of these presents and all moneys which the Trustees may be required to pay as settlement probate estate gift stamp and revenue duties including stamp gift or settlement duties payable in respect of the Trust Fund or on this Deed;

- (12) 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 company for the time being subject to the trusts hereof as the Trustees could do if they were the beneficial owners of the shares stock or debenture or were personally interested or concerned in the corporation and without diminishing the generality of the foregoing:
- (a) to pay calls on any shares or to permit any shares of the company to be forfeited and sold;
- (b) to purchase any further shares, stock, debentures or investments and to take up any shares, stock, debentures or investments of a new issue of the company;
- (c) to lend money to the company whether secured by debentures or in any other way or not secured and at such rate of interest and upon such terms as the Trustees think fit;
- (d) to hold any shares, stock or debentures or investments acquired by the Trustees pursuant to the powers conferred by law or by this Deed for as long as the Trustees think fit;
- (e) to sell any shares, stock, debentures or investments held by the Trustees at such price as the Trustees think fit (whether or not the price is less than the sum that appears from the accounts of the company to be the value of the shares, stock, debentures or investments) and upon such terms with or without security as the Trustees think fit;
- (f) to assent to or join in any arrangement relating to the sale or transfer or exchange of the shares, stock, debentures or investments or modifying any rights or privileges or interests 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 stock or of the capital of the company or by which the shares, stock, debentures or investments are substituted or given in exchange either wholly or partly for other shares, stocks, debentures or investments whether in the same company, or not **AND** for that purpose to deposit, surrender or exchange any certificate or document of title relating thereto **AND** to pay out of the capital of the Trust Fund or its income any contribution or incur any necessary expense in connection with the scheme or arrangement and generally to manage and deal with the shares, stock, debentures or investments as if the Trustees owned them beneficially; and
- (g) to agree in respect of a winding up of the company with the liquidator of the company or any member of the company or any other person in all things as the Trustees think fit for the division or

partition in kind or specie of the assets or property of whatsoever nature of the company and to accept any of the assets and property in payment or satisfaction of any interest of the Trustees in the company with power to pay any monies by way of equality of division or partition;

- (13) to acquire or carry on either alone or in partnership with any person or persons at the discretion of the Trustees and under such name as the Trustees think fit any trade or business of any nature anywhere in the world with power for that purpose generally to act in all matters relating to trade and business as if the Trustees were beneficially entitled thereto and without responsibility for loss and to discontinue the same from time to time;
- (14) to employ any person (including any Trustee hereof or any Unit Holder or member of the Advisory Committee) in connection with any trade or business carried on by the Trustees 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;
- (15) 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 of partition;
- (16) to establish promote or acquire any company or companies or join in the promotion establishment or acquisition of any company or companies;
- (17) (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable instruments or transferable instruments and without limiting the generality of the foregoing, to accept financial accommodation from banks and other financial institutions by way of bill facilities (including bill discount facilities and bill endorsement facilities) upon such terms and conditions as the Trustees think fit and as security therefor to sign and execute mortgages, bills of sale and other securities over all or any part of the real and personal property of the Trust Fund, such mortgages, bills of sale and other securities to be in such form as the Trustees think fit
- (b) to procure the issue by any banker of letters of credit to assist the Trustees in the import of stock in the course of any trade or business carried on by the Trustees at such rate of interest and upon such terms and conditions as the Trustees think fit and as security therefor to sign and execute mortgages, bills of sale and other securities over all or any part of the real and personal property of the Trust Fund, such mortgages, bills of sale and other securities to be in such form as the Trustees think fit;
- (c) to procure the issue by any banker of performance guarantees to assist the Trustees in the course of any trade or business carried on by the Trustees at such rate of interest and upon such terms

- and conditions as the Trustees think fit and as security therefor to sign and execute mortgages, bills of sale and other securities over all or any part of the real and personal property of the Trust Fund, such mortgages, bills of sale and other securities to be in such form as the Trustees think fit;
- (18) to receive property by gift inter vivos or by will or under the provisions of any other trust or otherwise and from any person or persons as additions to the Trust Fund and to hold the property upon the trusts of this Deed and to administer the additions under the provisions of this Deed.
- (19) to appropriate (and Section 30(1)(k) of the Trustees Act 1962 shall not be applicable) any part of the Trust Fund in its then actual condition or state of investment 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 Trustees may determine to pay or apply to or for the benefit of any Unit Holder pursuant to this Deed **AND** in making that appropriation to conclusively determine the value of the Trust Fund or any part thereof in such manner as the Trustees think fit or to employ such persons to make such valuations as the Trustees think fit 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 be not yet in existence or be under a legal disability;
- (20) in the event of any death, 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 Unit Holder or any other person, to pay as the Trustees think fit all or any part of the duties, fees and taxes out of the Trust Fund notwithstanding that the duties, fees or taxes or some part of them are not or may not be recoverable from the Trustees or from the Trust Fund by legal process in the place where they become payable;
- (21) to allow any person (including any Unit Holder) to occupy, have custody of or use any property of the Trust Fund with or without payment of rent or other return and on such terms and conditions as to inventories, repair, replacement, insurance, outgoings or otherwise as the Trustees think fit;
- (22) with the consent of all the Unit Holders, at any time and from time to time, to pay or apply to or for the benefit of any Unit Holder the whole or any part of the capital or income or accrued or accumulated income to which the Unit Holder is either absolutely or contingently entitled (and notwithstanding that his interest is liable to be defeated or diminished by the exercise of any power of appointment or revocation or by reason of any other matter) in such manner and subject to such terms and conditions as the Trustees think fit;
- (23) with the consent of all the Unit Holders, in any conditions or circumstances which the Trustees think expedient to appoint either in respect of the whole or any part of the Trust Fund a new Trustee or Trustees in any country or State in the world and to transfer and set over the investments for the time being representing the Trust Fund or any part thereof to the new Trustee or Trustees upon similar trusts and subject to terms and conditions similar to those declared by this Deed and either subject to the control of the Trustees of this Deed or to the exclusion of such control **AND** the Trustees

of this Deed shall be indemnified and held harmless against any loss which may arise from the exercise of this power;

- (24) 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 Trustees 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 Trustees in relation to the Trust Fund shall upon approval thereof by a Special Resolution of the Unit Holders bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever;
- (25) to open any account or accounts with any bank credit union building society and other financial institution and to operate by and in all usual ways on any such account or accounts and if thought fit to delegate to any person the authority to sign cheques and operate upon the accounts without the person being liable or responsible for any loss resulting therefrom;
- (26) to give effectual receipts and discharges for any moneys received by or on behalf of the Trustees 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 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;
- (27) to grant options in respect of any assets held subject to the trusts of this Deed to any person;
- (28) 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 Trustees execute all proper declarations of trust for any shares held by them on behalf of the Trust and account 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 Trustees 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 notwithstanding that the Trustee for the time being is the sole Trustee;
- (29) to take such action as the Trustees shall think fit for the adequate protection of any part or parts of the Trust Fund and to do all things as may be incidental to the exercise of the powers and authorities conferred on the Trustees by this Deed and to take and act upon the written opinion of a

solicitor barrister or counsel 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 Trustees in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustees from applying to any Court if they shall think fit or prohibit any of the Unit Holders from so doing;

- (30) to remunerate any Unit Holder who is at any time in the employ of the Trustees to the same extent and in the same manner as if the Unit Holder so employed were not a Unit Holder hereunder and all bona fide payments made by the Trustees to any such Unit Holder 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 Unit Holder of or on account of his or her share in the Trust Fund or the income thereof;
- (31) to permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustees and to deposit securities deeds and other documents belonging to or relating to the Trust Fund with any bank credit union building society and other financial institutions or any person whatsoever;
- (32) with the consent of all the Unit Holders, at any time or times and from time to time before the Vesting Date by any irrevocable deed or deeds (without infringing the rule against perpetuities applicable to this Deed) to appoint that the whole or any part of the income or capital of the Trust Fund shall thenceforth be held upon the trusts and with and subject to the powers and provisions of any trust approved by the Trustees and upon that appointment being made, to transfer to the trustees or trustee for the time being of that trust the property comprised in the appointment whereupon the trusts declared in this Deed concerning that property shall cease and determine and that property for all purposes shall be subject to the trusts powers and the proper law of the trust whether or not that proper law is the proper law applicable to this Deed;
- (33) to exercise or concur in exercising all powers and discretions hereby or by law given to the Trustees or such of them as by their nature are capable of being so exercised jointly or as tenants in common or as a partner with any other person or persons or for the common or several purposes of this and any other trust or trusts of which the Trustees or any other person or persons may be trustee;
- (34) to deal with the Trustees or any of them in their personal capacity as if there were two separate persons to the dealing and without limiting the generality of anything contained in this Deed -
- (a) to sell, transfer, hire, lease or dispose of any real or personal property of the Trust Fund or to lend or advance any monies on any terms with or without security or interest;
- (b) to purchase, take on lease, exchange, hire, transfer or otherwise acquire any real or personal property or to borrow any monies; and

13. **GENE** (c) **PR** to carry on or carry out any profit making undertaking or scheme in partnership or joint venture to, from or with any one or more of the following persons:-
- 13.1 The Trustees **PR** 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 hereinafter conferred on them to any one or more of the Trustees or other instrument to affect such purpose.
- (1) the Trustees (or any of them) in their personal capacity;
- (2) the Trustees (or any of them) as trustee of other trust funds or otherwise howsoever;
- 13.2 Any Trustee being a **PR** shall with the consent of the other Trustees or Trustees appoint any person to be an alternate Trustee in his place and so that any such appointment shall be for a fixed term not exceeding five years from time to time be **PR** administered and each of the Trustees shall take or alter such appointment as alternate Trustee.
- (3) any company or partnership notwithstanding that the Trustees (or any of them) are a shareholder, director, member or partner of the company or partnership; or
- (4) any spouse, child or children of any of the Trustees
- 13.3 The Trustees shall subject to this Deed have the sole and absolute discretion in the exercise of the powers conferred on them by this Deed **AND** without limiting the generality of this provision, the Trustees may sell to themselves in their capacity as trustees of other trust funds either for cash or upon terms any assets being shares in a company or a joint or undivided interest in property where other shares in the same company or another joint or undivided interest in the same property are held by the Trustees in that other capacity **AND** to divide assets in specie between the Trust Fund and those other trust funds in such manner as the Trustees think fit **BUT** nothing in this Deed shall prevent the Trustees or any subsidiary of any of the Trustees or their directors or officers or any of them from applying for, purchasing, holding, dealing in or disposing of Units or otherwise at any time contracting or entering into any transaction with any other of them or any Unit Holders or any company whose shares form part of the Trust Fund or from being interested in those contracts or transactions;
- 13.4 The Trustees shall be entitled to exercise the powers conferred on them by this Deed generally to exercise or concur in exercising all the powers and discretions contained in this Deed or conferred by law notwithstanding that the Trustees or any of them or any director or shareholder of the Trustees being a company has or may have a direct, indirect or personal interest (whether as trustee of any other trust or in his personal capacity or as a shareholder, director, member or partner of any company or partnership or otherwise) in the mode or result of exercising the power or discretion or may benefit either directly or indirectly as a result of the exercise of the power or discretion and notwithstanding that the Trustees for the time being is the sole Trustee;
- (35) to exercise such additional powers (if any) as are set out in the First Schedule.
- 13.5 The Trustees shall be entitled to exercise the powers conferred on them by this Deed on the part of the Trustees or their legal or other advisors or generally unless it is otherwise provided in this Deed.
- 12.2 Subject to the powers hereinbefore given nothing herein contained shall require or cause the Trustees to join the Trust Fund the subject matter of this Deed with any other Trust referred to in any other Deed of Trust (whether created by any person) so as to cause any two or more Trust Funds to become one Trust Fund but the Trustees shall keep the Trust Fund the subject matter of this Deed entirely separate and distinct from any other Trust Fund.
- 13.6 Without affecting anything in Clause 1.5 hereof the Trustees shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by them in the execution or attempted execution or as a consequence of the failure to exercise any of the trust authorities powers and discretions hereof or by virtue of being the Trustees hereof.

13. GENERAL PROVISIONS RELATING TO THE TRUSTEES

- 13.1 The Trustees if at any time there 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 Trustees and execute any powers of attorney or other instrument to effect such purpose.
- 13.2 Any Trustee being a natural person may with the consent of the other Trustee or Trustees appoint any person to be an alternate Trustee in his place and so that any such appointment shall have effect during such period only as such Trustee may from time to time be absent from the place where the Trust Fund is being administered and each of the Trustees may by power under his hand revoke or alter such appointment as alternate Trustee.
- 13.3 The Trustees shall subject to this Deed 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 Unit Holder shall save as is herein expressly provided 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 shareholder's motion or save as expressly provided by this Deed to interfere with or question the exercise or non-exercise by the Trustees of the rights and powers of the Trustees as the owners of the Investments of the Trust Fund.
- 13.4 The receipt of a Unit Holder for any moneys payable in respect of the Units represented by his Unit Certificate shall be a good discharge to the Trustees and if several persons are registered as joint Unit Holders or in consequence of the death or bankruptcy of a Unit Holder are entitled to be so registered any one of them may give effectual receipts for any such moneys. The terms and conditions of this Deed and of any supplemental deed entered into under the provisions of Clause 16 of this Deed shall be binding on each Unit Holder or any person claiming through him as if he had been a party of this Deed.
- 13.5 The Trustees hereby jointly and severally covenant to exercise all due diligence and vigilance in protecting the rights of Unit Holders provided that no Trustee shall be responsible for:-
- (1) any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustees or by failure to exercise any such discretion or power or by any error or forgetfulness whether of law or of fact; or
 - (2) any breach of duty or trust whatsoever
- on the part of the Trustees or their legal or other advisors or generally unless it shall be proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustees charged to be so liable. All persons claiming any beneficial interest in over or upon the property subject to this Trust shall be deemed to take the same with notice of and subject to the protection hereby conferred on the Trustees.
- 13.6 Without affecting anything in Clause 1.5 hereof the Trustees shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by them in the execution or attempted execution or as a consequence of the failure to exercise any of the trust authorities powers and discretions hereof or by virtue of being the Trustees hereof.

- 13.7 The Trustees 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 managers solicitors accountants clerks workmen employees or servants or any agents to transact all or any business of whatever nature required to be done in relation to the Trust Fund and the Investments thereof including the receipt and payment of money and the Trustees shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.
- 13.8 A sole Trustee hereof for the time being is hereby authorised notwithstanding that he is the sole Trustee to receive capital and other moneys and to give valid and effectual receipts therefore 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 purposes of any Statute.
- 13.9 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 of the trusts hereof and for his time and trouble that he would have been entitled to make if not a Trustee and so employed. The Trustees from time to time may charge and retain out of the Trust Fund such Trustees' commission as it may think reasonable and as the Advisory Committee or the Unit Holders in general meeting may approve.
- 13.10 Nothing in this Deed shall prevent the Trustees or any subsidiary of any of the Trustees or the directors or officers of any of them 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 or other transaction with any other of them or any Unit Holder or any company whose shares form part of the Trust Fund or from being interested in any such contract or transaction or otherwise.
- 13.11 (1) Any exercise by the Trustees of any power, discretion or authority conferred on the Trustees by this Deed may be made -
- (1) in writing signed by all the Trustees; or
 - (2) by a resolution duly passed by a majority decision of the Trustees at a meeting of the Trustees; or
 - (3) in the case of a sole corporate Trustee, in the manner set out in the next succeeding sub-clause.
14. **RESIGNATION AND APPOINTMENT OF TRUSTEES**
- 14.1 The Trustees jointly and severally covenant with the Unit Holders that they will act continuously as Trustees under the Trusts herein set forth until such Trusts are determined as herein provided or until the Trustees have retired or been removed from office in the manner herein provided.
- 14.2 A Trustee shall be disqualified from holding office if:-

- 15.4 If the Unit Holders at the annual general meeting nominate an auditor the Trustee
- (1) being a natural person he becomes insolvent or of unsound mind or does or suffers anything which would disqualify him from holding office as director of a company;
- (2) being a company it goes into liquidation or if a receiver manager or official manager of any of its assets or undertaking is appointed.
- 14.3 A Trustee may retire upon giving one month's notice in writing to the Unit Holders of the Trustee's desire to do so but such retirement shall not take effect until a general meeting of Unit Holders called to consider the appointment of a Trustee or Trustees in place of the retiring Trustee has appointed a new Trustee and that Trustee has executed a Deed of Trust as hereinafter provided.
- 14.4 The Unit Holders shall be entitled unanimously in writing or in general meeting:-
- (1) by unanimous resolution to remove any Trustee or to appoint an additional Trustee;
- (2) by special resolution to appoint a Trustee in place of any Trustee who dies or retires or is disqualified or removed from office.
- 14.5 A Trustee shall on retirement take such action as is necessary to vest the Trust Fund or cause it to be vested in any new Trustee or Trustees and shall deliver to such new Trustee or Trustees all books documents records and other property relating to the Trust Fund and a continuing Trustee shall take such action as is necessary to cause title to any assets of the Trust Fund to be amended to include any additional Trustee.
- 14.6 A new Trustee shall execute a deed in such form as is approved by the Advisory Committee or by the Unit Holders in general meeting whereby such new Trustee shall undertake to the Unit Holders jointly and severally all of the obligations of a Trustee hereunder.
- 14.7 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.

15. **ACCOUNTS AND AUDIT**

- 15.1 The Trustees shall keep a complete and accurate record of all receipts and expenditures on account of the Trust Fund.
- 15.2 Promptly after the close of each Accounting Period the Trustees 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 close of such year and a copy thereof shall be furnished to the Unit Holders not less than fourteen days before the annual general meeting if any is to be held and if none is to be held before 31st October in each year.
- 15.3 The accounting report shall include the names and addresses of all persons firms or companies having custody of all or any portion of the assets of the Trust Fund.

- 15.4 If the Unit Holders at the annual general meeting nominate an auditor the Trustees shall appoint that auditor and if the Unit Holders do not make a nomination the Trustees may in their discretion if they think fit appoint an auditor to examine and ascertain the correctness of the accounts of the Trust Fund and of every company a majority of the shares in which are owned as part of the Trust Fund and to report thereon to the Trustees and to the Unit Holders.

16. VARIATION OF TRUSTS

- 16.1 The Trustees may at any time and from time to time by deed vary all or any of the trusts provisions terms and conditions contained in this Deed (as varied from time to time by any previous deed) provided that the rule known as the Rule against Perpetuities is not thereby infringed and provided that any such variation:-

- (1) shall not be in favour of or result in any benefit to the Trustees or any of them;
- (2) insofar as it creates new beneficial interests in the Trust Fund or any part thereof shall be for the benefit of all or one or more of the Unit Holders or in the case of a Unit Holder which holds its Units in a trust capacity for the benefit of all or any one or more of the person or entities on whose behalf such Units are held or for such persons or entities as a whole and in the case of a Unit Holder who is a natural person shall be for the benefit of any one or more persons born or unborn being lineal descendants of whatever degree (or the spouse of any lineal descendant) of any grandparent of such Unit Holder; and
- (3) shall not affect the beneficial entitlement to any amount set aside for any Unit Holder prior to the variation

- 16.2 A deed of variation made pursuant to this clause shall not take effect unless and until it is ratified within sixty days thereafter by a unanimous resolution of all the Unit Holders and if it is not so ratified within that period it shall be null and void.

- 16.3 In this clause "vary" includes revoke add to or amend and "variation" has a corresponding meaning.

- 16.4 These presents shall not be capable of being revoked added to or varied otherwise than as expressly herein provided.

17. NOTICES

- 17.1 A notice may be given by the Trustees to any Unit Holder either personally or by sending it by post to him at his address specified in the register or the last address (if any) within the Commonwealth of Australia supplied by him to the Trustees for the giving of notices to him. Where a notice is sent by post service of the notice shall be deemed to effected by properly addressing prepaying and posting a letter containing the notice and to have been effected in the case of a notice of a meeting on the date 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 Trustees shall so determine a notice may be given by means of telex telegram cablegram or radiogram and service of such notice shall be deemed to be effected if the telex telegram cablegram 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 or radiogram would be delivered.

- 17.2 A notice may be given by the Trustees to the joint Holders of a Unit by giving the notice to the Unit Holder first named in the register of Unit Holders in respect of the Unit.
- 17.3 A notice may be given by the Trustees to the persons entitled to a Unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder by sending it through the post in a prepaid letter addressed to them by name or by the title or 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 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.
- 17.4 Subject to Clause 17.5 hereof notice of every meeting of Unit Holders shall be given in any manner hereinbefore authorised to:-
- (1) every Unit Holder except those Unit Holders who have not supplied to the Trustee an address within the Commonwealth of Australia for the giving of notice to them;
 - (2) every person entitled to a Unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder who but for his death or bankruptcy would be entitled to receive notice of the meeting;
 - (3) the Auditor (if any) for the time being of the Trust Fund.
- 17.5 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 the meeting.
- 17.6 The signature to any notice to be given by the Trustees may be written or printed or stamped and the signature may be that of one or more of the Trustees or of any director or secretary of a corporate Trustee.

Name and Address	Number	Class of Units
RICHARD DESMOND SMITH of Oakdale Road BEVERLEY WA	13	Ordinary
DIANA JOY SMITH of Oakdale Road BEVERLEY WA	12	Ordinary
MUSTER HOLDINGS PTY LTD A.C.N. 067 589 544 C/- Millar Management Services Unit 2, 1st Floor, Giratham House 49 Melville Parade SOUTH PERTH WA As Trustee for the RD & DJ SMITH EMPLOYEES SUPERANNUATION FUND	25	Ordinary

BEFORE THE FIRST SCHEDULE

1. **The Date of This Deed**
The FOURTEENTH day of MARCH 1997
2. **The Trustee**
MUSTER HOLDINGS PTY LTD A.C.N. 067 599 544 of C/- Millar Management Services, Unit 2, 1st Floor, Stratham House, 49 Melville Parade, South Perth in the State of Western Australia.
3. **The Name of the Trust**
THE OAKDALE UNIT TRUST.
4. **The Original Unit Holders Contribution**
FIFTY DOLLARS (\$50.00).
5. **Value of Units**
Units of ONE DOLLAR (\$1.00) each.
6. **Vesting Date**
That day being the expiration of a period of eighty (80) calendar years from the date hereof.
7. **The Original Unit Holders and the Number and Class of Units taken by each of them respectively**

<u>Name and Address of Original Unit Holders</u>	<u>Number of Units</u>	<u>Class of Units</u>
RICHARD DESMOND SMITH of Oakdale Road BEVERLEY WA	13	Ordinary
DIANA JOY SMITH of Oakdale Road BEVERLEY WA	12	Ordinary
MUSTER HOLDINGS PTY LTD A.C.N. 067 599 544 C/- Millar Management Services Unit 2, 1st Floor, Stratham House 49 Melville Parade SOUTH PERTH WA As Trustee for the RD & DJ SMITH EMPLOYEES SUPERANNUATION FUND	25	Ordinary

SECOND SCHEDULE

- 1.1 Units may be issued as Ordinary Units or Special Units each having the value specified in the First Schedule.
- 2.1 The following provisions shall apply to Special Units:
- (1) The expression "Unit Holder" or "Unit Holders" contained in the definition of "Special Resolution" in Clause 1.1, Clauses 3.7, 3.8, in the third line of Clause 5.10(1) in Clauses 5.11(12), 6.1, 6.2, 6.3, 6.5, 6.6, 6.9, 6.12, 6.14, 6.15, 6.16, 8.1, 8.2, 8.3, 8.4, 8.5, 8.7, 8.10, 10.2, 10.3, in the second line of Clause 10.4(1), in Clauses 10.5(1), 10.6, in the second line of Clause 10.7, in Clauses 11.9, 11.10, 11.12 and in the first line of 12.1(22) and 12.1(23), and in Clauses 12.1(24) and 12(32), in the fourth line of Clause 14.3, Clause 14.4, in the second line of Clause 14.6, in Clauses 15.2, 15.4 16.1 and 16.2 shall not include persons who are Unit Holders only by virtue of their holding Special Units.
 - (2) The holding of a Special Unit shall not confer any right to vote or to move or second any motion or to speak at any General Meeting of Unit Holders.
 - (3) Clause 10.5 shall not apply to any exercise of the power contained in Clause 10.4 insofar as the same relates to Special Units.
 - (4) (a) Notwithstanding anything contained in sub-clause 11.3 or 11.5 the Trustees may at any time from time to time subject to any law in force at the time so permitting pay apply or set aside to or for the Holders of Special Units all or such part (if any) of the net income of the Trust Fund of each Accounting Period until the Vesting Day or the date of the termination of the Trust whichever shall be the earlier as the Trustees shall think fit.
 - (b) Any such payment application or setting aside made pursuant to the preceding sub-clause 2.1(4)(a) need not be made to or for the Holders of Special Units in proportion to the number of the Special Units issued to and held by them from time to time but may be made to or for any such Holder in respect of one or more Special Units to the exclusion of or in an amount different from that paid applied or set aside to or for the Holder of any other Special Units.
 - (5) The expression "Unit Holders" and "Units" contained in Clauses 11.3 and 11.4 shall except as provided in this sub-clause 2.1(4) refer only to the Holders of Ordinary Units and to Ordinary Units respectively.
 - (6) The Trustees shall have power from time to time with the unanimous approval of all the Holders of Ordinary Units to issue Special Units to such persons and at such price as the Trustees shall think fit without being bound to seek the approval of any of the Holders of the Special Units already issued.
 - (7) Upon the termination of the Trust and notwithstanding anything contained in Clause 10.4(2) and this Clause 2.1 of this Second Schedule the Holders of Special Units shall be entitled to receive the amount equal to the value of each Unit as specified in the First Schedule for each Special Unit held by them in priority to any distribution in respect of the Ordinary Units but shall

IN WITNESS WHEREOF

not be entitled in respect of any Special Unit held by them to share in the capital of the Trust Fund to any greater extent than the par value of each Unit as specified in the First Schedule for each such Special Unit.

In its capacity as Trustee of THE OAKDALE UNIT TRUST The Common Seal of MUSTER HOLDINGS PTY LTD A.C.N. 067 589 544

(8) The reasonable value of a Special Unit for the purposes of Clause 10.5(2) and for the purposes of any such Unit redeemed pursuant to Clause 10.7 shall be the par value of the Units specified in the First Schedule.

(9) The provisions of Clause 10.7(7) shall not apply to the Holder of any Special Units that are redeemed.

3.1 All units of whatever class which may be created and issued by the Trustees pursuant to the powers in that behalf contained in this Deed shall be deemed to have been created and issued immediately a resolution to that effect has been passed by the Trustees notwithstanding that the appropriate entry has not yet been made in the register of Unit Holders and notwithstanding that the Unit Certificate relating to the Units so created and issued has not yet been completed.

Signed by the said RICHARD DESMOND SMITH in the presence of

[Handwritten signature of Richard Desmond Smith]

[Handwritten signature]

Witness

Signed by the said DIANA JOY SMITH in the presence of

[Handwritten signature of Diana Joy Smith]

[Handwritten signature]

Witness

In its capacity as Trustee of the RD & DJ SMITH EMPLOYEES SUPERANNUATION FUND

The Common Seal of MUSTER HOLDINGS PTY LTD A.C.N. 067 589 544

was hereunto affixed by the authority of the Directors in the presence of



[Handwritten signature]
Director

[Handwritten signature]
Director/Secretary

IN WITNESS WHEREOF the parties hereto have executed this Deed the day and year first hereinbefore mentioned.

In its capacity as Trustee of THE OAKDALE UNIT TRUST)
The Common Seal of)
MUSTER HOLDINGS PTY LTD)
A.C.N. 067 599 544)
was hereunto affixed by the)
authority of the Directors)
in the presence of:)



X ^{RS} Richard Desmond Smith
Director

X ^{PS} Diana Joy Smith
Director/Secretary

Signed by the said)
RICHARD DESMOND SMITH)
in the presence of:)

X [Signature]
Witness

X ^{RS} Richard Desmond Smith

Signed by the said)
DIANA JOY SMITH)
in the presence of:)

X [Signature]
Witness

X ^{PS} Diana Joy Smith

In its capacity as Trustee of the RD & DJ SMITH EMPLOYEES SUPERANNUATION FUND)
The Common Seal of)
MUSTER HOLDINGS PTY LTD)
A.C.N. 067 599 544)
was hereunto affixed by the)
authority of the Directors)
in the presence of:)



X ^{RS} Richard Desmond Smith
Director

X ^{PS} Diana Joy Smith
Director/Secretary

UNIT CERTIFICATE

(Constituted by Trust Deed dated the day of 19

THIS IS TO CERTIFY that

of

is the Registered Holder of Units in the abovenamed Trust subject to the provisions of the Trust Deed constituting the said Trust. Details of such Units are set out below and were entered in the Register of Unit Holders on the day
of 19 .

Register Folio	No. of Units	Class	Par Value	Certificate Number

SIGNED for and on behalf of the Trustess
of the said Trust by

.....

.....
Trustees/Directors of Trustees

24 May.1994