

Constitution of Centuria Industrial REIT

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Operative part

1 Definitions and interpretation

1.1 Definitions

In this Deed

Term	Meaning
Accrued Income	for a Distribution Period means the amount the Responsible Entity calculates as the Net Income for the Trust from the beginning of the current Distribution Period to the day on which the calculation is made.
AMIT	means, for a Financial Year, a trust which is an attribution managed investment trust for that Financial Year under the Tax Act.
AMIT Choice	means a choice made by the Responsible Entity under the Tax Act for the AMIT Regime to apply to the Trust.
AMIT Regime	means the regime for the taxation of AMITs, as set out in the following legislation: (a) the Tax Act; (b) the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016 (Cth); (c) the Income Tax Rates Amendment (Managed Investment Trusts) Act 2016 (Cth); (d) the Medicare Levy Amendment (Attribution Managed Investment Trusts) Act 2016 (Cth); and (e) the Income Tax (Attribution Managed Investment Trusts - Offsets) Act 2016 (Cth).
Applicant	a person who makes an application to become a Unit Holder in accordance with an application form attached to a Prospectus.
Approved Valuer	a person independent of the Responsible Entity who is qualified to determine, and has relevant market experience in determining,

Term	Meaning
	the issue price of units in circumstances similar to those in which the determination of the Market Price of a Unit is being made.
ASIC	the Australian Securities and Investments Commission.
ASIC Instrument	an exemption, modification, declaration, determination or any other instrument granted or issued by ASIC in respect of or applicable to the Trust (whether or not it may also have application to other registered managed investment schemes).
Associate	has the meaning given to that term by Division 2 of Part 1.2 of the Corporations Act.
ASX	ASX Limited ACN 008 624 691 or the market operated by it as the context requires.
ASX Settlement	ASX Settlement Pty Limited ACN 008 504 532.
ASX Settlement Operating Rules	the ASX Settlement Operating Rules and any other rules of ASX Settlement which apply while the Units are CHESS Approved Securities, each as amended from time to time.
Authorised Investment	those investments that the Responsible Entity has the power to make pursuant to clause 7.1.
Business Day	a business day as defined in the Listing Rules but if Units are not Officially Quoted, a day on which banks are generally open for business in Sydney, Australia.
CHESS Approved Securities	securities in respect of which approval has been given by the securities clearing house (being the body corporate approved or licensed under the Corporations Act, namely, ASX Settlement) in accordance with the ASX Settlement Operating Rules.
Compliance Committee	the compliance committee established by the, Responsible Entity in accordance with Part 5C.5 of the Corporations Act.
Compliance Plan	the compliance plan of the Trust created pursuant to Part 5C.4 of the Corporations Act.

Term	Meaning
Compliance Plan Auditor	an auditor registered under Part 9.2 of the Corporations Act and appointed under clause 20.1 to audit the Compliance Plan.
Consumer Price Index	<p>the Consumer Price Index, as published by the Australian Bureau of Statistics for the 8 Capital Cities Weighted Average (All Groups) on the basis that:</p> <ol style="list-style-type: none"> 1 the reference base for the index shall be the fiscal year 1989/90; and 2 if the Australian Statistician updates the reference based of the index, appropriate arithmetical adjustments will be made to preserve the intended continuity of the calculation, <p>PROVIDED THAT if the Consumer Price Index is suspended or discontinued, references to "Consumer Price Index" will mean the index, scale or other system which most closely measures economic inflation on a weighted average basis for the 8 capital cities of Australia;</p>
Contract	a contract for the sale and purchase of a Property pursuant to which the Responsible Entity (or the Custodian as agent of the Responsible Entity) will acquire the Property on trust for the Unit Holders.
Corporations Act	the Corporations Act 2001 and includes the regulations made under that Act from time to time.
Current Unit Value	the current market value of a Unit determined by the Responsible Entity on the basis of an Independent Valuer's valuation of the Property and an independent assessment of the other Trust Property and the liabilities of the Trust.
Custodian	the party appointed as custodian pursuant to clause 2.3.
Deed	this constitution and any schedules or annexures to it.
Directors	the directors of the Responsible Entity from time to time.
Distributable	any amount determined by the Responsible Entity from time to

Term	Meaning
Income	<p>time to be distributed to Unit Holders, including:</p> <ol style="list-style-type: none"> 1 the Net Income of the Trust; 2 other Income of the Trust; and 3 any other amount of whatever nature, including (where appropriate) amounts determined in accordance with clause 10 or Schedule 2.
Distribution Date	<p>the date fixed by the Responsible Entity for the distribution of the Distributable Income of the Trust for each Distribution Period being a date no later than 28 days after the end of a Distribution Period.</p>
Distribution Period	<p>each 3 month period in a year ending on the last days of March, June, September and December ("quarter") except that:</p> <ol style="list-style-type: none"> 1 if the first Purchase Date occurs during a Distribution Period then the first Distribution Period will be from the first Purchase Date to the end of the quarter (or, if there is less than one full calendar month remaining in the quarter then to the end of the next quarter); 2 if the termination of the Trust occurs during a Distribution Period then the last Distribution Period will end on the date of termination; 3 the Responsible Entity may change the duration or dates for the commencement or end of the Distribution Period (in which case the Responsible Entity must notify the Unit Holders of the new dates) provided that the Distribution Period does not exceed 6 months.
Exercise Price	<p>in relation to a Unit issued on the exercise of an Option, the Market Price of a Unit no more than 15 days before the date upon which the Option is issued.</p>
Expert	<p>includes solicitors, barristers, accountants, bankers, financial advisers, valuers, architects, engineers, quantity surveyors and other professionally qualified consultants.</p>
Financial Year	<p>the period of 12 months ending on 30 June in each year during the continuance of the Trust and includes:</p> <ol style="list-style-type: none"> 1 the period commencing on the date the Trust is

Term	Meaning
	established and expiring on the next 30 June; and
	2 the period between 1 July last occurring before the termination of the Trust and the date of termination of the Trust.
First Prospectus	the first Prospectus issued by the Responsible Entity in respect of the Trust.
Gross Asset Value	the total value of the Trust assets.
Gross Proceeds	the aggregate of all moneys (including base rent, turnover rent, licence fees, outgoings and other moneys payable in respect of the use or occupation of the Property) received from the tenants and other occupants and users of the Property and all other revenue generated by or in respect of the use of the Property.
GST	the tax known as or imposed in the nature of a goods and services tax, value added tax or supply tax.
Income	all amounts which are, or would be recognised as, income by the application of generally accepted accounting principles.
Independent Expert	for the purposes of a Merger Proposal, an expert who is experienced in assessing the merits of proposals such as the Merger Proposal and who is independent of the Responsible Entity, its related bodies corporate and Associates.
Independent Value	the value of each Property determined by an Independent Valuer.
Independent Valuer	a person with the relevant professional qualification and experience who: <ol style="list-style-type: none"> 1 does not have a pecuniary interest that conflicts with his or her obligation to provide a proper valuation of the relevant Unit; and 2 is independent of: <ul style="list-style-type: none"> • the Responsible Entity;

Term	Meaning
	<ul style="list-style-type: none"> • any company related to the Responsible Entity; • any person who is an Associate of the Responsible Entity; and • any person acting in concert with the Responsible Entity in relation to the sale or issue of the relevant Unit.
Interest	a Unit in the Trust.
Issue Price	in relation to a Unit or an Option, the dollar value of the total consideration payable at any time in respect of the issue of that Unit or Option determined in accordance with clause 3.4.
Liabilities	all liabilities of the Trust, including any provisions the Responsible Entity considers should be taken into account in determining liabilities. To the extent applicable Australian accounting standards require any amounts representing Unit Holder's funds to be classified as a liability, then for the purposes of calculating the Net Asset Value in this Constitution, the Unit Holders' funds are not to be treated as a liability.
Liquid	has the same meaning as in section 601KA of the Corporations Act.
Listed	admitted to the Official List.
Listing Rules	the Listing Rules of ASX and any other rules of ASX which are applicable while the Trust is listed, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.
Loan Funds	the loan or other financial accommodation described in clause 11.1.
Market Price	has the meaning given in clause 1.3.
Marketable Parcel	has the meaning given to it in the Listing Rules.

Term	Meaning
Merger Proposal	a merger proposal determined by an Independent Expert to: <ol style="list-style-type: none"> 1 be in the best interests of Unit Holders; and 2 relate to Property.
Net Asset Value	the total value of the Trust Property calculated in accordance with clause 25, less the Liabilities.
Net Income	in relation to the Trust, ' net income ' as defined in section 95 of the Tax Act as calculated for each Financial Year or other relevant period.
Official List	the official list of ASX.
Official Quotation or Officially Quoted	official quotation by ASX of Units.
Option	an option granted by the Responsible Entity in respect of unissued Units.
Optionholder	the person for the time being registered as a holder of an Option, including any persons jointly registered.
Personal Representative	an executor or administrator of the estate of a deceased Unit Holder or Applicant, the trustee of the estate of a Unit Holder or Applicant under a legal disability or a person who holds a general power of attorney granted by a Unit Holder or Applicant.
Proceeds Fund	the fund, or account or accounts designated by the Responsible Entity into which the Gross Proceeds and all other Income generated by the Trust must be deposited.
Property	either: <ol style="list-style-type: none"> 1 a parcel or parcels of land that have satisfied the Responsible Entity's investment criteria and strategy and which the Responsible Entity (or the Custodian as agent of the Responsible Entity) acquires or intends to acquire and hold for the Trust and includes all buildings and other

Term	Meaning
	<p>improvements on that land and all fixtures, fittings, plant, equipment and other assets acquired or held from time to time for the purposes of the Trust and, where the context permits, includes any part of it. Where more than one Property is acquired or is to be acquired for the Trust, a reference to the Property includes a reference to each Property; or</p> <p>2 units in a unit trust or interests in another investment vehicle which holds property of the kind described in paragraph 1.</p>
Prospectus	a prospectus, product disclosure document or any other similar document inviting applications for Units, issued by the Responsible Entity in compliance with the Corporations Act and includes any replacement of it or supplementary Prospectus.
Purchase Date	the date on which the purchase or other acquisition of a Property by the Responsible Entity or the Custodian (as the case may be) is completed.
Register	the register of Unit Holders required to be kept by the Responsible Entity under section 169 of the Corporations Act and to be established and maintained by the Responsible Entity in accordance with clause 5.
Responsible Entity	means Centuria Property Funds No.2 Limited (ACN 133 363 185) of 39/100 Miller Street, North Sydney NSW 2060.
Restricted Securities	has the meaning given to it in the Listing Rules.
Restriction Agreement	means a restriction agreement within the meaning and for the purposes of the Listing Rules.
Security	has the meaning given to that term in section 92(1) of the Corporations Act.
Subscription Fund	the fund or accounts established under clause 10.1 and into which all Issue Prices must be deposited.

Term	Meaning
Subscription Sum	<p>the price to be paid by an Applicant for a Unit in the Trust and which:</p> <ol style="list-style-type: none"> 1 under the First Prospectus is \$1.00; and 2 subject to the Responsible Entity determining another amount in accordance with clause 3.9 or as otherwise permitted under the Corporations Act, at all other times under each subsequent Prospectus will be an amount calculated as follows: <p style="text-align: center;"><u>Net Asset Value — Accrued Income + Transaction Costs</u> Units in issue</p>
Tax Act	means the Income Tax Assessment Act 1936 (Cth), the Income Tax Assessment Act 1997 (Cth) or both, as appropriate, and any subordinate legislation, or any binding rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued under those statutes.
Term	has the meaning given to that word in clause 2.1.
Terms of Issue	in relation to a Unit or an Option, the terms and conditions upon which that Unit or Option is issued (other than those in this Deed).
Terms of Offer	in relation to an offer to acquire an Option means the terms and conditions upon which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option.
Transaction Costs	an allowance (which is independently verifiable) for the total cost of acquiring the Trust Property. However, subject to the Corporations Act (if relevant) the Responsible Entity may in connection with any particular application for Units deem these costs to be a lesser sum or zero
Trust	the managed investment scheme established by this Deed and to be known as the " 360 Capital Industrial Fund ".
Trust Auditor	an auditor registered under part 9.2 of the Corporations Act and appointed to audit the Trust under clause 20.1.

Term	Meaning
Trust Costs	<p>the total of all fees, costs, charges, expenses and other amounts ("costs") incurred or payable in relation to the establishment, operation and winding up of the Trust or in respect of the Trust Property including, but not limited to:</p> <p>1 the purchase price payable for a Property;</p> <p>2 the costs incurred by the Responsible Entity in and about the establishment of the Trust and the purchase of a Property including, but not limited to:</p> <ul style="list-style-type: none"> • all stamp duty, registration fees, legal costs and agents' commissions; • valuation fees for any valuation of a Property; • accountant's fees for any financial or other accounting information, advice or report included or referred to in each Prospectus; • fees payable to any Expert or other person whose advice or report is included or referred to in or obtained for the purpose of each Prospectus; • commissions which may lawfully be paid in respect of applications for Units under each Prospectus, other than commissions to be paid by the- Responsible Entity out of its own fees; • all costs incurred in the issue of the Units including, without limitation, costs incurred in the preparation, verification, registration, printing, distribution and promotion of each Prospectus; • underwriting fees payable in relation to each Prospectus to an underwriter of any issue of Units pursuant to an underwriting agreement; • all costs incurred in relation to the engagement of Experts and other persons to assist in the process of selecting, assessing and negotiating the purchase of a Property; and • any option fee paid or payable by the Responsible Entity or any Associate of the Responsible Entity to ensure the right to purchase a Property. <p>3 the fees properly payable to the Responsible Entity and</p>

Term	Meaning
	the Custodian for the performance of their duties and the provision of their services to the Trust;
4	the costs of auditing the Trust accounts and all other services of the Trust Auditor required by this Deed or the Corporations Act;
5	the costs of establishing, maintaining and auditing the Register;
6	the costs incurred in connection with the sale of a Property including marketing expenses, legal fees, brokerage and commission;
7	the valuation fees payable in relation to a Property;
8	the fees and premiums incurred in respect of obtaining and maintaining insurance in relation to a Property;
9	the costs incurred in connection with any rearrangement of the capital structure of the Trust;
10	the costs incurred in connection with convening or holding any meeting of Unit Holders and implementing any resolution passed by Unit Holders;
11	the costs incurred in connection with any modification of this Deed;
12	bank charges on the Subscription Fund, Proceeds Fund and any other banking accounts operated solely for the Trust;
13	income tax, capital gains tax, GST, stamp duties, financial institutions duties and bank account debit taxes and fines and penalties relating to any of these and any other tax, duty or impost payable by the Responsible Entity on account of or on behalf of the Trust;
14	the costs of preparing, printing and posting statements, cheques, Trust accounts, notices, reports and other documents sent to Unit Holders;
15	the costs incurred by or on behalf of the Responsible Entity in connection with its retirement and the appointment of a substitute, including costs associated with the preparation, execution and stamping of any deed of retirement and release;
16	except where the court otherwise directs, the costs incurred in the initiation, conduct and settlement of any

Term	Meaning
	court proceedings (including any negotiations, conferences and demands) made or brought by or against the Responsible Entity in respect of any actual or alleged breach or default under this Deed;
17	the costs incurred by the Responsible Entity in the initiation conduct and settlement of any court proceedings (including any negotiations, conferences and demands) to enforce or to protect the rights of Unit Holders;
18	the rates, taxes, charges, assessments and impositions, whether governmental, municipal or otherwise, assessed, charged, levied or imposed in respect of a Property;
19	premiums and other costs incurred in insuring any Trust Property;
20	the costs of professional indemnity insurance in relation to directors and officers of the Responsible Entity and members of the Compliance Committee;
21	the costs incurred in preparing and lodging returns, notices or statements under the Corporations Act or any other law binding on the Responsible Entity;
22	the costs of acquiring, establishing, maintaining and developing computer software and systems specifically required for the administration of the Trust;
23	the costs incurred by or in relation to the compliance plan (including maintaining and auditing) and the Compliance Committee including fees paid to members of the Compliance Committee;
24	the costs in connection with the management and administration of the Trust and Trust Property, the performance of the functions and duties of the Responsible Entity under this Deed (including, without limitation, in connection with any acts or omissions by the Responsible Entity in relation to clauses 7A or 22(d) or Schedule 2) and under any law;
25	amounts incurred by the Responsible Entity in engaging independent contractors, agents, contractors, consultants, Experts and other service providers in connection with the management and administration of the Trust and Trust Property;
26	the admission of the Trust to the Official List of the ASX and compliance with the Listing Rules;

Term	Meaning
	27 the costs associated with handling complaints pursuant to clause 15;
	28 the costs associated with ownership of a Property including, but not limited to, the cost of managing (including fees paid to any managing agent) insuring, repairing, maintaining, operating, upgrading and improving a Property;
	29 the costs (including interest and bank fees and charges) associated with any loan or other financial accommodation and any security granted to finance the purchase of a Property or to finance any other cost of ownership;
	30 the costs incurred as a consequence of any approval granted or condition imposed by any relevant authority;
	31 the costs of leasing, licensing, selling or otherwise disposing of or dealing with a Property or any estate or interest therein (including fees and commissions paid to any agent); and
	32 all other costs, fees, charges and expenses arising from the ownership or the proper management of the Trust Property or arising from the proper performance of the Responsible Entity's obligations under this Deed and/or any law.
Trust Property	(and where the context permits, includes reference to any part of):
	1 the Properties;
	2 the Issue Prices;
	3 the Gross Proceeds;
	4 any Authorised Investments; and
	5 any other right, entitlement, property or income acquired or derived from the Trust Property described in paragraphs (a) to (d) inclusive or to which the Responsible Entity becomes entitled for the benefit of the Trust.
Unit	the interest in the Trust which a Unit Holder acquires by applying in accordance with an application form attached to a Prospectus and having the application accepted by the Responsible Entity.

Term	Meaning
	Each interest is expressed as a number and in percentage form, with 100% being the aggregate, for the time being, of all Units in the Trust. The proportion that each Unit Holder's Subscription Sum bears to the total Subscription Sums raised from time to time determines that Unit Holder's percentage interest in the Trust.
Unit Holder	a person whose name is, for the time being, entered in the Register as the holder of a Unit (including persons jointly registered).
Valuation Date	a date on which the Responsible Entity calculates the Net Asset Value.

1.2 Interpretation

In this Deed:

- (a) headings are for convenience only and do not affect interpretation;
- and, unless the context indicates a contrary intention:
- (b) a reference to any party includes that party's executors, administrators, successors, substitutes and assigns, including any person taking by way of novation;
 - (c) a reference to this Deed or to any other deed, agreement or document includes, respectively, this Deed or that other deed, agreement or document as amended, novated, supplemented, varied or replaced from time to time;
 - (d) words importing the singular include the plural (and vice versa), words denoting a , given sex include the other sex, and words denoting individuals include corporations, bodies corporate and firms (and vice versa);
 - (e) references to currency are references to Australian currency;
 - (f) reference to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment or any statutory provision substituted for it, and ordinances, by-laws, regulations and other statutory instruments issued under any legislation;
 - (g) a reference to the Listing Rules or the ASX Settlement Operating Rules includes any modification or replacement of those rules or any other rules (however described) issued under those rules;
 - (h) references to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this Deed, and a reference to this Deed includes any schedule, exhibit and annexure;

- (i) if any day appointed or specified by this Deed for the payment of any money or doing of any thing falls on a day which is not a Business Day, the day so appointed or specified will be deemed to be the next Business Day;
- (j) if more than one person is under an obligation to act or not to act under this Deed, the liability of those persons so identified binds each of them severally and every two or more of them jointly, and if more than one person receives the same benefit under this Deed the benefit is to be enjoyed by each of them severally;
- (k) references to payments to any party to this Deed will be construed to include payments to another person upon the direction of such party;
- (l) all payments to be made under this Deed must be made by unendorsed bank cheque or other immediately available funds and in Australian currency;
- (m) any obligation to give notice or make payment to joint Unit Holders shall be satisfied by giving the notice or making the payment to the Unit Holder first named in the Register for that Unit; and
- (n) any word or expression defined in or for the purposes of the Corporations Act, unless otherwise defined in clause 1.1 or the context otherwise requires, has the same meaning when used in this Deed, and the clauses of interpretation specified in or applicable for the purposes of the Corporations Act, unless the context otherwise requires, apply in the interpretation of this Deed.

1.3 Market Price

- (a) Clause 1.3 only applies while the Trust is Listed.
- (b) Subject to clauses 1.3(d) and the Corporations Act as modified by any relevant ASIC Instrument, the Market Price for a Unit on any Business Day is either:
 - (1) the volume weighted average traded price for an Interest for all sales on ASX (excluding transactions referred to in clause 1.3(e)) for the 10 Business Days immediately preceding the relevant Business Day (whether or not a sale was recorded on any particular day) (**VWAP**);
 - (2) a price obtained pursuant to a bookbuild carried out in accordance with clause 1.3(c); or
 - (3) a price determined by an Approved Valuer in accordance with clause 1.3(f).
- (c) For the purposes of clause 1.3(b)(2):
 - (1) the bookbuild must be arranged by a reputable investment bank with experience in arranging bookbuilds in the Australian equity market; and
 - (2) the Responsible Entity must be satisfied on reasonable grounds that the bookbuild was conducted in accordance with normal market practice for bookbuilds.

- (d) If in respect of clause 1.3(c), the Responsible Entity considers the period of 10 Business Days to be inappropriate in the circumstances, it can extend or reduce the period or change the timing of the period.
- (e) For the purposes of clauses 1.3(c), the following transactions are excluded when calculating Market Price:
 - (1) any transaction defined in the Listing Rules as a "Special Crossing";
 - (2) any transaction defined in the Listing Rules as a "Crossing" that occurs prior to the commencement of normal trading or during the closing phase or after-hours adjust phase;
 - (3) any transaction pursuant to the exercise of Options over Units; or
 - (4) any transaction which the Responsible Entity considers is not reflective of natural supply and demand.
- (f) If required to determine the Market Price of a Unit pursuant to this clause 1.3, the Approved Valuer must determine a Market Price which is in its reasonable opinion the fair market price of the Interest, having regard to:
 - (1) the nature of the proposed offer of Units for which purpose the market price of an Interest is being calculated; and
 - (2) the circumstances in which the proposed offer of Units will be made.
- (g) The Market Price of an Option on any Business Day must be determined in the same manner as the Market Price for a Unit is determined.

1.4 General compliance provision

At all times when the Trust is a registered scheme:

- (a) a provision of this Deed which is inconsistent with a provision of the Corporations Act does not operate to the extent of the inconsistency;
- (b) clause 1.4(a) is subject to any declarations made by or exemptions granted by ASIC which are current in respect of or applicable to this Deed; and
- (c) this clause 1.4 prevails over all other provisions of this Deed including any that are expressed to prevail over it.

1.5 Inconsistency with the Listing Rules

- (a) Despite anything to the contrary in this clause 1.5, this clause 1.5 has effect subject to clause 1.4.
- (b) While the Trust is Listed, the following clauses apply:
 - (1) despite anything in this Deed, if the Listing Rules prohibit an act being done, the act must not be done;

- (2) nothing in this Deed prevents an act being done that the Listing Rules require to be done;
- (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (4) if the Listing Rules require this Deed to contain a provision and it does not contain such a provision, this Deed is taken to contain that provision;
- (5) if the Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is taken not to contain that provision; and
- (6) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is taken not to contain that provision to the extent of the inconsistency.

1.6 Additional listing provisions

Whilst the Trust is Listed and despite any other provision of this Deed, the Responsible Entity must comply with the ASX Settlement Operating Rules and may make such amendments to this Deed as is required by the ASX as a precondition to the Trust being Listed.

2 The Trust

2.1 Establishment and Term of Trust

- (a) By this Deed, the Responsible Entity establishes the Trust as a fixed term, property trust to be registered as a managed investment scheme under Part 5C. 1 of the Corporations Act.
- (b) The Trust shall commence operation on the day on which the ASIC registers the Trust as a managed investment scheme and, unless it is wound up earlier, shall continue in force for a period of 80 years from the first Purchase Date and may be extended under paragraph (e) ("**Term**").
- (c) The Responsible Entity shall sell the Property at the expiration of the Term whereupon the Trust shall come to an end.
- (d) The Trust shall be wound up if, within 12 months from the date of commencement of the Trust, the Responsible Entity has not purchased or entered into a contract to purchase the first Property.

2.2 Enforceability of constitution

- (a) This Deed is the Trust's constitution and is legally enforceable as between each Unit Holder and the Responsible Entity.

- (b) To the extent to which there is any inconsistency between the terms of this Deed and the requirements of the Corporations Act, the latter shall prevail and the terms of this Deed shall be construed accordingly.

2.3 Trust Property held on trust

- (a) The Responsible Entity will act as trustee for the Unit Holders and, except where any part of the Trust Property is held by the Unit Holders or by a Custodian pursuant to paragraph (b), will hold the Trust Property on trust for the Unit Holders. If any part of the Trust Property is held by or in the name of the Unit Holders, it shall be deemed to be held by them as tenants in common in proportion to their respective Unit holdings in the Trust.
- (b) The Responsible Entity shall, if required by the Corporations Act, and otherwise may, appoint any person to act as custodian of any Trust Property and to hold any Trust Property on trust for the Responsible Entity or the Unit Holders. Any Custodian appointed by the Responsible Entity must enter into a written agreement with the Responsible Entity detailing the terms and conditions of the appointment. The written agreement must be consistent with the provisions of this Deed.
- (c) If the Responsible Entity appoints a Custodian, the Responsible Entity may delegate to the Custodian any of the Responsible Entity's functions or obligations in relation to the Trust Property held by the Custodian provided that no such delegation shall:
 - (1) in any way relieve the Responsible Entity from its liability or responsibility to the Unit Holders in respect of in the performance of its functions or obligations in relation to that Trust Property; or
 - (2) impose any liability or responsibility to the Unit Holders on the Custodian except as agreed with or accepted by the Custodian.

3 Offer and issue of interests in trust

3.1 Offer of Units

The Responsible Entity:

- (a) may offer Units for sale at any time;
- (b) shall determine the number of Units to be offered, the Issue Price and the rights, terms and conditions applicable to any Units. Except to the extent that Schedule 2 applies, those rights, terms and conditions attaching to Units will prevail to the extent of any inconsistency with this Deed; and
- (c) shall cause the issue of any Prospectus required to offer Units.

3.2 Offer of Options

- (a) The Responsible Entity may not grant Options unless the Trust is Listed.

- (b) The Responsible Entity may grant Options only in accordance with clause 12 and subject to this Deed.
- (c) The Responsible Entity may grant Options only in accordance with the Terms of Offer and the Terms of Issue of an Option.

3.3 Underwriting of issue

- (a) The Responsible Entity may arrange for:
 - (1) an offer for sale, subscription or issue of Units or Options;
 - (2) the payment of instalments in respect of partly paid Units; or
 - (3) the exercise of Options,to be underwritten by an underwriter on terms determined by the Responsible Entity.
- (b) The underwriter may:
 - (1) be the Responsible Entity or a related body corporate of the Responsible Entity; and
 - (2) take up any Units or Options not subscribed for.
- (c) The Responsible Entity may issue Units and Options under this clause 3.3 at an Issue Price equal to the Issue Price at which the Units or Options in relation to the underwritten issue or offer were or would have been issued to persons other than the underwriter or underwriters.

3.4 Issue Price

- (a) The Issue Price to acquire a Unit is:
 - (1) while the Trust is not Listed, the Subscription Sum; and
 - (2) while the Trust is Listed, the Market Price on a Business Day no more than 15 days prior to the day on which the offer or issue is made.
- (b) Where the Trust is Listed, the Responsible Entity may issue:
 - (1) Options at an Issue Price of nil and otherwise on the terms and conditions set out in the Terms of Offer and Terms of Issue; and
 - (2) Units under any Option for the Exercise Price.

3.5 Applications

- (a) Each application for a Unit must comprise:
 - (1) a completed application form in the form prescribed by the Responsible Entity;

- (2) subject to clause 3.6, payment specified in the form specified by the Responsible Entity or by transfer of property of a kind able to be vested in the Responsible Entity for the Issue Price.
- (b) Each application must be delivered to the Responsible Entity in the manner prescribed by the Responsible Entity.
- (c) The Responsible Entity may request any further information from an Applicant that the Responsible Entity may reasonably require to assess the Applicant's application.
- (d) The Responsible Entity may, in its absolute discretion, accept or reject an application, and it shall not be required to give an Applicant any reason for rejection. If the Responsible Entity rejects an application, the Responsible Entity shall return the Issue Price to the Applicant named in the rejected application within 14 days of rejection.

3.6 Deposits

- (a) The Responsible Entity may, in its discretion, accept a deposit as part payment of the Issue Price and nominate a date or dates for payment of the balance.
- (b) If an Applicant fails to pay the balance of the Issue Price on the due date or dates, the Responsible Entity may, in addition to or in lieu of any other right or remedy available, forfeit the deposit.

3.7 Becoming a Unit Holder

An Applicant shall be entitled to have his name entered on the Register as a Unit Holder when:

- (a) the Responsible Entity has accepted the Applicant's application under clause 3.5 and confirmed in writing to the Applicant the Responsible Entity's approval to the issue of Units to that Applicant; and
- (b) payment of the full amount of the Issue Price has been received by the Responsible Entity in cash or by cheque and the cheque has been cleared.

3.8 Certificates

The Responsible Entity is not obliged to issue certificates evidencing membership of the Trust.

3.9 Responsible Entity's discretion over Issue Price

Subject to the Corporations Act as modified by any applicable ASIC Instrument, the Responsible Entity may issue Units at a price determined by the Responsible Entity (being a price other than the Issue Price calculated under clause 3.4). Clause 3.4 does not limit the operation of this clause.

4 Membership of trust

- (a) Unit Holders are bound by the terms of this Deed.
- (b) Subject to the provisions of this Deed (and, in the case of partly paid Units, subject to the due payment of the Subscription Sum in full) every Unit shall be of equal value and shall confer upon the Unit Holder an equal interest in the Trust Property. No Unit shall confer an interest in any particular part of the Trust Property but only such interest in the Trust Property as a whole as is conferred by a Unit under the provisions contained in this Deed.
- (c) No Unit Holder may lodge a caveat against the titles to the Property in respect of its Unit.
- (d) No Unit Holder may interfere with the valid exercise of any of the Responsible Entity's powers or discretions conferred by the Corporations Act or this Deed.
- (e) The beneficial interests in the Trust are divided into Units.

The Responsible Entity may at any time consolidate or divide Units. The Responsible Entity may in its discretion round any amount up or down to the nearest whole cent, and any remaining fraction of a cent becomes Trust Property.

5 Register of unit holders register

5.1 Register

- (a) The Responsible Entity must establish and maintain the Register:
 - (1) in accordance with the Corporations Act; and
 - (2) at the registered office of the Responsible Entity.
- (b) In addition to the Corporations Act requirements as to the contents of the Register, but subject to the requirements of any law pertaining to privacy, the Responsible Entity may include any other information in the Register that it considers appropriate.

5.2 Details of Unit Holders

A Unit Holder must promptly notify the Responsible Entity of a change to his, her or its name or address. The Responsible Entity shall alter the Register accordingly.

5.3 Noting encumbrances

Unless required by law, the Responsible Entity shall not be obliged to note on the Register any encumbrances on a Unit Holder's Unit, but the Responsible Entity is not prevented from doing so.

5.4 Inspection of Register

The Responsible Entity shall make the Register available for inspection and will provide copies of it in accordance with section 173 of the Corporations Act and the requirements of any law pertaining to privacy.

5.5 Reliance on Register

For the purposes of determining the identity of a Unit Holder at any given time, the Responsible Entity is entitled to rely exclusively on the contents of the Register.

5.6 Suspension of registration

Subject to the Listing Rules, the Responsible Entity may refuse, in its discretion, to register any transfer or transmission of a Unit Holder's Unit during the 14 days immediately preceding 1 July of any year during the Term.

6 Duties of responsible entity

6.1 Duties Generally

The Responsible Entity shall perform the duties required of it under:

- (a) section 601FC of the Corporations Act;
- (b) this Deed; and
- (c) the Compliance Plan.

6.2 Management of the Trust

The Responsible Entity shall operate and manage the Trust for the Unit Holders. In performing these functions, the Responsible Entity will establish and maintain a reporting system that will provide the Unit Holders with regular, comprehensive and detailed information concerning the management and investment performance of the Trust.

6.3 Listing the Trust

The Responsible Entity must ensure that the Trust is Listed as soon as possible after 14 September 2012. Each Unit Holder has a right to enforce this clause against the Responsible Entity.

7A. AMIT Regime

7A.1 Powers in relation to the AMIT Regime

- (a) At any time during the term of the Trust, the Responsible Entity may, in its absolute discretion, make an AMIT Choice under the AMIT Regime that the Trust is to become an AMIT from the commencement of a specified Financial Year.
- (b) The Responsible Entity may notify the Unit Holders of the making of an AMIT Choice under this clause 7A.1.
- (c) Nothing in this clause 7A.1 imposes an obligation on the Responsible Entity to:
 - (1) make an AMIT Choice;
 - (2) cause the Trust to be made subject to the AMIT Regime;
 - (3) facilitate the Responsible Entity being able to elect to apply the AMIT Regime to the Trust; or
 - (4) make any amendments to this Deed.
- (d) The Responsible Entity may take any action which the Responsible Entity reasonably believes is necessary, desirable or expedient to:
 - (1) allow it to make an AMIT Choice in respect of the Trust;
 - (2) enable the Trust to qualify as an AMIT and operate under the AMIT Regime; and
 - (3) ensure that there is an appropriate and equitable application of the powers and rights of the Responsible Entity and Unit Holders that arise under the AMIT Regime.

7A.2 Application of AMIT provisions

- (a) Schedule 2 will apply at all times whilst, and only whilst, the Trust is, or is taken to be, an AMIT. Whilst Schedule 2 applies:
 - (1) it applies to the exclusion of clause 10;
 - (2) clause 10 does not operate; and
 - (3) it prevails over any other provisions of this Deed (other than this clause 7A) to the extent of any inconsistency.
- (b) Whilst the Trust is not an AMIT, the provisions in Schedule 2 (other than clause 1 of Schedule 2) do not apply to the Trust and the provisions of clause 10 will apply instead.

7A.3 Distributions under clause 10 when the Trust is not an AMIT

If the Responsible Entity makes a distribution during a Financial Year under clause 10 on the basis that the Trust is not an AMIT in respect of that Financial Year but the Trust subsequently becomes an AMIT in respect of that Financial Year, the Responsible Entity may subsequently make a determination under, and administer the Trust in accordance with, Schedule 2, including in any manner that affects the entitlement to, quantum of, character or source of those distributions for the purposes of this Deed.

7A.4 Distributions under Schedule 2 when the Trust is not an AMIT

If the Responsible Entity makes a distribution during a Financial Year under Schedule 2 on the basis that the Trust is an AMIT in respect of that Financial Year but the Trust does not meet the requirements to be an AMIT in respect of that Financial Year, clause 10 will instead apply in respect of that Financial Year and the distribution is to be treated as if it was a distribution of Distributable Income made in accordance with clause 10.

7 Powers of responsible entity

7.1 Powers generally

Subject to the provisions of this Deed and any restriction imposed by law, the Responsible Entity has the legal capacity and all of the powers of a natural person and a body corporate required to carry out its obligations and exercise its powers and discretions under this Deed. Without limiting the generality of this clause, the Responsible Entity's powers include the powers:

- (a) to investigate and identify properties that may fulfill the Responsible Entity's investment strategy and to negotiate with the vendors of those properties with the intention of entering into an option over, or a Contract to acquire, such properties;
- (b) to purchase or otherwise acquire the Property and any estate or interest in the Property;
- (c) to enter into any option, contract, assignment, agreement or other arrangement in respect of the acquisition or disposal of the Property;
- (d) to enter into any lease, licence or other like agreement granting a right or interest in respect of the Property and any variation, assignment, extension or surrender of any such right or interest;
- (e) to create and grant any easement, covenant or other right or interest in favour of a third party in respect of the Property;
- (f) to accept the benefit of any easement, covenant or other right or interest created or granted by a third party in respect of or relating to the Property;
- (g) to execute any transfer of the Property;
- (h) to develop, upgrade, construct, repair, landscape, alter or improve the Property and to engage or employ any architect, engineer, builder, contractor and consultant for that purpose;

- (i) to make development and building applications, enter into building contracts, prepare, approve and vary any plans, specifications and contracts, purchase, lease and hire any goods, plant and equipment, and do all other things necessary for or incidental to any works on or about the Property;
- (j) to enter into any agreement relating to the operation, management, maintenance, development, upgrading or improvement of the Property;
- (k) to make interest bearing deposits with any bank carrying on business under the authority of an Act of any state or territory of Australia or of the Commonwealth of Australia;
- (l) to invest all or part of the Trust Property in any investments which are authorized by the laws relating to the investment of trust funds;
- (m) to engage or employ any person to act as agent of the Responsible Entity or as trustee or custodian of any Trust Property;
- (n) to grant an option to any person to purchase the Property;
- (o) to sell the Property and any estate or interest in it to any person in one lot or as several parcels or interests at a price and upon terms and conditions which the Responsible Entity thinks fit;
- (p) to subdivide the Property (including subdivision by strata titles) and do all things necessary or desirable for effecting any subdivision;
- (q) to purchase or hire or take on hire-purchase, lease or licence, on such terms as the Responsible Entity shall decide, any goods (including furniture, furnishings, fittings, electrical and other appliances and equipment) which, in the opinion of the Responsible Entity, are necessary or desirable for the proper and efficient management and operation of the Property and to this end, to execute contracts, hire-purchase agreements, leases, licences or hiring agreements;
- (r) to engage or employ any Expert, agent, consultant, adviser, contractor and workman as may be necessary or desirable in relation to the identification, investigation, negotiation, acquisition, ownership, development, management, operation, maintenance and disposal of the Property as the Responsible Entity thinks fit;
- (s) to make all elections, give all notices and enter all agreements under the Tax Act in relation to the Trust and to prepare, execute and lodge all or any returns required by law in connection with the Trust;
- (t) to institute, prosecute or defend any action or proceeding which affects the Trust and to conduct, pursue, abandon, settle, compromise or release any action or proceeding in any manner that the Responsible Entity thinks fit;
- (u) to apply for, purchase and otherwise deal in patents, copyright, trade marks and other intellectual property rights and licences pertaining to any Trust Property;
- (v) to insure the Trust Property which is capable of being so insured against damage and destruction, public liability, breakdown, loss of rent and such other risks as the Responsible Entity deems prudent with an insurer approved by the Responsible Entity;

- (w) to execute, issue and deliver any document which the Responsible Entity considers necessary or expedient in relation to the exercise of any of its powers conferred by this Deed or by law;
- (x) to pay the Trust Costs as and when they fall due for payment or upon such terms as the Responsible Entity may agree with any creditor of the Trust; and
- (y) to do any other act or thing which, in the opinion of the Responsible Entity, is necessary or desirable for the proper and efficient management and operation of the Trust or the Trust Property.

7.2 Power To Delegate And Seek Advice

- (a) The Responsible Entity may, in its discretion, engage:
 - (1) related bodies corporate of the Responsible Entity;
 - (2) directors or officers of the Responsible Entity; or
 - (3) other persons in any way associated with the Responsible Entity,

as independent contractors, agents, contractors and consultants, notwithstanding their relationship to the Responsible Entity, to perform any of its duties or exercise any of its powers or discretions under the Corporations Act or this Deed.
- (b) The terms and conditions of all engagements of agents shall be specified in writing and shall be determined by the Responsible Entity.
- (c) In accordance with section 601FB(2) of the Corporations Act, the Responsible Entity shall be deemed to have done or failed to do anything that the agent has done or failed to do for the purposes of the engagement, even if the agent acted fraudulently or outside the scope of his authority.
- (d) In addition to the engagement of agents, the Responsible Entity may engage any Expert or other adviser to assist it in the performance of its powers and duties under this Deed and the Corporations Act. The Responsible Entity may rely on the opinion, advice or on information obtained from any Expert or other adviser if such reliance is in good faith.
- (e) For the avoidance of doubt, any amounts incurred by the Responsible Entity in engaging independent contractors, agents, contractors, consultants, Experts and other service providers are Trust Costs.

7.3 Other specific powers

Subject to the Corporations Act and the Listing Rules, the Responsible Entity or any of its Associates may:

- (a) in any capacity, subscribe for, purchase, hold or otherwise deal with Units;
- (b) act as the responsible entity in relation to any other managed investment schemes; and
- (c) be interested in or enter into any contract or transaction with itself or with any of its Associates or with any Unit Holder.

8 Management of the trust property

8.1 The Responsible Entity's Management Powers

- (a) The Responsible Entity is authorised by the Unit Holders to manage the Trust Property and act as if the Responsible Entity were the owner of the Trust Property.
- (b) Subject always to the provisions of any lease or licence of the Property, the Responsible Entity will have unrestricted access to all areas of the Property for the purpose of carrying out its rights and obligations under this Deed.

8.2 Principal Objective

The principal objective of the Responsible Entity in managing the Trust Property is to maximise the Unit Holders' financial return on their investment in the Trust Property in the most efficient manner possible in both the short term and the long term.

8.3 Responsible Entity to provide additional services

Without limiting the Responsible Entity's obligations at law, the Responsible Entity will provide, or procure the provision of, the following additional services during the Term:

- (a) property and facilities management; and
- (b) tenancy management.

8.4 Property and Facilities Management

- (a) The Responsible Entity acknowledges that the main objectives in respect of property and facilities management are to:
 - (1) maintain the Property and all services to it to industry standards at all times; and
 - (2) minimise maintenance costs and obtain the longest possible economic life from the Property.
- (b) The Responsible Entity may either employ its own staff or engage others to provide property and facilities management services. All salaries and other employment related expenses and all fees, commissions and other costs and expenses incurred or payable by the Responsible Entity in respect of property and facilities management are Trust Costs.

8.5 Tenancy Management

- (a) The Responsible Entity acknowledges that the main objective in respect of tenancy management is to maintain tenant satisfaction and maximise the rental income from the Property.
- (b) The Responsible Entity may either employ its own staff or engage others to provide tenancy management services. All salaries and other employment related expenses

and all fees, commissions and other costs and expenses incurred or payable by the Responsible Entity in respect of tenancy management are Trust Costs.

8.6 Sub-Contracting

The Responsible Entity may engage or subcontract any consultant, contractor or agent to perform any of the services that the Responsible Entity is to perform in relation to the Trust either under law or pursuant to this Deed. The Responsible Entity shall ensure that any person who performs any such services is suitably qualified and experienced and, where appropriate, licensed under any applicable legislation.

9 Responsible entity's fees and indemnities

9.1 Deduction from Trust Property

- (a) The Responsible Entity is entitled to receive fees (which it may deduct from the Trust Property) of the amount and in the manner and at the times set out in Schedule 1.
- (b) The Responsible Entity may pay from or be reimbursed from Trust Property for all Trust Costs incurred by the Responsible Entity in accordance with the terms of this Deed.

9.2 Indemnities

- (a) The Responsible Entity is entitled to be indemnified out of the Trust Property for:
 - (1) all Trust Costs incurred by it;
 - (2) all liabilities incurred by it in relation to the proper performance of its duties or exercise of its powers as Responsible Entity under this Deed (including, without limitation, in connection with any acts or omissions by the Responsible Entity in relation to clause 7A, clause 22(d) or Schedule 2); and
 - (3) all other liabilities incurred by it in relation to the operation of the Trust other than liabilities incurred as the result of breach of trust, recklessness or fraud on the part of the Responsible Entity.
- (b) If at any time the Income from the Trust Property and other moneys available to the Trust are insufficient to meet the Trust Costs and other liabilities of the Trust ("**shortfall**"), the Responsible Entity may provide to or borrow for the Trust (on reasonable commercial terms) funds sufficient to meet the shortfall. If the Responsible Entity does this, it may, in its discretion, recoup the funds provided or borrowed out of future income or out of the capital of the Trust Property.
- (c) Except as otherwise specified in Schedule 2, the rights of indemnity of the Responsible Entity and any creditor of it are limited to the Trust Property and do not exist against Unit Holders personally.

9.3 Limited Liability of Unit Holders

- (a) A Unit Holder is not liable to contribute more than its Subscription Sum in order to meet the Trust Costs or any other liabilities of the Trust incurred by the Responsible Entity on behalf of the Trust.
- (b) Where any asset forming part of the Trust Property is held by or in the name of the Unit Holders, each Unit Holder is severally liable, in proportion to its Unit in the Trust, for all liabilities incurred by the Unit Holders in respect of that asset.

10 Bank accounts

10.1 Responsible Entity to open bank accounts

- (a) The Responsible Entity must open and maintain for the Trust appropriate bank accounts with a recognised bank trading in Australia.

10.2 Calculation of Distributable Income

The Distributable Income of the Trust for a Distribution Period or a Financial Year will be such amount as the Responsible Entity determines. If, for a period ending on the last day of a Distribution Period or a Financial Year, the Responsible Entity has not made a determination for the purpose of this clause 10.5, then the Distributable Income of the Trust for the relevant period will be the Net Income of the Trust for that period.

10.3 Persons who will receive Distributable Income

Subject to the terms of issue of any Unit or class of Units, the Distributable Income of the Trust will be accounted for either within the Proceeds Fund or in a separate distribution account and, after payment of all relevant taxes and charges, will be distributed to Unit Holders registered at the close of business on the last day of the period to which the distribution relates, in proportion to their respective Units.

10.4 Time for Distribution of Distributable Income

The Responsible Entity will distribute the Distributable Income for a Distribution Period to Unit Holders no later than the Distribution Date for the relevant Distribution Period. The Responsible Entity may require the withholding from distributions to Unit Holders during any period an amount which the Responsible Entity considers is necessary to minimise variations in distributions over the longer term.

10.5 Unit Holder's presently entitled to Distributable Income

At the end of each Distribution Period or Financial Year, the Unit Holders will be presently entitled (within the meaning of the Tax Act) to all Distributable Income derived during the relevant Distribution Period or Financial Year in proportion to their respective Unit holdings at such time or, where the Responsible Entity determines in respect of a Distribution Period, at the relevant record date.

10.6 Apportionment and distribution of amount categories

The Responsible Entity may keep separate accounts of different categories and sources of Income and allocate the Income from any category or source to any Unit Holder.

10.7 Nature of distribution to Unit Holders

If any question arises as to whether distributions to Unit Holders are of a capital or income nature or whether a particular expense is chargeable against capital or income then the question will be resolved having regard to the following points in this order of priority:

- (a) first, the terms of this Deed;
- (b) second, the provisions of the Tax Act; and
- (c) third, generally accepted accounting principles.

10.8 Other distributions

The Responsible Entity may, at any time, determine that capital or Income be distributed to the Unit Holders.

10.9 Restricted Securities

A Unit Holder who holds Restricted Securities is not entitled to any distributions in respect of those Restricted Securities during a breach of the Listing Rules or a breach of a Restriction Agreement relating to those Restricted Securities, except as permitted by the Restriction Agreement, the Listing Rules or ASX.

11 Arranging finance for the trust

11.1 Power to Borrow

The Responsible Entity is empowered to arrange a loan or other financial accommodation for the Trust to complete the purchase of each Property, to develop, upgrade and improve the Property and for any other purpose disclosed to Unit Holders ("**Loan Funds**"). The Responsible Entity may authorise the establishment of the loan account for the Loan Funds in its own name or in the name of the Custodian.

11.2 No recourse to Unit Holders personally

The Responsible Entity must ensure that any Loan Funds for the Trust arranged by the Responsible Entity do not result in the financier or other provider of those Loan Funds having any recourse against the Unit Holders or any assets of the Unit Holders other than the Trust Property.

11.3 Security may be offered

The Responsible Entity may mortgage, charge or otherwise encumber the Trust Property as security for repayment of the Loan Funds.

11.4 General powers of the Responsible Entity in relation to the Loan Funds

The Responsible Entity may:

- (a) enter, rollover, discharge or increase the existing Loan Funds and take out new Loan Funds;
- (b) repay any Loan Funds from any source which forms part of the Trust Property, including from cash generated from income of the Property;
- (c) if a Property is more than one separate lot of real estate then arrange separate Loan Funds for each lot of real estate;
- (d) arrange separate Loan Funds for each Property; and
- (e) take Loan Funds from more than one lender.

11.5 Additional Borrowing Powers

In addition to the other powers contained in this clause 11, the Responsible Entity may exercise any or all the following powers:

- (a) to borrow and raise money from, and to secure by mortgage, bill of sale, lien or charge, fixed or floating legal, equitable or otherwise, the payment of money to, any person, corporation, governmental or municipal body on such terms with or without security or interest as the Responsible Entity deems fit, and the Responsible Entity is expressly empowered to join with any company or natural person in executing any mortgage or other document for the purpose of securing the payment of money and to give and to execute a registrable fixed or fixed and floating charge over all or any of the Trust Property (both present and future) held by it as Responsible Entity and to give and execute any other charge or security registrable under the Corporations Act;
- (b) to borrow and raise money to be used in deriving income or gain in augmentation of the Trust Property notwithstanding that the Trust Property may already be wholly invested or applied or that the money to be borrowed or raised may exceed the sum or value of the Trust Property and no lender will be concerned to enquire whether the necessity for any borrowing has arisen or as to the purpose for which it is required or as to the application of the money borrowed;
- (c) to borrow and raise money by way of offshore loans outside the ordinary jurisdiction and in a currency other than Australian dollars;
- (d) in its absolute discretion, as if the Responsible Entity were acting on its own behalf, solely or jointly with any person, corporation or association, to open bank accounts of every description on such terms and conditions as the Responsible Entity thinks fit and to conduct and operate the accounts in such manner as the Responsible Entity thinks fit in accordance with the customs, usages and practices of banks including, without

limitation, the power to operate any account on overdraft and to agree to the bank debiting any account with interest, costs, charges, expenses and liabilities incurred by the bank from time to time on behalf of the Responsible Entity;

- (e) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading and other negotiable or transferable instruments; and
- (f) to enter into any arrangement:
 - (1) for the purpose of managing financial risks relating to risks arising from changes in foreign currency exchange rates, interest rates or discount rates; or
 - (2) which is a currency or rate swap transaction, a forward rate or currency transaction, a forward rate bill transaction, an interest rate, currency, bond, put or call option, a cap transaction, floor transaction, collar transaction, a combination of any of these transaction or any other similar transaction.

12 Options

12.1 Applicable provisions

This clause 12 applies while the Trust is Listed.

12.2 Terms and subscription

- (a) This clause 12 applies to all Options.
- (b) The Terms of Offer and the Terms of Issue of any Options which may be issued must be notified to each person being offered Options at the time of the offer.
- (c) A person may subscribe for an Option in accordance with the Terms of Offer. Upon creation an Option binds the Responsible Entity.

12.3 Nominees

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

12.4 Exercise

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

12.5 Optionholder's rights and interest

- (a) An Option does not confer on the Optionholder any interest in the Fund. Optionholders have only those rights conferred on them by this deed, their Terms of Offer and Terms of Issue and the Listing Rules (if applicable).
- (b) Optionholders are not entitled to any distribution of income or capital gains or any distribution on winding up or termination of the Trust.
- (c) Optionholders are entitled:
 - (1) to inspect any document which may be inspected by; and
 - (2) to be sent any document which is sent to,

Unit Holders.
- (d) If Options have been issued which have not expired or been exercised or cancelled, then if a new Responsible Entity is appointed under this deed, it must execute any documents and do all things reasonably required by the outgoing Responsible Entity to ensure that it assumes the covenants and obligations of the outgoing Responsible Entity under those Options.

12.6 Redemption or repurchase

- (a) The Responsible Entity may cancel or redeem or buy an Option or any of the rights of exercise of an Option in accordance with the Terms of Issue (provided the Terms of Issue have been approved by the ASX) whereupon the Responsible Entity must make any payment to an Optionholder required under the Terms of Issue. Options and rights may only be cancelled, redeemed or purchased under this clause 12.6(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Responsible Entity and the Responsible Entity may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).
- (b) Options and rights redeemed or purchased under clause 12.6(a) form part of the Fund and the Responsible Entity is recognised as the Holder and may exercise, reissue, resell and otherwise deal with them as it determines. The Responsible Entity retains title in law to each and every Option and right so purchased in its name until the Option or right is resold, reissued or lapses and such title in law will not merge in such choses as are constituted by the grant of such Options and rights.

13 Meetings of unit holders

13.1 Convening of meetings of Unit Holders

The Responsible Entity may convene a meeting of Unit Holders at any time and shall call a meeting of Unit Holders when required to do so by the Corporations Act.

13.2 Part 2G.4 of the Corporations Act

Subject to the provisions of this clause 13 and clause 14 and the Listing Rules, all meetings of Unit Holders shall be convened and conducted in accordance with Part 2G.4 of the Corporations Act and the Listing Rules.

13.3 Notice

- (a) The Responsible Entity must ensure that a notice of a meeting of Unit Holders is given in accordance with the requirements of the Corporations Act and clause 24.2.
- (b) The Responsible Entity must send a notice of a meeting of Unit Holders to:
 - (1) Unit Holders entitled to vote at a meeting of Unit Holders;
 - (2) each Director of the Responsible Entity;
 - (3) each member of the Trust's compliance committee;
 - (4) the Trust Auditor;
 - (5) the Compliance Plan Auditor;
 - (6) such other person or persons as the Directors may approve; and
 - (7) any other person entitled under this Deed or the Corporations Act to attend.
- (c) If a Unit Holder does not receive, or was not sent, a notice of a meeting of Unit Holders neither circumstance invalidates any resolution passed at any such meeting.
- (d) Only matters that appear in a notice of meeting may be dealt with at a meeting of Unit Holders.

14 Proceedings at meetings of unit holders

14.1 Quorum

A quorum for a meeting of Unit Holders is 2 Unit Holders, each being a Unit Holder present in person, by proxy, attorney or Personal Representative.

14.2 Chairman

The chairman of the meeting of Unit Holders must be appointed pursuant to section 252S of the Corporations Act. In the case of an equality of votes, the chairman shall not have a casting vote.

14.3 Voting rights

At meetings of Unit Holders:

- (a) each Unit Holder entitled to vote may vote in person or by proxy, attorney or Personal Representative;
- (b) on a show of hands, every person present who is a Unit Holder or a proxy, attorney or Personal Representative of a Unit Holder has one vote; and
- (c) on a poll, every person present who is a Unit Holder or a proxy, attorney or Personal Representative of a Unit Holder has for each dollar of the value of the total interest held by the person, or in respect of which the person is appointed a proxy, attorney or Personal Representative, one vote.

14.4 Right to appoint proxy

A Unit Holder is entitled to appoint another person (whether a Unit Holder or not) as the Unit Holder's proxy to attend and vote instead of the Unit Holder at any meeting of Unit Holders.

14.5 Form of proxy

The Responsible Entity may prescribe the form of proxy from time to time, subject to the Corporations Act and the Listing Rules. The Responsible Entity may, in its discretion, accept an appointment of a proxy as valid even if it contains only some of the information required by section 252Y(1) of the Corporations Act.

14.6 Voting - show of hands

At any meeting of Unit Holders a resolution put to the vote of the meeting is to be decided on a show of hands unless a poll is demanded in accordance with clause 14.8.

14.7 Results of voting

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 of meetings of Unit Holders, is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

14.8 Poll

- (a) Subject to paragraph (b), a poll may be demanded before a vote is taken, or before or immediately after the declaration of the result of the show of hands by:
 - (1) the chairman of the meeting of Unit Holders;
 - (2) at least 5 Unit Holders present in person or by proxy, attorney or Personal Representative entitled to vote on the resolution; or
 - (3) any one or more Unit Holders present in person or by proxy, attorney or Personal Representative holding at least 5% of the votes that may be cast on the resolution on a poll.

- (b) A poll may not be demanded on any resolution concerning the election of the chairman of the meeting or the adjournment of the meeting.

14.9 Manner of taking a poll

- (a) If a poll is duly demanded, it must be taken in such manner as the chairman directs.
- (b) The result of the poll will be deemed to be the resolution of the meeting at which the poll was demanded.
- (c) The demand for a poll may be withdrawn.

14.10 Meeting may continue

A demand for a poll does not prevent the continuation of the meeting for the transaction of other business.

14.11 Adjournment

The chairman may, with the consent of the meeting, and must if so directed by the meeting, adjourn the meeting to such time and place as the chairman thinks fit.

14.12 Unit Holders Bound

Every Unit Holder, whether or not present or represented at a meeting, is bound by a resolution duly passed by Unit Holders at a meeting duly convened and held in accordance with the provisions of this Deed and, where applicable, the provisions of the Corporations Act. The Responsible Entity must, to the extent that it is able, give effect to every resolution so passed unless the resolution is inconsistent with any law, and the Responsible Entity is not liable for anything done or omitted to be done by it pursuant to or with the authority of the resolution.

14.13 Restrictions on voting rights

A Unit Holder is not entitled to vote on a resolution at a meeting of Unit Holders where that vote is prohibited by law or an order of a court of competent jurisdiction.

14.14 Restricted Securities

A Unit Holder who holds Restricted Securities is not entitled to any voting rights in respect of those Restricted Securities during a breach of the Listing Rules or a breach of a Restriction Agreement relating to those Restricted Securities, except as permitted by the Restriction Agreement, the Listing rules or ASX.

15 Complaints by unit holders

15.1 Complaints handling procedure

The Responsible Entity shall:

- (a) within 14 days of receipt of a written complaint, acknowledge receipt of the complaint and, at the same time, advise the Unit Holder of the expected time frame within which the Responsible Entity intends to resolve the complaint;
- (b) consider all aspects of the complaint within the expected time frame advised to the Unit Holder and, during that time, keep the Unit Holder informed as to the progress of the complaint;
- (c) provide the Unit Holder with a written response to the complaint; and
- (d) in resolving the complaint, consider which, if any, remedies should be made available to the Unit Holder in accordance with the Responsible Entity's policy regarding remedies and shall outline those remedies to the Unit Holder, including any further avenues available for the Unit Holder if they are dissatisfied with the Responsible Entity's resolution of the matter.

15.2 Responding to Complaints

In responding to complaints from Unit Holders under clause 15.1:

- (a) the expected time frame within which the Responsible Entity intends to resolve a complaint shall not exceed one month;
- (b) the Responsible Entity shall provide reasons for its response to the Unit Holder's complaint;
- (c) the Responsible Entity may request any further information and assistance from the Unit Holder that it reasonably requires in order to assess properly the Unit Holder's complaint; and
- (d) the Responsible Entity shall immediately cease considering a Unit Holder's complaint if the Unit Holder withdraws the complaint in writing.

15.3 Complaints handling officer

The Responsible Entity shall appoint a complaints handling officer to be responsible for conducting the complaints handling procedure. The complaints handling officer shall keep detailed records of all complaints made by Unit Holders and the Responsible Entity's response to all complaints.

15.4 Costs of complaints handling

All costs associated with the Trust's complaints handling procedure and the remuneration of the complaints handling officer shall be paid out of Trust Property.

15.5 Dispute resolution

If a Unit Holder's complaint cannot be resolved under clause 15.1, for whatever reason, the Unit Holder may request that the dispute be resolved by a legal practitioner, who will act as an expert and not an arbitrator, appointed by the President for the time being of the Law Society of Western Australia (Inc.). The decision of the legal practitioner shall be final and binding on the Unit Holder and the Responsible Entity, and the costs of the legal practitioner shall be shared equally between the Unit Holder and the Responsible Entity.

15.6 External complaints resolution scheme

A Unit Holder may lodge a complaint in relation to the Responsible Entity with the external complaints resolution scheme of which the Responsible Entity is a member.

16 Responsible entity may require information

- (a) Subject to the requirements of any law pertaining to privacy, any Unit Holder who is asked by the Responsible Entity to supply information in respect of its Unit must do so within 14 days of service of a notice from the Responsible Entity. (For example, the information may be requested in relation to determining whether or not there exists a tax liability in relation to the relevant Unit Holder.)
- (b) If any particular information given to the Responsible Entity under paragraph (a) ceases to be correct for any reason then it is the duty of the Unit Holder which has that information to give notice to the Responsible Entity of the fact that the particular information is no longer correct and to give the updated and corrected information.
- (c) If any Unit Holder fails to provide information required by paragraph (a) or (b) then the Responsible Entity will be entitled to make such assumptions as it thinks fit as to the information sought and the relevant Unit Holder will have no claim against the Responsible Entity or the Trust Property for any loss suffered as a result of the assumption being incorrect.
- (d) Any person who supplies incorrect information under paragraph (a) or (b) must indemnify the Responsible Entity against all loss and damage suffered by the Responsible Entity as a consequence of its reliance upon such incorrect information.

17 Withdrawal from trust

17.1 Application of this clause

Unless the Responsible Entity determines otherwise, while Units are Officially Quoted, none of the provisions of clauses 17.2 to 17.8 (inclusive) apply.

17.2 Unit Holder's right to withdraw

- (a) If the Trust is not Liquid, then a Unit Holder may withdraw from the Trust in accordance with subclauses 17.3 to 17.7 inclusive and Part 5C.6 of the Corporations Act.
- (b) If the Trust is Liquid, then a Unit Holder may withdraw from the Trust in accordance with subclause 17.8 and Part 5C.6 of the Corporations Act (if applicable).
- (c) The withdrawal procedures set out in this clause are subject to the provisions of the Corporations Act, including Part 5C.6, and if there is any inconsistency between the two then the Corporations Act will prevail to the extent of the inconsistency.

17.3 Withdrawal offers—non-Liquid

- (a) If the Trust is not Liquid, the Responsible Entity may in its absolute discretion make a withdrawal offer to Unit Holders giving them the opportunity to make a withdrawal request to the extent assets are available and able to be converted into money in time to satisfy withdrawal requests by Unit Holders. The withdrawal offer must—
 - (1) be made in accordance with this clause 17 and comply with Part 5C.6 of the Corporations Act
 - (2) specify the date on which withdrawals under the offer will be deemed to occur
 - (3) specify the Trust Property to be used to satisfy withdrawal requests
 - (4) only be made to Unit Holders whose names are recorded on the Register on a date to be specified by the Responsible Entity. The date specified by the Responsible Entity must be no earlier than three days prior to and no later than the date on which the withdrawal offer is sent to Unit Holders, and
 - (5) be made by posting a written and dated withdrawal offer to the address of the Unit Holder shown on the Register. The withdrawal offer must contain all information required by Part 5C.6 of the Corporations Act, including the period of time in which the withdrawal offer will remain open for acceptance.
- (b) The Responsible Entity may cancel a withdrawal offer before it closes if it contains a material error or if it is in the best interests of Unit Holders to do so. A written and dated cancellation notice cancelling the withdrawal offer must be sent to Unit Holders. The cancellation notice must be sent to Unit Holders by the same method as the withdrawal offer and will be effective on the date it is sent.

17.4 Withdrawal requests—non-Liquid

A Unit Holder may in response to a withdrawal offer under clause 17.3 make a withdrawal request to the Responsible Entity requesting withdrawal of all or some of the Unit Holder's Units. A withdrawal request must—

- (a) be made only in response to a withdrawal offer, and a Unit Holder must not request to withdraw from the Trust under any other circumstances
- (b) comply with all terms of the withdrawal offer and be in the form or manner specified in the withdrawal offer

- (c) be subject to all of the conditions attaching to a withdrawal offer, and
- (d) be received at the place and in the manner specified by the Responsible Entity no later than the date on which the withdrawal offer closes.

17.5 Acceptance of withdrawal requests—non-Liquid

- (a) If a Unit Holder makes a valid withdrawal request under clause 17.4, then subject to clause 17.5(2), the Responsible Entity must within 21 days after the withdrawal offer closes—
 - (1) pay the withdrawal payment described in clause 17.6 to the Unit Holder
 - (2) cancel the Units withdrawn, and
 - (3) update the Register accordingly.
- (b) If an insufficient amount of money is available from the assets specified in the withdrawal offer to satisfy all withdrawal requests, then the withdrawal requests are to be satisfied proportionally in accordance with the formula set out in clause 601KD of the Corporations Act. The formula result must be rounded to the nearest whole number of Units for each Unit Holder.

17.6 Withdrawal payment—non-Liquid

- (a) If the Responsible Entity accepts a withdrawal request by a Unit Holder under clause 17.5, then it must, within 21 days after the withdrawal offer closes, pay to the Unit Holder for each Unit withdrawn the Current Unit Value of the Unit determined not more than three months prior to the date the withdrawal is deemed to occur, less withdrawal costs. Withdrawal costs are the total amount, which may be nil but in any event will not exceed 5% of the Current Unit Value of the Unit, determined or estimated by the Responsible Entity as the costs incurred, or which would be incurred, in funding the withdrawal requests (including by the sale or disposal of Trust Property), divided by the Units on issue. The withdrawal costs represent the costs, charges, fees, expenses, commissions, losses, damages, and taxes and all amounts payable in respect to them or like payments associated with a withdrawal under this clause 17.
- (b) The Responsible Entity may deduct from an amount payable to the Unit Holder under clause 17.6(a)—
 - (1) if the Unit is a partly paid Unit, the amount of any Subscription Sum unpaid in respect of the Unit
 - (2) any tax payable by the Responsible Entity in respect of the withdrawal of the Unit, and
 - (3) any other amount due by the Unit Holder to the Responsible Entity.

17.7 Payments from Trust Property—non-Liquid

- (a) All amounts paid by the Responsible Entity to meet withdrawal requests under this clause 17 must be made out of the Trust Property, and the Responsible Entity will not be obliged to make any payment out of its own funds under any circumstances.
- (b) The Responsible Entity may determine whether or not any portion of a withdrawal payment under clause 17.6 represents income or capital gain of the Trust. If an amount paid to a Unit Holder represents income or capital gain of the Trust then the Responsible Entity must notify the Unit Holder of the extent to which the amount paid is composed of, and the types of, income and capital gain.

17.8 Withdrawals—Liquid

- (a) If the Trust is Liquid, the Responsible Entity may in its absolute discretion make a withdrawal offer to Unit Holders giving them the opportunity to make a withdrawal request to withdraw all or part of their Units from the Trust, and may determine the form, manner and conditions on which a withdrawal request may be made under this clause 17.8.
- (b) A Unit Holder may in response to a withdrawal offer under clause 17.8(a) make a withdrawal request to the Responsible Entity requesting withdrawal of all or some of the Unit Holder's Units. A withdrawal request must:
 - (1) comply with all terms of the withdrawal offer and be in the form or manner specified in the withdrawal offer
 - (2) be subject to all of the conditions attaching to a withdrawal offer, and
 - (3) be received at the place and in the manner specified by the Responsible Entity. If the offer closes on a certain date, then the withdrawal request must be received no later than the closing date.
- (c) The Responsible Entity may in its absolute discretion accept or reject withdrawal requests under this clause 17.8. If the Responsible Entity accepts a withdrawal request, then it must process the withdrawal request in accordance with the terms and conditions on which the withdrawal offer was made.

17.9 Buy back of Units and cancellation

Subject to the Listing Rules, the Corporations Act and any applicable ASIC policy and relief, the Responsible Entity may effect a buy back of Units by purchasing Units (whether on market or not) on any terms and at any time it determines. Any Units bought back may be cancelled by the Responsible Entity.

17.10 Small Holdings

- (a) Subject to the provisions of this clause the Responsible Entity may in its discretion from time to time sell or redeem any Units held by a Unit Holder which comprise less than a Marketable Parcel as notified by the Responsible Entity to Unit Holders from time to time without request by the Unit Holder.

- (b) The Responsible Entity may only sell or redeem Units pursuant to this clause on one occasion in any 12 month period. The Responsible Entity must notify the Unit Holder in writing of its intention to sell or redeem Units under this clause.
- (c) The Responsible Entity will not sell or redeem the relevant Units:
 - (1) before the expiry of 6 weeks from the date of the notice given under this clause; or
 - (2) if, within the 6 weeks allowed under paragraph (1), the Unit Holder advises the Responsible Entity that the Unit Holder wishes to retain the Units.
- (d) The Responsible Entity or the purchaser of the Units must pay the costs of the sale as the Responsible Entity decides. The proceeds of the sale or redemption will not be sent until the Responsible Entity has received the certificate (if any) relating to the Units, or is satisfied that it has been lost or destroyed.
- (e) The Responsible Entity's power to sell or redeem the Units under this clause lapses following the announcement of a full takeover but the procedure may be started again after the close of the offers made under the takeover.
- (f) The Responsible Entity is appointed as the attorney of and is authorised to execute on behalf of any Unit Holder a transfer of their Units under this clause and do any other things the Responsible Entity considers necessary or desirable to effect such transfer.

18 Transfer of interests

18.1 Right to Transfer

- (a) Subject to paragraph (b), and the rules applicable while the Trust is admitted to an uncertificated trading system and to their terms of issue, a Unit Holder is entitled to transfer the Unit Holder's Unit only in accordance with this clause 18.
- (b) Except as permitted by the Listing Rules, a Unit Holder must not dispose of Restricted Securities during the applicable escrow period.

18.2 Form of Transfer

- (a) Any instrument of transfer must:
 - (1) be in a form acceptable to the Responsible Entity and signed by the transferor, transferee and the Responsible Entity; and
 - (2) state that the transferee agrees to be bound by this Deed.
- (b) If Units are to be transferred in a manner permitted by an uncertificated trading system to which the Trust is admitted, then the Responsible Entity may require before registration of any such transfer that it be provided with any documents which the rules of that system require or permit the Responsible Entity to require be provided to it to authorise registration.

18.3 Responsible Entity may decline to register if criteria not met

Subject to the Listing Rules, and the rules of any applicable uncertificated trading system, the Responsible Entity may decline to register any instrument of transfer unless:

- (a) it complies with the requirements in clause 18.2;
- (b) if the transferor's Unit is encumbered, the encumbrance is released or otherwise dealt with to the satisfaction of the person in whose favour the encumbrance is granted;
- (c) it is duly stamped (if applicable);
- (d) it is accompanied by evidence the Responsible Entity may reasonably require to show the right of the transferor to transfer the Unit;
- (e) all fees which are due and payable in respect of the Unit Holder's Unit have been paid to the persons who are owed the fees (creditors) except if the creditors agree to waive this requirement; and
- (f) the Responsible Entity approves of the transferee having regard to the capacity of the transferee to meet the obligations of Unit Holders in the Trust (although such approval must not be unreasonably withheld).

18.4 Entry of transfer in Register

- (a) Subject to clause 5.6, upon being satisfied that the provisions of this clause 18 have been complied with, the Responsible Entity will make the appropriate entry of the transfer in the Register.
- (b) Subject to the Listing Rules, the transferring Unit Holder remains the owner of the Unit Holder's Unit until the name of the transferee is entered in the Register as holder of that Unit.
- (c) Upon entry in the Register, the transferee of the Unit acquires the same rights and interest as previously held by the transferor, irrespective of the price paid by the transferee.

18.5 Instrument of transfer to be retained by Responsible Entity

The Responsible Entity will retain every instrument of transfer until the Trust is wound up.

18.6 Transferee to be bound

Every transferee of a Unit Holder's Unit is deemed to be bound by this Deed from the date of the entry of the transfer in the Register.

18.7 Notice of refusal

If the Responsible Entity declines to register any transfer then it must send the transferee a notice of the refusal within 2 months after the instrument of transfer is lodged.

19 Transmission of interests

19.1 Unit of deceased Unit Holder and deceased joint holder

- (a) If a Unit Holder (not being one of several joint holders) dies or becomes insane, the Responsible Entity will recognise only the Personal Representative of that Unit Holder as having any title to or interest in the Unit registered in the name of that Unit Holder or any benefits accruing in respect of that Unit.
- (b) If a Unit Holder who is one of the joint registered holders of any Unit dies, the Responsible Entity will recognise only the surviving joint registered holder or holders of that Unit as having any title to or interest in, or any benefits accruing in respect of, that Unit.
- (c) Nothing in this Deed will be taken to release the estate of a deceased Unit Holder from any liability accrued by that Unit Holder with respect to the Trust.
- (d) Where two or more persons are jointly entitled to any Unit in consequence of the death of the registered holder of that Unit, for the purpose of this Deed they will be deemed to be joint holders of the Unit.

19.2 Unit on transmission event

- (a) Subject to the Bankruptcy Act 1966 and the Corporations Act, a person ("**Transmittee**") who gives the Responsible Entity the information it reasonably requires to establish the person's entitlement to be registered as a Unit Holder may:
 - (1) elect to be registered as a Unit Holder in respect of that Unit by giving a signed notice in writing to the Responsible Entity; or
 - (2) transfer that Unit to another person;
- (b) A transfer under sub-clause 19.2(a)(2) is subject to the provisions of clause 18 of this Deed;
- (c) If the Responsible Entity has acted in good faith in registering a Transmittee or the transferee of a Transmittee as a Unit Holder under this clause 19.2, that person must indemnify the Responsible Entity to the extent of any loss or damage suffered by the Responsible Entity as a result of such registration.

19.3 Rights and duties of Transmittee

- (a) Subject to paragraph (b), a Transmittee who:

- (1) has given to the Responsible Entity the information referred to in clause 19.2; and
- (2) has not yet been registered as a Unit Holder or transferred the relevant Unit to another person,

is entitled to the same rights and duties to which the Transmitlee would be entitled if registered as the Unit Holder in respect of that Unit.

- (b) Subject to the Corporations Act, a Transmitlee will not be entitled in respect of a Unit to exercise any right conferred on Unit Holders in relation to meetings of Unit Holders until the Transmitlee is registered as a Unit Holder in respect of that Unit.

20 Audit and accounting auditors

20.1 Auditors

- (a) The Responsible Entity must ensure that, at all times, there is a registered auditor appointed to audit the Trust and a registered auditor appointed to audit compliance with the Compliance Plan.
- (b) The appointment, retirement and removal of the Trust Auditor and the Compliance Plan Auditor shall be conducted in accordance with the Corporations Act.
- (c) The Responsible Entity will engage and instruct the Trust Auditor to produce an audit report and perform the other duties imposed on an auditor of a managed investment scheme by the Corporations Act in relation to the Trust. The Responsible Entity shall allow the Trust Auditor access to all documents and records that the Trust Auditor reasonably requires in order to prepare his report and discharge his duties under the Corporations Act.
- (d) The Responsible Entity will engage and instruct the Compliance Plan Auditor to produce an audit report and perform the other duties imposed on an auditor of a compliance plan by the Corporations Act in relation to the Trust. The Responsible Entity shall allow the Compliance Plan Auditor access to all documents and records that the Compliance Plan Auditor reasonably requires in order to prepare his report and discharge his duties under the Corporations Act.
- (e) The Trust Auditor and the Compliance Plan Auditor shall be remunerated by the Responsible Entity out of Trust Property. The remuneration amounts shall be determined by the Responsible Entity.

20.2 Accounts

- (a) The Responsible Entity shall keep and maintain financial records and conduct the financial reporting in respect of the Trust in accordance with the Corporations Act and applicable Australian Accounting Standards.
- (b) The accounting records of the Trust shall be kept at the registered office of the Responsible Entity.

21 Changing the responsible entity

21.1 Retirement of Responsible Entity

The Responsible Entity may retire only in accordance with section 601FL of the Corporations Act.

21.2 Removal of Responsible Entity

The Responsible Entity may be removed in accordance with section 601FM of the Corporations Act.

21.3 Consequence of change of Responsible Entity

- (a) On retirement or removal, the Responsible Entity will hand over the books in its possession or control and provide reasonable assistance to the new responsible entity in accordance with section 601FR of the Corporations Act.
- (b) Subject to section 601FS(2) of the Corporations Act and paragraph (c) of this clause, on retirement or removal of the Responsible Entity the rights, obligations and liabilities of the former Responsible Entity in relation to the Trust become the rights, obligations and liabilities of the new responsible entity.
- (c) Retirement or removal of the Responsible Entity will not prejudice any rights or remedies already accrued to the Responsible Entity or to any Unit Holder under or in respect of this Deed.

21.4 Name of Trust to be changed

- (a) If 360 Capital RE Limited has retired or is removed as the Responsible Entity, the new Responsible Entity must promptly take whatever action may be necessary to remove any words or any other letters, words or expressions which might express or imply an association with 360 Capital RE Limited or any of its Associates from the title of the Trust and this Deed and such letters, words or expressions must not be used in any connection with the Trust and this Deed.
- (b) Clause 21.4(a) does not apply if the new Responsible Entity obtains the consent of 360 Capital RE Limited not to take the action set out in that clause.

22 Changing the constitution

- (a) This Deed may be modified or repealed and replaced only in accordance with section 601GC of the Corporations Act.
- (b) Notwithstanding any other provision of this Deed (including any provision of this Deed which purports to apply notwithstanding other provisions of this Deed), to the extent to which any provision of this Deed is inconsistent to any requirement of the Corporations Act, that provision shall be read down and shall not apply to the extent of the inconsistency, subject to any relief granted by the ASIC under the Corporations Act.

- (c) If the Corporations Act, as it applies to the operation of the Trust as a managed investment scheme, is changed or a provision of this Deed is otherwise contrary to the law, the Responsible Entity shall have the right to amend this Deed so that it complies with the relevant law.
- (d) Without limiting the Responsible Entity's powers under this clause 22, and subject to the Corporations Act, the Responsible Entity may make any change to this Deed, and take any other action, which the Responsible Entity reasonably believes is necessary, desirable or expedient to:
 - (1) facilitate compliance with any preconditions for the operation of the AMIT Regime in relation to the Trust;
 - (2) facilitate compliance with the terms of the AMIT Regime in relation to the Trust, including any provisions of the AMIT Regime that, if not complied with, would result in any additional liability or penalty for the Responsible Entity or Unit Holders;
 - (3) facilitate the proper administration and operation of the Trust under the AMIT Regime and ensure that there is an appropriate and equitable application of the powers and rights of the Responsible Entity and Unit Holders that arise under the AMIT Regime; or
 - (4) comply with the conditions of any ASIC Instrument issued in relation to the AMIT Regime, or to facilitate operation of the Trust in reliance on such ASIC Instrument.

23 Winding up of trust

23.1 Winding up

Upon the expiration of the Term, which shall be determined pursuant to clause 2.1, the Responsible Entity shall cause the Trust to be wound up.

23.2 Notification of winding up

The Responsible Entity shall notify each Unit Holder of the winding up of the Trust prior to the Trust being wound up.

23.3 Division of Trust Property

Subject to clauses 23.4 and 23.5 and the terms of issue of any Unit or class of Units, after notifying each Unit Holder of the winding up of the Trust, the Responsible Entity shall as soon as reasonably practicable sell, call in and convert the Trust Property into money or cause it to be sold, called in and converted into money and shall divide the proceeds of such sale, calling in and conversion, less all Trust Costs (including the cost of the final distribution of capital and income and all proper provisions for liabilities), among the Unit Holders in accordance with their Units at the date of the distribution, and in so doing, the Responsible Entity may rely exclusively on the evidence of the Register.

23.4 Delay in sale

The Responsible Entity shall be entitled to postpone the sale, calling in and conversion of any part of the Trust Property for such time as it thinks is desirable to do so, in the interests of the Unit Holders, and shall not be responsible for any loss attributable to such postponement except to the extent that such loss may be attributable to the Responsible Entity's own breach of trust, recklessness or fraud.

23.5 Retention of Trust Property

The Responsible Entity shall be entitled, to the extent permitted by the Corporations Act and applicable ASIC Instruments, to retain in its hands or under its control for as long as it thinks fit such part of the Trust Property as, in its opinion, may be required to meet any Trust Costs, provided that Trust Property so retained, to the extent that it is ultimately found not to be so required, shall remain part of the Trust Property for conversion and distribution in accordance with clause 23.3.

23.6 Audit following winding up

After the Trust has been wound up, the Responsible Entity shall cause an independent audit of the Trust's final accounts to be conducted by the Trust Auditor. The auditor's report must be distributed to all persons who were Unit Holders immediately prior to the winding up of the Trust.

24 General provisions

24.1 Governing law

This Deed shall be governed by and construed in accordance with the laws of the State of Western Australia. The parties agree to submit to the jurisdiction of the courts of Western Australia.

24.2 Notices

- (a) Any notice, demand, consent or other communication (including a cheque) shall be in writing and shall be deemed to be properly served or given:
 - (1) if sent by facsimile transmission to the intended recipient at its then current facsimile address; or
 - (2) if delivered at or posted by prepaid registered post to the address of the intended recipient as shown in this Deed or in the Register.
- (b) The Responsible Entity may by notice in writing to the Unit Holders change the address to which any notice, demand, consent or other communication to the Responsible Entity is to be served or given.
- (c) Any notice, demand, consent or other communication shall be deemed to have been properly served or given to the addressee:

- (1) if sent by facsimile transmission, upon receipt by the sender of confirmation of successful transmission to the addressee's facsimile number;
- (2) if posted, two days after the date of posting; and
- (3) if left or delivered, from the time it is left or delivered.

24.3 Waivers

Any time or indulgence granted by any party shall not in any way affect the rights of that party under this Deed and a party shall not be deemed to have waived any of the provisions under this Deed unless such waiver is in writing and duly executed by the relevant party or parties. No waiver of any right, obligation or breach of this Deed shall be held or construed to be a waiver of any other subsequent or antecedent right, obligation or breach of this Deed.

24.4 Severance

Each of the terms and conditions contained in this Deed shall be deemed to be separate and severable from the others of them and if any one or more of them is determined to be invalid or unenforceable by any Court of competent jurisdiction or inconsistent with any statute or regulation, such determination and any consequential severance shall not invalidate the rest of this Deed which shall remain in full force and effect as if such severed terms and conditions had not been made a part thereof.

24.5 No partnership

The relationship between the Responsible Entity and a Unit Holder or between a Unit Holder and another Unit Holder shall not constitute or be deemed to constitute a partnership.

24.6 Stamp duties and legal costs

All stamp duties assessed on or in relation to this Deed and all legal costs associated with this Deed shall form part of the Trust Costs.

24.7 Goods and services tax

- (a) Notwithstanding any other provision in this Deed to the extent that any party to this Deed ("**Supplier**") is liable to pay GST in connection with the supply of any goods and/or services supplied under this Deed ("**Affected Goods and/or Services**"), the Supplier may add an amount equal to the amount of the GST to the agreed price of all Affected Goods and/or Services. The Supplier shall issue a tax invoice to the other party indicating the amount of the GST and otherwise complying with the requirements of any relevant legislation or regulation. Any party paying consideration for the Affected Goods and/or Services under this Deed will pay the agreed price plus an amount equal to the amount of the GST within 14 days after receiving the relevant tax invoice.
- (b) Without limiting the generality of paragraph (a), it is acknowledged that the Responsible Entity's fees described in Schedule 1 are exclusive of GST. The Responsible Entity is

entitled to be reimbursed for all GST payable by it in relation to the supply of its services under this Deed in addition to the fees described in Schedule 1.

25 Valuation of Trust Property

25.1 Periodic valuations

The Responsible Entity may cause Trust Property to be valued at any time, however the Responsible Entity must do so as and when required by the Corporations Act.

25.2 Net Asset Value

The Responsible Entity may determine Net Asset Value at any time, including more than once on each day.

25.3 Valuation methodology

The Responsible Entity may determine valuation methods and policies for each category of Trust Property and change them from time to time. While the Trust is:

- (a) not Listed, unless the Responsible Entity determines otherwise, the value of a piece of Trust Property for the purpose of calculating Net Asset Value will be its historical cost. If the Responsible Entity values a piece of Trust Property at other than its historical cost, then the valuation methods and policies applied by the Responsible Entity must be capable of resulting in a calculation of the Subscription Sum that is independently verifiable; and
- (b) Listed, the value of a piece of Trust Property for the purpose of calculating Net Asset Value will be its market value unless the Responsible Entity determines:
 - (1) there is no market in respect of the piece of Trust Property; or
 - (2) the market value does not represent the fair value of the Trust Property.

Where the Responsible Entity makes such a determination, the Responsible Entity must at the same time determine the method of valuation of the relevant piece of Trust Property.

Schedule 1 Responsible Entity's Fees

1. Entitlement to Fees

- (a) During all periods when the Trust is not Listed, the Responsible Entity will be entitled to the unlisted trust management fee calculated and payable in accordance with the terms of section 2 of this Schedule.
- (b) During all periods when the Trust is Listed, the Responsible Entity will be entitled to the listed trust management fee calculated and payable in accordance with the terms of section 3 of this Schedule.
- (c) In addition to the Fees, there will be Trust Costs incurred by the Responsible Entity for which the Responsible Entity is entitled to be reimbursed.
- (d) The Responsible Entity may deduct the Fees and the Trust Costs incurred from the Trust Property.

2. Unlisted Trust Management fee

- (a) While the Trust is unlisted, the annual unlisted trust management fee shall be an amount determined by the Responsible Entity but which is not more than 6% per annum of the Gross Proceeds received from the Properties during the relevant year. It shall be payable by consecutive monthly installments or at such other intervals and at times as may be determined by the Responsible Entity from time to time (but at intervals not more often than monthly), in accordance with item 3(b).
- (b) The Responsible Entity will invoice the Trust for the trust management fee, monthly in advance, commencing on the first Purchase Date. Payment of the trust management fee will be made by deduction from the Proceeds Fund by the Responsible Entity.
- (c) The Responsible Entity's entitlement to the trust management fee arises on the first day of each month during the Term.

3. Listed Trust Management fee

While the Trust is Listed:

- (a) the Responsible Entity is entitled to receive out of the Trust a listed trustee management fee calculated at the rate of 0.65% per annum of Gross Asset Value; and
- (b) the management fee is calculated and accrues on a daily basis and is payable in arrears on a monthly basis.

1. Application of this Schedule 2

Subject to clause 7A.2, if the Responsible Entity has made an AMIT Choice under clause 7A.1(a) in respect of the Trust, the provisions of this Schedule 2 apply to the Trust in accordance with clause 7A whilst it remains an AMIT.

2. Definitions and Interpretation

2.1 Definitions

In this Schedule 2, a capitalised term that is defined in this Deed and which is not otherwise defined in this Schedule 2 has the meaning given to that term in this Deed. In all other cases, unless the context requires otherwise, in this Schedule 2:

- (a) **AMIT Cost Base Increase Amount** has the same meaning as in the Tax Act.
- (b) **AMIT Income Year** means a Financial Year in respect of which the Trust is an AMIT.
- (c) **AMMA Statement** has the same meaning as in the Tax Act, and includes any other document or communication that supplements or replaces an 'AMMA Statement' from time to time.
- (d) **Attribute, Attribution and Attributable** have the same meaning as when they are used in, or otherwise defined for the purposes of, the Tax Act.
- (e) **Capital Gains** means so much of the Distributable Income of the Trust as the Responsible Entity determines represents:
 - (i) the amount which the Responsible Entity determines to be the net capital gain of the Trust under section 102-5 of the Tax Act, disregarding steps 3 and 4 in that section, including any amounts which are of the same character, to which the Responsible Entity is entitled by virtue of holding units in a trust; less
 - (ii) any deductions which the Responsible Entity determines would arise in the determination of the Distributable Income of the Trust and should be applied by the Responsible Entity to reduce the amount arising under paragraph (i).
- (f) **Clearly Defined Rights** means in respect of the rights to income and capital arising from each of the Units that they are "clearly defined" at all times during the relevant Financial Year for the purposes of the Tax Act.
- (g) **Constituent Documents** has the same meaning as 'constituent documents' as defined in the Tax Act.
- (h) **Determined Member Component** has the same meaning as in the Tax Act.
- (i) **Determined Trust Component** has the same meaning as in the Tax Act.

- (j) **Discovery Year** has the same meaning as in the Tax Act.
- (k) **Distribution Calculation Date** means the last day of each Financial Year and any other days as the Responsible Entity may designate from time to time.
- (l) **Distribution Period** means
 - (i) for the first distribution period, the period from the commencement of the Trust to the next Distribution Calculation Date;
 - (ii) for the last distribution period, the period from the day after the preceding Distribution Calculation Date to the date of distribution on winding up of the Trust; and
 - (iii) in all other circumstances, the period from the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date.
- (m) **Fair and Reasonable Basis** means any basis that the Responsible Entity determines in its discretion is fair and reasonable and is 'fair and reasonable' for the purposes of the Tax Act.
- (n) **Former Unit Holder** means a person who was a Unit Holder for part of an AMIT Income Year, and who has withdrawn some or all of their Units during the AMIT Income Year.
- (o) **Income Entitlement** means an entitlement to the Distributable Income of a Unit Holder or Former Unit Holder in respect of a Unit calculated in accordance with clause 6 of this Schedule 2.
- (p) **Maximum Withdrawal Gains Amount** has the meaning given to it in clause 6.6(b) of this Schedule 2.
- (q) **Member Component** has the same meaning as in the Tax Act.
- (r) **Member Objection Choice** means a choice made by a Unit Holder or Former Unit Holder under the AMIT Regime for the Unit Holder's, or Former Unit Holder's, Determined Member Component to be the Unit Holder's, or Former Unit Holder's, Member Component, including, without limitation, a choice made by a Unit Holder or Former Unit Holder under section 276-205(2) of the Tax Act.
- (s) **Other Income** means:
 - (i) income that is appropriately characterised as 'exempt income' or 'non-assessable non-exempt income' for the purposes of the Tax Act; and
 - (ii) income of any other character that may be Attributable to Unit Holders or Former Unit Holders under the AMIT Regime from time to time.
- (t) **Over** has the same meaning as in the Tax Act.
- (u) **Relevant Person** means a person who at any time is, was or becomes a Unit Holder and the Unit Holder's heirs, personal representatives or successors.

- (v) **Residual Gains Entitlement** means in respect of a Unit Holder and a Distribution Period, the entitlement of the Unit Holder to the Capital Gains of the Trust for the Distribution Period, as determined in accordance with clause 6.4 of this Schedule 2.
- (w) **Residual Income** means so much of the Distributable Income of the Trust as the Responsible Entity determines does not represent Capital Gains.
- (x) **Residual Income Entitlement** means, in respect of a Unit Holder and a Distribution Period, the entitlement of the Unit Holder to the Residual Income of the Trust for the Distribution Period, as determined in accordance with clause 6.4 of this Schedule 2.
- (y) **Significant Withdrawal** means a withdrawal of Units that qualifies as a Significant Withdrawal under clause 6.5 of this Schedule 2.
- (z) **TAA 1953** means the *Taxation Administration Act 1953* (Cth).
- (aa) **Tax** means all taxes, levies, imposts, charges and duties (including stamp and transaction duties) paid, payable or assessed as being payable by any authority together with any fines, penalties and interest in connection with them.
- (bb) **Taxation Amount** means, in relation to a Relevant Person:
 - (i) an amount of Tax or duty referable to that Relevant Person including an amount of Tax or duty imposed on account of, or in respect of, that Relevant Person, a sum paid or payable to that Relevant Person or a Unit registered in the name of or transferred to or by that Relevant Person;
 - (ii) an amount of Tax or duty which that Relevant Person is primarily liable to pay; and
 - (iii) an amount charged by a person intended bona fide to reimburse that person for an amount of Tax or duty referred to in paragraph (i) or (ii) which is paid or payable by that person.
- (cc) **Trust Component** has the same meaning as in the Tax Act.
- (dd) **Under** has the same meaning as in the Tax Act.
- (ee) **Withdrawal Amount** means the withdrawal payment determined in accordance with this deed.
- (ff) **Withdrawal Gains Entitlement** means in respect of a Unit Holder who redeems Units under a Significant Withdrawal, the entitlement of the Unit Holder to the Capital Gains of the Trust in respect of the withdrawal of those Units, as determined in accordance with clause 6.6(c) of this Schedule 2.

2.2 Interpretation

For the avoidance of doubt, clause 1.2 applies to this Schedule 2.

3. Responsible Entity's powers in relation to the AMIT Regime

3.1 General powers

The Responsible Entity has, in addition to and without limiting its other rights and powers provided for under this Deed, including under this Schedule 2, all of the powers and rights which are necessary, desirable or expedient to enable:

- (a) the Trust to be eligible to apply the AMIT Regime;
- (b) the Trust to comply with the requirements of the AMIT Regime;
- (c) the Trust to be properly administered and operated under the AMIT Regime;
- (d) the Trust to maintain equity among Unit Holders or Former Unit Holders as a result of the operation of the AMIT Regime; and
- (e) the Responsible Entity to fulfil its obligations, and any obligations of the Trust, under the AMIT Regime.

3.2 Specific powers

In addition to and without limiting the Responsible Entity's other rights and powers provided for under this Deed, including under this Schedule 2, the Responsible Entity may, under the AMIT Regime, in respect of an AMIT Income Year:

- (a) determine the taxable income and any Other Income of the Trust for each AMIT Income Year, including, without limitation, a determination of the taxable income or any Other Income of a particular category, source or character for tax purposes. This includes, without limitation, determining all of the Trust's Determined Trust Components and Trust Components under the AMIT Regime for any AMIT Income Year;
- (b) make an Attribution of the taxable income or any Other Income of the Trust to Unit Holders or Former Unit Holders under the AMIT Regime, including, without limitation, an Attribution of taxable income and any Other Income of a particular category, source or character for tax purposes. This includes, without limitation, determining all of each Unit Holder's or Former Unit Holder's Determined Member Components and Member Components under the AMIT Regime for any AMIT Income Year;
- (c) make an alteration to the Responsible Entity's determination of the taxable income or any Other Income of the Trust for an AMIT Income Year, or the Responsible Entity's Attribution of the taxable income or any Other Income of the Trust to Unit Holders or Former Unit Holder's under the AMIT Regime, including, without limitation, a determination or Attribution of taxable income or Other Income of a particular category, source or character for tax purposes. This includes, without limitation, making alterations to the Trust's Determined Trust Components and Trust Components and a Unit Holder's or Former Unit Holder's Determined Member Components and Member Components under the AMIT Regime for any AMIT Income Year as a result of any Unders or Overs;

- (d) direct that any amount arising from the disposal of any Trust Property be applied to fund any amount payable to a Unit Holder or a Former Unit Holder as a result of that Unit Holder or Former Unit Holder withdrawing one or more Units;
- (e) determine whether to issue an AMMA Statement to any Unit Holder or Former Unit Holder;
- (f) determine what information should be contained in any such AMMA Statement, and any other content of the AMMA Statement;
- (g) issue or reissue an AMMA Statement to any Unit Holder or Former Unit Holder; and
- (h) amend an AMMA Statement that has been issued to a Unit Holder or Former Unit Holder, and determine the basis upon which the AMMA Statement is to be amended.

3.3 Powers in relation to indemnities

In addition to the Responsible Entity's other rights and powers provided for under this Deed, including, without limitation, those in clause 9, the Responsible Entity may:

- (a) require a Relevant Person to indemnify the Responsible Entity for any Taxation Amount (or cost or expense related to it) incurred by the Responsible Entity as a result of the application of the AMIT Regime which the Responsible Entity reasonably determines relates to the Relevant Person, Units held by the Relevant Person, or an Attribution of taxable income or any Other Income made to the Relevant Person. This includes, without limitation, any Taxation Amount incurred by the Responsible Entity as a result of:
 - (i) the Trust having a shortfall for the purposes of sections 276-405 or 276-415 of the Tax Act;
 - (i) the Trust having an excess for the purposes of sections 276-410, 276-420 or 276-425 of the Tax Act; or
 - (ii) the Responsible Entity making a deemed payment under section 12A-205 of the TAA 1953 to an entity covered by section 12-410 of the TAA 1953 or an entity that is not an Australian resident for the purposes of the Tax Act;
- (b) require a Relevant Person to indemnify the Responsible Entity for in respect of any costs, expenses or liabilities incurred by the Responsible Entity as a result of it being liable to such Taxation Amounts and claiming on the indemnity provided by the Relevant Person under clause 3.3(a) of this Schedule 2 or in connection with the AMIT Regime;
- (c) require a Relevant Person to indemnify the Responsible Entity in respect of any costs, expenses or liabilities incurred by the Responsible Entity as a result of the Relevant Person making a Member Objection Choice;
- (d) determine how the Relevant Person will indemnify the Responsible Entity, pursuant to an indemnity provided by the Relevant Person under clause 3.3 of this Schedule 2 or in connection with the AMIT Regime;

- (e) prescribe particular terms and conditions which apply in the event that the Responsible Entity is entitled to be indemnified by a Relevant Person under clause 3.3 of this Schedule 2 or in connection with the AMIT Regime; and
- (f) if it is entitled to be indemnified by a Relevant Person under clause 3.3 of this Schedule 2, or in connection with the AMIT Regime, in respect of an AMIT Income Year, undertake the following actions, or any combination of them, in order to satisfy that indemnity:
 - (i) deduct from any amounts owing to the particular Relevant Person the aggregate of any amounts which the Responsible Entity is entitled to be indemnified under clause 3.3 of this Schedule 2, or in connection with the AMIT Regime; and
 - (ii) compulsorily redeem such number of Units held by the Relevant Person which the Responsible Entity reasonably determines is sufficient to cover the amounts for which the Responsible Entity is entitled to be indemnified under clause 3.3 of this Schedule 2, or in connection with the AMIT Regime.

4. Limitation of liability

To the maximum extent permitted by law (and without limiting the Responsible Entity's liability under the Corporations Act), the Responsible Entity does not incur any liability and it is not obliged to account to anyone (including any Unit Holder or Former Unit Holder), nor is it liable for any cost, liability, loss or damage as a result of:

- (a) the exercise of any power, discretion or choice under clauses 7A or 22(d), this Schedule 2, or under the AMIT Regime in respect an AMIT Income Year, or any determination of fact or law made as part of, or as a consequence of, any exercise of such a power, discretion or choice, including, without limitation, in connection with any error or miscalculation in any provision made for Tax; and
- (b) any matter, act or thing done or omitted to be done by a Unit Holder or Former Unit Holder in relation to an objection to the basis of Attribution of the taxable income or any Other Income of the Trust under the AMIT Regime for an AMIT Income Year, including, without limitation, in connection with a Unit Holder or Former Unit Holder making a Member Objection Choice.

5. Attribution of taxable income and Other Income under the AMIT Regime

5.1 Basis for Attribution

- (a) For any AMIT Income Year, following the end of the AMIT Income Year, the Responsible Entity must Attribute the taxable income and any Other Income of the Trust for the AMIT Income Year to Unit Holders or Former Unit Holders under the AMIT Regime, including, without limitation, the Attribution of taxable income or any Other Income of each particular category or source (or both) for tax purposes to Unit Holders or Former Unit Holders.

- (b) The Responsible Entity must make the Attribution under clause 5.1(a) of this Schedule 2, including, without limitation, the Attribution of taxable income or any Other Income of each particular category or source (or both), in accordance with the following principles:
- (i) the amount of each Unit Holder's, or Former Unit Holder's, Member Components and Determined Member Components of a particular character or source is so much of the Trust's Determined Trust Component of that particular character or source as is Attributable to the Units that are held by the Unit Holder or Former Unit Holder, having regard to the provisions of this Deed;
 - (ii) the Attribution must be worked out on a Fair and Reasonable Basis, in accordance with this Deed and any other documents that are Constituent Documents of the Trust; and
 - (iii) the Responsible Entity must not Attribute any part of a Determined Trust Component of the Trust to a Unit Holder's, or Former Unit Holder's, Units because of the tax characteristics of the Unit Holder or Former Unit Holder.

5.2 Attribution and distribution provisions

Without limiting clause 5.1(b) of this Schedule 2, the Responsible Entity must attribute in respect of an AMIT Income Year to each Unit Holder or Former Unit Holder:

- (a) so much of any Determined Trust Components of the Trust for the Financial Year as the Responsible Entity reasonably determines are reflected in the Unit Holder's, or Former Unit Holder's present entitlement to the income of the Trust for the Financial Year; and
- (b) so much of the Determined Trust Components for the Financial Year as the Responsible Entity reasonably determines are reflected in Withdrawal Gains Entitlements to which the Unit Holder, or Former Unit Holder has become entitled prior to the end of the Financial Year.

5.3 Unit Holder or Former Unit Holder Objections

- (a) For each AMIT Income Year, each Unit Holder acknowledges that:
 - (i) an objection, proposed objection or any dispute relating to the basis of the Attribution of the taxable income or any Other Income of the Trust for the AMIT Income Year under this clause 5 of this Schedule 2 that the Unit Holder participates in may impact on the rights or interests of other Unit Holders or Former Unit Holders; and
 - (ii) the Responsible Entity has an interest in ensuring that the rights and interests of those Unit Holders and Former Unit Holders are legitimately represented in dealings with the Commissioner of Taxation relating to the method of Attribution of taxable income or any Other Income under the AMIT Regime for the AMIT Income Year and in any dispute relating to that Attribution.
- (b) For each AMIT Income Year, if a Unit Holder or Former Unit Holder objects to the basis of the Attribution of the taxable income or any Other Income of the Trust for the purposes of the AMIT Regime, including, without limitation, by making a Member Objection Choice, the Unit Holder or Former Unit Holder agrees to:

- (i) provide the Responsible Entity with written notice of the Unit Holder's or Former Unit Holder's intention to make an objection at least five Business Days prior to notifying the Commissioner of Taxation of its objection;
 - (ii) include, in the notice provided to the Responsible Entity, a summary of the reasons why the Unit Holder or Former Unit Holder considers the Attribution to be inappropriate;
 - (iii) provide the Responsible Entity with any information the Responsible Entity reasonably requests in relation to the Unit Holder's or Former Unit Holder's objection, proposed objection or proceedings in relation to the objection;
 - (iv) consent to the Responsible Entity becoming a party to any proceedings with the Commissioner of Taxation relating to the objection;
 - (v) indemnify the Responsible Entity against all costs and liabilities incurred by the Responsible Entity as a result of the objection or proposed objection; and
 - (vi) do, or omit to do, any other such acts, matters or things as the Responsible Entity reasonably requests in order to appropriately protect the interests or rights of other Unit Holders or Former Unit Holders of the Trust in relation to the objection or any proceedings arising in relation to the objection.
- (c) For any AMIT Income Year, each Unit Holder acknowledges, or is taken to acknowledge, that if a Unit Holder or Former Unit Holder makes an objection to the basis of Attributing the taxable income or any Other Income of the Trust for the AMIT Income Year, including, without limitation, by making a Member Objection Choice:
- (i) it may be necessary or desirable for the Responsible Entity to amend its Attribution of the relevant taxable income or any Other Income to Unit Holders or Former Unit Holders and issue amended AMMA Statements to Unit Holders or Former Unit Holders;
 - (ii) the Responsible Entity may issue or reissue any AMMA Statement to a Unit Holder or Former Unit Holder;
 - (iii) the Determined Member Components of the Unit Holder or Former Unit Holder and any other Unit Holders may, under the AMIT Regime, be equal to the Member Components of the Unit Holder and any other Unit Holders; and
 - (iv) the Determined Trust Components of the Trust may, under the AMIT Regime, be equal to the Trust Components of the Trust.

6. Distribution of Distributable Income

6.1 Application of income and distribution provisions

- (a) The Responsible Entity must receive and collect all income of the Trust.

- (b) The provisions contained in clause 6.5 and clause 6.6 of this Schedule 2 will not apply in respect of a particular Financial Year unless or until the Responsible Entity makes an election that clause 6.5 and clause 6.6 are to apply.

6.2 Determination of Distributable Income

- (a) The Responsible Entity must determine:
 - (i) the Distributable Income;
 - (ii) the Capital Gains; and
 - (iii) the Residual Income,of the Trust for each Distribution Period and Financial Year.
- (b) Unless the Responsible Entity determines otherwise prior to the end of the relevant Distribution Period or Financial Year, the Distributable Income is the aggregate of:
 - (i) the amount which the Responsible Entity determines to be the “net income of the trust estate” for the Trust for the purposes of section 95 of the Tax Act for the relevant period, determined as if the relevant period were a year of income for the purposes of the Tax Act, but disregarding:
 - (A) any amounts the Responsible Entity determines are included in the “net income of the trust estate” for the Trust for the relevant period that represent either or both of franking credits or foreign tax offsets; and
 - (B) any reduction in the net capital gain for the Trust for the relevant period which the Responsible Entity determines arises as a result of the discount capital gains concession; and
 - (ii) any additional amount that the Responsible Entity considers appropriate for distribution for the relevant period.

6.3 Accounting standards

The preparation of the accounts of the Trust in accordance with current Australian accounting standards and generally accepted accounting principles is not to be regarded as a determination of the method for calculating the Distributable Income under clause 6.2 of this Schedule 2.

6.4 Residual Income Entitlements and Residual Gains Entitlements

Subject to clause 6.12 of this Schedule 2, the Residual Income Entitlement and Residual Gains Entitlement of a Unit Holder for a Distribution Period is so much of, respectively, the Residual Income and Capital Gains of the Trust calculated by the Responsible Entity as follows:

- (a) in respect of a Distribution Period ending on a Distribution Calculation Date other than 30 June in any year, an amount calculated as follows:

$$\frac{A \times C}{B}$$

where:

- A** is the number of Units held by the Unit Holder at the end of the Distribution Period;
- B** is the number of Units held by all Unit Holders at the end of the Distribution Period;
- C** is either:
- (i) for a Residual Income Entitlement, the Residual Income of the Trust for the Distribution Period; and
 - (ii) for a Residual Gains Entitlement, the excess, if any, of the Capital Gains of the Trust for the Distribution Period over the Maximum Withdrawal Gains Amount for any Units redeemed during the Distribution Period under a Significant Withdrawal or such lesser amount as the Responsible Entity may determine; and

- (b) in respect of a Distribution Period ending on 30 June in any year, an amount calculated as follows:

$$\frac{A \times C}{B}$$

where:

- A** is the number of Units held by the Unit Holder at the end of the Distribution Period;
- B** is the number of Units held by all Unit Holders at the end of the Distribution Period; and
- C** is:
- (i) for a Residual Income Entitlement, any amount by which the Residual Income of the Trust for the Financial Year exceeds the aggregate of the amount of Residual Income calculated for the purposes of variable C(i) in clause 6.4(a) of this Schedule 2 in respect of the previous Distribution Periods in the Financial Year; and
 - (ii) for a Residual Gains Entitlement, any amount by which the Capital Gains of the Trust for the Financial Year exceeds the aggregate of:

- (A) the Withdrawal Gains Entitlements for all Units redeemed under a Significant Withdrawal during the Financial Year; and
- (B) the amounts of Capital Gains calculated for the purposes of variable C(ii) in clause 6.4(a) of this Schedule 2 in respect of the previous Distribution Periods in the Financial Year.

6.5 Significant Withdrawal

The Responsible Entity may determine that a withdrawal of Units is a Significant Withdrawal.

6.6 Withdrawal Gains Entitlement

- (a) If there is a Significant Withdrawal of Units, then the Responsible Entity may determine that a Withdrawal Gains Entitlement arises for the Unit Holder whose Units are withdrawn under the Significant Withdrawal. If the Responsible Entity makes a determination that a Withdrawal Gains Entitlement arises, the Responsible Entity must determine the Maximum Withdrawal Gains Amount for the Units redeemed under the Significant Withdrawal.
- (b) The Maximum Withdrawal Gains Amount for a Unit redeemed under a Significant Withdrawal is:
 - (i) so much of the Capital Gains which arise for the Trust that the Responsible Entity reasonably determines are connected to a disposal of the Trust Property undertaken by the Responsible Entity to fund a payment, in whole or in part, of the Withdrawal Amount for the Units redeemed; divided by
 - (ii) the number of Units redeemed under the Significant Withdrawal.
- (c) The Withdrawal Gains Entitlement for a Unit redeemed under a Significant Withdrawal is the lesser of:
 - (i) the Maximum Withdrawal Gains Amount for the Unit; and
 - (ii) the amount determined in accordance with the following formula:

$$\frac{M}{AM} \times CG$$

where:

- M** is the Maximum Withdrawal Gains Amount for the Unit;
- AM** is the aggregate of the Maximum Withdrawal Gains Amount for all Units redeemed under a Significant Withdrawal during the Financial Year; and
- CG** is the Capital Gains of the Trust for the Financial Year.

- (d) For the avoidance of doubt, the Withdrawal Gains Entitlement for a Unit that is redeemed under a withdrawal that is not a Significant Withdrawal is nil.

6.7 Present entitlement

- (a) Subject to clause 6.9 of this Schedule 2, a person who at any time during the Financial Year is or has been a Unit Holder is presently entitled to:
- (i) the Capital Gains of the Trust for the Financial Year in the proportion that the sum of the Residual Gains Entitlements and Withdrawal Gains Entitlements of the Unit Holder or Former Unit Holder in respect of the Financial Year bear to the sum of all Residual Gains Entitlements and Withdrawal Gains Entitlements of all persons who are or have been Unit Holders at any time during the Financial Year; and
 - (ii) the Residual Income of the Trust for the Financial Year in the proportion that the Residual Income Entitlements of the Unit Holder or Former Unit Holder in respect of the Financial Year bear to the sum of all Residual Income Entitlements of all persons who are or have been Unit Holders at any time during the Financial Year,
- and these amounts are to be set aside for distribution.
- (b) For the avoidance of doubt, where the Trust is an AMIT for any income year, the Trust and the Unit Holders (as relevant) will be taxed in accordance with the AMIT Regime for that income year.

6.8 Satisfaction of present entitlement and distribution of income

- (a) The present entitlement of a person who at any time during the Financial Year is a Unit Holder to:
- (i) the Distributable Income of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of the Income Entitlements of the person in respect of the Financial Year;
 - (ii) the Capital Gains of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of:
 - (A) so much of the Withdrawal Amount for the relevant Units redeemed by the Unit Holder as represents a Withdrawal Gains Entitlement; and
 - (B) the Unit Holder's Residual Gains Entitlements; and
 - (iii) the Residual Income of the Trust for a Financial Year is satisfied by the distribution to the Unit Holder of the Residual Income Entitlements of the Unit Holder.
- (b) Subject to any deductions made under clause 6.11 of this Schedule 2, the Responsible Entity must pay to each person the person's Residual Income Entitlements and Residual Gains Entitlements for a Distribution Period. That payment must occur within 3 months after the Distribution Calculation Date for the Distribution Period.

6.9 Separate accounts

- (a) Subject to clause 6.9(b) of this Schedule 2, the Responsible Entity may:
- (i) keep separate accounts of different categories or sources (or both) of Distributable Income or gains, or deductions, losses or credits for tax purposes, including Capital Gains and franked dividends. If such accounts are kept, they must be kept in accordance with the requirements of the Tax Act; and
 - (ii) allocate Distributable Income or gains, or deductions, losses or credits from a particular category or source (or both) for tax purposes to particular Unit Holders, including as part of the Income Entitlements of Unit Holders.
- (b) Where the Responsible Entity allocates items of Distributable Income or gains, or deductions, losses or credits from a particular category or source (or both) for tax purposes to a Unit Holder other than pro rata with all other Unit Holders, the Responsible Entity must:
- (i) notify the Unit Holder; and
 - (ii) record, in the accounts and records of the Trust, the allocation of items of Distributable Income or gains, or deductions, losses or credits from the particular category or source (or both) to the Unit Holder.
- (c) The Responsible Entity must:
- (i) keep separate accounts of the Capital Gains and Residual Income of the Trust; and
 - (ii) allocate the Capital Gains and Residual Income of the Trust kept in those separate accounts in accordance with the terms of this Deed, including through:
 - (A) in the case of Capital Gains, Residual Gains Entitlements and Withdrawal Gains Entitlements; and
 - (B) in the case of Residual Income, Residual Income Entitlements.

6.10 Position on transfer of Units

A person who is or was a Unit Holder as at a Distribution Calculation Date remains entitled to their Residual Income Entitlements and Residual Gains Entitlements under clauses 6.4 and 6.7 of this Schedule 2 despite any transfer, transmission or withdrawal of Units by or in respect of the person, being Units which gave rise to the entitlement.

6.11 Deductions from Distributable Income

The Responsible Entity may deduct from any entitlement of a person to a share of Distributable Income any amount which the Responsible Entity is required or authorised to deduct under this Deed. All amounts deducted must be applied in reimbursing the Trust for any corresponding amount paid, distributed or reimbursed out of the Trust or reimbursing the Responsible Entity for the payment of the Tax to the person or authority entitled to it.

6.12 Fractions

If the share of Distributable Income for a Unit Holder determined under clause 6.4 of this Schedule 2 includes a fraction of a cent, the share is to be adjusted:

- (a) if the fraction of a cent is greater than or equal to half a cent, to the nearest cent above the amount calculated; and
- (b) otherwise, to the nearest cent below the amount calculated.

6.13 Classification of items

Without limiting clause 6.2 of this Schedule 2, the Responsible Entity has the power to determine:

- (a) the classification of any item as being on Distributable Income or otherwise;
- (b) the extent to which reserves or provisions need to be made; and
- (c) whether any item should be recognised as it is received or as it accrues (but not yet received).

6.14 Tax

The Responsible Entity may take any action that it considers is necessary (including without limitation by distributing or applying capital to or for the benefit of Unit Holders) to ensure to the extent possible that any Tax liability under the Tax Act in respect of the net income of the Trust is borne by the Unit Holders in proportions that correspond with the shares of Distributable Income to which they are presently entitled, and that the Responsible Entity incurs no liability to pay Tax under section 99 or section 99A of the Tax Act as trustee of the Trust.

6.15 Reserves

The Responsible Entity may make any provisions or reserves of amounts that the Responsible Entity determines proper for the purposes of the Trust and, if the Responsible Entity so determines, an item of income received or receivable in a Distribution Period may be treated as having been received in a different Distribution Period and an expense paid or payable in a Distribution Period may be treated as having been paid in a different Distribution Period.

6.16 Payment of distributions

The Responsible Entity shall pay or apply to or for the Unit Holders who are on the Register at the close of business on the last day of a Distribution Period the amount of their respective Income Entitlements pursuant to clause 6.4 of this Schedule 2 (excluding any amounts previously distributed in respect of the Distribution Period) within 2 months after the Distribution Calculation Date for the Distribution Period.

6.17 Other distributions

Subject to the rights, obligations and restrictions attaching to any particular Unit or Class, the Responsible Entity may at any time distribute from the Trust Property any amount of capital to Unit Holders pro rata according to the numbers of Units held as at a time decided by the Responsible Entity or distribute income to Unit Holders in accordance with the proportions in clauses 6.4 or 6.7 of this Schedule 2. Distributions by the Responsible Entity to Unit Holders may be made by means of cash, cheque, direct deposit or property, including without limitation, the application of the distribution towards the issue of additional Units (with the issue of the units being in accordance with clause 6.19 of this Schedule 2, as though under a distribution reinvestment scheme). The provisions of this clause 6 of this Schedule 2 apply to such distributions so far as they are capable of doing so.

6.18 Excess distribution

If the Responsible Entity determines that the total amount of the distributions actually made to Unit Holders (in one of the forms mentioned in clause 6.16 of this Schedule 2) during or with respect to a Financial Year exceeds the Distributable Income for the Financial Year, the Responsible Entity may treat the excess as a distribution of capital.

6.19 Distribution reinvestment arrangements

Subject to the approval of the Responsible Entity, a Unit Holder may elect to reinvest some or all of any distribution payable to a Unit Holder by acquiring additional Units in accordance with this Deed. In this event, the Responsible Entity will be treated as having received and accepted an application to reinvest distributions immediately before the first Valuation Date after the end of the relevant Distribution Period. Units issued in respect of such application are to be issued at an Issue Price determined as at the first Valuation Date after the end of the relevant Distribution Period but calculated as if the Transaction Costs are nil. The procedure for reinvestment of distributions (and any changes in the procedure) shall be determined by the Responsible Entity and notified to Unit Holders from time to time.

6.20 Classes

The rights of a Unit Holder under this clause 6 of this Schedule 2 are subject to the rights, restrictions and obligations attaching to any particular Unit or class of Units on issue from time to time.

6.21 If the Trust becomes Taxable

If for any Financial Year the Trust is to be assessed for income Tax as a company:

- (a) the Responsible Entity may:
 - (i) determine that the preceding provisions in clause 6 of this Schedule 2 do not apply for that Financial Year;
 - (ii) make any distribution or interim distribution it sees fit;
 - (iii) fix a record date for any distribution or interim distribution; and

- (iv) determine in its absolute discretion how Income for that Financial Year is to be worked out;
- (b) unless the Responsible Entity determines otherwise, the Responsible Entity must determine the Income of the Trust in accordance with this Deed; and

subject to any rights attaching to a particular Unit or class of Units each Unit Holder is entitled to a portion of a distribution or interim distribution equal to the proportion that the number of Units held by that Unit Holder on the record date for the distribution or interim distribution bears to the total number of Units held by all Unit Holders on that record date.

6.22 Restricted Securities

A Unit Holder who holds Restricted Securities is not entitled to any distributions in respect of those Restricted Securities during a breach of the Listing Rules or a breach of a Restriction Agreement relating to those Restricted Securities, except as permitted by the Restriction Agreement, the Listing Rules or the ASX.

7. Treatment On Withdrawal Of Units

If the Trust is an AMIT in the AMIT Income Year in which a Unit Holder has withdrawn some, or a Former Unit Holder has withdrawn all, of their Units, the Responsible Entity may:

- (a) Attribute Determined Trust Components to that Unit Holder or Former Unit Holder on a Fair and Reasonable Basis in accordance with clause 5.1 of this Schedule 2; or
- (b) treat any amount that represents a distribution of Distributable Income for that Unit Holder or Former Unit Holder as a reduction of any amount payable to that Unit Holder or Former Unit Holder in respect of the withdrawal of the relevant Units.

8. Unders and Overs

Each Unit Holder acknowledges, or is taken to acknowledge, that, under the AMIT Regime in respect of an AMIT Income Year:

- (a) the Responsible Entity has a choice with respect to how the Responsible Entity is to address any amounts which may give rise to Unders or Overs of a particular character or source for the Trust, including, without limitation, whether such amounts should be addressed by the Responsible Entity by:
 - (i) issuing amended AMMA Statements to Unit Holders or Former Unit Holders under the Tax Act, for the year of income for the Trust to which the Under or Over relates; or
 - (ii) treating the amount as an Under or Over of a particular character or source for the Trust, and adjusting the Trust's Trust Component in the Discovery Year for the relevant amount under the Tax Act; and

- (b) choices made by the Responsible Entity pursuant to clause 8(a) of this Schedule 2 may result in Unit Holders or Former Unit Holders being Attributed with greater amounts of a character or source relating to assessable income or lesser amounts of a character or source relating to tax offsets, or being Attributed with such amounts in an earlier income year than would otherwise be the case, than if the Responsible Entity did not make that choice or made the choice in a different way.

9. Clearly Defined Rights

9.1 Rights whilst the Trust is not a registered scheme

For all intents and purposes, it is intended that the rights to income and capital that a Unit Holder has in the Trust will be Clearly Defined Rights at all times within an AMIT Income Year for the purposes of the AMIT Regime, at all times whilst the Trust is not a registered scheme.

9.2 Exercise of rights and powers

If necessary in order for Unit Holders to have Clearly Defined Rights, the Responsible Entity agrees, to the extent required to provide that all of the Unit Holders have Clearly Defined Rights, not to exercise a right or power under this Deed which would result in Unit Holders' rights to Distributable Income and capital of the Trust to not be clearly defined for the purposes of the Tax Act.