

BT Funds Management No. 2 Limited

BT Funds Management Limited

Deed of Retirement and Appointment of Trustee

BT Active Balanced PST

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Executed and delivered as a deed at Sydney, New South Wales

Signed Sealed and Delivered for BT Funds Management No. 2 Limited ABN 22 000 727 659 by its Attorneys under a Power of Attorney dated 29 January 2010, Registered Book 4584 No. 186, who declare that they have no notification of any revocation of the Power of Attorney, in the presence of:



Signature of Attorney
Print Name Lisa Gavin
Tier No: Tier 1 Attorney
Date:



Signature of Attorney
Print Name Shanz Khan
Tier No: Tier One Attorney



Signature of Witness
Print Name




Signature of Witness
Print Name

Signed Sealed and Delivered for BT Funds Management Limited ABN 63 002 916 458 by its Attorneys under a Power of Attorney dated 29 January 2010, Registered Book 4584 No. 186, who declare that they have no notification of any revocation of the Power of Attorney, in the presence of:



Signature of Attorney
Print Name Lisa Gavin
Tier No: Tier 1 Attorney
Date:



Signature of Attorney
Print Name Rodney Greenhalgh
Tier No: Tier One Attorney



Signature of Witness
Print Name



Signature of Witness
Print Name

Trust deed for the: BT Active Balanced PST
RSE R1003857

Trustee: BT Funds Management No. 2 Limited
ABN 22 000 727 659

Date of original Trust deed: 14 June 1978

Consolidated to incorporate all amendments up to and including: 3 July 2009

This trust deed is provided for general information purposes only. Whilst reasonable efforts are made to maintain this document, there is no guarantee that it represents the most up-to-date or consolidated version. You should always check these details with your relevant Legal representative before relying on the document. Reviewing a trust deed is not a substitute for legal advice. You should always seek legal advice on your specific legal issues.

This is an unexecuted consolidated working copy of the Trust Deed of the BT Active Balanced PST as at 3 July 2009.

Consolidated Trust Deed

BT Active Balanced PST

BT Funds Management No.2 Limited (**Trustee**)
ABN 22 000 727 659

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DIVISION I: DEFINITIONS

1.1 Definitions

In this Deed unless there be something in the subject or context inconsistent therewith the expressions following shall have the meanings hereinafter mentioned that is to say:-

"THE TRUST" or **"THE TRUST FUND"** means the Fund constituted by the deed dated 14 June 1978.

"THE FUND" shall be called "BT Active Balanced PST" and means the Fund hereby constituted and the investments thereof from time to time and the proceeds of sale of such investments or any part thereof and any cash or contributions or other funds in the hands of the Trustee or held on its behalf whether awaiting investment or not together with all additions or accretions (if any) thereto which may arise by way of income or by any bonus or reconstruction or distribution received by the Trustee or its nominee or nominees in respect of any investments and held by them in accordance with the provisions of this Deed.

(Deleted)

"APPROPRIATE STOCK EXCHANGE" means the Stock Exchange on which investments are listed for quotation or if listed on more than one Stock Exchange the Stock Exchange determined by the Trustee.

"APPROVED DEPOSIT FUND" has the meaning ascribed to it in section 10 of SIS.

(Deleted)

"THE ASSET VALUE OF A UNIT" shall be the quotient derived by dividing the number of units in issue at the date at which the Asset Value of a Unit is to be ascertained ("the Relevant Date") into such sum as is from time to time ascertained and fixed by the Trustee by -

- (a) aggregating the Value as at the last Business Day prior to the Relevant Date of all the Authorised Investments comprised in the Fund, all cash so comprised and all moneys recoverable and receivable by the Trustee, and
- (b) deducting therefrom all sums owing by the Fund on any account and any charges or expenses accrued or unpaid and any provisions which in the opinion of the Trustee should be allowed for.
- (c) deducting therefrom the aggregate of:
 - (i) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of income of the Fund (other than on account of realised capital gains) derived whether or not the year of income in respect of the Fund has ended;
 - (ii) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of realised capital gains derived as a result of the realisation of Authorised Investments of the Fund, whether or not the year of income in respect of the Fund has ended;

- (iii) an amount which makes provision for income taxation liabilities which may accrue at a future date in respect of the net amount of unrealised gains attributable to the Authorised Investments comprised in the Fund as at the date on which the relevant determination is being made, the amount of which is determined in accordance with generally accepted accounting principles applicable in Australia as applied for the time being or, if no such accounting standards are applicable at the relevant time, determined by the Trustee in consultation with the Auditor or an independent actuary to be an appropriate level of provision; and
- (iv) an amount which makes provision for income tax payable by the Trustee in respect of liabilities for Contribution Tax which the Trustee has determined will be accepted by, and satisfied out of, the Fund, pursuant to clause 22.1 (xxiii) hereof;

after allowance for any credits or rebates available to the Fund or any other statutory or administrative concessions which the Federal Commissioner of Taxation may allow in respect of the Fund **PROVIDED THAT** for the purposes of paragraph (iii) in circumstances where the Fund is not a Qualifying Fund the Trustee shall be deemed to be a person liable for taxation in respect of the taxable income of the Fund and the provision referred to therein shall be made at a rate of tax determined by the Trustee to be appropriate having regard to rebates of taxation applicable for the time being.

"THE AUDITOR" means an Independent Registered Company Auditor for the time being of the Fund appointed under the provisions of this Deed.

"AUTHORISED INVESTMENT" means:-

- (a) shares, units of stock or like securities, and without limiting the generality of the foregoing, includes shares which are redeemable, preference, deferred or partly paid, with or without par value, and any right, title or interest thereto or therein (including a right to subscribe for any such security), issued by any body corporate or by any other organisation or body having a separate legal identity;
- (b) debentures, unsecured notes, loan stock, bonds, promissory notes, certificates of deposit, interest-bearing deposits, certificates of indebtedness and any other evidence of indebtedness issued by any body corporate or other organisation or body described in paragraph (a) aforesaid or by any country, state, territory or governmental organisation, body or instrumentality;
- (c) units, sub-units or other interests in any unit trust (including a Pooled Superannuation Trust), mutual fund, venture capital fund or other fund undertaking or scheme (including, without prejudice to the generality hereof, units, sub-units or other interests in any Authorised Unit Scheme) provided that investment therein by the Trustee does not contravene Clause 8.1 hereof and notwithstanding that the manager thereof shall be the Trustee or a person associated with the Trustee as defined in the Corporations Act or that the trustee thereof shall be the Trustee or a person associated with the Trustee as aforesaid;

- (d) the discount or purchase of bills of exchange, promissory notes or other negotiable instruments accepted, drawn or endorsed by any body corporate or other organisation or body described in paragraph (a) aforesaid or by any country, state, territory or governmental organisation, body or instrumentality;
- (e) any security of whatsoever nature which is quoted on a Stock Exchange;
- (f) any dealing in currency hedge contracts or interest rate, commodity, currency or stock index futures traded on a Relevant Futures Exchange and any currency or security which may be the subject of any such Futures Contract or options to buy or sell any such Futures Contract; **PROVIDED THAT:**
 - (i) the aggregate of the Contract Values of all futures contracts of the Trust Fund hedging against any changes in the underlying assets of the Trust Fund shall not at any time exceed the Value of the underlying Authorised Investments of the Trust Fund in relation to such a change;
 - (ii) the aggregate of the deposits paid and the margins called at any one time in respect of all futures contracts forming part of the Trust Fund other than those contracts hedging against changes described in paragraph (i) above shall not at any time exceed 10% of the value of the Trust Fund;

PROVIDED FURTHER THAT the Trustee in order to ensure that its liability in respect of such contracts is limited to the Assets of the Trust Fund, shall have the right to approve or disapprove in its discretion, the brokers or other persons with whom the Trustee will enter into such contracts and the terms and conditions of those contracts **AND PROVIDED FURTHER THAT** the Trustee may decline to grant options over Futures Contracts unless it is satisfied that it holds Futures Contracts, or the commodity or instrument the subject of Futures Contracts, sufficient to enable it to meet its obligations in respect of the grant of any such option or unless other arrangements satisfactory to the Trustee have been made to ensure it will be able to discharge its obligations in respect of such options;

- (g) any investment of money on the security (whether by way of mortgage, sub-mortgage, charge, transfer assignment or otherwise) of any Authorised Investment;
- (h) investments (excluding real estate or real estate mortgage investments but not excluding investments in companies or unit trusts the assets of which comprise or include real estate or real estate mortgage investments) in which trustees are for the time being authorised by the law of any State or Territory of the Commonwealth of Australia to invest trust funds **PROVIDED THAT** any such investment is authorised by the law of the State or Territory where the investment takes place;
- (i) the taking and/or giving of options to purchase and/or sell any investment which is an Authorised Investment; or
- (j) contracts to underwrite or sub-underwrite issues of any Authorised Investments

PROVIDED THAT no investment made in contravention of paragraph (c) of proviso (ii) to Clause 8.1 hereof shall be an Authorised Investment within this definition.

"AUTHORISED UNIT TRUST SCHEME" means a unit trust scheme being an authorised unit trust scheme as defined by sub-section 26(1) of the Prevention of Fraud (Investments) Act, 1958 of the United Kingdom or any statutory modification thereof or any statutory provisions substituted therefor.

"BUSINESS DAY" means any day, other than a Saturday or Sunday, on which banks are opened for general banking business in Sydney.

"CASH" includes cheque and bank cheque.

"CERTIFICATE" means any certificate issued by the Trustee, in its then capacity as manager of the Trust, to a Unit Holder prior to 28 October 1993 and not cancelled before such date.

"COMMISSIONER" means the Australian Prudential Regulation Authority established under the Australian Prudential Regulation Authority Act 1998 (Cth) or any of its delegates or any other body replacing or succeeding this body.

"COMPANY" includes corporation or public body or authority.

"COMPLYING SUPERANNUATION FUND" means a fund which is a complying superannuation fund under section 42 of SIS.

"CONTRIBUTION TAX" means the amount of tax payable by a Unit Holder by virtue of that Unit Holder having received a taxable contribution within the meaning of section 274 of the Income Tax Act.

"CORPORATIONS ACT" means the Corporations Act 2001 (Cth).

"COSTS AND DISBURSEMENTS" includes legal costs, brokerage, stamp duty, survey and valuation fees, registration fees, search and enquiry fees and all other usual and proper charges.

"CUSTODIAN" means any person appointed by the Trustee as its agent which is a body corporate (or equivalent in the country in which it is appointed) carrying on as its principal business, the business of banking or trusteeship in the country in which it is appointed **PROVIDED THAT** the Custodian shall meet the requirements imposed on custodians under SIS and the Trustee shall include terms in such Custodian's appointment to the effect that such Custodian shall agree to be bound by the terms of this Deed so far as relevant and shall irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales **AND PROVIDED FURTHER THAT** such Custodian appointed to hold assets in any foreign jurisdiction shall, together with those corporations which would be deemed to be "subsidiaries" of the Custodian were the definition of "subsidiary" in the Corporations Act to be applicable, hold, on a consolidated basis, issued and paid up capital, reserves and surplus of an amount not less than the equivalent of one hundred million dollars (A\$100,000,000).

"ELIGIBLE INVESTOR STATEMENT" means a written statement in a form determined by the Trustee given by a person in relation to Units in the Trust which must, if required by the Trustee, be provided to the Trustee, duly completed.

"EXCLUDED PERSON" means any person (as the Corporations Act) which is deemed under the Corporations Act to be associated with the Trustee (other than a body corporate declared pursuant to the Corporations Act to be an authorised dealer in the short term money market);

"FRACTIONAL AMOUNT" means in respect of a Fractional Unit the amount recorded in the Register and determined as follows:

- (a) for a Fractional Unit issued as such:

$$FA = \frac{A}{IV}$$

where:

FA = the Fractional Amount;

A = the subscription amount received by the Trustee in respect of the Fractional Unit; and

IV = the Investment Value per Unit or the Asset Value per Unit (as the case may be) on the day the Fractional Unit is created;

- (b) for a Fractional Unit created on the partial redemption of a Unit:

$$FA = \frac{C}{RV}$$

where:

FA = the Fractional Amount;

C = RV - D

RV = the Realisation Value of a Unit or the Asset Value of a Unit (as the case may be) on the day the partial redemption is effected; and

D = the amount of the Unit redeemed on the partial redemption;

"FRACTIONAL UNIT" means a Unit in respect of which there is contributed by the applicant an amount which is less than the full Investment Value per Unit or the Asset Value per Unit (as the case may be) or a Unit which remains after part of a Unit has been redeemed.

"INCOME TAX ACT" means the Income Tax Assessment Act 1936.

"INDEPENDENT REGISTERED COMPANY AUDITOR" means any person who is:

- (a) a registered company auditor as defined in the Corporations Act; or
(b) an approved auditor as the term is defined in Section 10 of SIS.

"INITIAL SERVICE CHARGE" means the charge to which the Trustee is for the time being entitled pursuant to Clause 28.2.

"INVESTMENT VALUE OF A UNIT" shall, unless otherwise required under SIS, be the quotient derived by dividing the number of Units in Issue at the Relevant Date into such sum as is from time to time ascertained and fixed by the Trustee by:-

- (a) adding to the aggregate of the Value as at the last Business Day prior to the Relevant Date of all the Authorised Investments comprised in the Fund or cash so comprised and all moneys recoverable or receivable by the Trustee such sum as would have been incurred for costs and disbursements in the purchase or acquisition of the Authorised Investments comprised in the Fund, and

- (b) deducting therefrom all sums owing by the Fund on any account and any charges or expenses not otherwise taken into account accrued and unpaid and any provisions which in the opinion of the Trustee should be allowed for.
- (c) deducting therefrom the aggregate of:
 - (i) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of income of the Fund (other than on account of realised capital gains) derived whether or not the year of income in respect of the Fund has ended;
 - (ii) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of realised capital gains derived as a result of the realisation of Authorised Investments of the Fund, whether or not the year of income in respect of the Fund has ended;
 - (iii) an amount which makes provision for income taxation liabilities which may accrue at a future date in respect of the net amount of unrealised gains attributable to the Authorised Investments comprised in the Fund as at the date on which the relevant determination is being made, the amount of which is determined in accordance with generally accepted accounting principles applicable in Australia as applied for the time being or, if no such accounting standards are applicable at the relevant time, determined by the Trustee in consultation with the Auditor or an independent actuary to be an appropriate level of provision; and
 - (iv) an amount which makes provision for income tax payable by the Trustee in respect of liabilities for Contribution Tax which the Trustee has determined will be accepted by, and satisfied out of, the Fund, pursuant to clause 22.1 (xxiii) hereof;

after allowance for any credits or rebates available to the Fund or any other statutory or administrative concessions which the Federal Commissioner of Taxation may allow in respect of the Fund **PROVIDED THAT** for the purposes of paragraph (iii) in circumstances where the Fund is not a Qualifying Fund the Trustee shall be deemed to be a person liable for taxation in respect of the taxable income of the Fund and the provision referred to therein shall be made at a rate of tax determined by the Trustee and Manager agreed to be appropriate having regard to rebates of taxation applicable for the time being.

"**LAND**" includes tenements and hereditaments corporeal or incorporeal and every estate or interest therein whether vested or contingent freehold or leasehold and whether at law or in equity in severalty or otherwise in any part of the Commonwealth of Australia.

(deleted)

"**MONTH**" means calendar month.

(deleted)

"**PERSON**" includes company corporation firm or body of persons.

"**POOLED SUPERANNUATION TRUST**" has the meaning ascribed to it in section 10 of SIS.

“PRESCRIBED TIME” means four o’clock pm (4:00 pm) in Sydney, New South Wales or such other time as the Trustee may determine from time to time.

"PUBLIC SECTOR FUND" has the meaning ascribed to it in section 10 of SIS.

"QUALIFIED VALUER" means a person, independent of the Trustee, competent to make the accurate valuation recommendation or report on which the Trustee relies when acquiring or selling an Authorised Investment or valuing the Fund. Such person must be approved, appointed and instructed by the Trustee, and the Trustee when giving such approval shall have regard to the particular type or types of Authorised Investment the subject of such valuation recommendation or report or to the nature of the security held or to be held by the Trustee. The approval of the Qualified Valuer shall be evidenced by the Trustee signing a form of acceptance stamped on a duplicate copy of such valuation recommendation or report.

"QUALIFYING FUND" means a Pooled Superannuation Trust the income of which in whole or in part may be subject to taxation pursuant to the Income Tax Act as a pooled superannuation trust.

"THE REALISATION VALUE OF A UNIT" shall, unless otherwise required under SIS, be the quotient derived by dividing the number of Units in Issue at the Relevant Date into such sum as is from time to time ascertained and fixed by the Trustee by deducting from:

- (a) the aggregate of the Value as at the last Business Day prior to the Relevant Date of all the Authorised Investments comprised in the Fund all Cash so comprised and all moneys recoverable or receivable by the Trustee,
- (b) such sum as would have been incurred for Costs and Disbursements in the sale or disposal of the Authorised Investments comprised in the Fund and all sums owing by the Fund on any account and any charges or expenses (not otherwise taken into account) accrued or unpaid and any provisions which in the opinion of the Trustee should be allowed for.
- (c) the aggregate of:
 - (i) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of income of the Fund (other than on account of realised capital gains) derived whether or not the year of income in respect of the Fund has ended;
 - (ii) an amount which makes provision for income tax payable by the Trustee in respect of the net amount of realised capital gains derived as a result of the realisation of Authorised Investments of the Fund, whether or not the year of income in respect of the Fund has ended;
 - (iii) an amount which makes provision for income taxation liabilities which may accrue at a future date in respect of the net amount of unrealised gains attributable to the Authorised Investments comprised in the Fund as at the date on which the relevant determination is being made, the amount of which is determined in accordance with generally accepted accounting principles applicable in Australia as applied for the time being or, if no such accounting standards are applicable at the relevant time, determined by the Trustee in consultation with the Auditor or an independent actuary to be an appropriate level of provision; and

- (iv) an amount which makes provision for income tax payable by the Trustee in respect of liabilities for Contribution Tax which the Trustee has determined will be accepted by, and satisfied out of, the Fund, pursuant to clause 22.1 (xxiii) hereof;

after allowance for any credits or rebates available to the Fund or any other statutory or administrative concessions which the Federal Commissioner of Taxation may allow in respect of the Fund **PROVIDED THAT** for the purposes of paragraph (iii) in circumstances where the Fund is not a Qualifying Fund the Trustee shall be deemed to be a person liable for taxation in respect of the taxable income of the Fund and the provision referred to therein shall be made at a rate of tax determined by the Trustee to be appropriate having regard to rebates of taxation applicable for the time being.

(Deleted)

"REGISTER" means the Register described in Clause 17.1 hereof.

"REGULATED SUPERANNUATION FUND" has the meaning ascribed to that term by sections 10 and 19 of SIS.

"REGULATIONS" means the Corporations Regulations.

"RELATED CORPORATION" shall have the meaning ascribed to related body corporate in the Corporations Act.

"RELATED DEED" means a trust deed, under which interests in a managed investment scheme (as defined in section 9 of the Corporations Act) are issued where the Trustee or any Excluded Person is the responsible entity.

"RELATED SCHEME INTERESTS" means interests in a managed investment scheme (as defined in the Corporations Act) issued under a constitution which is a Related Deed;

"SHARE" includes ordinary preferred deferred contributing or any other class of shares stock debentures (convertible or otherwise) debenture stock (convertible or otherwise) unsecured notes (whether registered or not) option certificates rights letters of allotment and variable interest stock bonds or obligations.

"SIS" means the Superannuation Industry (Supervision) Act 1993 (Cth) and the Superannuation Industry (Supervision) Regulations 1994 (Cth) as each may be amended from time to time and any legislation replacing the same.

"SOLICITOR FOR THE FUND" means the Solicitor or solicitors appointed in writing by the Trustee to act for it in relation to Authorised Investments or the proposed acquisition thereof.

"STOCK EXCHANGE" means a stock exchange or other recognised securities market approved by the Trustee;

"STOCK EXCHANGE QUOTATIONS" means such of the following as may from time to time be determined by the Trustee:

- (a) the list of official quotations from the latest call of the Appropriate Stock Exchange immediately prior to the calculation of the Value of the relevant investment;

- (b) lists of Stock Exchange quotations from the latest call on the Appropriate Stock Exchange as supplied by Reuters immediately prior to the calculation of the Value of the relevant investment;
- (c) the list of "post" transactions on or in connection with the Appropriate Stock Exchange; and
- (d) any other means of publication of the prices at which shares or debentures are offered or bid for or sold or purchased on or in connection with the Appropriate Stock Exchange.

"**SUB-CUSTODIAN**" means any body corporate satisfying the terms of the definition of "CUSTODIAN" but for the fact that it is appointed by the Custodian.

"**SUBSIDIARY**" shall have the meaning ascribed thereto in the Corporations Act.

(Deleted)

"**TRUSTEE**" means BT Funds Management No. 2 Limited and includes any other trustee appointed under the provisions of this Deed and any delegate or nominee of the Trustee.

"**TRUSTEE INVESTMENTS**" means Authorised Investments of the kind referred to in Clause 1.1(viii)(h) hereof.

"**UNIT**" means an undivided part or share in the Trust Fund as described in Clause 3 hereof and includes a Fractional Unit unless the context otherwise requires.

"**UNIT HOLDER**" means the person for the time being registered under the provisions of this Deed as the holder of a Unit and includes persons jointly so registered.

"**UNITS IN ISSUE**" means all Units created under the provisions of this Deed (whether issued or not) and not cancelled, after all Fractional Units have been consolidated as far as possible into whole Units.

"**THE VALUE**" of any investment when the value thereof is required to be ascertained or taken into account hereunder on any day (the "relevant day") means:

- (a) in the case of any investment consisting of a security listed on a Stock Exchange, the last sale price or other appropriate closing price as determined by the Trustee on the relevant day (and if such Stock exchange is not open on the relevant day on the last day on which such Stock Exchange was open for business prior to the relevant day)

PROVIDED THAT:

- (i) where a security is quoted on more than one Stock Exchange, the Value thereof shall be ascertained by reference to quotations on the Stock Exchange which the Trustee considers to be the primary market for such security;
- (ii) where there are no sales of a security on the relevant day, the Value thereof shall be the average of the closing buyer and seller prices (if any) on such day;
- (iii) where a security is listed on a Stock Exchange which is not an Australian Stock Exchange and which Stock Exchange is open for business at the time on the relevant day when the Value of such a security is required to be ascertained, the Value thereof shall be the

last sale price or other previous closing price as determined by the Trustee; and

- (iv) notwithstanding paragraphs (i) (ii) and (iii) above, where the Trustee considers that the Value as ascertained above for any security does not truly reflect its value, the Value thereof shall be the fair and reasonable value determined in such other manner as the Trustee and the Auditor for the time being appointed pursuant to this Deed shall from time to time agree.
- (b) In the case of any investment not listed on a Stock Exchange the Value thereof shall be the fair and reasonable value determined by a Qualified Valuer or in such other manner as the Trustee and the Auditor for the time being appointed pursuant to this Deed shall from time to time agree.
- (c) Notwithstanding anything contained in paragraph (a) or (b) of this definition, where the Trustee considers that the last valuation does not reflect the true value of an investment and that it is in the interests of the Unit Holders to obtain a further valuation the Trustee shall obtain a further valuation by a Qualified Valuer of such investment and the value stated in that valuation shall be deemed to be the Value of that investment.

1.2 Interpretation

In this Deed unless the context otherwise indicates:-

- (i) Words importing the singular number include the plural and vice versa;
- (ii) The masculine gender includes the feminine and neuter genders and the neuter gender includes masculine and feminine genders;
- (iii) The headings of this Deed shall not affect the construction hereof;
- (iv) All references in this Deed to other provisions or clauses of this Deed shall be deemed to be references to such other provisions or clauses as modified or varied from time to time under the provisions of Clauses 33.1 and 33.3 hereof;
- (v) A reference in this Deed to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute.

1.3 **Rounding**

- (a) any Asset Value of a Unit or Investment Value of a Unit calculated for the purposes of this Deed must be rounded up to the nearest one-hundredth of a cent or such smaller fraction as the Trustee determines from time to time; and
- (b) any Realisation Value of a Unit calculated for the purposes of this Deed must be rounded down to the nearest one-hundredth of a cent or such smaller fraction as the Trustee determines from time to time.

1.4 **Value of international investments**

Where the Value of any Authorised Investment or any other amount required to be taken into account in relation to the Trust Fund or for any purpose of this Deed, is in a currency other than Australian dollars, such amount shall be converted into Australian dollars by such conversion method as the Trustee may agree with the Auditor.

1.5 **Value of international investments**

Notwithstanding any other provision of this Deed:

- (a) any Asset Value of a Unit or Investment Value of a Unit calculated for the purposes of this Deed must be rounded up to the nearest one-hundredth of a cent or such smaller fraction as the Trustee determines from time to time; and
- (b) any Realisation Value of a Unit calculated for the purposes of this Deed must be rounded down to the nearest one-hundredth of a cent or such smaller fraction as the Trustee determines from time to time.

DIVISION II: CONSTITUTION AND TRUSTS OF THE FUND

2.1 **Lodgement of cash**

The Trustee may from time to time accept cash to be held upon the trusts of these presents.

2.2 **Fund vested in Trustee**

[Clause 2.2, not deleted but not restated here.]

2.3 **Appointment of Trustee**

The Trustee has been appointed and has accepted appointment as trustee for the Unit Holders of the Fund on the terms and condition herein contained.

3.1 **Beneficial interest divided into Units**

The beneficial interest in the Fund shall be divided into Units. Every Unit shall confer an equal interest in the Fund but shall not confer any interest in any particular part of the Fund or in any Authorised Investment but only such interest in the Fund as a whole as is conferred on a Unit under the provisions contained in this Deed.

3.2 **No entitlement to transfer of Authorised Investments**

No Unit Holders shall be entitled to require the transfer to him of any of the Authorised Investments comprised in the Fund or (subject to the rights of the Unit Holders created by these presents and by law) be entitled to interfere with the exercise by the Trustee of the rights of the Trustee as owner of such Authorised Investments.

3.3 No right to attend meetings of companies

No Unit Holder shall have any right with respect to the Fund to attend meetings whether of shareholders, debenture holders, rate payers or otherwise or to vote to take part in or consent to any action concerning any Authorised Investment comprised in the Fund or any company in which the Fund holds an interest.

4.1 All Units of equal value

Subject to clause 6.8, at any given date all the Units into which the beneficial interest in the Fund is for the time being divided shall be of equal value.

4.2 Subdivision of Units

The Trustee may at any time in its discretion divide the Fund into any number of Units other than the number into which the Fund is already divided but shall maintain as between Unit Holders the same ratio of Units after such division as the ratio subsisting between such Unit Holders before such division. The Trustee shall notify the Unit Holders forthwith after effecting such division.

DIVISION III: CREATION ISSUE AND CANCELLATION OF UNITS

5.1 Trustee's acceptance of application for Units

The Trustee may accept applications for Units subject to the conditions hereinafter appearing in such manner as it from time to time determines and subject to compliance with any requirements under SIS.

5.2 Name of trust or fund to be disclosed

Where applicable, such application for Units must disclose the name of the trust or fund for which the applicant intends to hold the Units.

5.3 No issue of Units without a disclosure document

Except to the extent permitted under SIS, the Trustee will not issue Units to the public or offer Units to the public for subscription without having first issued a disclosure document and will not accept any application for the Units subscribed for pursuant to such disclosure document or create such Units later than the period permitted by SIS (if any) after the date of that disclosure document.

6.1 Applications to be accompanied by Cash or Investments in lieu of Cash

All applications for the creation of Units shall be in a form that complies with SIS and either:-

- (i) be accompanied by payment in Cash to the Trustee of a sum equal to the product of the Investment Value of a Unit as most recently certified by the Trustee (but in any event no earlier than the last Business Day of the month preceding that in which the Units are applied for) multiplied by the number of Units the creation of which is applied for; or
- (ii) where the Trustee in its discretion accepts Authorised Investments in lieu of payment in Cash for the Units applied for, be accompanied by Authorised Investments and such Authorised Investments shall be accompanied by such stamped or marked transfers and other documents of Title as the Trustee may require, to enable immediate registration of such Authorised Investments in the name of the Trustee and in such a case the number of Units to which the applicant shall be entitled shall be the number derived by dividing the

amount of the Value of such Authorised Investments by the Asset Value of a Unit as certified by the Trustee on the day on which such Authorised Investments are accepted as aforesaid.

6.2 Calculation of issue price of Units

The Trustee shall accept applications for Units either at the Investment Value of a Unit last calculated where payment for such Units is to be made in Cash or at the Asset Value per Unit last calculated where Authorised Investments are to be accepted in lieu of payment in Cash (or, in either case, at such other amount as is required by SIS) only during such period not exceeding eighteen Business Days from the date on which such calculations were made provided that the Trustee, may in its discretion, accept late applications for Units during a further period of five Business Days.

6.2A Receipt of application for Units

Where an application for Units pursuant to Clause 6.1 is received by the Trustee before the Prescribed Time, that application is taken to be received on that Business Day. Where such application is received by the Trustee after the Prescribed Time, that application is taken to be received on the following Business Day.

6.3 [Deleted]

6.4 Creation of Units and registration of holder

Upon payment of Cash to or vesting of Authorised Investments in the Fund, the number of Units the creation of which is applied for shall ipso facto be created and the applicant shall be registered as the holder thereof.

6.5 Trustee to deal with moneys in accordance with SIS

The Trustee must deal with all application moneys paid by applicants in favour of the Trustee in accordance with the requirements of SIS.

6.6 Authorised Investments to be acquired at Value

The value at which the Trustee accepts Authorised Investments shall be such sum as may be agreed between the Trustee and the owner of such Authorised Investments not exceeding the Value of such Authorised Investments as at the last Business Day prior to the date as at which the Trustee has calculated the Asset Value of the Units for which such Authorised Investments are to be accepted, less such sum as would be incurred by the Trustee for the Costs and Disbursements involved in accepting a transfer of such Authorised Investments.

6.7 Authorised Investments vest in Fund upon acceptance

Authorised Investments accepted by the Trustee pursuant to clauses 6.1(ii) and 6.6 hereof shall be deemed to be vested in the Fund forthwith upon such acceptance.

6.8 Fractional Units

The Trustee may, in its discretion, create a Fractional Unit in hundredth parts (or such other parts as the Trustee may determine from time to time) by receiving or appropriating for that purpose an amount less than the full Investment Value per Unit or Asset Value per Unit (as the case may be) or by redeeming a part of a whole Unit and such Fractional Unit will carry with it the rights and obligations which attach to a whole Unit mutatis mutandis and limited to the proportion of those rights and obligations equal to the Fractional Amount.

7.1 Request for redemption of Units

A Unit Holder may at any time request, subject to clause 7.5, the Trustee to redeem all or any of the Units held by him or her. Any such request shall be in such manner and such form and subject to such terms and conditions as the Trustee may prescribe from time to time.

7.1A Receipt of redemption request

Where a request for redemption of Units pursuant to Clause 7.1 is received by the Trustee before the Prescribed Time, that request is taken to be received on that Business Day. Where such request is received by the Trustee after the Prescribed Time, that request is taken to be received on the following Business Day.

7.2 Certification and payment of amount owing on redemption

Subject to Clause 7.3, hereof the Trustee shall as soon as practicable and wherever possible within 31 days from receipt of a request under clause 7.1 redeem the Units the subject of such request and pay the Realisation Value of the Units being redeemed or such other amount as is required by SIS **PROVIDED THAT** when application moneys for Units have been paid by cheque, promissory note, bill of exchange, money order or direct debit and such payment has not been honoured and the proceeds thereof have not been cleared, the Trustee may at its sole discretion, refuse to redeem such Units until it is satisfied that the payment has cleared.

7.3 Transfer of Authorised Investments in lieu of cash on redemption

Notwithstanding the provisions of Clause 7.2 hereof where the Realisation Value of the Units included in any single application for redemption exceeds the sum of one hundred thousand dollars the Trustee may, in its discretion, with the prior consent of the Unit Holder, (subject to compliance with any requirement under SIS), transfer specific assets out of the Authorised Investments of the Fund in lieu of payment in Cash of the amount payable on redemption of the Units and in such a case the assets to be transferred shall be equal in value to the Asset Value of the Units (as at the date most recently determined by the Trustee but in any event being a date no earlier than the last Business Day of the preceding month) to be redeemed and, for the purposes hereof, the Value of such assets shall be taken to be the Value thereof as at the same date as the date at which the determination of the Asset Value of the Units was made by the Trustee plus the Costs and Disbursements (if any) incurred by the Trustee in transferring such assets.

7.4 Redemption to be recorded in Register

On such payment or transfer being made to the holder of the Units redeemed the said Units shall ipso facto be cancelled and the appropriate entry shall forthwith be made in the Register,

7.5 Types of redemption request

The Trustee may accept a redemption request in any manner and form as the Trustee allows from time to time, including without limitation:

- (i) in writing;
- (ii) by fax;
- (iii) by email;

(iv) by telephone

(v) by any other form of electronic communication

PROVIDED THAT any such request may be subject to such terms, conditions and limitations as the Trustee may prescribe from time to time.

7.6 (deleted)

DIVISION IV: INVESTMENT OF THE FUND

8.1 Procedures for investment and variation of investments

The Trustee shall subject to the provision of this Deed have absolute discretion as to the investment in Authorised Investments of any sums of Cash forming part of the Trust Fund and as to the purchase sale transfer exchange or alteration of any of the Authorised Investments from time to time and the Trustee alone shall be entitled from time to time to effect any transactions which it may consider to be in the best interests of Unit Holders and the Trustee shall from time to time effect and pay for out of the moneys in the Fund such investments or purchases sales transfers exchanges or alterations of investments and, subject to the covenant contained in Clause 23.1 hereof, do all things and execute all instruments for carrying out the purposes of this Deed **PROVIDED ALWAYS** that the investment complies with and gives effect to the investment strategy formulated by the Trustee for the Trust and:-

- (i) No investment shall be made except in Authorised Investments.
- (ii)
 - (a) Nothing in this Deed shall be read as prohibiting investment in those investments described in sub-clause (c) of the definition of "Authorised Investment" by reason only of the Trustee or a person associated with the Trustee (as defined in the Corporations Act) being the manager or the trustee of such investments or the trustee thereof being the Trustee or a person associated with the Trustee as aforesaid.
 - (b) The Trustee covenants, the benefit of such covenant to enure for the Unit Holders jointly and to each of them severally, that no moneys available for investment under this Deed shall be invested in or, subject to paragraph (f) below, lent to the Trustee or to any person (other than a banking corporation or a corporation declared pursuant to the Corporations Act to be an authorised dealer in the short term money market) which is by virtue of the Corporations Act deemed to be associated with the Trustee.
 - (c) The Trustee will ensure that no moneys available for investment under this Deed, will be invested in any managed investment scheme and there will not be vested under this Deed in the Trustee any interest in any such scheme unless in either case there is in existence in respect of that scheme a constitution approved under and which otherwise complies with the Corporations Act (if relevant) or a corresponding law of a declared State or a declared Territory, or of a participating Territory, within the meaning of that Division, or unless:

- (i) such scheme interest is a unit, sub-unit or other interest in an Authorised Unit Trust Scheme; and
 - (ii) the trustee of that Authorised Unit Trust Scheme has agreed not to invest in any mutual fund or similar scheme if such investment would result in the percentage of the total investments of such Authorised Unit Trust Scheme in mutual funds or similar schemes exceeding ten per centum (10%) of the value of the total assets of that Authorised Unit Trust Scheme; and
 - (iii) such Authorised Unit Trust Scheme is managed by N.M. Rothschild Asset Management Limited, a company incorporated in England, or a body corporate that would be deemed by the Corporations Act to be related thereto.
- (d) Any disclosure document issued in respect of the managed investment schemes to which the constitution relates contain a statement to the effect that:
- N.M. Rothschild Asset Management Limited has undertaken that so long as a trustee of a unit trust established in Australia and managed by Rothschild Australia Asset Management Limited, or a body corporate that would be deemed by section 50 of the Corporations Law to be related thereto, is a Unit Holder in any Authorised Unit Trust Scheme ("U.K. Trust"), N.M. Rothschild Asset Management Limited will ensure that the manager of that UK Trust does not exercise its right to select or recommend to the trustee thereof any investment in any mutual fund or similar scheme if investment therein by the UK Trust would result in the percentage of the total investments of the UK Trust in mutual funds or similar schemes exceeding ten per centum (10%) of the value of the total investments of the UK Trust.
- (e) Where moneys available for investment under this Deed are invested in Related Scheme Interests, each disclosure document issued by the Trustee relating to Units in the Trust Fund will prominently disclose:
- (i) that moneys available for investment under this Deed may be invested in Related Scheme Interests and the maximum amount of those moneys available for investment under this Deed which are permitted to be invested in Related Scheme Interests or, if no maximum amount is specified in this Deed, that no maximum is specified; and
 - (ii) the nature of the relationship (if any) between the Trustee and the responsible entity under each of the Related Deeds in which moneys available for investment under this Deed have been invested; and
 - (iii) particulars of the current investments under this Deed in Related Scheme Interests, including the nature and number

of such Related Scheme Interests and the percentage of the total moneys available for investment under this Deed represented by each Related Scheme Interest investment,

and the key data summary (if any) of the disclosure document will refer to the section or sections in the disclosure document in which such disclosure is made.

- (iv) The total of all moneys advanced from the Fund on any security together with any moneys for the time being owing to any other person on the same security and having priority to or ranking equally with the moneys advanced from the Fund, shall not exceed seventy per centum of the value of the security as assessed in accordance with the relevant sub-paragraph of Clause 1.1(xxxviii) hereof. A mortgage at interest to secure the balance of the purchase money given by a purchase of any Authorised Investment to the Trustee as vendor shall be subject to the limitations imposed by this sub-paragraph **PROVIDED** that the Trustee may in its absolute discretion accept a mortgage from a purchaser notwithstanding that the amount secured thereby shall exceed seventy per centum of the value of the security.

- (f) No loan, for so long only as SIS requires, may be made or financial assistance may be given using the resources of the Trust to a Unit Holder or a relative of the Unit Holder unless permitted under SIS.

9.1 (deleted)

9.2 **Trustee shall accept Solicitor's certificate as to title**

With respect to any investment of the kind referred to in Clause 1.1(viii)(g) hereof the Trustee shall accept the certificate of the Solicitor for the Fund that the title to the Authorised Investment is satisfactory.

10.1 **Trustee shall pay out Costs and Disbursements**

The Trustee shall pay out of the Fund all Costs and Disbursements in connection with the negotiation for and acquisition of any Authorised Investment and in connection with any sale transfer exchange development or other dealing with or disposal of any Authorised Investment.

10.2 **Procedure on completion of acquisition of Authorised Investments**

At the time of the completion of the acquisition of any Authorised Investment, the Trustee shall thereupon pay to the Vendor or the Mortgagor as the case may be or such other person as may be lawfully directed the purchase or mortgage moneys and may retain for itself all sums due to it under Clause 10.1 hereof or otherwise by way of reimbursement of moneys properly expended by it in connection with the Authorised Investment.

11.1 (deleted).

DIVISION V: INVESTMENT OF INCOME AND REALISED NET CAPITAL PROFITS

12.1 **Income to be received by Trustee and reinvested in Authorised Investments**

The Trustee shall receive all moneys rights and property which shall be paid or distributed by way of income in respect of the Fund and the following provisions shall take effect:-

- (i) All moneys rights and property which shall be received by the Trustee upon payment or distribution by way of or in the nature of income in respect of any the assets of the Fund or in the case of the receipt of rights or property their equivalent value thereof in money shall subject to any deduction to be made in respect of any tax or duty or any matter provided by this Deed to be paid or provided thereout be invested by the Trustee on behalf of the Unit Holders in Authorised Investments.
- (ii) If any question shall arise as to whether any moneys rights or property constitute moneys rights or property to be invested under Clause 12.1(i) then the Trustee shall determine such question and the provisions of Clause 12.4 hereof shall apply to every such determination.
- (iii) Any rights or property (other than money) received by the Trustee by way of or in the nature of income may be retained in the form in which it is so received if such rights or property are Authorised Investments hereunder.
- (iv) Moneys rights or properties received shall at the option of the Trustee be deemed to include any payment or distribution which the Trustee shall be entitled to receive.

12.2 **Capital profits realised to be credited to Realised Capital Profit and Loss Account**

- (i) All capital profits realised shall be credited to the Realised Capital Profit and Loss Account of the Fund.
- (ii) Subject to Clause 12.3 hereof for the purposes of this Clause 12.2 a capital profit is realised when an asset of the Fund is disposed of for a consideration greater in amount than whichever of the following amounts the Trustee decides to use:
 - (a) the amount paid or deemed paid or the value given for such asset at the time it became part of the Fund, or
 - (b) where such asset comprised part only of a group of identical assets of the Fund (each asset in such group being hereinafter referred to as an "Item"), the average per Item of the amount paid or deemed to be paid or the value given for all such identical assets at the time they become part of the Fund multiplied by the number of Items disposed of (the product of such multiplication being hereinafter referred to as "the Average Cost" of the asset disposed of).
- (iii) If any questions shall arise as to whether a capital profit has been realised or as to the amount of the consideration received on the disposal of an asset or as to the amount paid or deemed to be paid or the value given for such asset at the time it became part of the Fund or as to the Average Cost of the asset disposed of then the Trustee shall determine such question.
- (iv) The Trustee shall invest the amount of the credit balance (if any) from time to time in the Realised Capital Profit and Loss Account of the Fund in Authorised Investments which shall thereafter form part of the Fund.

12.3 Assessable Income to be treated as income

Notwithstanding anything contained in Clauses 12.1 and 12.2 hereof to the contrary if any part of the proceeds of the sale or disposition of any Authorised Investment shall give rise to assessable income within the meaning of the Income Tax Act, that part of the proceeds of sale or disposition shall for all purposes be treated as income and shall be dealt with under the provisions of Clause 12.1 hereof.

12.4 Capital losses realised to be debited to Realised Capital Profit and Loss Account

- (i) All capital losses realised shall be debited to the Realised Capital Profit and Loss Account of the Fund.
- (ii) For the purposes of this Clause 12.4, a capital loss is realised when an asset of the Fund is disposed of for a consideration less in amount than whichever of the following amounts the Trustee decides to use:
 - (a) the amount paid or deemed to be paid or given or the value given for such asset at the time it became part of the Fund, or
 - (b) where such asset is an Item, the Average Cost of the Item or Items disposed of.
- (iii) If any question shall arise as to whether a capital profit has been realised or as to the amount of the consideration received on the disposal of an asset or as to the amount paid or deemed to be paid or the value given for such asset at the time it became part of the Fund or as to the Average Cost of the Item disposed of, then the Trustee shall determine such question.

12.5 (deleted)

DIVISION VI: MANAGEMENT OF THE TRUST

13.1 Trustee's management of the Trust

The Trust shall be managed by the Trustee (with full power subject to compliance with any restriction imposed under SIS to delegate to its officers and employees or any of them all acts matters and things whether or not requiring or involving the Trustee's judgment or discretion) which hereby agrees to carry out and perform the duties and obligations on its part which are herein contained during the period of the Trust and which shall be subject to retirement as hereinafter provided. Nothing herein contained shall be construed to prevent the Trustee from establishing or acting as manager or trustee for trusts whether of a nature similar to or different from the trusts of this Deed.

13.2 Trustee may appoint attorney and/or delegate powers

Without in any way affecting the generality of the foregoing the Trustee may in carrying out and performing the duties and obligations on its part which are herein contained -

- (i) by Power of Attorney appoint any person to be attorney or agent of the Trustee for such purposes and with such powers authorities and discretions (not exceeding those vested in the Trustee) as it thinks fit with power for the attorney or agent to sub-delegate any such powers authorities or discretions and also to authorise the issue in the name of the Trustee of documents bearing facsimile signatures of the Trustee or of the attorney or agent either with or without proper manuscript signatures of its officers thereon provided that the Trustee in any such Power of Attorney and the attorney or agent by the terms of any such sub-delegation may insert such provisions for the

protection and convenience of those dealing with any such attorney or agent or sub-delegate as it may think fit; and

- (ii) appoint by writing or otherwise any person to be sub-agent of the Trustee as the Trustee may think necessary or proper for such purposes and with such powers authorities and discretions (not exceeding those vested in the Trustee) as it thinks fit and to supersede or suspend any such sub-agent for such cause or reason as the Trustee may in its sole discretion think sufficient with or without assigning any cause or reason and either absolutely or for such time as it may think proper

PROVIDED THAT notwithstanding any delegation or appointment pursuant to this Clause the Trustee shall remain liable for acts or omissions of any officer employee or company attorney agent sub-delegate or sub-agent to whom any delegation is made or who is appointed under the preceding provisions of this Clause and shall be responsible for the fees and expenses of such officer employee company attorney agent sub-delegate or sub-agent and **PROVIDED FURTHER THAT** in the case of any discretion so delegated, the exercise of such discretion shall be subject to the consent of the Trustee if (and for so long as is) required by SIS.

DIVISION VII: VOTING RIGHTS ON INVESTMENTS

14.1 Voting rights and powers in respect of Authorised Investments at discretion of Trustee

Subject to the provisions of Clause 14.2 hereof all rights of voting conferred by all of the investments shall be exercised in such manner as the Trustee may determine and no Unit Holder shall have any right to interfere therein. Subject to and without in any way limiting Clauses 13.1 and 13.2 hereof or the covenants given by the Trustee herein (and in particular Clause 24.1(ii) hereof) the Trustee shall not be under any liability or responsibility in respect of the management of the companies, corporations or other bodies (except those which are wholly owned, controlled or deemed to be controlled pursuant to the Corporations Act, by the Trustee on behalf of the Trust) nor in respect of any vote or action taken or consent given by the Trustee in person or by proxy or attorney and neither the Trustee nor the holder of any such proxy or power of attorney shall except in respect of his or its own negligence or default, incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval voted or given or withheld by the Trustee or by the holder of such proxy or power of attorney under this Deed and the Trustee shall be under no obligation to anyone with respect to any action taken or caused to be taken or omitted by the Trustee or by any such holder of a proxy or power of attorney.

14.2 Exercise of voting power at meeting to elect Directors

The Trustee covenants that it will not exercise the right to vote in respect of any shares held by the Trustee and which are an asset of the Fund at any election for directors of a corporation whose shares are so held except:

- (a) in a manner having regard at all times to the best interests of the Unit Holders; or
- (b) with the consent of the majority of the Unit Holders present in person and voting given at a meeting of Unit Holders summoned in accordance with the provisions of Clause 29.1 hereof for the purposes of authorising the exercise of the right at the next election.

DIVISION VIII: APPLICATION FOR UNITS

15.1 Application for Units to be in form of First Schedule

Every person desirous of subscribing for Units shall, if required by the Trustee and subject to compliance with the requirements of SIS, complete and lodge or cause to be lodged with the Trustee at such place or places as the Trustee may from time to time determine an application for Units signed by or on behalf of the applicant in the form together with payment for the number of Units applied for.

15.1A Trustee to receive an Eligible Investor Statement

The Trustee may determine that it will not permit a person:

- (a) to become a Unit Holder; or
- (b) to acquire or be issued with further Units,

unless the Trustee has received an Eligible Investor Statement from that person in relation to Units in the Trust.

15.2 Trustee may refuse Applications

Without derogating from Clause 6.1 hereof, the Trustee may in its absolute discretion accept or refuse any application and it shall not be required to assign any reason or ground for any such refusal. After acceptance of any application by the Trustee it shall enter such applicant upon the Register of Unit Holders.

15.3 Trustee may prescribe minimum number of Units

The minimum number of Units an applicant may purchase may be determined by the Trustee **PROVIDED THAT** the minimum number remains constant during the currency of any one disclosure document.

15.4 (Deleted)

16.1 No certificates to be issued

- (a) No certificates will be issued in respect of Units allotted or transferred, however, upon entry of a Unit Holder in the Register there will within 2 months be issued by or on behalf of the Trustee to each Unit Holder an acknowledgement in such form as the Trustee may prescribe evidencing the issue of the Units to the relevant Unit Holder.
- (b) The acknowledgement may be engraved or lithographed or printed as the Trustee may from time to time determine and may be mechanically issued and may be unsigned.
- (c) Each acknowledgement will specify the number of Units to which it relates and is evidence of the issue of such Units to the Unit Holder, but is not a certificate of title to the Units, the Register being the only and conclusive evidence of the ownership of Units.
- (d) On and from 28 October 1993, the Trustee will not recognise any Certificates and on and from that date all Certificates will cease to be evidence of title to the Units and the Register will be the only and conclusive evidence of the ownership of Units.

16.2 (Deleted)

16.3 (Deleted)

DIVISION VIIIA: ELIGIBLE INVESTORS

16A.1 Persons eligible to hold Units

A person is not eligible to hold Units in the Fund unless the person invests only the following kinds of assets in subscribing for Units:

- (a) assets of a Regulated Superannuation Fund; or
- (b) assets of an Approved Deposit Fund; or
- (c) assets of a Pooled Superannuation Trust; or
- (d) virtual PST assets of a life insurance company within the meaning of the Income Tax Assessment Act 1997 (Cth); or
- (e) segregated exempt assets of a life insurance company within the meaning of the Income Tax Assessment Act 1997 (Cth).
- (f) (deleted)

16A.2 (deleted)

16A.3 (deleted)

16A.4 (deleted)

16A.5(1) Trustee may request an Eligible Investor Statement

The Trustee may, at any time, request a Unit Holder to give the Trustee an Eligible Investor Statement in relation to the Units.

16A.5(2) (deleted)

16A.5(3) (deleted)

16A.5(4) (deleted)

16A.6 Unit Holder ineligible to hold Units

Subject to clause 16A.7(6), where:

- (a) under clause 16A.5(1) the Trustee requests a person to give the Trustee an Eligible Investor Statement; and
- (b) the person fails to comply with the request within 30 days after the date of the request;

the person ceases to be eligible to hold Units in the Fund at the end of those 30 days.

16A.7 Consequences of ineligibility

(1) Where a Unit Holder:

- (a) advises the Trustee that the Unit Holder is not eligible to hold the Units; or
- (b) ceases under clause 16A.6 to be eligible to hold the Units;
the Trustee may, within 14 days, request that Unit Holder:
- (c) to dispose of the Units which the Unit Holder is no longer eligible to hold under this clause within 30 days after the date of the request to a person who is eligible, for the purposes of an Eligible Investor Statement, to hold the Units; or

- (d) to arrange with the Trustee for the Trustee to redeem all the Units which the Unit Holder is no longer eligible to hold under this clause, within those 30 days.
- (2) Where a Unit Holder fails to comply with a request under clause 16A.7(1), the Trustee may, within 60 days after the date of request, redeem all the Units to which that request relates.

16A.8 Unit Holder to Notify Trustee of Change in Status

- (a) Each Unit Holder, and each applicant by making application for a Unit hereunder, agrees that if for whatever reason it ceases to be an Eligible Investor it will:
 - (i) notify the Trustee immediately; and
 - (ii) take all reasonable steps to immediately dispose of any Units held by the Unit Holder.
- (b) The Trustee, where the Trustee has reasonable grounds on which to believe the Unit Holder is no longer an Eligible Investor, may without further action or consent on the part of the Unit Holder, effect a redemption of Units held by such Unit Holder.

DIVISION IX: REGISTER OF UNIT HOLDER AND BRANCH REGISTERS

17.1 Register of Unit Holders to be kept by Trustee

A register (hereinafter referred to as "the Register") of all Unit Holders will be kept and maintained by the Trustee at its registered office or principal place of business and there shall be entered in the Register -

- (i) the names and business addresses of the Unit Holders;
- (ii) the number of Units held by and the Fractional Amount of any Fractional Unit issued to them respectively;
- (iii) the date at which the name of each person was entered in the Register as a holder of Units;
- (iv) the date at which any holder of Units ceased to be a Unit Holder;
- (v) the address to which any notices or requests that may be given by the Trustee under this Deed may be sent; and
- (vi) where applicable, the name of the fund or trust on whose behalf the Unit Holder holds the Units.

17.2 Changes of address to be recorded

Any change of name or address on the part of any Unit Holder shall be notified to the Trustee who shall alter the Register accordingly.

17.3 Register open to inspection

Any Unit Holder shall be entitled, free of charge, to inspect the Register at any time when the Trustee's registered office is required by the Corporations Act to be accessible to the public and any other person shall be entitled to such inspection upon payment for each inspection of five dollars or such less sum as the Trustee requires. **PROVIDED THAT** the right to inspect a Register will not include the right to have access to the amounts invested by any Registered Holder.

17.3A **Restricted right to copy of Register**

Without derogating from any right of inspection referred to in Clause 17.3 but otherwise notwithstanding anything contained in this Deed the Trustee will not unless obliged by law to do so, supply a copy of the register of Unit Holders to any persons requesting it unless that person enters into a contract or agreement with the Trustee to the effect that in consideration of the Trustee supplying such copy that person will, before being entitled to receive the copy:

- (a) pay such fee to the Trustee as the Trustee, in accordance with the Corporations Act, requires to be paid;
- (b) give to the Trustee an undertaking in writing signed by and setting out the name and address of each person by whom or on whose behalf the application is made, that the copy of the register or part thereof will not be made available to any person other than a person named in the undertaking and will not be used by any person so named other than to obtain the name and address of a Unitholder for
 - (i) the purpose of calling a meeting of the Unit Holders;
 - (ii) the purpose of making an offer to the Unit Holders to acquire the units held by him;
 - (iii) the purpose of notifying the Unit Holder of a matter relating to the carrying out by the Trustee of its functions and duties under the provisions of the Corporations Act or this Deed;
 - (iv) the purpose of bona fide research or statistical analysis; or
 - (v) any other purpose approved by the Commissioner.

17.4 **No entry of trusts on the Register**

Except as required by clause 17.1(vi), the Trustee shall not be obliged to enter on the Register notice of any trust express, implied or constructive in respect of any Unit.

17.5 **Unit Holder as absolute owner**

The Trustee shall recognise the Unit Holder, his executors or administrators as the absolute owner of the Units in respect of which he is registered and may act accordingly and the Trustee shall not save as herein otherwise provided or except as ordered by a Court of competent jurisdiction or as by statute required be bound to take notice of any trust or equity whether express, implied or constructive affecting the ownership of any Unit or the rights incidental thereto and the receipt by such Unit Holder, his executors or administrators of any money payable in respect of his Units shall be a good discharge to the Trustee.

18.1 (deleted)

18.2 (deleted)

18.3 (deleted)

18.4 (deleted)

18.5 (deleted)

DIVISION X: TRANSFER OF UNITS

19.1 Units not transferable other than under Clause 19.2

Units shall not be transferable except as provided in Clause 19.2 hereof.

19.2 Transfer of Units

- (a) Subject to clause 19.2(b), a Unit Holder may transfer Units held by that Unit Holder by making written application to the Trustee.
- (b) The Trustee must decline to register any transfer unless the transferee is eligible to hold Units pursuant to Clause 16A.1.

19.3 Transferee not entitled to notices or to attend or vote until registered

Any transferee becoming entitled to any Unit under Clause 19.2 shall be entitled to receive and may give a discharge for all moneys payable in respect of this Unit but shall not be entitled to receive notices of or to attend or to vote at any meetings of Unit Holders until he shall have become registered as a Unit Holder in respect of the Units.

19.4 Unit Holders may be required to establish eligibility

A Unit Holder, if requested by the Trustee, must provide such information relating to that Unit Holder's eligibility to hold Units in the Fund as the Trustee requires to enable it to be satisfied as to the eligibility and power of that Unit Holder to hold Units in the Fund.

19.5 (deleted)

DIVISION XI: AUDITOR

20.1 Auditor to be appointed by Trustee

The Auditor who shall be an Independent Registered Company Auditor, shall be appointed by the Trustee and shall hold office subject to compliance with the provisions of SIS and the succeeding sub-clauses of this Clause.

20.1A Obligations of the Auditor

The Auditor must perform such functions and meet such requirements as are required of the Auditor to comply at all times with SIS.

20.2 Auditor may be removed by Trustee

The Auditor at any time and from time to time may be removed by the Trustee.

20.3 (deleted)

20.4 Auditor may retire on one month's notice

The Auditor may retire upon giving one month's notice of his desire so to do.

20.5 Vacancy in office of Auditor to be filled by Trustee appointing a qualified person

Any vacancy in the office of Auditor occurring under Clause 20.2 hereof or otherwise than as referred to in Clause 20.3 hereof shall be filled by the Trustee appointing a qualified person.

20.6 Auditor may carry out auditing functions for related funds or companies but may not be an officer of the Trustee

The Auditor may be the auditor of the Trustee, or of any other trust whether of a similar nature to the trusts of this Deed or otherwise, but may not be a director, officer or servant (or the partner or servant of a director officer or servant) or of the Trustee.

DIVISION XII: ACCOUNTS AND AUDIT

21.1 Trustee shall cause true accounts to be kept

Subject to Clause 23.1(vi) hereof, the Trustee shall prepare such accounts and statements as are required to comply with the requirements of SIS and shall cause true accounts to be kept of all sums of money received and expended by or on behalf of the Trust and the matters in respect of which such receipt and expenditure take place and of all sales and purchases of Authorised Investments and Units and of the assets and liabilities of the Trust.

21.2 Books of account to be kept at offices of Trustee and open to inspection of Auditor

The books of account shall be kept at the office of the Trustee and shall be open to the inspection of the Auditor. The Auditor shall be entitled to require from the Trustee and the latter shall furnish to the Auditor such information accounts and explanations as may be necessary for the performance of the duty of auditor hereof.

21.3 Annual audit

At least once in each year the accounts kept in accordance with Clauses 21.2 and 21.3 hereof shall be examined and their correctness reported upon by the Auditor. The Auditor shall state in his report:-

- (i) that he has conducted the audit;
- (ii) whether or not he has obtained all the information and explanations he has required;
- (iii) whether or not the accounts of the Fund are in his opinion properly kept so as to disclose the state of affairs of the Fund,

and the Trustee will ensure that such report and a certificate relating to the accounts and statements in accordance with the requirements of section 113(4) of SIS is provided by the Auditor on or before the date on which any return to the Commissioner referred to in clause 23.1(x) is required to be lodged and the date on which such report or certificate (as the case may be) is required by section 113(4) of SIS to be given to the Trustee by the Auditor.

21.4 (deleted)

21.5 Application of Accounting Principles and Standards

Notwithstanding any other provision of this Deed, where:

- (a) the effect of this Deed as at 31 December 2004 was that any value or amount, including values or amounts relating to:
 - (i) the consideration that is to be paid to acquire an interest in the Trust;
 - (ii) the amount to be paid on withdrawal from the Trust
 - (iii) the amounts to be paid on termination of the Trust;
 - (iv) the fees payable to the Trustee, any agent or any custodian who holds Trust property;

- (v) the extent of any limitation on borrowings or on the investment of Trust property; and
- (vi) any amount payable to unitholders by way of income or capital, was required to be calculated by reference to:
 - (vii) the value of any Trust property, or
 - (viii) the amount of any liability that under the Deed may be discharged from that property, and
- (b) the effect of the Deed was that that value or amount was to be worked out by applying generally accepted accounting principles or methodology set out in an accounting standard as generally accepted or in force from time to time,
- (c) then, as from 1 January 2005, such values and amounts shall continue to be calculated for Trust operational purposes (but not for the purpose of financial reporting) by applying the accounting principles or methodology set out in accounting standards generally accepted or in force immediately before 1 January 2005

DIVISION XIII: TRUSTEE'S POWERS

22.1 Trustee's indemnities and powers

Subject to and without in any way limiting the covenants given by the Trustee herein and without prejudice to any indemnity allowed by law or elsewhere herein given to the Trustee but subject to and without in any way limiting the effect of Clauses 23.1 and 24.1 hereof it is hereby expressly declared as follows:-

(i) **Trustee to be indemnified against costs and expenses of any suit arising out of the Deed**

Subject to compliance with any provision to the contrary under SIS, the Trustee shall be indemnified out of the Fund from and against any expense and liability that may be incurred in prosecuting or defending any action or suit in respect of the provisions of this Deed, except:

- (a) where the action or suit arises out of any default negligence or breach of trust by the Trustee or in connection with the carrying out or purported carrying out or exercise by the Trustee of any right power privilege or authority or discretion conferred expressly or impliedly by this Deed or in connection with any breach or default in the observance or performance by the Trustee of any of the covenants obligations conditions and provisions of this Deed; or
- (b) for so long as SIS requires, where the liability is for:
 - (1) breach of trust - if the Trustee fails to act honestly in a matter concerning the Fund or intentionally or recklessly fails to exercise, in relation to the matter affecting the Fund, the degree of care and diligence that the Trustee was required to exercise; or
 - (2) a monetary penalty under any civil penalty order made pursuant to SIS.

(ii) **Trustee may rely on documents believed to be genuine**

The Trustee shall not incur any liability in respect of any action taken or thing suffered by the Trustee in reliance upon any notice resolution direction consent certificate receipt affidavit statement certificate for stock plan or reorganisation or other paper or documents reasonably believed by the Trustee to be genuine and to have been passed or signed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document was not in fact genuine or so passed or signed.

(iii) **Trustee not liable if restrained by statutory or judicial bar**

The Trustee shall not incur any liability to anyone in respect of any failure to perform or do any act or thing which by reason of any provision of any present or future law ordinance rule regulation or by-law made pursuant thereto or of any decree order or judgment of any competent Court the Trustee shall be hindered prevented or forbidden from doing or performing.

(iv) **Trustee not liable for fiscal payment made in good faith**

The Trustee shall not be liable to account to any Unit Holder or otherwise for any payments made by the Trustee in good faith to any duly empowered fiscal authority for taxes or other charges upon the Fund or upon the Certificates or with respect to any transaction under this Deed notwithstanding that any such payment ought or need not have been made.

(v) **Trustee may act on advice of independent expert**

The Trustee may act upon the opinion or advice of or information obtained from barristers or solicitors instructed by the Trustee or by any third party or from the Insurance and Superannuation Commissioner, and the Trustee may act upon statements of or information sought by it or obtained from any bankers accountants brokers and other persons believed by the Trustee in good faith and upon reasonable grounds to be expert in relation to the matters upon which they are consulted and the Trustee reasonably believes the opinion or advice to be independent of the Trustee and the Trustee shall not be liable for anything done or suffered by it in good faith in reliance upon such opinion advice statements or information.

(vi) (deleted)

(vii) (deleted)

(viii) **Trustee not liable for negligence of independent expert**

Where the Trustee relies in good faith upon any advice tendered to it by any barrister solicitor or other expert the Trustee shall not be responsible for any misconduct mistake oversight error of judgment forgetfulness or want of prudence on the part of any such barrister solicitor or other expert.

(ix) **Trustee has absolute discretion as to exercise of its powers**

Subject to the provisions of Clause 24.1(ii). hereof, the Trustee shall as regards all the trusts powers authorities and discretions vested in it have absolute discretion as to the exercise thereof whether in relation to the manner or as to the mode of and time for the exercise thereof.

(x) **Circumstances in which Trustee may have Authorised Investments registered in the name of its officers**

The Trustee shall have the right (upon executing this Deed and thereby giving the indemnity set out in Clause 23.1(iv) hereof) to have Authorised Investments in registered form vested in officers of the Trustee nominated by it, but only such Authorised Investments as the Trustee is precluded by the constitution of the issuer to hold in its own name.

(xi) **Trustee may contract with Unit Holders**

Subject to any statute or rule of law nothing in this Deed shall prevent the Trustee or a Related Corporation of the Trustee or the directors or officers of any of them from at any time contracting or acting in any capacity as representative or agent or entering into any financial banking agency or other transaction with any other of them or any Unit Holder or any company any part of whose shares forms part of the Fund or from being interested in any such contract or transaction or otherwise and none of them shall be in any way liable to account either to any other of them or to the Unit Holders or any of them for any profits or benefits (including but without limiting the generality thereof any customary bank charges commission exchange brokerage and fees) made or derived thereby or in connection therewith **PROVIDED THAT** in connection with any such transaction as aforesaid the parties act in a fiduciary relationship of the utmost good faith to all Unit Holders.

(xii) (deleted)

(xiii) **Trustee to be indemnified for costs and disbursements incurred on sale of Authorised Investments**

Whenever the Trustee shall sell or transfer any Authorised investment it shall be entitled to be indemnified by the persons entitled to the proceeds of sale or to such transfer against all costs charges and expenses (including stamp duty) in connection therewith.

(xiv) **Trustee not liable if liquidation of a corporation frustrates this Deed**

Subject to Clauses 23.1(i) and 24.1(i), in the event of the liquidation or dissolution of any corporation or if for any other reason it becomes impossible or impracticable to carry out the provisions of this Deed in respect of such corporation or otherwise the Trustee shall not be under any liability therefor or thereby incur any liability by reason of any error of law or any matter or thing done or suffered or omitted to be done by either of them as the case may be in good faith hereunder.

(xv) **Trustee not liable for default of other parties**

Save as provided in Clauses 13.1 and 13.2 hereof the Trustee shall not be liable for the failure of any person or corporation to carry out any agreement on its part nor for anything except for its own neglect or default or breach of duty hereunder.

(xvi) **If Trustee required to make statutory deposits it must make them from its own funds or retire**

If at any time the Trustee is required by any Federal or State Government or by any Statute to lodge approved deposits securities or bonds for the additional protection of Unit Holders the Trustee will provide the same from its own resources and shall have no claim on the Fund for such purpose provided that if the Trustee elects not to comply with such requirements then it shall immediately give to the Commissioner notice of that intention and shall immediately retire from the Trust, and the Trustee may elect to continue the Trust with some Trustee willing to comply with such requirements whereupon the provisions of Clauses 26.1 to 26.4 inclusive hereof shall mutatis mutandis apply save that no further notice or expiration of time is required or necessary and the power of appointment shall be vested in the Trustee and until the appointment is complete the Trustee may subject to any approval that may be required by law act as trustee or may elect to terminate the Trust and if so may itself wind up the Trust without appointing a new Trustee and whilst the Trustee continues to act as trustee Units shall be neither issued or offered to any person for subscription nor shall an invitation be made to any person to subscribe for any Units.

(xvii) (deleted)

(xviii) **Trustee only liable to Unit Holders to extent of property vested in it**

Except in respect of any neglect default breach of duty or omission on the part of the Trustee in no event shall the Trustee be liable to the Unit Holders to any greater extent than in respect of the investments cash and other property vested in the Trustee or received or to be received by it in accordance with the provisions of this Deed.

(xix) **Trustee not bound to apportion investments of the Fund**

The Trustee shall not be bound to make apportionment of the investments of the Fund and the Trustee shall hold the whole of the Fund for the time being as one fund on the trusts of these presents.

(xx) **Trustee may be indemnified from Fund in respect of unpaid calls or other liabilities**

Should the Trustee purchase for account of the Fund or lodge shares in regard to which there is a liability in respect of calls or instalments or a liability for assessment for further contribution to the assets of the company or body in which such shares are held the Trustee shall have a right of indemnity out of the Fund in respect of any such calls instalments or liability.

(xxi) **Trustee entitled to indemnity before dealing at the request of the Unit Holders**

The Trustee shall not be required to effect any transaction or dealing with any Certificate transfer or other instrument or with any part of the Authorised Investments or of the Fund on behalf or for the benefit or at the request of any Unit Holder unless such Unit Holder shall first have paid in cash or otherwise provided to the Trustee's satisfaction for all duties taxes governmental charges brokerage transfer fees registration fees and other charges (whether similar to the foregoing or not) whether in respect of the

Certificate transfer or other instrument or the relative part of the Authorised Investments or of the Fund or otherwise (herein called collectively "duties and charges") which may have become or may be payable in respect of or prior to or upon the occasion of such transaction or dealing provided always that the Trustee shall be entitled if it so thinks fit to pay and discharge all or any of such duties and charges on behalf of the Unit Holder and to retain the amount so paid out of any moneys or property to which such Unit Holder may be or become entitled hereunder.

(xxii) **Trustee may appoint Custodian**

- (i) The Trustee may, subject always to the covenants of the Trustee herein contained, from time to time appoint any corporation as Custodian to perform the following actions in a country in which the Custodian is resident in the name of the Trustee or at the direction of the Trustee in its own name or in a name nominated by the Custodian and approved by the Trustee as nominee for the Trustee:
 - (a) purchase or sell at the direction of the Trustee Authorised Investments and execute all transfers and assurances necessary for any such purpose;
 - (b) receive and hold on behalf of the Trustee any Authorised Investment purchased and any document of title thereto in safe custody in the country of purchase;
 - (c) procure registration of such Authorised Investments;
 - (d) receive, hold and disburse moneys in the name of the Trustee at the direction of the Trustee; and,
 - (e) perform all actions incidental to any of the foregoing powers.
- (ii) The Trustee may by the terms of any such appointment insert such provisions for the appointment by the Custodian of any Sub-Custodian and for the protection and convenience of those dealing with any such Custodian or Sub-Custodian as it thinks fit **PROVIDED THAT** notwithstanding any such appointment the Trustee shall remain liable for any act or omission of any such Custodian or Sub-Custodian as if any such act or omission was an act or omission of the Trustee. The Trustee shall be responsible for payment of the fees and expenses of such Custodian (but not the fees and expenses of any Sub-Custodian) but shall be entitled, to be reimbursed out of the Trust Fund pursuant to Clause 28 hereof **PROVIDED THAT** the service charge payable to the Trustee under Clause 27.1(b) shall be reduced by an amount equivalent to any reimbursement received by the Trustee in respect of the fees of a Custodian. The Custodian shall be responsible for the payment of the fees and expenses of any Sub-Custodian but shall be entitled to be reimbursed out of the Trust Fund pursuant to clause 28 below as if they were fees and expenses incurred by the Trustee..

(xxiii) **Contribution Tax**

The Trustee may, if it so determines, agree with a Unit Holder to accept, and that the Fund will satisfy, a liability for any Contribution Tax which may otherwise be payable by that Unit Holder on such terms and conditions as the Trustee thinks fit having regard to the best interests of all Unit Holders and, without limiting the generality of the above, the Trustee may accept such liability for any Contribution Tax on the condition that immediately upon the acceptance of such liability either:

- (a) the Unit Holder will be deemed to have requested the Trustee to cancel such number of Units held by the Unit Holder that are notified in writing to the Unit Holder by the Trustee **provided that** notwithstanding anything contained in this Deed, the Trustee is not obliged to make any payment or transfer any assets to the Unit Holder in respect of the cancellation of such Units; or
- (b) the Unit Holder applies for one Unit in the Trust in the manner required by this Deed **provided that** such application will be accompanied by the aggregate of the amount determined in accordance with clause 6.1(i) of this Deed together with a premium equal to the amount notified in writing to the Unit Holder by the Trustee prior to the Unit Holder applying for such Unit. The premium paid in respect of such a Unit shall form part of the Fund and upon cancellation or repurchase of the Unit the premium shall not be repayable to the Unit Holder.

(xxiv) **Section 297B of the Income Tax Act**

- (a) The Trustee may request a Unit Holder that is a Complying Superannuation Fund for the purposes of the Income Tax Act to provide information as to the average number of Units held by that Unit Holder which are exempt units during a year of income for the purposes of section 297B of the Income Tax Act and the Trustee may further request the Unit Holder to provide a copy of an actuary's certificate obtained by the Unit Holder pursuant to section 273A of the Income Tax Act ("297B Information").
- (b) The Trustee may act and rely on the 297B Information provided by a Unit Holder and the Trustee will not be liable to a Unit Holder for any loss or damage that may occur to the Unit Holder or any diminution of the Fund resulting from acting or relying on such 297B Information.
- (c)
 - (i) If, in the opinion of the Trustee, income of the Trust is exempt from income tax as a result of the application of section 297B of the Income Tax Act in any year of income, the Trustee, may, in its absolute discretion, issue further Units to Unit Holders who have provided the 297B Information.
 - (ii) If the Trustee determines that further Units are to be issued to a Unit Holder, such Units must be issued to that Unit Holder within 90 days after the end of the relevant year of income; and

- (iii) the number of Units that may be issued to a Unit Holder under this paragraph (c) is to be calculated in accordance with the following formula:

$$U = \frac{TB}{IVU}$$

Where:

U = number of Units to be issued to a Unit Holder;

TB = the amount of the tax benefit flowing to the Trust in a year of income expressed in Australian dollars which the Trustee determines is attributable to the provision of the 297B Information by that Unit Holder for that same year of income;

IVU = Investment Value of a Unit calculated at the date of issue of the new Units to the Unit Holder.

- (d) Notwithstanding anything else contained in this Deed, Units which the Trustee issues in accordance with paragraph (c) will be issued as bonus Units for no consideration other than the relevant Unit Holder's having provided the relevant 297B Information to the Trustee.

(xxv) (Deleted)

(xxvi) **Trustee may delegate powers**

- (a) The Trustee may by resolution of its board of directors appoint one or more of its officers in any Territory or State in Australia where the Trustee itself carries on business and in respect of which a Register or Branch Register has been established to exercise for or on behalf of the Trustee all or any of the powers and authorities exercisable by the Trustee under the provisions of this Deed **PROVIDED THAT** the Trustee may not delegate any exercise of the Trustee's discretionary powers or duties save as otherwise indicated in this Deed or permitted under SIS.
- (b) For the purpose of exercising its powers and performing its obligations and duties hereunder, the Trustee may, to the extent permitted by SIS and subject always to the covenants of the Trustee herein contained and in particular to the covenant contained in clause 23.1(i) from time to time by instrument in writing appoint and engage a delegate to undertake perform or discharge any or all of the duties powers discretions and other functions of the Trustee under this Deed or otherwise in relation to the Trust.
- (c) The Trustee may by the terms of any such appointment referred to in clause 22.1(xxvi)(b) insert such provisions for the protection and convenience of those dealing with the delegate as the Trustee thinks fit **PROVIDED THAT** (without prejudice to any indemnity to which the Trustee may be entitled either under the terms of this Deed or at general law), the Trustee will notwithstanding any such

appointment remain liable for any act or omission of the appointed company as if any such act or omission were an act or omission of the Trustee.

DIVISION XIV: COVENANTS BY THE TRUSTEE

23.1 Trustee's covenants

The Trustee hereby covenants with intent that the benefit of the said covenant shall enure to the Unit Holders jointly and to each of them severally that:-

(i) Trustee will act with diligence and vigilance

The Trustee will exercise all due diligence and vigilance in carrying out its functions and duties and in watching the rights and interests of the Unit Holders to which this Deed relates.

(ii) Trustee shall hold property for Unit Holders in safe custody

Subject to the provisions of Clause 22.1(x) hereof the Trustee shall retain the Fund in safe custody and shall hold it as Trustee for the Unit Holders entitled thereto upon the terms of this Deed.

(iii) Trustee not to part with possession of Authorised Investments

Except as in this Deed provided, the Trustee shall not sell mortgage charge or part with the possession of (or permit any nominated officers so to do) any of the Authorised Investments of the Fund.

(iv) Trustee liable for actions of its delegates and servants

The Trustee hereby covenants that any of the persons referred to in Clause 22.1(x) will duly observe and perform the covenants and obligations of this Deed in the same manner as is required of the Trustee, and hereby agrees to indemnify the Fund against any loss or damage to the Fund or the Unit Holders which may have been incurred or sustained in connection with or arising out of any breach or default of such person in the observance or performance of any such covenant or obligation.

(v) (deleted)

(vi) Trustee will keep books of account and will cause accounts and records to be audited once a year

The Trustee will keep or cause to be kept proper books of account in relation to the interests of the Unit Holders and will cause the accounts and records for each year of income of the Trust to be audited at the end of each financial year by the Auditor.

(vii) Trustee will send accounts to Unit Holders within two months of end of each year

The Trustee will send or cause to be sent by post a statement of the accounts with the report of the Auditor thereon within two months of the end of each financial year to each Unit Holder. Such statement of the accounts will include a statement which discloses:

- (a) whether moneys available for investment under this Deed have been invested in Related Scheme Interests during the financial year;

- (b) the nature of the relationship (if any) between the Trustee under this Deed and the responsible entity under any Related Deed in which moneys available for investment under this Deed have been invested; and
- (c) particulars of the current investments under this Deed in Related Scheme Interests as at the end of the financial year, including the nature and number of and the percentage of total moneys available for investment under this Deed represented by each investment in Related Scheme Interests.
- (viii) (deleted)
- (ix) (deleted)
- (x) **Trustee to furnish return to the Commission**

The Trustee must after the end of the financial year furnish or cause to be furnished to the Commissioner a return providing such information and documents relating to the Fund in such prescribed form as is required to maintain the status of the Fund as a Pooled Superannuation Trust for the purposes of SIS.
- (xi) **Trustee to provide Commission with information and documents**

The Trustee will, as and when required pursuant to SIS, provide to the Commissioner all information and documents so required.

DIVISION XV: ADDITIONAL COVENANTS BY THE TRUSTEE

24.1 Additional covenants of the Trustee

The Trustee covenants with the intent that the benefit of the said covenants shall enure to the Unit Holders jointly and to each of them severally:-

- (i) **Trustee shall not purchase Authorised Investments as principal**

That neither the Trustee nor any officer or director of the Trustee shall deal as principals in the purchase from the Trustee of any Authorised Investments of the Fund sold pursuant to this Deed.
- (ii) **Trustee to conduct business efficiently**

That it will use its best endeavours to carry on and conduct its business in a proper and efficient manner and to ensure that any undertaking scheme or enterprise to which this Deed relates is carried on and conducted in a proper and efficient manner.
- (iii) (deleted)
- (iv) (deleted)
- (v) **Subscription for Units only at a price in accordance with the Deed**

That it will not sell, issue or permit to be sold or issued any Unit at a price otherwise than at a price calculated in accordance with the provisions of this Deed.

(vi) **Trustee to refund any excess paid by any subscriber**

That it will refund to any subscriber for Units the excess (if any) charged on the subscription by him of Units beyond the price calculated in accordance with the provisions of this Deed and will on demand from any subscriber for Units at any time within twelve months from the date of issue of such Units furnish him without charge with a summarised statement showing how the price paid by him for his Units was made up.

(viii) **Trustee will make information available for inspection**

That it will -

- (a) make available to any Independent Registered Company Auditor appointed by the Trustee for inspection the whole of the books of the Trustee whether kept at the registered office of the Trustee or elsewhere, and
- (b) give to any such auditor such written or oral information as such auditor requires with respect to all matters relating to the business undertaking scheme or enterprise of the Trustee or any property (whether acquired before or after the date of this Deed) of the Trustee or otherwise relating to the affairs thereof.

(ix) (deleted)

(x) (deleted)

(xi) **Send Statement of Income to Unit Holders**

That it will within twenty Business Days from the last days of May and November in each year send to each Unit Holder a Statement of the income deemed to have been received by such Unit Holder and reinvested on his behalf pursuant to Clause 12.1 hereof.

(xii) **Comply with Corporations Act and SIS**

That it will comply, to the extent they are applicable, with the provisions of the Corporations Act and SIS.

(xiii) (deleted)

(xiv) (deleted)

(xv) (deleted)

(xvi) (deleted)

(xvii) **Keep records for 5 years**

The Trustee will keep all records of the transactions, acts and operations of the Fund and will retain those records for at least 5 years, or for such longer period as may be required under SIS, after the end of the year of income in which the transaction, acts or operations occurred after the expiration of which the Trustee may in its discretion (subject to any law to the contrary) destroy the records.

(xviii) (deleted)

DIVISION XVA: (deleted)

24A.1 (deleted)

DIVISION XVI: (deleted)

25.1 (deleted)

25.2 (deleted)

25.3 (deleted)

25.4 (deleted)

25.5 (deleted)

25.6 (deleted)

25.7 (deleted)

25.8 Change of name of Trust on change in control of Trustee

- (a) Subject to clause 25.8(b), where there is a change in the holder or holders of 50% or more of the ordinary shares or other voting, income or capital participation rights of Rothschild Australia Asset Management Limited (except where the same has occurred for the purpose of amalgamation, reconstruction or a purpose of a similar kind) (“Change of Ownership”), the Trustee covenants that:
 - (i) as soon as practicable it will change the name of the Trust; and
 - (ii) the name of the Trust will not at any time after the Change of Ownership include the expressions “Five Arrows” or “Rothschild” or any other expression which is similar.
- (b) Clause 25.8(a) will not apply to the extent that, and for so long as, N M Rothschild & Sons Limited (company no. 00925279) otherwise agrees with the Trustee in writing.

DIVISION XVII: RETIREMENT OF TRUSTEE

26.1 Retirement of Trustee

The Trustee covenants that it will retire from the Trust, at the time specified in writing by such holders, if the holders of 75% of the Units in Issue in writing or at a duly convened meeting of Unit Holders require the Trustee to retire.

26.2 Change of Trustee²

The Trustee may retire from office and appoint its replacement by deed.

26.3 Trustee shall on retirement vest Fund in new Trustee

The Trustee shall on retirement vest the Fund or cause it to be vested in such new Trustee and shall deliver to such new Trustee all books documents records and other property whatsoever relating to the Fund. The costs and expenses incidental thereto shall be recouped from the Fund.

² Clause 26.2 amended by amending deed dated 3 July 2009.

26.4 **New Trustee shall be bound by Deed**

The corporation so appointed shall execute a Deed in such form as the Trustee may require whereby such corporation shall undertake to the Unit Holders jointly and severally all the obligations of the retiring Trustee hereunder and from the date thereof the retiring Trustee shall be absolved and released from all further obligations hereunder provided that any release so provided for and given in accordance with this clause shall not extend to any antecedent neglect by or default of such retiring Trustee. The new Trustee shall and may thereafter exercise all the powers and enjoy all the rights and shall be subject to all duties and obligations of the Trustee hereunder as fully as though such new Trustee had been originally named as a party hereto.

26.5 (deleted)

DIVISION XVIII: REMUNERATION OF TRUSTEE

27.1 **Calculation and payment of Trustee's remuneration**

- (a) In addition to the initial service charge as provided in Clause 28.2 hereof, the Trustee shall, subject to Clause 27.2 and Clause 27.5 below, be remunerated for its management services hereunder by the payment to it out of the Trust Fund monthly in arrears of a service charge of that amount calculated in accordance with the formula appearing below on each day during the month:-

$$SC = \frac{TA \times .02}{D}$$

D

where:-

SC = service charge payable in respect of each day;

TA = the aggregate as at the last Business Day of the relevant month of the values of all the Authorised Investments comprised in the Fund, all cash so comprised and all moneys recoverable and receivable by the Trustee; and

D = number of days in the year containing the relevant day.

- (b) The Trustee shall be remunerated for its trustee services hereunder by the payment to it out of the Trust Fund monthly in arrears of a service charge calculated in accordance with the formula appearing below on each day during the month:-

$$SC = \frac{TA \times .00125}{D}$$

D

where SC, TA and D are as defined in paragraph (a) of this sub-clause.

- (c) The remuneration of the Trustee payable hereunder shall be deemed to accrue from day-to-day during the period to which it relates.
- (d) Except where otherwise specifically provided for in this Deed, no additional charge shall be made to Unit Holders on any distribution of income or capital hereunder.
- (e) Notwithstanding the foregoing the Trustee is entitled to waive from time to time the right to receive the whole or any part of the said service charges.

27.2 **Variation of Trustee's remuneration**

The Trustee may by Supplemental Deed vary the service charges payable to the Trustee in accordance with paragraphs (a) and (b) of Clause 27.1 by stipulating such other percentage amount as the Trustee may from time to time determine and notify by notice of variation despatched not more than three (3) Business Days after the date of the notice to each Unit Holder on the Register on that date **PROVIDED THAT**:

- (a) any variation of the service charges shall not become effective prior to the expiration of one month after the date of the relevant notice of variation; and
- (b) no notice of variation shall be given so as to expire during the currency of a disclosure document.

27.3 (deleted)

27.4 (deleted)

27.5 **Fees when investing in Related Scheme Interests**

The Trustee covenants that the fees, including any redemption fees or entry fees, paid to the Trustee under this Deed and to the responsible entity under the Related Deed, in respect of moneys available for investment under this Deed which are invested in Related Scheme Interests issued in respect of a particular Related Deed (including in respect of the investment of such moneys under this Deed and under the Related Deed, the holding by the Trustee under this Deed and the trustee under the Related Deed of that proportion of the total assets vested in the Trustee under this Deed or the trustee under the Related Deed which results from the interests made available on such investment), shall not generate for the Trustee, together with amounts generated for the responsible entity under the Related Deed, such fees in excess of the greater of such fees which would have been generated had the amount of moneys invested in the Related Scheme Interests been invested solely under either:

- (a) this Deed, where it is assumed that no Excluded Person received such fee in respect of the amounts so invested under this Deed other than the Trustee pursuant to this Deed; or
- (b) the Related Deed, where it is assumed that no Excluded Person received such fee in respect of the amount so invested under the Related Deed other than such fees payable to the responsible entity of the Related Deed pursuant to the Related Deed;

PROVIDED THAT this covenant shall not bind the Trustee where the Related Deed is only such by virtue of the fact that the Trustee is the trustee of the Related Deed.

28.1 **Trustee entitled to be indemnified for Costs and Disbursements**

The Trustee in addition to the remuneration payable to it under sub-clauses 27.1(a) and (b) shall be entitled to be indemnified and to reimburse itself out of the Trust Fund for and in respect of:

- (a) all costs, charges, disbursements and expenses incurred in connection with the acquisition, registration, custody, disposal of or other dealing with an Authorised Investment, including commission, bank charges and stamp duty, but excluding any incidental expense which is not an out of pocket expense or disbursement incurred (by deduction or otherwise) by the Trustee;

- (b) the reasonable fees and expenses of the Auditor appointed in accordance with Clause 20;
- (c) all income tax, stamp duties, financial institutions duties and bank account debit taxes or any other duty, tax or impost or any amount in reimbursement of any such duty, tax or impost properly charged to or payable by the Trustee (whether by any taxing authority or any other person) in connection with the Trust on any account whatsoever;
- (d) interest on borrowings and discounts and acceptance fees in respect of bill facilities;
- (e) an amount calculated at the rate of 0.75 per centum per annum of the amount determined by multiplying the Asset Value of a unit as at the end of each month by the number of Units in issue at that time, on account of the following costs, charges and expenses incurred by the Trustee and to the extent that such costs, charges and expenses exceed that amount the Trustee shall bear the excess -
 - (i) all costs, charges and expenses of and incidental to the preparation, execution and stamping of this Deed and any deeds supplemental thereto;
 - (ii) costs of convening and holding any meeting of Unit Holders;
 - (iii) costs of postage in respect of all cheques, accounts, distribution statements, notices, reports and other documents posted to all or any Unit Holders in accordance with the provisions of this Deed;
 - (iv) fees and expenses of any solicitor, barrister, computer expert or other expert from time to time employed by the Trustee in the discharge of their respective duties and exercise of powers under this Deed;
 - (v) all costs, charges and expenses incurred in relation to the preparation, registration and distribution of any disclosure document issued by the Trustee in respect of the Units and the preparation, registration (if requisite) and distribution of any periodical or other report or document required by law to be prepared in respect of the Trust;
 - (vi) costs of preparing and printing accounts, distribution statements, cheques and all other documents required to be prepared in connection with the Trust, pursuant to this Deed or any relevant law; and
 - (vii) expenses in connection with the establishment and maintenance of accounting systems and the keeping of accounting records and the Register including expenses incurred in calculating any income entitlement of Units.

The Trustee is entitled to waive from time to time the right to receive the whole or any part of the said amount of 0.75 per centum per annum **PROVIDED THAT** the said rate of 0.75 per centum per annum may be varied by Supplemental Deed to such rate as the Trustee is satisfied is reasonable (having regard to changes in the costs and expenses referred to in paragraphs (i) to (vii) inclusive of this sub-clause) and notify by notice of variation despatched not more than three (3) Business Days after the date of the notice to each Unit Holder on the Register on that date **PROVIDED THAT:**

- (a) any variation of the percentage amount shall not become effective prior to the expiration of one month after the date of the relevant notice of variation; and
- (b) no notice of variation shall be given so as to expire during the currency of a disclosure document.

28.2 **Trustee may charge an Initial Service Fee**

The Trustee shall, in addition to the amounts provided for elsewhere in the Deed, be entitled to a non-refundable initial service charge in relation to applications for Units accepted by the Trustee, which initial service charge shall be six per cent (6%) of the funds applied in payment of the sale price of the units or such other lower percentage amount as the Trustee may, determine **PROVIDED THAT:**

- (a) any variation of the Initial Service Charge resulting in an increase in such charge shall not become effective prior to the expiration of one month after the date of the relevant notice of variation; and
- (b) no notice of such increase shall be given so as to expire during the currency of a disclosure document.

28.3 **Trustee may charge a dishonour fee**

Where application moneys for Units have been paid by cheque, bill of exchange, or promissory note (here referred to as an “Instrument”) and the Instrument is not honoured on presentation or where a direct debit to the bank, building society or credit union account of a Unit Holder (or prospective Unit Holder) is refused by the bank, building society or credit union concerned, then, in addition to recovering other expenses incurred by the Trustee in respect of any such transaction, the Trustee is entitled, to the extent permitted by law, to a fee of \$20 (indexed according to an inflation index considered appropriate by the Trustee). Where the person who lodged the Instrument or agreed direct debit is a Unit Holder, the Trustee may cancel a sufficient number of Units of the Unit Holder to defray such fee. If the fee is recovered in any such manner, the Trustee must notify the Unit Holder thereof in writing promptly after the fee is recovered.

DIVISION XIX: MEETINGS OF UNIT HOLDERS

29.1 **Trustee may summon meeting of Unit Holders**

- (a) The Trustee covenants it will, to the extent permitted under SIS, within twenty-one days after an application being an application by not less than fifty or one-tenth in number whichever is the less of the Unit Holders is delivered to the registered office of the Trustee:
 - (i) by sending notice by post of the proposed meeting at least seven days before such proposed meeting to each Unit Holder at his last known address or in the case of joint holders to the joint holder whose name stands first in the Register; and

- (ii) by publishing at least fourteen days before the proposed meeting an advertisement giving notice of the meeting in a daily newspaper published in and circulating generally throughout each State or Territory,

summon a meeting of Unit Holders for the purpose of laying before the meeting the accounts and balance sheet which were laid before the last preceding annual general meeting of the Trustee or the last audited statement of accounts of the Trustee.

- (b) The Trustee may at any time summon a meeting of Unit Holders for such purposes as it may see fit or as may be authorised from time to time by statute. Notice of every such meeting shall be given in the same manner as provided in Clause 29.1(a) hereof in respect of meetings called for the purpose of laying the Trustee's accounts before a meeting. Inadvertent failure to give notice to a Unit Holder shall not invalidate the calling of the meeting. The notice shall indicate briefly the purpose of the meeting and the effect of any resolution intended to be proposed thereat.

29.2 Place and time for meetings of Unit Holders

Meetings of Unit Holders shall be held at the time and place specified in the notice and advertisement being a time not later than two months after the giving of the notice under the chairmanship of such person as is appointed in that behalf by the Unit Holders present at the meeting or where no such appointment is made a nominee of the Trustee and shall be conducted in accordance with the provisions of this Deed or insofar as this Deed makes no provision as directed by the Chairman of the meeting.

29.3 Modes of consent or direction by Unit Holders

Where under the provisions of this Deed the consent or direction of any stated percentage of Unit Holders is required then such consent or direction may be obtained or given either:-

- (i) at a meeting of Unit Holders convened as aforesaid, or
- (ii) by a written document or series of documents, or
- (iii) partly by one method and partly by the other.

29.4 Unit Holders may by special resolution vary Deed, and/or require Trustee and/or Auditor to retire

The Unit Holders shall have power by special resolution:

- (i) to sanction or assent to any modification or variation of the provisions of this Deed;
- (ii) (deleted)
- (iii) (except to the extent that such a provision is made void or invalid by SIS) to require the Trustee to retire; and
- (iv) to remove the Auditor or Auditors of the Fund from office.

A resolution (whether ordinary or special) duly passed shall be binding upon all Unit Holders whether present or not present at such meeting and each Unit Holder shall be bound to give effect thereto. The expression "special resolution" when used in this Deed means a resolution passed at a meeting of the Unit Holders duly convened and

29.5

- (i) Every question arising at any meeting of Unit Holders shall be decided in the first instance by a show of hands unless:
 - (a) it be a question which under this Deed must be decided by a majority being a percentage of the votes of those present in which case a poll shall be taken; or
 - (b) a poll be demanded.
- (ii) A poll may be demanded before or immediately after any question is put to a show of hands.
- (iii) A poll may be demanded by the Trustee or by Unit Holders holding (or representing by proxy) between them not less than 10% of the Units in Issue from time to time.
- (iv) Upon a show of hands every Unit Holder who is present in person shall have one vote and upon a poll every Unit Holder present in person or by proxy shall have one vote for each whole Unit (or that proportion of one vote which is equal to the Fractional Amount of a Fractional Unit) held by him.
- (v) Votes may be given either personally, or by proxy or in the case of a company by its duly appointed representative, and a person appointed a proxy need not be a Unit Holder.
- (vi) In the case of joint registered holders any one of such joint holders may vote either personally or by proxy as if he were solely entitled to the Units comprised in the joint holding but if more than one of such joint holders be present at any meeting either personally or by proxy that one of the persons so present whose name stands first on the Register in respect of the joint holding shall alone be entitled to vote in respect thereof. Several executors or administrators shall be the purpose of this sub-clause be deemed joint holders.
- (vii) Every instrument of proxy whether for a specified meeting or otherwise shall as nearly as circumstances admit be in the following form or to the like effect:

Signed by the said _____)
 _____)
 on the _____ day _____)
 of _____ 20 _____)
 in the presence of: _____)

- (viii) The instrument appointing a proxy shall be deposited at the office of the Trustee not less than twenty-four hours before the time of holding the meeting as the case may be at which the person named in such instrument proposes to vote. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed provided that no intimation in writing of such death insanity or revocation as aforesaid shall have been received by the Trustee before the commencement of the meeting or adjourned meeting at which the person named in such instrument proposes to vote.
- (ix) No business shall be transacted at any meeting unless a quorum is present when the meeting proceeds to business. The quorum for a meeting shall be Unit Holders personally present not being less than two in number and holding (or representing by proxy) between them not less than 10% of the Units in Issue from time to time. If within fifteen minutes from the time appointed for any meeting a quorum is not present the meeting shall:
 - (a) if called for the purpose of passing an ordinary resolution stand adjourned to the same day in the next week and at the same time and the same place;
 - (b) if called for the purpose of passing a special resolution stand adjourned for such period as the Chairman shall direct.

At such adjourned meeting the Unit Holders present in person or by proxy (whatever their number and whatever number of Units held or represented by them) shall form a quorum and shall have power to pass such ordinary or special resolution **PROVIDED HOWEVER** that in the case of a special resolution notice of the proposed special resolution and of the fact that those present in person or by proxy will constitute a quorum at any adjourned meeting have been given to the Unit Holders by the Trustee. The Trustee or its duly appointed representatives shall be entitled to attend and address the meeting.
- (x) The Chairman may with the sanction of the meeting adjourn it to such time and place as he shall determine.
- (xi) The Trustee and the Auditor of the Fund shall be entitled to be present by duly authorised representative at every meeting of Unit Holders and to speak thereat.

DIVISION XX: PERIOD OF THE TRUST AND TERMINATION THEREOF

30.1 Termination date of Trust

The Trust created by these presents shall commence on the Commencement Date and continue unless previously determined as hereinafter provided until a date being a date twenty one years after the death of the last survivor of the lineal descendants now living of His late Majesty King George V when it shall determine **PROVIDED HOWEVER** that the Trustee if it considers it to be in the interests of the Unit Holders so to do may -

- (i) at any time and from time to time by or before such date determine that the Trust shall not determine upon such date but shall continue until such later date as the Trustee may specify and thereupon (insofar as it may lawfully be

given such effect) such determination shall extend the date upon which the Trust shall terminate to the date specified from time to time;

- (ii) by not less than one month's notice in writing to the Unit Holders at any time (whether during the original or any extended period) terminate the Trust.

30.2 Notice of termination to be given to Unit Holders

Notice of any extension or termination determined upon by the Trustee as aforesaid or by the Trustee under Clause 22.1(xvi)(a), Clause 22.1(xvi)(b) or Clause 31.2 hereof shall upon the same being determined upon be given to Unit Holders.

30.3 Trustee and Unit Holders may only terminate the Trust in accordance with Deed

Except as in this Deed provided neither the Trustee nor the Unit Holders may terminate the Trust.

31.1 (deleted)

31.2 (deleted)

32.1 Upon termination asset to be converted into cash and proceeds divided among Unit Holders

Upon determination of the Trust under Clauses 22.1(xvi)(a) or 22.1(xvi)(b) or 30.1 hereof the Trustee shall as soon as practicable sell call in and convert into money or cause to be sold called in and converted into money the Fund and divide the proceeds of sale less all proper costs charges and expenses among the Unit Holders in proportion to the number of Units of which they are respectively registered as the holders.

DIVISION XXI: ALTERATION OF DEED

33.1 Trustee may agree to Variation of Deed if in interests of Unit Holders

The Trustee may from time to time if in its absolute discretion it shall think fit assent to any amendment modification or variation of this Deed (including if thought fit the change of the name of the Fund consequent upon the retirement of the Trustee and the revocation or restriction of this present clause) which in the opinion of the Trustee may be expedient for the more convenient economical or advantageous working or management or administration of the trusts herein declared and contained and which the Trustee may think proper having regard to all the circumstances of the case and upon such assent being given this Deed shall take effect as modified or varied accordingly **PROVIDED THAT** this Deed shall not be amended, modified or varied where in the opinion of the Trustee the rights of Unit Holders may be adversely affected unless the consent of Unit Holders to the amendment, modification or variation is given at a meeting convened in accordance with the provisions of this Deed.

33.2 Notice of variation to be given to Unit Holders

After the giving of such assent as aforesaid notice thereof containing a short summary of the effect of the amendment modification or variation shall be sent by the Trustee to the Unit Holders.

33.3 Unit Holders may be special resolution assent to variation

In addition to the powers conferred by Clause 33.1 hereof the Trustee may from time to time with the consent of the holders of seventy-five per centum of the Units in Issue assent to any modification or variation of this Deed.

33.4 Mode of variation by Trustee

Any modification or variation of this Deed shall be made by the Trustee by Supplemental Deed.

DIVISION XXII: MISCELLANEOUS PROVISIONS

34.1 Trustee may rely on rulings of Australian Associated Stock Exchanges

At all times and for all purposes of this Deed the Trustee may rely upon the established practice and rulings of the Australian Stock Exchange Limited and any committees and officials thereof in determining what shall constitute a good delivery and any similar matters and such practice and rulings shall be conclusive and binding upon all Unit Holders and upon the Trustee.

35.1 Mode of service of notices to Unit Holders

Any notice required to be given to the Unit Holders hereunder shall be deemed to have been duly given if given in writing to the Unit Holders respectively by letter addressed to them at their respective addresses as appearing in the Register. In the case of joint Unit Holders a notice given to that joint holder whose name stands first on the Register shall be sufficient notice to all such joint Unit Holders. Any notice given by post shall be deemed to have been served at the time when it was posted and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and posted, and a statement signed by the Trustee that it was so posted and when shall be evidence of that fact.

35.2 (deleted)

36.1 Mode and methods of payment under Deed

Any moneys payable by the Trustee to a Unit Holder under the provisions of this Deed may be paid by cheque crossed "not negotiable" made payable to the Unit Holder and sent through the post to the registered address of such holder or in the case of joint holders made payable to the joint holders and sent to the registered address of that one of the joint holders who is first named on the Register. Payment of every such cheque if duly presented and paid shall be a satisfaction of the moneys payable and shall be a good discharge to the Trustee. Provided however that if the Trustee shall be directed in writing by the Unit Holders so to do the Trustee may pay any such moneys to the credit of a bank account named in the direction and in such event the receipt of such Bank shall be a good discharge to the Trustee.

37.1 Applications and transfers to be retained by Trustee for seven years

Applications for Units, instruments of transfer and transmission shall be retained by the Trustee and be available for the inspection by or on behalf of the Trustee at any time during normal business hours, but on the expiration of seven years (or any longer period required by SIS) from the date of each thereof the same may in the absolute discretion of the Trustee be destroyed.

38.1 Deed shall bind Trustee and each Unit Holder

The terms and conditions of this Deed shall be binding on the Trustee and each Unit Holder and all persons claiming through them respectively as if such holder had been party to this Deed.

39.1 (deleted)

40.1 Copies of Deed to be available for inspection and for purchase by Unit Holders

A copy of this Deed shall at all times during usual business hours be made available by the Trustee at its registered office for the inspection of Unit Holders who shall be entitled to receive from the Trustee a copy of this Deed on payment to the Trustee of the sum of forty dollars or such smaller sum as the Manager may from time to time prescribe.

41.1 (deleted)

42.1 No provision made for depreciation of Authorised Investment

It is not the intention of the Trustee to make provision for the replacement of any part of the Fund which tends to depreciate in value through use or effluxion of time.

43.1 (deleted)

43.2 (deleted)

44.1 Limitations of Unit Holders' Liability

Notwithstanding any other provision of this Deed or provision deemed to be included herein, no Unit Holder shall, by reason of the holding of a Unit or by reason of the relationship thereby created with the Trustee, be under any obligation personally to indemnify the Trustee or any creditor of the Trustee or either of them in the event of there being any deficiency of the assets of the Trust Fund as compared with the liabilities of the Trustee in relation thereto, and the only rights, if any, of indemnity of the Trustee or of such creditor shall be limited to having recourse to the Trust Fund.

DIVISION XXIII: SIS COMPLIANCE CLAUSE AND SEVERANCE

45.1 Clause Paramount

- (a) The Trustee has all of the powers necessary to observe SIS and the Trustee may:
 - (i) do, or cause to be done, any matter or thing necessary in order to satisfy SIS; and
 - (ii) refrain from doing any matter or thing which would cause a breach of or non-compliance with SIS.
- (b) No person is permitted to engage in conduct which, but for this Clause, would render the Trustee, and the exercise of any of the Trustee's powers under the Deed, subject to directions by that person in terms of and to an extent not permitted under SIS (where "engage in conduct" includes refusing or failing to do an act or exercise a power) and any provisions of this Deed which contemplate a person engaging in such conduct must be construed as only permitting a person to engage in such conduct with the approval of the Trustee.
- (c) To the extent that the exercise of, or the ability to exercise, a discretion under the Deed by a person other than the Trustee without the consent of the Trustee would, but for this clause, render a provision of the Deed void or invalid under SIS, then that other person may only exercise that discretion with the consent of the Trustee.

45.2 Severance

Any provision of, or the application of any provision of, this Deed which is -

- (a) prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition;

- (b) void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

FIRST SCHEDULE
(deleted)

PRICING SCHEDULE

1 Overriding Operation

- 1.1 This Schedule forms part of the Deed.
- 1.2 The provisions in this Schedule apply despite anything to the contrary in the Deed.
- 1.3 If there is more than one Fund maintained under the Deed, this Schedule applies severally to each Fund.

2 Interpretation

- 2.1 In this Schedule, unless the contrary appears or context requires otherwise:

“**Allocation Value**” in relation to a Unit means the value of the Unit determined under clause 4.3 or 4.4 of this Schedule;

“**Application**” means an application for the issue of Units under the main body of the Deed.

“**Assets**” means all the property, rights and income of the Fund.

“**Cancellation Value**” in relation to a Unit means the value of the Unit determined under clause 4.5 of this Schedule;

“**Class**” refers to a class of Unit, if any. If there is only one class of Unit for a Fund, it refers to that class.

“**Contribution Transaction Costs**” for an Investment Portfolio means the Trustee’s estimate of the total cost of acquiring all of the Assets of the Investment Portfolio determined under clause 3.5 of this Schedule.

“**Fund**” means the trust fund maintained under the Deed or, if there is more than one trust fund, each trust fund.

“**Investment Portfolio**” in respect of a Class, means the portfolio of Assets to which the Class relates. If there is only one class of Unit, it refers to the Fund.

“**Liability**” means:

- (a) all liabilities of the Fund, including:
 - (i) liabilities accrued but not yet paid; and
 - (ii) amounts payable to the Trustee; and
- (b) any provision which the Trustee considers should be taken into account in determining the liabilities of the Fund;

“**Redemption**” means a request for redemption or cancellation of Units or withdrawal of funds in respect of Units made by a Unit Holder.

“Superannuation Law” in respect of a Fund means any requirements under the Superannuation Industry (Supervision) Act 1993 or any other law:

- (a) imposed on trustees of superannuation entities; or
- (b) which must be satisfied for the Fund to qualify for the most favourable taxation treatment available to superannuation entities.

It includes any proposed requirements which the Trustee believes will have retrospective effect.

“Unit” of a Fund has the same meaning as Unit in the main body of the Deed.

“Withdrawal Transaction Costs” for an Investment Portfolio means the Trustee’s estimate of the total cost of selling all of the Assets of the Investment Portfolio determined under clause 3.5 of this Schedule.

3. Valuation Investment Portfolios

Time

- 3.1 The Trustee must cause each Investment Portfolio to be valued at times which the Trustee considers appropriate.

Valuer

- 3.2 The Trustee may instruct a person, who the Trustee considers to be appropriately qualified and experienced, to value any Asset or Liability.

Valuation principles

- 3.3 The Trustee may set down the principles for valuing the whole or any part of an Investment Portfolio (including attributing Liabilities to the Investment Portfolio). Those principles must be consistent with Superannuation Law.

Valuation periods

- 3.4 The Trustee must determine, as it considers appropriate:
- (a) the period during which an Allocation Value is to apply;
 - (b) the period during which a Cancellation Value is to apply; and
 - (c) the time of the valuation under clause 3.1 of this Schedule which is to apply to each of those periods.

Transaction Costs

- 3.5 For each Application or Redemption of Units in a Class, the Trustee must estimate the amount which would be the total cost of acquiring (in the case of an Application) or selling (in the case of a Redemption) all of the Assets of the Investment Portfolio if all of the

Assets of the Investment Portfolio were to be acquired or sold at the time of the Application or Redemption.

Use of Allocation Value and Cancellation Value

- 3.6 For each Application which is accepted by the Trustee, the Trustee must issue Units at the Allocation Value which is applicable to the Application or at a value determined under clause 4.6 of this Schedule.
- 3.7 For each Redemption request which the Trustee will satisfy, the Trustee must redeem Units at the Cancellation Value which is applicable to the Redemption or at a value determined under clause 4.6 of this Schedule.

4. Unit Value

Units of equal value

- 4.1 All Units in a Class have an equal value.

Unit Value

- 4.2 The Unit Value of Units in a Class at a particular time is the value determined by the Trustee having regard to:
- (a) the value most recently determined under clause 3.1 of the Investment Portfolio for the Class; and
 - (b) the number of Units in the Class relating to that valuation.

Allocation Value

- 4.3 If Units may be issued in different Classes, the Allocation Value of Units in a class on the first day Units are allocated in that Class shall be \$1.00.
- 4.4 The Allocation Value of Units in a Class for a period determined under clause 3.4(a), other than on the first day Units are allocated in that Class must be determined by the Trustee:
- (a) if the subscription is in cash, based on:

$$\left(\frac{VAP + CTC}{U} \right)$$

where:

VAP = the value of the Investment Portfolio for the Class determined under clause 3.1 and applicable to the period;

CTC = the Contribution Transaction Costs which the Trustee considers appropriate to attribute to the Class;

U = the number of Units in the Class relating to the valuation of that Investment Portfolio; or

(b) if the subscription is not in cash, as being the Unit Value.

Cancellation Value

4.5 The Cancellation Value of Units in a Class for a period determined under clause 3.4(b), other than on the first day Units are allocated in that Class must be determined by the Trustee:

(a) if the withdrawal or payment is in cash, based on:

$$\left(\frac{VAP - WTC}{U} \right)$$

where:

VAP = the value of the Investment Portfolio for the Class determined under clause 3.1 and applicable to the period;

WTC = the Withdrawal Transaction Costs which the Trustee considers appropriate to attribute to the Class;

U = the number of Units in the Class relating to the valuation of that Investment Portfolio; or

(b) if the withdrawal is satisfied other than by cash, as being the Unit Value.

Fair and reasonable price

4.6 In exercising its powers under clauses 3.1 to 4.5 of this Schedule, the Trustee must determine and apply to each Application or Redemption the price which the Trustee believes, on reasonable grounds in the circumstances, to be fair and reasonable as between the person who is being issued Units or whose Units are being redeemed and the other beneficiaries of the Fund.