

BT SUPER TRUST

TRUST DEED

CONSOLIDATED COPY

AS AT JUNE 2000

Incorporating:

Deed of Establishment dated 21 November 1984
Deed of Amendment dated 27 March 1986
Deed of Amendment dated 30 June 1988
Deed of Amendment dated 28 October 1988
Deed of Amendment dated 28 June 1991
Deed of Amendment dated 19 August 1991
Deed of Amendment dated 29 June 1992
Deed of Amendment dated 8 September 1992
Deed of Retirement and Appointment dated 6 April 1987, by which BT Securities Limited retired as Manager and BT Financial Services Limited became the Manager
Memorandum of Commencement - BT Capital Stable Trust dated 28 October 1988
BT Funds Management Limited appointed Trustee 1 July 1994
Deed of Amendment dated 1 July 1994
Deed of Amendment dated 30 June 1995
Deed of Amendment dated 31 August 1995
Deed of Amendment dated 20 August 1996
Deed of Amendment (Replacement) dated 12 November 1997
Deed of Amendment dated 30 June 2000

Addendum	5
1 Definitions	5
2 Constitution of the Trusts	18
3 Units	20
4 Creation of Units	21
5 Transfer of taxable contributions	22
6 Deleted	24
7 Application for Units	24
8 Issue Price for Units	26
9 Investment of the Trusts	28
10 Redemption of Units	30
11 Vesting of investments	34
12 Net Value of the Trusts	34
13 Income of the Trusts	35
14 Apportionment of tax	36
15 Deleted	37
16 Deleted	38
17 Deleted	38
18 Capital profits and losses	38
19 Deleted	38
20 Register of Unit Holders	38
21 Branch Registers	40
22 Acknowledgments for Units	40
23 Transfer of Units	42
24 Management of the Trusts	42
25 Covenants by the Trustee	46
26 Deleted	50
27 Voting rights on investments	50
28 Trustee's protection and indemnities	50
29 Trustee's powers	58

30	Trustee's borrowing powers	61
31	Additional covenants by the Trustee	62
32	Retirement of Trustee	64
33	Remuneration of Trustee	64
34	Auditor	68
35	Accounts and audit	69
36	Keeping of books and records	70
37	Period of Trusts	70
38	Determination of Trusts	72
39	Alteration of Trust Deed	73
40	Meetings of Unit Holders	74
41	Notices	77
42	Payments of Unit Holders	77
43	Documents to be retained by Trustee	77
44	Unit holders bound by deed	78
45	Authorised persons	78
46	Appointment of Custodians outside Australia	79
47	Copies of deed	80
48	Deleted	80
49	Governing law	81
50	Deleted	81
51	Saving clause	81

Deed of Amendment

Date: 12 November 1997

Parties: BT FUNDS MANAGEMENT LIMITED (ACN 002 916 458) ("**Trustee**")

Recitals:

- A. The BT Super Trust was established by trust deed dated 21 November 1984 which has been amended by various amending deeds ("**Trust Deed**").
- B. The Trustee is the trustee of the Trust and any other trusts established under the Trust Deed.
- C. Under Clause 39 of the Trust Deed the Trustee may amend the Trust Deed if certain conditions are met.
- D. The Trustee proposes to amend the Trust Deed in the manner set out below and is satisfied that the relevant conditions are met.

Operative provisions:

- 1.1 The Trust Deed is amended by deleting all of its operative provisions and by substituting the provisions of the Addendum to this deed.

EXECUTED as a deed

THE COMMON SEAL of BT FUNDS)
MANAGEMENT LIMITED is affixed in)
accordance with its articles of)
association in the presence of:)

.....
Signature of authorised person

.....
Signature of authorised person

.....
Office held

.....
Office held

.....
Name of authorised person (block
letters)

.....
Name of authorised person
(block letters)

Addendum

1 Definitions

(1) In this Deed unless the contrary intention appears:-

"Accounts" means profit and loss accounts and balance sheets and includes statements, reports and notes attached to or intended to be read with any of those profit and loss accounts or balance sheets;

"Accrual Period" in respect of a Trust means a period ascertained as follows:-

- (a) the first accrual period for the Investment Trust shall begin on the Commencement Date and end on 30th June, 1985;
- (b) the first accrual period for Trusts other than the Investment Trust shall begin on the Commencement Date for the relevant Trust and end on the next following 30 June;
- (c) each subsequent accrual period for a Trust shall be a period of twelve (12) months ending on the 30th day of June in each year except for the last accrual period for a Trust which shall commence on the day after the last day of the preceding Accrual Period and end on the day of termination of the Trust;

"Acknowledgment" means an acknowledgment issued or to be issued pursuant to clause 22 in respect of Units issued under the provisions of this Deed;

"Approved Valuer" means any person, independent of the Trustee and appointed by the Trustee as being duly qualified to value any property comprised in a Trust;

"Associate" means in respect of any person a person who is associated with that first mentioned person within the meaning of Division 2 of Part 1.2 of the Corporations Law;

"Auditor" in respect of a Trust means the auditor appointed in accordance with clause 34 of this Deed;

"Authorised Investments" means subject to clauses 25 and 31 provided they are sited in Australia or in a Foreign Country:

- (a) Trustee Securities;
- (b) the purchase leasing or other acquisition of any Land or real property of every description (including all furniture, carpets, fittings, machinery, plant and other moveables installed or to be installed in any building or used in connection therewith) and the laying out of moneys for the purpose of erecting buildings thereon making improvements thereto or developing, improving or otherwise exploiting the same PROVIDED THAT the total Value of all Authorised Investments of the type referred to in this paragraph (b) of a Trust shall not equal or exceed twenty per centum (20%) of the Value of a Trust at the time when any such Authorised Investments is acquired by a Trust;
- (c) any investment of money for a period not exceeding ten (10) years from the date on which the investment is made on the security (whether by way of mortgage, sub-mortgage, charge, transfer, assignment or otherwise) of any Authorised Investment PROVIDED THAT the total of all moneys advanced from a Trust 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 Trust, shall not exceed

four-fifths of the value of the security as assessed in a valuation in accordance with paragraph (a) of the definition of the "Value". A mortgage at interest to secure the balance of the purchase money given by a purchaser of any investment to the Trustee as vendor shall be subject to the limitations imposed by this paragraph;

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- (d) the purchase leasing hiring or other acquisition of any personal property and any share or estate or interest therein including (without affecting the generality thereof) any share or estate or interest in any contract for the sale or purchase of any property whether real or personal, hire purchase agreement, estate of a deceased person, *spes successionis*, book or other debt, promissory note or other thing in action and any claim or demand, and any other right or interest, whether in possession or not, including any interest or right to participate, whether enforceable or not and whether actual, prospective or contingent, in any profits, assets or realisation of any financial or business undertaking, common enterprise or scheme the purchasing leasing hiring or other acquisition whereof has been recommended by an Approved Valuer;
 - (e) preference or ordinary shares or Debentures or any notes or rights to any thereof of any company:-
 - (i) in respect of which official listing or quotation or permission to deal or for shares to be listed for quotation is currently granted by or in force on any Stock Exchange; or
 - (ii) in respect of which the Trustee is satisfied that such official listing quotation or permission is about to be granted;
 - (f) deposits at call or for a term with any Company or trust fund nominated by the Trustee;
 - (g) holding deposits for Authorised Investments which it is proposed to purchase on behalf of a Trust;
 - (h) any loan without security if the proposal for such loan has been approved by the Trustee;
 - (i) investments in shares of or deposits with any Permanent Building Society;
 - (j) commercial bills of exchange issued by any Company;
 - (k) negotiable certificates of deposit issued by any Trading Bank;
 - (l) Trading Bank accepted or endorsed bills of exchange;
 - (m) the acquisition and acceptance of any equity of redemption;
 - (n) the taking or giving of options to purchase and/or sell any investment which is an Authorised Investment;
 - (o) investments in any cash management fund or unit trust;
 - (p) the making of a contract which is a commodities futures contract (the relevant contract unit specified in which is bank accepted bills of exchange), currency futures contract or share index futures contract; and
 - (q) a chose in action in the nature of a right to direct the Reserve Bank of Australia to deliver securities to or to the order of the Trustee pursuant to the Reserve Bank Information and Transfer System (RITS) being in respect of any Authorised Investments referred to in the previous paragraphs of this definition;

"Authorised Person" means a person authorised under clause 45 to act on behalf of a Unit Holder;

"Business Day" means any day on which Trading Banks are open for business in the State of New South Wales or any other day approved by the Trustee;

"Cash" includes cheques and bank cheques;

"Commencement Date" means

- (a) the date of lodgement of the sum of \$500 with the Trustee pursuant to clause 2 for the Investment Trust; and

(b) for other Trusts, the date of commencement specified in the relevant Memorandum of Commencement or if none, the date on which the first application for Units in the Trust is accepted by the Trustee;

"Company" includes a body corporate, whether formed or incorporated within or outside New South Wales and whether or not a public authority or an instrumentality or agency of the Crown;

"Constitutional Corporation" has the same meaning as in the SIS Act;

"Corporations Law" and "Corporations Regulations" each has the meaning assigned thereto in the Corporations (New South Wales) Act, 1990;

"Custodian" means any custodian appointed by the Trustee pursuant to Clause 46 or Clause 46A;

"Debenture" means "debenture" as defined in the Corporations Law;

"Deed" includes the schedules hereto and the Acknowledgments issued hereunder;

"Distributable Income" means the income distributed in accordance with clause 14A and determined by the Trustee to be Distributable Income;

"Eligible Investor" means a person, fund or other body who may hold units in a Pooled Superannuation Trust without that Pooled Superannuation Trust ceasing or being likely to cease to satisfy the Pooled Superannuation Trust conditions as specified in Superannuation Law in any year of income;

"Eligible Money Market Dealer" has the meaning assigned thereto in the Corporations Law;

"Extraordinary Resolution" means a resolution passed at a meeting of Unit Holders of a Trust or of all Trusts, as the case may be, duly convened and held in accordance with the provisions herein contained by a majority consisting of not less than three fourths of the persons voting thereat upon a show of hands and if a poll is demanded then by a majority consisting of not less than three fourths of the votes given on such poll;

"FID" means financial institutions duty, being a tax imposed on receipts or liabilities or assets of financial institutions by legislation of various States and financial institutions by legislation of various States and Territories of the Commonwealth of Australia under legislation in terms similar to the Financial Institutions Duty Act, 1982, of Victoria, including an amount paid to a financial institution in respect of such duty or tax;

"Financial Year" means the period of twelve (12) months ending on the 30th day of June in each year other than

(a) the first financial year of a Trust which shall be the period commencing on the Commencement Date and ending on the following 30 June; and

(b) the last financial year of a Trust which shall be a period commencing on the day after the last day of the preceding Financial Year and ending on the day of termination of the Trust;

"Foreign Country" means any country other than Australia;

"GST" means a goods and services tax, value added tax, consumption tax or similar tax or a tax on services only;

"Land" includes without limitation, tenements and hereditaments wheresoever situated and whether corporeal or incorporeal and every estate and interest therein, whether vested or contingent freehold or leasehold, whether at law or in equity, in severalty or otherwise;

"Net Value of the Trust" in respect of a Trust on a day ("the relevant day") means, if the relevant day is not a Valuation Date, the Net Value of the Trust on the most recent Valuation Date, or, if the relevant day is a Valuation Date the amount by which the Value of the Trust on the relevant day exceeds the aggregate of the following determined on the relevant day:-

- (a) all sums owing by the Trustee in respect of the Trust on any account including sums borrowed pursuant to clause 30;
- (b) all sums paid out of the Trust in accordance with paragraph 13(2)(a);
- (c) any charges or expenses accrued or unpaid;
- (d) such provisions against future losses made by the Trustee on the basis of generally accepted Australian Accounting Standards as approved by the Auditor on the basis of generally accepted Australian Auditing Standards, in respect of any investment of which the Value is in the opinion of the Trustee incorrect or cannot fairly or accurately be determined, and such other provisions for such purposes as the Trustee thinks fit on the basis of generally accepted Australian Accounting Standards as approved by the Auditor on the basis of generally accepted Australian Auditing Standards PROVIDED THAT, in either case, if the relevant Accounting or Auditing Standards do not provide guidance as to the appropriate level of provisions then the level of provisions shall be determined by the Auditor applying such principles as he considers appropriate; and
- (e) such provision as the Trustee deems fit to make for any actual, contingent or expected liability of the Trust to Tax by reason of any realisation of any investment or of any increase in the Value of any investment included in the Trust and by reason of the inclusion of income earned on such investment;

"Ordinary Resolution" means a resolution passed at a meeting of the Unit Holders of a Trust or all Trusts, as the case may be, duly convened and held in accordance with the provisions herein contained by a majority of the persons voting thereat upon a show of hands and if a poll is demanded then by a majority of the votes given on such poll;

"Permanent Building Society" means a building society registered under the Financial Institutions (New South Wales) Code and which has not by its rules any fixed date or certain event or result when it shall terminate and includes any similar building societies registered under corresponding legislation in any other Australian State or Territory;

"Pooled Superannuation Trust" has the meaning given to that term in the SIS Act;

"Prescribed Application Time" means 4:00 pm Sydney time on a Business Day or such other time on a Business Day as the Trustee approves in relation to the lodgement of an application for Units;

"Prescribed Redemption Time" means 4:00 pm Sydney time on a Business Day or such other time on a Business Day as the Trustee approves in relation to the lodgement of redemption requests but any change in the Prescribed Redemption Time in relation to the lodgement of redemption requests to an earlier time shall only take effect if, by the date which the Trustee shall designate as the commencement date for such change, the Trustee has given no less than 30 days' notice of such a change to all Unit Holders;

"Redemption Arrangements" means arrangements made to ensure that the Trustee can comply with the Redemption Covenant;

"Redemption Covenant" means the covenant by the Trustee contained in clause 10(1);

"Register" means the register of Unit Holders maintained under clause 20;

"Regular Savings Plan" means an agreement under which a Unit Holder agrees to subscribe for further Units by regular payment of application moneys where:

- (a) the agreement is mutually made in a form approved by the Trustee;
- (b) the forms of payment may include, but are not restricted to, periodic debits to a bank account or deductions from wages or salary; and
- (c) the agreement is subject to the right of the Unit Holder to terminate the agreement by notice at any time to the Trustee or by not paying any moneys by way of application moneys for Units in any period of 12 months;

"Related Corporation" means a related corporation as defined in the Corporations Law;

"RITC" means an amount credited to the Trust in respect of a GST payment.

"Securities System" means the system known as Austraclear Limited or any securities title transfer and/or holding system which operates by any physical means, by any electronic medium or by any custom and which is located in Australia or elsewhere and includes any clearing agency which acts as a securities depository or a bank entry system for the central handling of any Authorised Investment;

"Selling Price" of a Unit is the price determined under clause 8;

"Share" includes ordinary preferred deferred redeemable and any other class of shares stocks 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 Act" means the Superannuation Industry (Supervision) Act 1993 and includes any regulations made under it;

"Standing Application" means an application, whether or not in writing, by or on behalf of a Unit Holder or applicant for Units that is intended to have continuing force in respect of all moneys from whatever source made available to the Trustee for the time being by or on account of that Unit Holder or applicant including funds made available under a facility for crediting a bank account in the name of the Trustee;

"Stock Exchange" means:-

- (a) a stock exchange specified in section 9 of the Corporations Law;
- (b) the Amsterdam Stock Exchange, the Frankfurt Stock Exchange, the Hong Kong Stock Exchange, the Kuala Lumpur Stock Exchange, the Singapore Stock Exchange, the Tokyo Stock Exchange and the Zurich Stock Exchange; and
- (c) any other stock exchange, whether situated in Australia or not, nominated by the Trustee;

Superannuation Authority means any person or body appointed under any Superannuation Law who is empowered under that legislation or some other legislation to exercise any discretion, give any consent or approval or otherwise give effect to and administer the Superannuation Law;

"Superannuation Law" means the SIS Act, the Tax Act and regulations made under those Acts, all other requirements, whether legislative or otherwise and including:

- (a) any administrative guidelines issued by a Superannuation Authority; or
- (b) statements by government advising changes and proposed changes to Superannuation Law,

with which a Trust must comply (or which, in the reasonable opinion of the Trustee, a Trust ought comply) in order to be a complying pooled superannuation trust;

"Tax" includes all income tax (including any tax on the disposal of assets or investments), withholding tax, stamp duty, FID and other duties, bank accounts debits tax and other taxes, levies, imposts, deductions and charges whatsoever (including in respect of any duty imposed on assets receipts or liabilities of financial institutions any

amounts paid in respect thereof to another financial institution) together with interest thereon and penalties with respect thereto (if any) and charges, fees or other amounts made on or in respect thereof;

"Tax Act" means the Income Tax Assessment Act 1936 and the Income Tax Assessment 1997 (as amended);

"Tax Acts" means the Tax Act, the Taxation Ratings Acts, the Taxation Administration Act and any other Commonwealth Tax legislation as amended or enacted from time to time and any regulations enacted promulgated or made thereunder;

"Trading Bank" means:

- (a) with respect to Australia, any bank authorised to carry on general banking business in Australia pursuant to the Banking Act 1959 or under the Commonwealth Bank Act 1959 or any bank owned by a State of Australia; and
- (b) with respect to any Foreign Country, a Corporation authorised to carry on banking business therein;

"Trust" means the trust hereby constituted under clause 2 and includes any further trusts constituted pursuant hereto;

"Trustee" includes the Trustee for the time being appointed under the provisions of this Deed;

"Trustee Securities" means investments in which trustees are for the time being authorised by the law of any State or Territory of Australia to invest trust funds PROVIDED THAT such investment is authorised by the law of the State or Territory where the investment takes place;

"Unit" means an undivided part or share in a Trust as provided for in clause 3 and includes any fractions of a Unit;

"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 issued and not cancelled;

"Unit Value" of a Unit of a Trust means the quotient derived after dividing the Net Value of the Trust on a Valuation Date by the number of Units in Issue on that Valuation Date or if the number of Units in Issue cannot reasonably be ascertained by the Trustee on that Valuation Date, on the immediately proceeding Business Day;

"Valuation Date" in respect of a Trust means any day on which the Trustee causes the Net Value of the Trust to be determined pursuant to Clause 12;

"Value" of an investment at any date when such value is required to be ascertained or taken into account hereunder means, in the case of:

- (a) real property investments, and personal property investments, their costs of acquisition (which shall include all costs and disbursements relating thereto) PROVIDED THAT the Trustee shall cause a valuation by an Approved Valuer as to the value of the real property investments comprised in a Trust to be obtained whenever the Trustee considers it desirable or whenever in the opinion of the Trustee the most recent valuation may not reflect the true value thereof and a further valuation is in the interests of Unit Holders AND FURTHER PROVIDED THAT each such real property investment shall be valued at least once in each three year period or at more frequent intervals as the Trustee shall determine to take account of unusual events. When a new valuation is received the Value will be deemed to be the Value fixed by such valuation of such investments until the date the Trustee receives a further valuation for such investment;
- (b) Shares including Trustee Securities and Stock Exchange listed options, the last sale price thereof according to the Stock Exchange quotations on such date or where there is no such last sale price on that day the nearest preceding day on which the appropriate Stock Exchange was open for business or the price which in the opinion of the Trustee would be

obtained if the relevant Shares were offered for sale on the basis of previously quoted seller prices, buyer prices and sale prices for the same Shares or the amount certified by a firm of stockbrokers nominated by the Trustee (being members of an appropriate Stock Exchange) to be the fair value of the Shares, Debentures or notes PROVIDED THAT in the case of an exchange of Authorised Investments for cash in accordance with sub-clause 4(7) the value shall where a contract note exists be the contract note price (provided that the date of the contract note is not more than four (4) working days earlier than the date on which the value falls to be ascertained);

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- (c) a deposit, a secured loan or an unsecured loan, the principal amount (including any interest in respect of any such deposit or loan which has been capitalised pursuant to the terms thereof) of such deposit, secured loan or unsecured loan;
 - (d) Shares of or deposits with any Permanent Building Society, the amount paid up on such shares or the amount of such deposit;
 - (e) commercial bills of exchange or negotiable certificates of deposit, their cost of acquisition;
 - (f) an option to purchase or sell excluding Stock Exchange listed options, its cost of acquisition;
 - (g) a futures contract, its cost of acquisition, PROVIDED THAT the Trustee shall cause a valuation of an Approved Valuer as to the value of a futures contract to be obtained whenever the Trustee considers it desirable. When a new valuation is received the Value will be deemed to be the Value of such investments until the date the Trustee receives a further valuation for such investment;
 - (h) a unit trust investment, subject to paragraph (i), the amount obtained by multiplying the certified price by the number of the units, sub-units or other interests comprised therein which are held by the Trustee as Authorised Investments at the date on which the Value falls to be ascertained. "Certified price" means the price certified by the manager or trustee of the unit trust, undertaking or scheme as being the price per unit, sub-unit or other interest in such trust on such date arrived at by the application of provisions for the

calculation of the minimum repurchase or redemption price of a unit, sub-unit or other interest similar to those contained in clause 10 of this Deed but excluding from the calculation any provision for an initial service charge and for the rounding up of the selling price to a point above the actual calculated price;

- (i) a unit trust investment which is listed on a Stock Exchange, the last sale price thereof according to Stock Exchange quotations on such date, or the nearest convenient date before such date or the amount certified by a firm of stockbrokers (being members of an appropriate Stock Exchange) to be the fair value of the unit trust investment; and
- (j) any other type of investment not stated in paragraphs (a) to (i), the value which the Trustee considers appropriate,

PROVIDED THAT if the Trustee in its absolute discretion forms the opinion that the value so determined is not a true reflection of the value of an investment, the Trustee may cause an Approved Valuer to certify the amount (if any) which in his opinion is the fair market value of the investment and the value so certified shall be deemed to be the Value AND THAT, in the case of an investment of the type referred to in paragraphs (b), (g) or (i) above, if the Trustee in its absolute discretion forms the opinion that the value of such an investment is not a true reflection of the value of that investment, the Trustee may substitute as the Value of such investment the price which in the opinion of the Trustee, would be obtained if the relevant investment were offered for sale on the basis of previously quoted seller prices, buyer prices and sale prices for the same investments;

"Value of the Trust" on any day ("the relevant day") means, in respect of a Trust, if the relevant day is not a Valuation Date the Value of the Trust on the most recent Valuation Date, or, if the relevant day is a Valuation Date the aggregate of:-

(a) the sum of the Value of the investments and of any other property held in respect of the Trust on the relevant day; and

(b) Cash held in respect of the Trust on the relevant day;

but the Value of a Trust shall not include Cash or Authorised Investments held in respect of application moneys received by the Trustee on the relevant day or an amount equal to the amount that has become payable to Unit Holders upon the redemption of Units on the relevant day;

"wholly-owned subsidiary" has the same meaning as it has for the purposes of the Corporations Law.

- (2) Notwithstanding anything herein contained or implied to the contrary if at any time there is only one Unit Holder all references to "Unit Holders" or "holders of Units" shall, to the extent necessary to permit the provisions of this Deed to take effect be construed as if such Unit Holder were two or more Unit Holders.
- (3) Wherever reference is made in this Deed to the "Trustee" as being the registered owner, holder or transferee of any Authorised Investments or as being the party to whom or by whom any payments (including without limitation, payment of taxes, stamp duty or other like imposts) are to be made, such reference shall where appropriate be deemed to include the Custodian.
- (4) Save where the context otherwise requires, 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 from time to time under the provisions of this Deed.
- (5) Words importing the masculine gender shall include the feminine and neuter gender, the plural shall include the singular and reference to bodies corporate shall include persons and vice versa.
- (6) Wherever any Law, Code, Act or Statute or any rules or regulations made subsidiary or pursuant thereto is referred to the reference shall be deemed to include that Law, Code, Act, Statute or those rules or regulation as amended or re-enacted from time to time and any Law, Code, Act, Statute, rules or regulations intended to replace any of them, whether or not passed by the same Parliament and whether or not incorporating or adopting any Law, Code, Act, Statute, rules or regulations passed by another Parliament.
- (7) Headings shall not affect the construction of this Deed.

2 Constitution of the Trusts

- (1) BT Funds Management Limited is Trustee of the Trusts.
- (2) Each Trust shall consist of all the cash, investments and other property for the time being held by the Trustee upon the trusts of this Deed in respect of the Trust, including:-
 - (a) the proceeds of sale, redemption or repayment of any investments;
 - (b) all additions or accretions (if any) thereto respectively which may arise by any interest, premium, distribution or otherwise received and for the time being retained; and
 - (c) the proceeds of any borrowing pursuant to clause 30 and any investments acquired by the application of such proceeds, but excluding any cash transferred to the Distribution Account.
- (3) Deleted.
- (4) The Trustee must hold the assets of each Trust as a separate trust for the Unit Holders subject to and upon the terms of this Deed.
- (5) Deleted.
- (6) The Trusts established by or under this Deed are as follows:-
 - (a) the Investment Trust;

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- (b) the Capital Stable Trust; and
 - (c) any other Trust or Trusts which the Trustee may establish from time to time in accordance with clause 2(7).

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- (7) (a) The Trustee may at any time determine to constitute a new Trust and thereafter, subject to any approval required by law, the Trustee may by a Memorandum of Commencement which shall be a deed supplemental to this Deed signed by the Trustee specifying that intention and containing the following particulars in respect of the new Trust:-
- (i) the name of the Trust;
 - (ii) the principal investment policy of the Trust;
 - (iii) the consecutive periods which are to constitute the Accrual Periods of the Trust; and
 - (iv) the date in each year by reference to which the Financial Year of the Trust will be determined,
- and thereafter the new Trust shall be deemed to have been constituted on the acceptance by the Trustee of the first application moneys and application for Units in the new Trust.
- (b) The Trustee will hold such amounts and any other property thereafter becoming part of the new Trust upon Trust for those persons who become Unit Holders of the new Trust in accordance with the terms and conditions herein set out in relation to such new Trusts. Following the constitution of the new Trust, the Trustee will cause separate bank accounts, financial records and Registers of Unit Holders and investments of the new Trusts to be opened and the Trustee will at all times treat the new Trust as a separate and distinct Trust with its separate assets and liabilities governed by the terms and conditions of this Deed. All Authorised Investments made with the funds of the new Trust shall be held by the Trustee as the exclusive property of that Trust and such investments shall be held exclusively for the benefit of the Unit Holders of the new Trust. The constitution of the new Trust shall not in any way vary or affect any of the other Trusts nor constitute nor give rise to any settlement of any Trust other than the new Trust.
- (8) All accretions to the assets included in a Trust and all assets into which such assets may for the time being be converted or which for the time being represent the same and the income there from shall be included in the Trust to which the first mentioned asset is referable. All assets of a Trust shall be held by the Trustee as the exclusive property of that Trust and held exclusively for the benefit of Unit Holders of that Trust.
- (9) The assets of a Trust shall not be available to meet any liabilities of any Trust other than the Trust to which those assets are referable.
- (10) Subject to Superannuation Law, nothing herein contained shall in any way prejudice or limit the rights of the Trustee to invest in a type of Authorised Investment for and on behalf of two or more Trusts provided that the Authorised Investment in relation to the Trust is of the type permitted by Clause 9 hereof.

3 Units

- (1) The beneficial interest in each Trust shall be divided into Units.
- (2) Every Unit of a Trust confers an equal undivided interest in the Trust but does not confer any interest in any particular part of or particular investment of the Trust.
- (3) At any date all the Units of a Trust in issue shall be of equal value.

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- (4) The Trustee may at any time in its discretion divide a Trust into any number of Units other than the number into which the Trust is for the time being divided provided the division does not change the ratio of Units of any Unit Holder to the Units in Issue in the Trust.

4 Creation of Units

- (1) Deleted.

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- (2) The Trustee may from time to time accept cash or Authorised Investments or both as hereinafter provided by way of addition to a Trust to be held upon the trusts of this Deed.
 - (3) As and when such addition is made to a Trust additional Units shall be created in accordance with sub-clause 4(5).
 - (4) The Trustee may at its discretion create a fractional Unit in hundredth parts. Notwithstanding any other provision of this Deed the expression "Unit" shall, where the context will allow, be deemed to include such a fractional unit and such fractional unit shall 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 which the number of hundredths in such fractional unit bear to one. A fractional unit may also be created by the redemption of part of a whole Unit.
 - (5) The number of additional Units created when any addition is made to a Trust shall be equal to the number calculated by dividing the Value of the addition to the Trust by the selling price of a Unit in the Trust (as defined in Clause 8(1)) (excluding such addition) last quoted for the day on which the Authorised Investments and Cash (if any) constituting the addition are lodged with the Trustee (in this Clause 5 referred to as 'the relevant date') rounded down to the nearest whole Unit or fraction of a Unit at the Trustee's discretion PROVIDED THAT if any payment or lodgment for additional Units to a Trust are dishonoured or for any reason are not subsequently cleared the Units issued are to be cancelled and are not deemed to have been issued.
 - (6) Before the issue of a Unit, payment shall, subject to sub-clause (7) and Superannuation Law, be made to the Trustee of the sum equal to the aggregate of the Selling Price of those Units applied for as at the relevant date. Where a Unit Holder has lodged a sum of money or Authorised Investments with the Trustee for the issue of the greatest possible number of Units thereout and as consequence of the rounding down referred to in Clause 4(5) a balancing amount is retained by the Trustee after the issue of such Units, such balancing amount shall form part of the assets of the relevant Trust.
 - (7) The payment for a Unit in a Trust shall be made to the Trustee in cash unless the Trustee in its discretion determines to accept payment in the form of Authorised Investments which shall be valued by the Trustee at such sum not exceeding the Value thereof as at the relevant date as if such Authorised Investments had been part of the Trust on that date.
 - (8) The Trustee must deal with all application moneys in accordance with the requirements of Superannuation Law.

5 Transfer of taxable contributions

- (1) Where a Unit Holder has elected, in accordance with Section 275 of the Tax Act and with the consent of the Trustee to transfer contributions to the Trustee, the Trustee shall designate the number of Units issued to that Unit Holder in respect of the subscription to a Trust by that Unit Holder representing as nearly as possible fifteen per centum (15%) (or such other per centum as for the time being represents the rate of income tax payable on the taxable contributions) of the Units to be issued to that Unit Holder in respect of that subscription as "Taxable Units" and if Units are redeemed by the Unit Holder the Trustee may retain an amount equal to the amount for which the Trust may be liable to Tax in relation to taxable contributions transferred by that Unit Holder to the Trustee until such time as the extent of the liability of the Trustee to Tax in that respect has been ascertained and discharged by the Trustee from the amount so retained. Any balance remaining thereafter must be paid by the Trustee to the Unit Holder forthwith and

the Trustee may discharge its obligation in that regard by forwarding a cheque to the last known address of the Unit Holder.

- (2) Where, at any time, the payment of the income tax liability in respect of taxable contributions transferred to the Trustee is due under the Tax Act, the Trustee may redeem so many Taxable Units and any additional Units required for that purpose registered in the name of each Unit Holder which had transferred taxable contributions to the Trustee as represents the income tax liability arising in respect of the relevant taxable contributions and apply the proceeds of redemption in respect of those Units to meet the income tax liability of the Trustee or may apply the moneys retained in respect of a redemption of Units for that purpose in accordance with the preceding paragraph.

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- (3) Any Taxable Units registered in the name of a Unit Holder which, following the redemption of Units in accordance with the preceding paragraph, are considered by the Trustee no longer to be required in order to fund any present or future income tax assessment in respect of taxable contributions transferred by that Unit Holder to the Trustee, shall cease to be designated by the Trustee as Taxable Units and this sub-clause shall hereforth cease to apply to such Units.

6 Deleted

7 Application for Units

Eligibility

- (1) A person is eligible to hold Units if Superannuation Law permits the person to hold units in a Pooled Superannuation Trust. Without limiting any other power under this Deed or at law, the Trustee may at any time request an applicant for Units, a Unit Holder or a former Unit Holder to furnish information which in the opinion of the Trustee is necessary or desirable to enable the Trustee to determine whether a person is eligible to hold Units in a Trust.
- (1A) Without limiting sub-clause (1), a Unit Holder must immediately notify the Trustee of any circumstances which are likely to cause the Unit Holder to be ineligible to hold units in a Pooled Superannuation Trust.

Application

- (2) An applicant for Units must apply for Units in a form approved by the Trustee. The application must be accompanied by a payment of Cash or transfer of property in accordance with clause 4 that the Trustee accepts.

Uncleared Funds

- (3) If a cheque or payment order in respect of an application to a Trust is dishonoured, the application is to be regarded as never having been made and the Trustee may amend the records of the Trust as the Trustee considers appropriate.

Rejection

- (4) The Trustee may in its absolute discretion accept or refuse an application in respect of part or all of the Units applied for and is not required to give any reason or grounds for a refusal.

Application Time

- (4A) Where an application for Units has been received by the Trustee before the Prescribed Application Time on a Business Day, the application shall be taken to have been received on that Business Day. Where an application for Units has been received by the Trustee on or after the Prescribed Application Time on a Business Day, that application shall be taken to have been received before the Prescribed Application Time on the next Business Day.

Minimum application

- (5) The Trustee may:
- (a) set a minimum application amount for any Trust; and
 - (b) alter that amount at any time.

Maximum Holding

(5A) The Trustee may:

- (a) set a maximum number of units which may be held by a Unit Holder;
and

(b) alter that amount at any time.

- (6) Once Units are issued, they may only be transferred or otherwise disposed of to an Eligible Investor or redeemed by the Trustee.

Number of Units

- (7) The number of Units to be issued is the number created in accordance with subclause 4(5).

- (8) Deleted

Standing Applications

- (9) Subject to Superannuation Law, a Standing Application may be given in the form, if any, for the time being set out on the application for Units or in any other form for the time being determined by the Trustee.
- (10) A Standing Application is to be deemed terminated in respect of a Unit Holder's holding of Units on redemption in full of all Units in that holding and otherwise is terminable by written notice from the Unit Holder but, where the Unit Holder participates in a facility for crediting a bank account in the name of the Trustee, termination does not take effect in respect of credits made to that account in relation to that Unit Holder's holding until all deposits being processed by the bank are processed.

8 Issue Price for Units

- (1) The Trustee covenants that it shall not issue or permit to be issued Units otherwise than at a price per Unit calculated in the manner provided in this clause or as required by Superannuation Law. The Selling Price of a Unit is the sum of:-
- (a) the Unit Value last quoted by the Trustee for the Business Day on which the application for Units is taken to have been received from an applicant;
 - (b) an initial service charge determined in accordance with sub-clause 33(3); and
 - (c) the amount of any stamp duty, receipt duty, transaction tax or any like impost, State or Federal, which is payable on or in respect of application for or the creation or issue of Units or in connection with the conversion of application moneys into Authorised Investments or acceptance of Authorised Investments pursuant to sub-clause 4(7) other than FID;
 - (d) if the Trustee considers appropriate, any other amount which the Trustee considers to be a fair apportionment to the Units being issues of the total transaction costs of buying the whole of the portfolio of the Trust if it was being bought on that day.

Where necessary the Selling Price calculated under this sub-clause may be rounded up to the nearest whole cent or fraction of a cent.

- (2) A Unit Holder may, within 12 months from the date of an application for Units, request the Trustee to produce a written statement of the calculation of the price paid by the Unit Holder for the Units. If the price paid by the Unit Holder for the Units exceeds the applicable Selling Price calculated in accordance with sub-clause 8(1) or as required by Superannuation Law which should have been charged at the time, the Trustee must refund or cause to be refunded out of the Trust the excess to the Unit Holder.

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- (3) Notwithstanding any other provision of this Deed the Unit Value in respect of a Unit applied for and allotted upon commencement of a Trust and prior to the first calculation of the Net Value of the Trust shall be one dollar (\$1.00) of Australian currency.

9 Investment of the Trusts

- (1) Subject to the covenants in clauses 25 and 31 the Trustee shall have absolute and uncontrolled discretion as to the investment of any sums of cash forming part of a Trust and as to the purchase sale transfer exchange or alteration of any of the investments from time to time and the Trustee shall from time to time to the extent of the Trust funds in its hands effect and pay for such investments or purchases sales transfers exchanges or alterations of investments PROVIDED THAT:-
 - (a) no investment shall be made except in Authorised Investments;
 - (b) no investment shall be made except in accordance with Superannuation Law;
 - (c) the Trustee may permit cash in a Trust to be placed or remain on deposit with any Trading Bank nominated by the Trustee or with any Company (investment in which is an Authorised Investment) so nominated for such time as the Trustee shall consider desirable in the interests of the Unit Holders;
 - (d) any investments required to be registered shall as soon as reasonably practicable after receipt of the necessary documents by the Trustee be registered, subject to paragraph 28(1)(j), paragraph 28(1)(u) and clauses 46 and 46A, in the name of the Trustee or a nominee or the Custodian or a Securities System and shall remain so registered and held until the same shall be sold or disposed of pursuant to this Deed;
 - (e) deleted;
 - (f) deleted.
- (2) The costs of acquisition or sale of any investment (including stamp duty or like impost, brokerage and commission) shall be paid by the Trustee out of the relevant Trust in accordance with paragraph 33(7)(f).
- (3) Deleted.
- (4) If any of the investments for the time being comprised in a Trust are at any time during the continuance of the Trust redeemed or the capital paid thereon is wholly or partly repaid (whether by way of reduction of capital or otherwise) by the Company or other person or body by which the said investments were issued or created, the Trustee shall be entitled either:-
 - (a) to convert if an option is given to convert the investments into some other investments in pursuance of the option PROVIDED THAT such other investments are Authorised Investments and the provisions of this Deed are otherwise complied with; or
 - (b) to accept repayment in cash of the capital paid or advanced on the said investments and any other moneys payable in connection with such redemption or repayment and to reinvest all or any of the moneys becoming payable whether in respect of capital, premium, surplus or otherwise by reason of such redemption or repayment in cash in the purchase of Authorised Investments to be added to the Trust.
- (5) Any Shares, Debentures or other property received by the Trustee by way of bonus or in lieu of or in satisfaction (in whole or in part) of a dividend in respect of any investment forming part of a Trust or from the amalgamation or reconstruction of any company may at the discretion of the Trustee, either be retained as part of the Trust, or sold, or retained as to part and sold as to the balance, and the net proceeds of

any sale shall at the discretion of the Trustee either be invested in Authorised Investments or distributed pursuant to clause 14A.

- (6) The Trustee must keep current a valuation register of all investments held by the Trust including particulars of the Value of such investments.
- (7) The Trustee may at any time and from time to time instruct an Approved Valuer to value all or any of the assets of a Trust and upon receipt of such valuation must promptly send a copy of the valuation to the Auditor. The cost of such valuation shall be borne by the Trust.

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- (8) A real property investment or a personal property investment shall not be acquired by the Trustee at a price higher than or sold by the Trustee at a price lower than the value thereof assessed in the valuation of an Approved Valuer given not more than three (3) months before the date of the proposed acquisition or disposition unless the Approved Valuer recommends the sale or acquisition of such investment at such price and the Trustee is of the opinion that it is in the interests of the Unit Holders that such investment should be acquired or sold as the case may be at such price in which case the Trustee may acquire or sell it accordingly.
- (9) It is hereby declared that Authorised Investments are intended to include speculative investments with a potential for high return and it is not intended that the criteria for selection of such investments is necessarily to be that which an ordinary prudent man of business would extend towards his own affairs.
- (10) Deleted.

10 Redemption of Units

- (1) Subject to sub-clause 10(8), the Trustee hereby covenants that during the continuance of a Trust at the request of a Unit Holder in the Trust as hereinafter provided it will cause the redemption of the Units to which such request relates. The redemption request:
- (a) may be made in writing in such form as from time to time is prescribed by the Trustee ("redemption notice") and shall be delivered to any office of the Trustee or any other place determined in writing by the Trustee; or
 - (b) may be made by such other means and in such other form as the Trustee may determine.
- If required by the Trustee, the redemption notice shall be accompanied by the Acknowledgment (if any) in respect of the Units. The redemption notice should specify the Trust to which the redemption notice applies; and
- (c) the number of Units to be redeemed; or
 - (d) with the Trustee's approval, the amount of the proceeds which the Unit Holder wishes to receive from the redemption.
- (1A) If the redemption notice is received before the Prescribed Redemption Time on a Business Day the redemption notice will be taken to be received on that Business Day. If the redemption notice is received on or after the Prescribed Redemption Time on a Business Day or at any time which is not a Business Day, it will be taken to have been received before the Prescribed Redemption Time on the next Business Day.
- (2) The redemption shall be effected no later than the 30th day after the redemption notice is received by the Trustee PROVIDED THAT when application money for units have been paid and those proceeds have not been honoured the Trustee may notwithstanding sub-clause (1) at its sole discretion refuse to cause the redemption of or redeem (as the case may be) such Units until the Business Day upon which such proceeds have been honoured and the proceeds thereof received.
- (3) On redemption of the whole or part of the holding the Trustee shall in respect of each Unit comprised in the notice or, if sub-clause 10(1)(d) applies, in respect of each Unit which the Trustee determines must be redeemed to cover the amount specified in the redemption notice pay or cause to be paid to the Unit Holder or as the Unit Holder directs an

amount (in this Clause 10 called "the Amount") equal to the Unit Value last quoted on the Business Day on which the notice is taken to be received by the Trustee or, in the circumstances mentioned hereafter, on such other Business Day as shall be applicable in those circumstances (but not before the Business Day first mentioned) less the stamp duty, receipt duty, transaction tax or any like cost, State or Federal, which in the opinion of the Trustee is payable on or in respect of a request to redeem (and which the Trustee shall promptly pay to the proper authority) and, if the Trustee considers appropriate, less any other amount which the Trustee considers to be a fair apportionment to the Units being redeemed of the total transaction costs of selling the whole of the portfolio of the Trust if it was being sold on that day PROVIDED THAT the Amount may be rounded down to the nearest cent or fraction of a cent below the price so calculated. Notwithstanding the foregoing the relevant Unit Value for the purpose of determining the Amount shall be varied from that last quoted for the Business Day on which the notice is taken to be received in the following circumstances:

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- (a) if application moneys for Units have been paid and the payment has not been honoured in which case the appropriate Business Day shall be the next Business Day on which the payment is honoured; or
 - (b) if the notice is incomplete in which case the appropriate Business Day shall be the next Business Day on which the duly completed notice is received by the Trustee or the Business Day on which the Unit Holder or Unit Holders verify to the satisfaction of the Trustee that the notice is a binding request on the Unit Holder or Unit Holders for redemption of the Units concerned (whichever first occurs).

The Trustee is not obliged to repurchase Units out of its own funds.

- (4) Upon a redemption notice being given or deemed to be given in respect of any Units, the relevant Unit Holder has no right or power to deal with the Units the subject of the notice pending redemption of the Units nor shall the Unit Holder be entitled to allocations of income pursuant to Clause 14A in respect of the Units.
- (5) If a cheque or payment order in respect of an application for Units in a Trust is dishonoured, the Trustee may, notwithstanding sub-clauses (1) and (2), refuse to redeem Units or to distribute any income relating to such Units until the Business Day following the Business Day on which the proceeds are received by the Trustee (including, where a payment is by cheque or payment order, the payment is honoured).
- (6) Deleted.
- (7) Deleted.
- (8) Notwithstanding anything else contained in this Deed, a Unit Holder shall not request the redemption of part only of the Units held by the Unit Holder if acceptance of the request would result in the number of remaining Units held by the Unit Holder falling below the minimum number of Units fixed by the Trustee under sub-clause 7(5).
- (9) No request for redemption of Units shall be accepted by the Trustee after a resolution in accordance with sub-clause 37(2) has been passed, and on the passing of such a resolution, no request for redemption lodged with the Trustee prior to the passing thereof shall be effective to create any rights under this Deed.
- (10) The Trustee may, with the consent of the Unit Holder, transfer specific property forming part of a Trust in satisfaction of all or any part of the amount payable on the redemption of Units of the Trust which property shall be valued at the Value thereof on the relevant date.
- (11) Subject to sub-clause 10(10), where Units of a Trust are redeemed, the Trustee must release from the Trust cash equal to the amount payable in respect of the Units to be redeemed having, if necessary, realised such of the assets comprised in the relevant Trust or borrowed a sufficient sum in accordance with Clause 30 as will enable it to do so. The Trustee may at any time it deems expedient in anticipation of requests for redemption of Units realise Authorised Investments or raise money by borrowing an amount required so that cash is available in a Trust for release under this sub-clause.
- (12) Units of a Trust are redeemed on the day when payment by the Trustee to the Unit Holder of an amount from the Trust equal to the amount payable in respect of the Units to be redeemed is deemed by clause 42 to have been made and that number of Units so redeemed shall thereupon be cancelled, but without restriction upon the rights of the Trustee to create and issue additional Units.

(13) On redemption of Units in a Trust the Trustee shall make an appropriate entry in the Register specifying the number of Units which have been redeemed. Where all the Units held by the Unit Holder have not been redeemed the Trustee must issue or cause to be issued to the Unit Holder an Acknowledgment for the balance.

(14) Where a Unit Holder:

- (a) advises the Trustee that the Unit Holder is not eligible to be a Unit Holder of a Trust; or
- (b) fails to provide information to the Trustee about its eligibility to hold Units in a Trust within the time specified by the Trustee; or

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- (c) in the opinion of the Trustee, is not eligible to hold Units in a Trust,

then the Trustee may in its absolute discretion redeem all the Units held by the Unit Holder calculated as if a request for a redemption had been made on the date of redemption of the Units.

11 Vesting of investments

- (1) For the purposes of this Deed investments shall be deemed to have been vested in the Trustee or the Custodian on the happening of the earliest of the following events namely when:-
- (a) they have been registered in the name of the Trustee or the Custodian;
 - (b) transfers or other assurances in respect of such investments duly lodged for stamping (or subject to provision for stamping where necessary) and certified to the Trustee as registrable have been delivered to the Trustee;
 - (c) contract notes by brokers satisfactory to the Trustee evidencing the purchase of such investments have been delivered to the Trustee accompanied by Cash or cheque satisfactory to the Trustee sufficient to complete such purchase and transfer including stamp duty (if any);
 - (d) an undertaking to the satisfaction of the Trustee by a bank to the effect that effective provision has been made for the safe custody of, or the transfer or delivery to the Trustee of such investments free of charge has been furnished to the Trustee; or
 - (e) in the case of Cash, when paid to the Trustee or into a bank account in the name of the Trustee or its nominee.
- (1A) An investment representing part of a Trust shall be deemed to be held in the name of the Trustee or the Custodian where the investment is held in the name of a nominee and the nominee controls a Securities System which operates by any physical or by any electronic means.
- (2) Nothing in this clause shall be deemed to exonerate the Trustee from liability to have transferred to or vested in the Trustee the investments comprised in the Trusts and any additions thereto respectively until such investments have actually been registered in the name of the Trustee.

12 Net Value of the Trusts

- (1) The Trustee shall ascertain in respect of each Trust the Net Value of the Trust at least once in every period of four weeks during the period of the Trust but otherwise at such times as the Trustee in its discretion determines.
- (2) The Trustee's determination in respect of a Trust of the Net Value of the Trust including the determination for each Trust of the Value of the Trust and of any part of the Trust shall be final and binding on all Unit Holders of that Trust.
- (3) For the purpose of any valuation of the Net Value of a Trust, where any Authorised Investment of the Trust is valued by reference to a particular day or date (including the Valuation Date) then the day or date may be any period of 24 hours including part of that particular day or date approved by the Trustee.

13 Income of the Trusts

- (1) The Trustee shall in each Accrual Period collect receive and get in all dividends interest rents and other income, including realised capital profits from the investments of each Trust.
- (2) The Trustee in an Accrual Period in respect of each Trust:-
 - (a) shall pay out of the income of the Trust as determined by generally accepted accounting principles all costs and disbursements commissions fees taxes (including financial institution duties, federal debits tax, land tax and income tax) insurance premiums, and other proper outgoings in respect of the investments of the Trust;

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- (b) shall pay thereout the remuneration, fees, interest, costs, charges and expenses payable in accordance with clause 33; and
 - (c) may at its discretion, allocate thereout to a provision or reserve account, such amount (if any) as the Trustee deems proper for meeting such anticipated expenses or obligations as in the opinion of the Trustee should be allowed for.
- (3) Costs and expenses incurred in replacing Authorised Investments which ordinarily depreciate in value through use or effluxion of time shall be paid out of surplus capital moneys of a Trust from time to time. It is not the intention of the Trustee to make provision for the replacement of any part of a Trust which tends to depreciate in value through use or effluxion of time save where such depreciation is an allowable deduction for taxation purposes in which case the Trustee may determine whether or not such provisions are made. Any such depreciation shall be a charge on the gross income of the relevant Trust.

14 Apportionment of tax

The Trustee may, as it considers appropriate in respect of a Trust:

- (a) apportion any current or future tax benefit, liability or credit (or provision for those amounts) between the Unit Holders; and
- (b) adjust the interests of the Unit Holders having regard to the apportionment including:
 - (i) issuing additional Units to any Unit Holder;
 - (ii) redeeming Units of any Unit Holder; and
 - (iii) adjusting the price at which Units of any Unit Holder are redeemed.

14A Income and distributions

Accumulation

- (1) Except for any distribution made under this clause 14A, the Trustee must accumulate the income of each Trust (including the earnings of each Trust and all realised and unrealised gains).

Distribution

- (2) The Trustee may distribute to Unit Holders of a Trust an amount which the Trustee determines in respect of:
- (a) the net income of the Trust; or
 - (b) capital of the Trust; or
 - (c) a combination of them.

Entitlement

- (3) Unit Holders of a Trust are entitled to share in any distribution pro rata to the number of Units they hold in the Trust as at the time determined by the Trustee for the distribution.

The Trustee may specify the proportions in which the Unit Holders share the different types of income or capital making up a distribution for the Unit Holders.

15 Deleted

15A Deleted

16 Deleted

17 Deleted

18 Capital profits and losses

- (1) For the purpose of this Deed, the Trustee may determine in respect of a Trust:-
- (a) whether a capital profit or loss has been realised;
 - (b) the amount of any realised or unrealised capital profit or loss;
 - (c) the amount of the consideration received on the disposal of a part of a Trust; and
 - (d) the amount paid or deemed paid or the value given for a part of a Trust at the time it became part of the Trust.
- (2) The Trustee may from time to time create a reserve in respect of accretions to the value of the assets or the investments of a Trust (where such accretions are not realised) and, notwithstanding any other provision of this Deed, the Trustee may from time to time and at any time deduct, set aside and make a provision for Tax which will or may in the opinion of the Trustee be payable in respect of capital gains which may or might be realised on the realisation or disposal of assets or investments of the Trust.
- (3) The Trustee may from time to time debit the reserve established pursuant to the preceding sub-clause with an amount in respect of any diminution of the value of any asset or investment of a Trust and reduce the provision for Tax referred to in that sub-clause which will or may in the opinion of the Trustee be payable in respect of capital gains.

19 Deleted

20 Register of Unit Holders

- (1) A register of all Unit Holders will be kept and maintained up to date by the Trustee. The Register must contain:-
- (a) the names and addresses of all Unit Holders;
 - (b) the number of Units held by each Unit Holder and the distinctive number (if any) of Acknowledgments issued to them respectively;
 - (c) the date at which the name of each Unit Holder was entered in the Register;
 - (d) the date at which any person ceased to be a Unit Holder of any Units; and
 - (e) such other information as required by Superannuation Law or which the Trustee considers appropriate.
- (2) Any change of name or address of any Unit Holder must be notified to the Trustee who will alter the Register accordingly.

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- (3) A Unit Holder is entitled, free of charge, to inspect the Register, at any time when the Trustee's registered office is required by Superannuation Law to be accessible to the public.
 - (4) The Trustee is not save as herein expressly provided obliged to enter on the Register notice of any trust express, implied or constructive in respect of any Unit.

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- (5) The Trustee must recognise the Unit Holder his executors or administrators (if appropriate) as the absolute owner of the Units recorded in his name on the Register and the Trustee must not save as herein otherwise provided or except as ordered by a court of competent jurisdiction or as required by statute be bound to take notice of any trust or equity whether express or implied or constructive affecting the ownership of any Unit or the rights incident thereto and the receipt of such Unit Holder his executors or administrators (if appropriate) for any moneys payable in respect of the Units recorded in his name on the Register shall be a good discharge to the Trustee.
 - (6) The Unit Holder shall bear the cost, if any, which results from the removal of a Unit Holder from one Register to another Register.
 - (7) An Acknowledgment stating that a person is a Unit Holder and is entered on the Register in respect of a stated number of Units is prima facie evidence of the issue to that person of those Units and that the Units are registered in the Register. The Register shall be the only and conclusive evidence of ownership of Units.
 - (8) The Register may be closed by the Trustee for not more than seven (7) days at the end of each Accrual Period.
 - (9) The Trustee may cause the Register to be audited by the Auditor at intervals of not more than six (6) months.
 - (10) The Trustee shall not incur any liability or responsibility on account of any mistake in the Register, provided that its reliance is based on a reasonable belief as to the authenticity of the Register.

21 Branch Registers

- (1) The Trustee may from time to time establish and maintain or cause to be established and maintained a separate Register in any State or Territory of Australia other than New South Wales on which separate Register there shall be entered such details as are considered necessary by the Trustee to be included in a register of Unit Holders.
- (2) Every such separate Register shall be designated the Branch Register for the Capital City of the State or Territory in respect of which it is established. The provisions of clause 20 hereof shall so far as are applicable apply to the Branch Register.
- (3) Except where otherwise expressly stated herein every reference in this Deed to "the Register" is deemed to include every Branch Register, unless it appears from the context that a particular Register is referred to, in which case the reference shall be deemed to be to the Register or Branch Register, as the case may be on which the Units in question are registered.
- (4) Nothing in this Clause derogates from or in any way reduces the responsibility of the Trustee pursuant to Clause 20 of this Deed and Superannuation Law.

22 Acknowledgments for Units

- (1) Upon entry of a Unit Holder in the Register or a change in the holding of a Unit Holder the Trustee must issue to each Unit Holder an Acknowledgment in a form prescribed by it evidencing the issue to such person of the Units.
- (2) The Acknowledgment 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.

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- (3) An applicant requiring the issue of more than one Acknowledgment must if the Trustee determines complete separate application forms in the amounts so required.
 - (4) Each Acknowledgment must specify the number of Units to which it relates and is evidence of the issue of the Units to the Unit Holder but is not a certificate of title to the Units, the Register of Unit Holders being the only and conclusive evidence of the ownership of Units.

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- (5) Except for Unit Holders who participate in a Regular Savings Plan who will receive Acknowledgments after the end of each Financial Year or on withdrawal of all Units, acknowledgments must be issued by the Trustee to subscribers for Units not more than two (2) months after the allotment of the Units.

23 Transfer of Units

- (1) Subject to Clause 7(1) and Superannuation Law every Unit Holder is entitled to transfer the Units or any of the Units for the time being held by him by an instrument in writing in such form as the Trustee may from time to time approve.
- (2) Every such instrument shall be appropriately signed and the transferor shall be deemed to remain the Unit Holder of the Units comprised therein until the name of the transferee is entered in the Register as the Holder of such Units. The instrument need not be a deed.
- (3) Every instrument of transfer must be duly stamped with the necessary stamp duty applicable to the transfer and delivered to the office of the Trustee accompanied by such evidence as the Trustee may require to prove the eligibility of the transferee to hold units in a Pooled Superannuation Trust.
- (4) Upon being satisfied that the foregoing provisions of this Clause have been complied with as regards any transfer the Trustee shall make the appropriate entry of the transfer in the Register.
- (5) Subject to clause 43, every instrument of transfer shall after the appropriate entry in the Register has been made be retained by the Trustee.
- (6) Upon the making of an entry of a transfer a new Acknowledgment for the Units transferred shall be issued to the transferee and a new Acknowledgment for the balance of the Units retained shall be issued to the transferor. The provisions of clause 22 shall apply to a new Acknowledgment referred to in this sub-clause, except that the new Acknowledgment shall be sent or delivered to the transferee within one (1) month after the date of delivery of the transfer to the Trustee.
- (7) The Trustee may decline to register any transfer during the fourteen (14) days preceding the closing of the Register for any purpose.
- (8) If the Trustee refuses to register a transfer, it shall give notice to the transferee of the refusal within 2 months after receipt of the instrument of transfer.

24 Management of the Trusts

- (1) Each of the Trusts shall be managed with full and complete powers of management by the Trustee (with full power 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 judgement or discretion but subject to Clause 51) which shall be subject to retirement as hereinafter provided. Nothing herein contained shall be construed to prevent the trustee from establishing or acting as trustee or manager for other trusts whether of a nature similar to or different from the trusts of this Deed.
- (2) 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:-

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- (a) 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 the Trustee 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 their officers thereon and 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 they may think fit;

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- (b) 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 power authorities and discretions (not exceeding those vested in the Trustee) as the Trustee 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 sub-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 sub-clause and subject to Clauses 53, 54 and 55, shall be responsible for the fees and expenses of such officer employee company attorney agent sub-delegate or sub-agent.

Any appointment of an investment manager must comply with Superannuation Law.

- (3) The Trustee shall cause the insurable freehold and leasehold property of a Trust to be insured in its name with any one or more reputable Companies or institutions to the full insurable value thereof against fire and such other risk or risks (including loss of rent) as the Trustee may at its discretion deem necessary. The Trustee may at its discretion effect such further or other insurance as it may deem necessary in respect of the property of the Trust or the Trustee's ownership thereof or interest therein.
- (4) Deleted.
- (5) Deleted.
- (6) Without limiting the generality of any other provision of this Deed, where a standard applicable to a Pooled Superannuation Trust prescribed by Superannuation Law (a "relevant standard") imposes a requirement applicable to the operation of a Pooled Superannuation Trust then the terms of the Trusts shall include that relevant standard to the extent that it imposes that requirement and the Trustee shall have power to do everything necessary or convenient to meet or carry out that requirement but the Trustee shall not be taken to be in contravention of this Deed or to be in breach of trust if it fails to carry out any such requirement if the failure is approved by the Insurance and Superannuation Commissioner or notwithstanding the failure, a Trust receives a notice that it has satisfied the Pooled Superannuation Trust conditions or a notice that a Trust should be treated as if it had satisfied the Pooled Superannuation Trust condition under Superannuation Law in relation to the relevant year of income PROVIDED

THAT if the Trustee is of the opinion that as the result of a change in relevant standards the assets of a Trust or any part of a Trust are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee by this Deed or if as a result of any such change it appears to the Trustee to be in the interests of the Unit Holders so to do or if as a result of any such change the amount of income of a Trust available for distribution to Unit Holders would in the opinion of the Trustee be materially diminished, the Trustee may require the Trust to be terminated in accordance with the provisions of the Deed.

- (7) Without limiting any other provision of this Deed, the Trustee has power:
- (a) to do all things considered by the Trustee to be necessary or appropriate to comply with any provisions of the Tax Act or Superannuation Law which affect the Trusts;

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- (b) to prepare and lodge tax returns objections to tax assessments under the Tax Act and prosecute such objections through court action where considered appropriate and conduct all necessary correspondence with the Australian Taxation Office in that regard;
 - (c) to obtain any consent, approval or waiver under Superannuation Law, to prepare and lodge objections to or requests to review any determination under Superannuation Law and to prosecute such objections or reviews through court action where considered appropriate and to conduct all necessary correspondence with the Superannuation Authority in that regard.
- (8) Notwithstanding anything contained in this Deed the Trustee may determine:

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- (a) whether any amount received or receivable is or is to be received on capital or income account, or whether any outgoing, loss, expense, provision or amount is incurred on capital or income account;
 - (b) whether moneys rights or property constitute Distributable Income;
 - (c) any matter referred to in Clause 18(1),

and every such determination shall be final and conclusive AND no Unit Holder shall have any right or claim against the Trustee personally arising out of such decision or its implementation but shall not by reason of this proviso be debarred from asserting any claim in respect of its interest in a Trust PROVIDED THAT nothing herein contained shall be deemed to release the Trustee from the consequences of any negligent act, default or omission or any breach of any duty imposed on the Trustee.

25 Covenants by the Trustee

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

- (a) where the Trustee or any officer or director of the Trustee or any Related Corporation of the Trustee deals as principal or is otherwise directly or indirectly concerned in the purchase from or sale to the Trustee of any investments in a Trust sold purchased or made pursuant to this Deed, it or he shall act in connection with such transaction in a fiduciary relationship of utmost good faith to all Unit Holders;
- (b) the Trustee 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;
- (c) deleted;
- (d) subject to sub-clause 8(2), the Trustee will refund to any Unit Holder the excess (if any) charged on the application by him for Units beyond the price calculated in accordance with the provisions of this Deed;
- (e) the Trustee must send or provide to all applicants for Units, Unit Holders and former Unit Holders all reports or information required by Superannuation Law;
- (f) deleted;
- (g) the Trustee will within twenty-one (21) days after an application to do so 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 by sending notice by post of the proposed meeting at least seven

(7) 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 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 and subject to Clause 51 for the purpose of giving to the Trustee such directions as the meeting thinks proper such meeting to be held at the time and place specified in the notice being a time not later than two

(2) 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 the Deed makes no provision as directed by the chairman of the meeting;

- (h) if Superannuation Law permits the Trustee to borrow money for a Trust, the Trustee will ensure that the total of all amounts borrowed and unrepaid by the Trustee for the purposes of each Trust will not at any time exceed thirty-five percent (35%) of the Value of a Trust;

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- (i) the Trustee will ensure that the total of all amounts for which a Trust or the Trustee is liable under contracts relating to transactions in futures will not at any time exceed forty percent (40%) of:-
- (i) the Value of a Trust; less
- (ii) the total of all amounts borrowed and unrepaid by the Trustee for the purposes of the Trust,
- and will ensure that at all times there is retained in the Trust sufficient cash to meet margin calls on such contracts;
- (j) deleted;
- (k) deleted;
- (l) deleted;
- (m) deleted;
- (n) the Trustee will at all times maintain compliance with the requirements of Part 7.6 of the Corporations Law to the extent that it is applicable to the trustee of a Pooled Superannuation Trust;
- (o) the Trustee shall prepare or cause to be prepared all distribution cheques, notices, statements and Acknowledgments which the Trustee is required to draw or serve under any of the provisions herein contained and shall stamp any such cheques;
- (p) deleted;
- (q) if the Trustee invests moneys of a Trust available for investment in a cash management trust or unit trust, the management company or trustee of which is the Trustee or any Person who is associated with the Trustee ("**related trust deed**"):
- (i) where a management fee is payable to the Trustee or a Person associated with the Trustee in its capacity as the management company under a related trust deed, the total of the amount of management fees which are paid or payable under the related trust deed as a result of the investment of moneys (which are available for investment under this Deed) in interests issued under the related trust deed ("related interests") and the amount of the management fees paid or payable under this Deed which are the subject of the relevant investment in the related interests shall be no greater than the management fees payable under one of either this Deed or the related trust deed; and
- (ii) where moneys are available for investment in related interests, the annual statement of accounts will contain a statement which discloses:
- (a) whether moneys available for investment under this Deed have been invested in related interests during the period to which the accounts related;
- (b) the nature of the relationship (if any) between the Trustee and the management company or trustee under each of the related trust deeds; and
- (c) particulars of the current investments under this Deed in related interests as at the end of the period to which the accounts relate, including the nature and number of and the percentage of the total of moneys available for

investment under this Deed represented by each investment
in related interests;

(r) deleted;

(s) deleted;

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- (t) the Trustee shall maintain in good standing any licence or approval that is required by Superannuation Law or the Corporations Law;
 - (u) deleted;
 - (v) the Trustee will not pay brokerage or commission in respect of a subscription for Units to a Person who is an Australian resident other than in accordance with Superannuation Law;
 - (w) the Trustee will keep an account of amounts of brokerage and of commission paid by the Trustee and will comply in relation to such accounts with Superannuation Law;
 - (x) deleted;
 - (y) the Trustee will make and at all times maintain adequate Redemption Arrangements;
 - (z) deleted;
 - (aa) deleted;
 - (ab) deleted.

26 Deleted

27 Voting rights on investments

Subject to the provisions of paragraph 31(k) all rights of voting conferred by all of the investments of the Trusts shall be exercised in such manner as the Trustee may determine. No Unit Holder shall have any right to interfere in relation to the voting and the Trustee shall from time to time execute such proxies or powers of attorney as the Trustee thinks fit.

Subject to and without in any way limiting clause 24 or the covenants given by the Trustee herein (in particular paragraph 25(b)) the Trustee shall not be under any liability or responsibility in respect of the management of the companies or bodies (other than companies or bodies under the control of the Trustee) nor in respect of any vote or action taken or consent given by the Trustee in respect of such companies or bodies in person or by proxy or attorney. Neither the Trustee nor the holder of any such proxy or power of attorney shall 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. The Trustee shall be under no obligation to anyone with respect to any action caused to be taken or omitted by the Trustee or by any such holder of a proxy or power of attorney PROVIDED THAT nothing in this clause 27 shall have the effect of relieving the Trustee from any liability it may have by reason of its own negligent or wilfully wrongful actions or those of its proxies or attorneys AND PROVIDED FURTHER THAT nothing in this clause 27 shall operate to create or increase any duties or obligations not otherwise imposed on the Trustee or its proxies or attorneys, as the case may be.

28 Trustee's protection and indemnities

- (1) Subject to Superannuation Law and Clauses 53, 54 and 55 of this Deed and without in any way limiting the covenants given by the Trustee in clauses 25 and 31 and without prejudice to any indemnity allowed by law

or elsewhere herein given to the Trustee it is hereby expressly declared as follows:-

- (a) the Trustee shall be indemnified out of a Trust from and against any expense and liability in respect of the Trust that may be incurred in prosecuting or defending any action or suit in respect of the provisions of this Deed, except when there has been default or negligence or breach of trust by the Trustee;

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- (b) the Trustee will not incur any liability in respect of any action taken or thing suffered by the Trustee in reliance upon any notice resolution direction authority consent certificate receipt affidavit statement holding out certificate for stock plan of re-organisation or other paper or documents or other communication whether given made or executed by an applicant for Units, a Unit Holder, an Authorised Person or any other person whomsoever reasonably believed by the Trustee to be genuine and to have been passed, signed or endorsed by the proper parties where liability but for this indemnity would attach by reason solely that such paper or document or other communication was not in fact genuine or so passed, signed or endorsed;
- (c) 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 judgement

of any competent court either the Trustee shall be hindered prevented or forbidden from doing or performing;

- (d) 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 a Trust or upon the Acknowledgments or redemption notices or with respect to any transaction under this Deed notwithstanding that any such payment need not have been made and the Trustee shall be entitled to deduct such amount as it thinks fit in respect of tax which may be payable by the Trustee pursuant to section 98 of the Income Tax Assessment Act, 1936 (or any section or any Act replacing that section) from any income distributed to a Unit Holder who is a non-resident for the purposes of section 98 of the said Act (or its replacement provision);
- (e) the Trustee may act upon the opinion or advice of or information obtained from barristers or solicitors instructed by the Trustee. The Trustee may act upon statements of or information sought by it from any bankers accountants brokers and other persons believed by the Trustee in good faith and upon reasonable grounds to be competent in relation to the matters upon which they are consulted by 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 provided the Trustee reasonably believes the opinion, advice, statements or information to be independent of the Trustee;
- (f) deleted;
- (g) deleted;
- (h) where the Trustee relies in good faith pursuant to paragraph (e) upon any advice tendered to it by any barrister solicitor or other competent person it shall not be responsible for any misconduct mistake oversight error or judgement forgetfulness or want of prudence on the part of any such barrister solicitor or other such person;
- (i) the Trustee shall as regards all the trusts powers authorities and discretions vested in it have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner or as to the mode of or time for the exercise thereof or otherwise;
- (j) the Trustee shall have the right (upon executing this Deed and thereby giving the indemnity set out in paragraph 31(g)) to have investments capable of being registered vested in officers of the

Trustee nominated by it, but only such investments as the Trustee is precluded by the constitution of the issuer from holding in its own name;

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- (k) subject to clause 7(1) or any statute or rule of law nothing in this Deed shall prevent the Trustee or any Related Corporation or the directors or officers of any thereof from subscribing for purchasing holding dealing in or disposing of Units or from otherwise at any time contracting or acting in any capacity as manager, trustee, 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 an investment in or with which forms part of a Trust 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 with any such transaction contract or action therewith PROVIDED THAT the Trustee and its directors and officers and each other corporation referred to in this paragraph (k) shall in connection with any such transaction contract or action act in a fiduciary relationship of utmost good faith to all Unit Holders;
- (l) the Trustee has the fullest discretion to prescribe the time and mode and broker (if any) for the purchase or sale of any Authorised Investments including the right to direct postponement of such sale for so long as in its discretion it shall think fit;
- (m) in the event of the liquidation or dissolution of any corporation or if for any other proper 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 by reason of any error of law or any matter or thing done or suffered or omitted to be done by it in good faith hereunder;
- (n) the Trustee shall not be liable for the failure of any person or corporation (other than a corporation controlled by a Trust) to carry out any agreement on his or its part nor for anything except for its own neglect or default or breach of duty hereunder PROVIDED THAT nothing in this paragraph shall operate to create or increase any obligations of the Trustee;
- (o) no Unit Holder shall be entitled to require the transfer to him of any of the property comprised in a Trust nor be entitled to interfere with the exercise by the Trustee of any of the trusts power authorities or discretions conferred upon it by this Deed or in respect of such property;
- (p) if at any time the Trustee is required 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 a Trust for such purpose PROVIDED THAT:-
- (i) if the Trustee elects not to comply with such requirements then it shall immediately give to Unitholders notice of its intention; and shall immediately retire from the Trust and the Trustee may elect that the Trust is to continue with another trustee willing to comply with such requirements whereupon the provisions of clause 32 hereof shall mutatis mutandis apply save that no further notice or expiration of time is required or necessary; or
- (ii) the Trustee may elect to terminate the Trust and if so may wind up the Trust without appointing a new trustee and Units shall be neither offered for subscription or purchase nor shall any invitation be made to subscribe for or purchase any Units before winding up the Trust;

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- (q) the Trustee shall not be in any way liable to make good out of its own resources any loss incurred by any person in the event of any signature on any document being forged or otherwise failing to bind the person whose signature it purports to be or the person on whose behalf it purports to be executed which said

loss (if any) shall subject to any right of reimbursement from any other person be borne by a Trust PROVIDED THAT at the time the Trustee became aware or should have become aware of such signature it reasonably believed it to be genuine or binding or both;

- (r) 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 except, subject to this clause, in respect of any neglect default breach of duty or omission on the part of the Trustee;

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- (s) the Trustee shall not be bound to make any apportionment of the investments comprised in each Trust and the Trustee shall hold the whole of a Trust for the time being as one Trust on the trusts of these presents;
- (t) the Trustee shall not be obliged or required to effect any transaction or dealing with any Acknowledgment transfer or other instrument or with any Units or with any part of the investments of a Trust on behalf of or for the benefit or at the request (whether pursuant to sub-clause 10(1) or otherwise) 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 government charges brokerage transfer fees registration fees and other charges (whether similar to the foregoing or not) whether in respect of the Acknowledgments transfers or other instruments or the relative part of the investments or of the Trust or any moneys payable or receivable in respect of any of the foregoing 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 is entitled to pay and discharge all or any of such duties 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;
- (u) subject to paragraph 25(h) and clause 30 the Trustee may whenever it considers it desirable in the best interests of the Unit Holders so to do to borrow or make some other form of financial accommodation (upon such terms and conditions as the Trustee thinks fit and in particular by charging or mortgaging all or any of the investments for the time being constituting a Trust) such moneys as are required for any purposes of a Trust. The proceeds of any borrowing shall be part of a Trust;
- (v) without prejudice to and subject to any of the other provisions of this Deed, the Trustee is indemnified and shall be entitled to be reimbursed out of a Trust in respect of all stamp duty, receipt duty, transaction tax or any like impost, State or Federal, which it may incur or which is or may be imposed and in respect of all expenses and liabilities which it may reasonably incur in or about the receipt collection investment disposal and distribution of moneys or property received by it or, to the extent permitted by clause 33 hereof, in or about the performance or exercise of its duties and powers hereunder and otherwise under or by virtue of or in respect of a Trust and for the purpose of such indemnity and reimbursement may from time to time realise such investments of a Trust in such manner and at such time as may be determined by the Trustee;
- (w) in the event that the Trustee has incurred a liability as Trustee and the Trustee is entitled under the terms hereof or otherwise as allowed by law to be indemnified in respect of such liability the Trustee may claim such indemnity from a Trust but the Trustee shall not be entitled to be indemnified in respect thereof by any Unit Holder or Unit Holders unless by a separate agreement with that Unit Holder or those Unit Holders;
- (x) notwithstanding any other provision of this Deed (but without prejudice to any such separate agreement as is referred to in paragraph (w)) no Unit Holder shall by reason of holding any 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 it in the event of there being any deficiency of the assets of the Trust as compared with the liability of the Trustee in relation thereto and the only rights if any of indemnity of such

Trustee or of such creditors shall be limited to having recourse to the Trust;

- (y) the Trustee shall not incur any liability, be liable to account to anyone (including any Unit Holder or former Unit Holder) or be liable for any loss or damage as the result of the exercise of any discretion set out in or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of such discretion or power pursuant to Clauses 13, 14 or 18, notwithstanding any error or miscalculation in any provision made for Tax but nothing herein contained shall be deemed to release the Trustee from the consequences of any negligent act, default or omission on its part or of any breach by it of any duty imposed on it;

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- (z) in deciding whether to make any deduction in respect of any Tax from the Distributable Income payable to any Unit Holder, the Trustee may act upon the opinion or advice of or information obtained from barristers, solicitors or accountants instructed by it. The Trustee is authorised to deduct from the income to which a particular Unit Holder is entitled Tax which is paid or payable by the Trustee on account of or in respect of the Unit Holder on the amount of the Distributable Income of a Trust otherwise to be distributed to the Unit Holder and all amounts deducted shall be applied in reimbursing the Trust for any corresponding amount paid or reimbursed out of the Trust or reimbursing the Trustee for the payment thereof or in the payment of the Tax to the Person or authority entitled thereto (as the circumstances may require).
- (2) Whenever it is provided in this clause that the Trustee may rely upon or accept any act matter or thing or shall not incur any liability by reason of or in respect of any act matter or thing such provision shall in no way relieve the Trustee of liability on account of any failure of the Trustee to exercise due diligence and vigilance in relation to, or on account of, any neglect or default on the part of the Trustee in relation to any other act matter or thing not dealt with in such provision or prevent or restrict any determination as to whether there has been a breach of trust on account of any such other act matter or thing nor affect the operation of the provisions of any statute or rule of law prescribing the circumstances under which the Trustee may obtain relief from such breach of trust.
- (3) Any Authorised Investment of a Trust may be made by the Trustee either alone or jointly with another person or persons or as a joint venture or partnership with any other person or persons.
- (4) Without derogating from the generality of any other provision of this Deed the Trustee may employ, engage, appoint and contract with solicitors, barristers, accountants, surveyors, valuers, real estate agents, professional or technical advisers, managing agents, engineers and other professional or technical advisers contractors Approved Valuers and representatives to do all things usual or desirable to be done for the purpose of the exercising the powers of the Trustee with respect to managing, developing or exploiting any such investment and all fees, charges and considerations payable to any such persons or Companies and all associated disbursements and outgoings properly chargeable shall be paid, or shall be reimbursed to the Trustee from a Trust.
- (5) Moneys for the time being in the hands of the Trustee may at any time be invested by the Trustee on deposit pending investment in some other Authorised Investment or pending exchange or distribution PROVIDED THAT such deposit is itself an Authorised Investment.
- (6) Nothing in this clause shall limit the Trustee's duty of care and diligence and vigilance in respect of the Trust or prevent or restrict any determination as to whether there has been a breach of trust or affect the exclusive operation of the provisions of any statute prescribing the circumstances under which the Trustee may obtain relief from breach of trust.

29 Trustee's powers

In addition to the powers contained elsewhere in this Deed but subject to Superannuation Law the Trustee shall have the power to do all things necessary or convenient to be done for or in connection with investment in Authorised Investments and its functions under this Deed, and without prejudice to the generality of clause 28 and without limiting the powers otherwise vested in the Trustee, it is hereby declared that the Trustee shall have the following powers, which shall in no way be read construed or

limited as applying or relating only to Authorised Investments but shall be read and construed as separate and independent powers of the Trustee in relation to the whole or any part of a Trust:-

- (a) to participate in the rights and obligations, including obligations to contribute in any manner to the liabilities of the parties, under any agreement relating to Authorised Investments;
- (b) to make and carry out any takeover, proposal, offer or invitation (whether or not a formal offer or announcement in accordance with the provisions of Chapter 6 of the Corporations Law);

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- (c) to underwrite or sub-underwrite the subscriptions or the issue of any Shares or Debentures and to guarantee the performance of any person or corporation in relation to any agreement, contract, undertaking or promise and the Trustee may secure any such guarantee by mortgage, charge or other encumbrance over the whole or any part of a Trust. Any fees received by the Trustee in respect of any such underwriting or sub-underwriting form part of the income of a Trust;
 - (d) to create, grant, renew, alter or vary any mortgage charge or other encumbrance over the whole or any part of a Trust for any purpose whatsoever and upon such terms and conditions as the Trustee may in its absolute discretion think fit;
 - (e) to initiate or agree to any one or more of the following:-
 - (i) the release, modification or variation of any rights, privileges or liabilities of any Shares or securities from time to time forming part of a Trust;
 - (ii) a scheme of arrangement for or reconstruction of any corporation including any increase or reduction in the capital of any corporation;
 - (iii) the amalgamation or merger of any corporation with any other corporation;
 - (iv) the sale or other disposition of all or any part of the property or undertaking of any corporation;
 - (f) to enter into any arrangements with any government, public body or authority to obtain any rights, authorities, or concession or clearances and to give any undertakings binding upon the Trustee either generally or on conditions as the Trustee deems fit and to carry out exercise and comply with any of the same;
 - (g) to lease to and to accept surrenders of leases from any lessee, to compromise with lessees and others and to execute and pay for repairs and improvements;
 - (h) to institute prosecute and compromise legal proceedings;
 - (i) to acquire and accept for a Trust any equity of redemption;
 - (j) to attend and vote at meetings of any company;
 - (k) to build, demolish, alter, repair, extend, rebuild, improve, reconstruct and develop any property being or included in an investment of a Trust, and in connection with a subdivision or otherwise, to dedicate land, grant easements or other rights and make any other disposal or arrangement facilitating development;
 - (l) to promote or carry on or deal with any business scheme or undertaking relating to Authorised Investments in any country upon such terms and conditions as the Trustee thinks fit;
 - (m) generally to manage and turn to account the investments of the Trust;
 - (n) to bring legal proceedings to obtain all or any moneys that are payable to the Trustee in accordance with the Deed; and
 - (o) to bring legal proceedings for damages against any person arising out of any loss suffered by the Unit Holder as a result of any negligence default, omission or breach of duty or to procure

compliance with the terms of any document offering or inviting subscriptions for Units in a Trust.

30 Trustee's borrowing powers

- (1) Subject to Superannuation Law, the Trustee shall have power to borrow with or without security for any of the purposes of this Deed including, without limiting the generality of the foregoing, power to borrow for or in connection with the acquisition of any Authorised Investment, and may give security for any such borrowing over any of the investments of a Trust.

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- (2) For the purposes of this clause 30, "borrowing" includes obtaining overdraft accommodation from a bank, loan or deposit, or any other form of financial accommodation whatsoever, and "borrow" shall have a corresponding meaning.
 - (3) Subject to Superannuation Law the Trustee may borrow such moneys as are required for the purposes of a Trust if the total liabilities including the subject borrowing of the Trust will not exceed thirty-five percent (35%) of the relevant Value of a Trust and, if thought fit, to give security for any such borrowing over any or all of the investments comprised in the Trust PROVIDED THAT the Trustee shall not be required to accept any personal liability for such borrowing.
 - (4) Deleted.
 - (5) The proceeds of such borrowing shall be part of a Trust, and any Authorised Investments acquired by the application of such proceeds shall be deemed to be investments of the Trust.
 - (6) Deleted.

31 Additional covenants by the Trustee

The Trustee covenants subject to Superannuation Law with the intent that the benefit of this covenant shall enure to the Unit Holders jointly and to each of them severally that:-

- (a) the Trustee shall act continuously as trustee under each Trust until the Trust is determined as herein provided, or it has retired or been removed from the Trust in the manner herein provided;
- (b) the Trustee shall exercise all due diligence and vigilance in carrying out its functions and duties and in watching the rights and interests of the Unit Holders;
- (c) subject to paragraph 28(1)(j), the Trustee shall retain or cause to be retained each Trust in safe custody and shall hold it as trustee for the Unit Holders entitled thereto upon the terms of this Deed;
- (d) except as provided in this Deed the Trustee shall not sell, mortgage, charge or otherwise encumber or part with the possession of (or permit any nominated officers so to do) any of the investments of a Trust;
- (e) the Trustee shall keep or cause to be kept proper books of account in relation to the interests of the Unit Holders and shall at the expense of each Trust cause the accounts of the Trust to be audited at the end of each financial year by the Auditor in accordance with the requirements of Superannuation Law;
- (f) deleted;
- (g) the Trustee hereby covenants that any of the persons referred to in paragraph 28(1)(j) 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 each Trust against any loss or damage to the Trust or the Unit Holders which may have been incurred or sustained in connection with, or arising out of any breach or default of any such person in the observance or performance of any such covenant or obligation;
- (h) deleted;
- (i) deleted;

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- (j) deleted;
 - (k) the Trustee will not exercise the right to vote in respect of any shares held by the Trustee at any election for directors of a company whose Shares are so held hereunder without the consent of the majority of the Unit Holders present in person and voting given at a meeting for the purpose of authorising the exercise of the right at the next election;
 - (l) the Trustee shall keep the investments of each Trust separate from any other property belonging to or entrusted to or held by the Trustee;

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- (m) the Trustee shall ensure that all payments made by a Trust pursuant to Clause 33(7) are reasonably and properly incurred and that the remuneration of the Trustee under this Deed is calculated in a fair manner;
 - (n) deleted;
 - (o) the Trustee shall use all reasonable efforts to ensure that each Trust complies with relevant standards imposing requirements applicable to the operation of a Pooled Superannuation Trust or that, to the extent that a Trust fails so to comply, either its failure is approved by the Insurance and Superannuation Commissioner or the Trust receives a notice that the Trust has satisfied the Pooled Superannuation Trust conditions or a notice that the Trust should be treated as if it had satisfied the Pooled Superannuation Trust conditions under Superannuation Law in relation to each relevant year of income PROVIDED THAT nothing herein contained shall render the Trustee liable to any Unit Holder by reason only that the Trustee in the absence of neglect or default on its part fails in its reasonable efforts in that regard; and
 - (p) deleted.

32 Retirement of Trustee

- (1) The Trustee of each Trust must be a Constitutional Corporation.
- (2) The Trustee must retire as Trustee of a Trust if:
 - (a) the Trustee ceases to carry on business;
 - (b) the Trustee is not or is no longer empowered to act as trustee; or
 - (c) the SIS Act requires.
- (3) The Trustee may retire as trustee of a Trust at any time.
- (4) On retirement of a corporation as the trustee it must appoint another Constitutional Corporation as Trustee.
- (5) The appointment of a Trustee must comply with the SIS Act.
- (6) A retirement or appointment of Trustee must be made by Deed, which need not be registered.
- (7) On retirement, the retiring Trustee must cause the assets of the Trust to be vested in the new Trustee or its nominee and must deliver to the new Trustee all books, documents, records and other property relating to the Trust.

33 Remuneration of Trustee

- (1) The Trustee shall be entitled to receive and retain for its own use out of each Trust a fee in respect of each day in each calendar month equal to that percentage of the Value of a Trust on that day which is the quotient derived by dividing 1.5% by the number of days in the current Financial Year. The management fee in respect of any calendar month or part thereof shall be accumulated and paid on the last day of that calendar month or on the day on which a Trust determines or is determined pursuant hereto, whichever is the earlier.
- (2) In addition to the management fee referred to in sub-clause (1) the Trustee shall be entitled where managing agent's services are being

provided in respect of any investments of the Trust to be paid out of the gross income of a Trust, managing agent's fees in the case of real property at the rate normally charged for the provision of such service. These fees shall be payable whether the property is managed by an independent managing agent paid by the Trustee or by the Trustee itself acting in the capacity of managing agent.

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- (3) In addition to the management fee that it is entitled to receive under sub-clause (1), the Trustee shall be entitled to be paid a service fee for each Unit issued by the Trustee of five percent (5%) of the price at which such Unit was so sold or issued which shall be payable to the Trustee upon the allotment of that Unit. This service fee shall be retained by the Trustee and belong to it as remuneration for its services hereunder.
- (4) In addition to the fees that it is entitled to receive in sub-clause (1), (2) and (3) the Trustee shall be entitled to receive and retain for its own use out of each Trust a fee in respect of each day in each calendar month equal to that percentage of the Value of a Trust on that day which is the quotient derived by dividing 0.12% by the number of days in the current Financial Year. The Trusteeship fee in respect of any calendar month or part thereof shall be accumulated and paid on the last day of that calendar month or on the day on which a Trust determines or is determined pursuant hereto, whichever is the earlier, PROVIDED THAT the minimum fee per annum shall be \$2,000.
- (5) In addition to the respective fees referred to in sub-clauses (1) to (4), the Trustee shall be entitled to be reimbursed in the manner thereafter provided for the cost of the Auditor's reasonable fees and expenses.
- (6) The costs referred to in sub-clause (5) will be reimbursed by each Trust.
- (7) The Trustee, in addition to its remuneration and rights to indemnification or reimbursement conferred under any other provision of this Deed or by law, shall be indemnified in respect of each Trust and shall be entitled to be reimbursed out of a Trust in respect of all costs, charges and expenses which it may incur in or about the following matters in respect of the Trust to the extent to which such costs charges and expenses are reasonable in amount:-
- (a) costs of printing of Acknowledgments, accounts, distribution statements and cheques;
 - (b) costs of postage of all cheques (other than distribution cheques), accounts, distribution statements, notices, Acknowledgments and all other documents posted to all or any Unit Holders in accordance with the provisions of this Deed;
 - (c) expenses in connection with the keeping of accounting records and of keeping the Register and the investment register including without limitation expenses incurred in calculating the Net Value of the Trust;
 - (d) expenses in connection with the preparation of all financial and other reports which the Trustee forwards to all or any of the Unit Holders;
 - (e) any other disbursements incurred in connection with the administration of the Trust (including, without limiting the generality of the foregoing costs of convening and holding meetings of Unit Holders pursuant to sub-clauses 25(g), 31(k), 37(2) and 38(5) other than amounts referred to in paragraphs (f), (g), (h), (i) and (j) hereof;
 - (f) disbursements in connection with the acquisition holding or disposal of any investments of the Trust including commissions, fees, stamp duty, taxes, FID federal debits tax, land tax and income tax, insurance premiums and other proper outgoings;

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- (g) the Auditor's reasonable fees and expenses in connection with the auditing of the accounts of the Trust and the preparation of taxation returns in relation to the Trust;
 - (h) stamp duty on distribution cheques and stamp duty on Acknowledgments (if any); and
 - (i) costs of convening and holding any meetings of Unit Holders other than meetings pursuant to sub-clauses 25(g), 31(k), 37(2) and 38(5); and
 - (j) any stamp duty, receipt duty, transaction tax or like impost, State or Federal which is or may be imposed in or about the performance or exercise of their duties and powers hereunder and otherwise under or by virtue of or in respect of the Trust,

PROVIDED THAT subject to the provisions of sub-clause (6) the total amount to which the Trustee is entitled to receive from the a Trust in respect of the costs, charges and expenses specified in sub-paragraphs (a), (b), (c), (d) and (e) of this paragraph which may be incurred during the period of the Trust, shall not exceed the aggregate of an amount calculated at a rate not exceeding one half of one percent (0.50%) per annum of the Value of the on each day between the date hereof and the date of termination of the Trust

However, if this provision would otherwise be void under Superannuation Law,

- (k) the Trustee will be entitled to be indemnified and to reimburse itself out of a Trust for the excess; but
 - (l) this does not prevent the Trustee from electing not to be so indemnified or reimbursed in respect of any excess.
- (8) Any expenses incurred by the Trustee which are not specifically authorised by this Deed to be paid out of a Trust must be paid for by the Trustee out of its remuneration.
- (9) Where application moneys for Units have been paid by cheque, bill of exchange, promissory note or money order (here referred to as an "Instrument") and the Instrument is not honoured on presentation or where a direct debit to the Trading Bank, building society or credit union account of a Unit Holder is refused by the Trading Bank, building society or credit union concerned, the Trustee may require a payment to it of a fee of twenty dollars (\$20) in respect of any such transaction and 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 that 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 so recovered.
- (10) Without limiting any other right of indemnity or reimbursement conferred on the Trustee under this Deed or by law, if the Trustee becomes liable to pay GST in respect of any supply made under or in connection with this Deed, then, in addition to any fee or other amount or consideration payable to the Trustee in respect of the supply, the Trustee is entitled to be paid an additional amount on account of and equal to the amount of the GST.
- (11) The amount to which the Trustee is entitled under clause 33.10 may be deducted by the Trustee from the Trust to which the supply was made and retained by it for its own use. The Trustee may spread the amount over any period or periods which it considers appropriate. If the supply relates to more than one Trust, the Trustee must apportion the GST between the Trusts as it considers appropriate.
- (12) The amount to which the Trustee is entitled under clause 33.10 includes amounts equal to the GST on:
- (a) the supply of any goods, services, rights, benefits or things by the Trustee; and
 - (b) the supply by the Trustee of its services for the benefit of the Trusts and Unit Holders from time to time.
- (13) Where, but for this clause, the Trustee would be entitled to deduct or accrue an amount, on account of a liability for GST, from a Trust for its own use under clause 33.10, the amount deducted or accrued must not exceed an amount equal to:
- (a) in respect of a GST liability incurred in respect of any amount retained by the Trustee under clause 33.1:

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- (i) the amount to which the Trustee is entitled under clause 33.1; less
 - (ii) the amount which the Trustee is actually retaining for its own use under clause 33.1; and
 - (c) in respect of a GST liability incurred in respect of any amount retained by the Trustee under clause 33.3 the lesser of:
 - (i) (A) the amount to which the Trustee is entitled under clause 33.3; less
 - (B) the amount to which the Trustee is actually retaining for its own use under clause 33.3; and
 - (ii) the amount of the RITC receivable by the Trust as a result of a GST liability incurred in respect of any amount retained by the Trustee under clause 33.3.

34 Auditor

- (1) Subject to this Clause, the Trustee must appoint an auditor for each Trust who qualifies as an approved auditor for the purposes of Superannuation Law.
- (2) The Auditor of a Trust at any time and from time to time may be removed by the Trustee.
- (3) If at any time the holders of at least seventy-five percent (75%) of the Units in Issue at the date of lodgement lodge with the Trustee a request in writing signed by them requesting the Auditor to retire, or if by Extraordinary Resolution the Auditor be requested to retire, then and in either such event, subject to Clause 51, the Trustee shall by notice in writing to the Auditor remove him and shall thereafter appoint such other qualified person to be the Auditor as a majority of the Unit Holders present at the meeting at which the resolution was passed may have nominated or, failing such resolution or nomination, such person as the Trustee nominates.
- (4) The Auditor of a Trust may retire upon giving one (1) month's notice of his desire to do so.
- (5) Any vacancy in the office of Auditor occurring under sub-clause (2) or otherwise than as referred to in sub-clause (3) shall be filled by the Trustee appointing a qualified person.
- (6) The Auditor of a Trust 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) of the Trustee. The Auditor of a Trust need not be an individual but may be a firm of Auditors, one of the partners in which is an auditor qualified for the purposes of Superannuation Law.

35 Accounts and audit

- (1) The Trustee shall cause true accounts to be kept of all sums of money received and expended by or on behalf of each Trust and the matters in respect of which such receipt and expenditure take place, of all sales and purchases of investments and units and of the assets and liabilities of each Trust.
- (2) The books of account shall be kept at the office of the Trustee or at such other place as the Trustee may from time to time determine and shall be open to the inspection of the Trustee and the Auditor. The Auditor of a Trust shall be entitled to require from and the Trustee

and it shall furnish to the Auditor of a Trust such information, accounts and explanations as may be necessary for the performance by the Auditor of his duties hereunder.

- (3) At the end of each Financial Year, Accounts and any other accounts or statements required by Superannuation Law for each shall be prepared or caused to be prepared by the Trustee in accordance with Superannuation Law.
- (4) At the time of preparing the Accounts in accordance with sub-clause (3) the accounts kept in accordance with sub-clause (1) shall be examined and their correctness ascertained by the Auditor. The Trustee shall ensure that the Auditor shall certify:-

- (a) that he has conducted the audit;
- (b) whether or not he has obtained all the information and explanations he has required;
- (c) whether or not the Accounts are in his opinion properly drawn up so as to give a true and fair view of the profit or loss and state of affairs of each Trust;
- (d) whether or not the Register is in his opinion properly drawn up to give a true account of the Unit Holders of each Trust,
- (e) any other matters determined by the Trustee

and a copy of his certificate shall appear on all printed copies of such Accounts.

- (5) The Trustee shall give to the Auditor a certificate in writing at the end of each Financial Year setting out the investments and cash constituting each Trust at that date. The Trustee shall ensure that the Auditor shall from time to time at his discretion make such "spot checks" or other examinations as the Auditor thinks fit of the investments and Cash for the time being constituting each Trust.

36 Keeping of books and records

- (1) Any book or record kept or prepared or required to be kept or prepared pursuant to this Deed may be kept or prepared:-
- (a) by making entries in a bound or looseleaf book;
 - (b) by recording or storing the matters concerned by means of a mechanical electronic or other device;
 - (c) in any other manner approved by the Trustee,

PROVIDED THAT the matters recorded or stored are capable, at any time, of being reproduced in a written form.

- (2) Books shall be kept at the registered office of the Trustee or at such other place as the Trustee may from time to time determine.

37 Period of Trusts

- (1) If the Trustee or a holding company of the Trustee goes into liquidation or if a receiver or receiver and manager is appointed of the undertaking of the Trustee or a holding company of the Trustee or any part thereof or where the Trustee has ceased to carry on business, the Trustee shall summon meetings of Unit Holders of all Trusts.
- (2) If at a meeting of the Unit Holders of a Trust duly convened under clause 40, a resolution is passed by a majority in number of the Unit

Holders for the time being which majority represents more than seventy five percent (75%) of the total voting rights of all the Unit Holders for the time being that the Trust hereby created shall be determined the Trustee shall determine it accordingly.

- (3) Deleted.
- (4) The Trustee may at any time determine by notice in writing to all Unit Holders of a Trust that the Trust is to be terminated and three (3) months after notice to all Unit Holders of the Trust by the Trustee, the Trust shall be terminated.
- (5) If notice of termination of the Trust is given pursuant to sub-clause 39(2), the Trust hereby created shall be determined.
- (6) If on the expiration of six (6) months from the date of the first document offering or inviting subscriptions for Units for a Trust less than the number of Units specified in that document have been subscribed for and in the opinion of the Trustee it is in the best interests of Unit Holders to do so the Trust is to be terminated and the Trustee shall on receipt of such notice determine the Trust.
- (7) If at any time after the expiration of one (1) year from the date hereof less than one million (1,000,000) Units are held by the Unit Holders of a Trust the Trustee may if in its absolute discretion it considers it to be in the interests of the Unit Holders so to do determine a Trust. Any determination under this sub-clause shall take effect by service on the Unit Holders in the manner hereinafter provided for a notice stating the determination of the Trust the reason therefor and the date thereof.
- (8) Any determination under sub-clause (6) or (7) shall take effect by service on the Unit Holders in the manner hereinafter provided for a notice stating the determination of the Trust the reason therefor and the date thereof.

38 Determination of Trusts

- (1) Upon termination of the Trusts or of any Trust under clause 37, subject to the succeeding sub-clauses of this clause, the Trustee shall so far as reasonably practical within one hundred and eighty (180) days after termination of the Trusts or a Trust sell, call in and convert into money or cause to be sold, called in and converted into money the investments and property constituting the Trusts or relevant Trust and repay (with any additional payment that may be required) any borrowings on behalf of the Trusts or relevant Trust and divide the proceeds of such calling in and conversion less all proper costs and disbursements, commissions, brokerage, fees and other outgoings including costs of final distribution of capital and income and all proper provisions for liabilities among the Unit Holders in the proportion to that number of Units of which they are at the date of the giving of such notice respectively registered as the Unit Holders PROVIDED THAT the Trustee may at its discretion make a partial distribution of capital from time to time.
- (2) The Trustee may give to each Unit Holder notice of an impending distribution.
- (3) The Trustee may postpone the sale, calling in and conversion of any part of the investments and property comprised in the Trusts or relevant Trust for such time as it thinks it desirable so to do in the interests of the Unit Holders and shall not be responsible for any loss attributable to such postponement except to the extent that the loss is attributable to the Trustee's own act, receipt, neglect or fault.
- (4) The Trustee shall be entitled to retain out of any moneys in its hand under the provisions of this clause full provision for and to pay thereout all costs, charges, expenses, liabilities (whether actual or contingent) claims and demands incurred made or apprehended by the Trustee in connection with the Trusts or arising out of the termination or liquidation of the Trusts or relevant Trust including the fees of any agents, Approved Valuers, barristers, solicitors, bankers, accountants or other persons whom the Trustee may employ in connection with the winding up of the Trusts or relevant Trust and shall be entitled out of the moneys so retained to be indemnified and saved harmless against any such costs and charges, expenses, claims and demands.
- (5) Upon the termination of the Trusts or relevant Trust notwithstanding anything herein contained the Trustee shall be entitled to reimbursement from the Trusts or relevant Trust of all charges and expenses incurred by the Trustee of and incidental to the summoning and holding of any meeting called pursuant to the provisions of this Deed and of any action taken by the Trustee as a result of any such meeting.
- (6) Notwithstanding sub-clause (1) but subject to Superannuation Law, any Unit Holder who holds Units in a Trust the aggregate of the Unit Values of which is in excess of one hundred thousand dollars (\$100,000) may request the Trustee to appropriate specific assets out of the investments of the Trust and to transfer such assets to such Unit Holder in satisfaction of his entitlement in the distribution of the Trust. Upon any such request the Trustee may subject to Superannuation Law in its discretion transfer specific assets out of the investments of a Trust in satisfaction of the entitlement of the Unit Holder. The costs of any brokerage, stamp duty, transfer fees and other charges incurred in transferring such assets shall be borne by the Unit Holder. In appropriating and transferring any such assets, the Trustee shall have power to make adjustments to the Unit Value of a Unit by making or receiving cash payments or otherwise, and to settle any question arising in relation thereto in any manner which appears to it to be just.
- (7) Notwithstanding any other provision of this Clause 38, where the Trusts or a Trust is terminated pursuant to sub-clause 37(6) or sub-clause

37(7), the Trustee shall pay out of its own funds to a Unit Holder any amount by which the amount to which that Unit Holder is entitled on the distribution of the Trusts or relevant Trust pursuant to either sub-clause 38(1) or sub-clause 38(6) is less than the application moneys paid by that Unitholder in respect of the Units comprising that Unit Holder's holding in the Trusts or relevant Trust at the time of such distribution.

39 Alteration of Trust Deed

- (1) Subject to Superannuation Law and any approval required by law the Trustee may make by deed supplemental to this Deed any alteration modification addition to or cancellation of this Deed (including this present Clause) or any deed supplemental hereto if such alteration modification addition or cancellation:-
- (a) is in the opinion of the Trustee or of a barrister or solicitor instructed by the Trustee necessary or expedient to comply with the provisions of any statute ordinance regulation or by-law or any law made under the authority of any statute regulation by-law or ordinance or is the requirement of any competent statutory authority;
 - (b) is in the opinion of the Trustee made to correct a manifest error or is of a formal technical or administrative nature only;
 - (c) is in the opinion of the Trustee required by or in consequence of or consistent with any amendment to the Corporations Law or Superannuation Law and is in the opinion of the Trustee not prejudicial to the interests of the Unit Holders;
 - (d) is considered by the Trustee not to be or be likely to become prejudicial to the interests of any of the Unit Holders;
 - (e) is approved by an Extraordinary Resolution of Unit Holders of the Trust or Trusts in respect of which the alteration, modification, addition or cancellation is made in accordance with clause 40; or
 - (f) is otherwise permitted by this Deed,

PROVIDED THAT where, in the opinion of the Trustee, the rights of the Unit Holders of a Trust or Trusts may be adversely affected by any alteration, modification, addition or cancellation, such alteration, modification, addition or cancellation may unless approved in accordance with paragraph (e) above be effected only with the consent of the Unit Holders of that Trust or those Trusts expressed in an Ordinary Resolution passed at a meeting of Unit Holders convened in accordance with the provisions of this Deed.

- (2) The Trustee must without limiting the generality of the foregoing take all reasonable steps to cause this Deed to be amended from time to time to satisfy the requirements of the Corporations Law or the Superannuation Law or any such statute ordinance rule regulation or by-law as is referred to in sub-clause (1) PROVIDED THAT if the Trustee is of the opinion that as a result of such requirements the assets of the Trusts or a Trust or any part thereof are to be invested or deposited otherwise than freely in accordance with the discretions given to the Trustee by this Deed or if as a result of any law it appears to the Trustee to be in the interests of the Unit Holders of the Trusts or relevant Trust so to do the Trustee may wind up the Trusts or relevant Trust by giving notice in writing to the Unit Holders.
- (3) (Constitutional Corporation): No amendment may permit a trustee other than a Constitutional Corporation to be appointed as Trustee unless the SIS Act permits.

40 Meetings of Unit Holders

- (1) This clause is subject to paragraphs 25(g) and 31(k) and Clause 51.
- (2) The Trustee may at any time and must on the requisition in writing of Unit Holders of a Trust who at the date of the deposit of the requisition number one tenth or 50, whichever is less, of Unit Holders of a Trust convene a meeting of Unit Holders of a Trust.
- (3) The requisition must state the objects of the meeting and the terms of any resolution proposed to be submitted to the meeting. The requisition must be signed by the requisitionists and deposited at the registered office of the Trustee in its State of incorporation and may consist of several documents in like form each signed by one or more of the requisitionists. If the Trustee does not within twenty one (21) days from the date of the requisition being so deposited duly proceed to convene a meeting the requisitionists or a majority of them in value may themselves convene the meeting but any meeting so convened shall not be held after three (3) months from the date of such deposit. Any meeting convened under this Clause by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Trustee.
- (4) Fourteen (14) clear days' notice specifying the place, day and hour of meeting and the general nature of the business to be transacted and containing such, if any, further information as the Trustee may think fit and the terms of any resolution to be proposed shall be given previously to any meeting of the Unit Holders. Such notice shall be given to all Unit Holders of a Trust but the accidental omission to give such notice to or the non-receipt of a notice of meeting by a Unit Holder shall not invalidate the meeting. Whenever a meeting is about to be convened by requisitionists they shall give seven (7) clear days' notice in writing to the Trustee of the place, day and hour of the meeting and of the nature of the business to be transacted thereat. Omission to give such notice or non-receipt of such notice by the Trustee shall invalidate the meeting. The Trustee and any person on behalf of the Trustee and its or his solicitors and any director or secretary, officer, solicitor or auditor of the Trustee and any counsel instructed by the solicitors of the Trustee may attend any meeting of Unit Holders and all such persons shall have the right of audience.
- (5) No business shall be transacted at any such meeting unless a quorum is present when a meeting proceeds to business. The quorum necessary for a meeting at which an Ordinary Resolution only is to be proposed shall be persons holding or representing by proxy at least three percent (3%) of the number of Units in Issue and for a meeting at which any Extraordinary Resolution is to be proposed shall be persons holding or representing by proxy at least fifty one percent (51%) of the number of Units in Issue. If within fifteen (15) 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 or, if a non-working day to the next working day thereafter and in either event at the same time and the same place; and
 - (b) if called for the purpose of passing an Extraordinary Resolution stand adjourned for such period as the chairman shall direct and provided notice of the proposed Extraordinary Resolution and of the fact that those present in person or by proxy will constitute a quorum at an adjourned meeting and the place, day and hour of such adjourned meeting shall have been given to the Unit Holders by the Trustee,

and at an adjourned meeting the Unit Holders present in person or by proxy (whatever their numbers and the number of Units held by them)

shall form a quorum and shall have power to pass such Ordinary Resolution or Extraordinary Resolution.

- (6) The person (if any) nominated in writing by the Trustee shall be entitled to take the chair at every meeting of Unit Holders and if no such person is nominated or if at any meeting the person nominated shall not be present within fifteen minutes after the time appointed for holding the meeting the Unit Holders present shall choose one of their number to be chairman.
- (7) Every question submitted to a meeting of the Unit Holders shall be decided by a show of hands unless a poll be properly demanded as hereinafter mentioned and in the case of any equality of votes the chairman shall both on the show of hands and at a poll have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Unit Holder.
- (8) On a show of hands every Unit Holder who is present in person shall have one (1) vote and on a poll every Unit Holder who is present in person or by proxy shall have one (1) vote for each Unit of which he is the holder, fractional units being disregarded.
- (9) In the case of joint holders of a Unit the vote of the senior who tenders a vote whether in person or by proxy shall be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority shall be determined by the order in which the names stand in the Register.
- (10) A corporation being a Unit Holder may vote by any officer or duly authorised representative who shall be entitled to speak, demand a poll, vote, act as proxy and in all other respects exercise the rights of a Unit Holder and shall be reckoned as a Unit Holder for all purposes. A certificate under the seal of the corporation shall be prima facie evidence of the appointment or the revocation of the appointment (as the case may be) of the representative.
- (11) A Unit Holder of unsound mind and in respect of whom an order has been made by any court having relevant jurisdiction may vote whether on a show of hands or on a poll by his committee, curator bonis or other person in the nature of a committee or curator bonis appointed by such court and such committee curator bonis or other person may on a poll vote by proxy.
- (12) No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting whose decision shall be final and conclusive.
- (13) On a poll, votes may be given either personally or by proxy.
- (14) The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a corporation, either under its common seal or under the hand of an officer or attorney so authorised.
- (15) Any person may act as a proxy whether or not he is a Unit Holder.
- (16) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a notarially certified copy of such power or authority shall be deposited with the Trustee not less than forty eight (48) hours before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposed to vote and in default the instrument or proxy shall not be treated as valid. No instrument appointing a proxy shall be valid after the expiration of twelve (12) months from the date named in it as the date of its execution.

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- (17) An instrument appointing a proxy may be in the following form or in any other common or usual form:-

"I _____ of
being a Unit Holder of the Investment Trust/the Capital Stable Trust of
the BT SUPER TRUST hereby appoint _____ or failing him
of _____ as my proxy to vote at the Meeting of the
Unit Holders to be held on
the _____ day of _____, 19 _____ and at any
adjournment thereof.

Signed at by me _____ day of _____, 19 _____

This form is to be used *in favour of/against the resolution

*Strike out whichever is not desired. Unless otherwise instructed the proxy may vote as he thinks fit."

- (18) 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 proxy is used.
- (19) At any meeting of the Unit Holders unless a poll is demanded by the chairman or by twenty (20) Unit Holders holding (or representing by proxy) between them not less than ten thousand (10,000) Units present and voting a declaration by the chairman that a resolution has been carried or carried by any particular majority or lost or not carried by any particular majority shall be conclusive evidence of the fact.
- (20) If at any meeting a poll is demanded as aforesaid it shall be taken in such manner and either at once or after the adjournment as the chairman directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn.
- (21) Any poll demanded at any meeting of Unit Holders on the election of a chairman or any question of adjournment shall be taken at the meeting without adjournment. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- (22) An Ordinary Resolution or Extraordinary Resolution passed at a meeting of the Unit Holders duly convened and held in accordance with this Deed shall be binding upon all the Unit Holders whether present or not present at such meeting and each of the Unit Holders shall be bound to give effect thereto accordingly.
- (23) Without limiting the provisions of clause 39 or the rights or discretions therein conferred, a meeting of Unit Holders shall have the power by Extraordinary Resolution to sanction or assent to any alteration, addition, modification or cancellation proposed by the Trustee of or to any of the covenants or provisions of this Deed and to authorise the Trustee to concur in and execute any supplemental trust deed embodying any such addition, modification or cancellation.
- (24) Deleted.
- (25) Deleted.
- (26) Minutes of all resolutions passed and proceedings had at every meeting of Unit Holders shall be recorded in a book to be provided for that

purpose by the Trustee and any such minutes as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Unit Holders shall be evidence of the matter therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had.

(27) Deleted.

41 Notices

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 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 on the third day following the day 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 conclusive as to those facts subject to the contrary being proved.

42 Payments of Unit Holders

- (1) Any moneys payable by the Trustee to a Unit Holder under the provisions of this Deed may be paid:-
- (a) by crossed "not negotiable" cheque made payable to the Unit Holder or order 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 or order and sent to the registered address of that one of the joint holders who is first named in the Register (or otherwise dispatched, delivered or made available to be collected as the Unit Holder may from time to time specify and the Trustee agrees) in which case such payment shall be deemed to be made when the cheque is so sent or otherwise delivered, dispatched or made available; or
 - (b) in any other manner specified by the Unit Holder and agreed to by the Trustee including, without prejudice to the generality hereof, the application of the amount due to the Unit Holder in payment for Units to be issued to the Unit Holder or any other person, in which case such payment shall be deemed to be made when the Trustee has done everything necessary to be done on its part to effect payment in that manner.
- (2) Without prejudice to sub-clause (1) or to the determination in accordance with sub-clause 10(12) as to when redemption is effected, there shall be a satisfaction of the moneys payable and a good discharge to the Trustee when the cheque is duly presented and paid or money deposited in an account nominated by the Unit Holder.
- (3) Deleted.

43 Documents to be retained by Trustee

Applications for Units and redemption of Units, appointments of Authorised Persons, cancelled Acknowledgments and instruments of transfer and transmission shall be retained by the Trustee but on the expiry of seven (7)

years from the date of each thereof the same may in the absolute discretion of the Trustee be destroyed.

44 Unit holders bound by deed

The terms and conditions of this Deed as duly altered, modified, added to or cancelled from time to time shall be binding on the Trustee and each Unit Holder and all persons claiming through the Trustee or Unit Holder respectively.

45 Authorised persons

- (1) A Unit Holder may appoint an Authorised Person to act on his behalf under this Deed as a representative or agent and without limiting the foregoing and in his name to subscribe for, purchase, request, redeem, transfer or otherwise deal with Units PROVIDED THAT the notice (in such form as is determined from time to time by the Trustee) appointing the Authorised Person was submitted to the Trustee, at its registered office or such other place as may be nominated by the Trustee from time to time, prior to the entering into of any transaction by the Authorised Person under this Deed on behalf of that Unit Holder.
- (2) A Unit Holder may cancel the appointment of an Authorised Person by signing and delivering a notice to the Trustee in the form determined by the Trustee from time to time.
- (3) The Trustee may in its absolute discretion accept or refuse the appointment of an Authorised Person or refuse to accept or give effect to the exercise of any given authority of the Authorised Person and the Trustee shall not be required to assign any reason or ground for such refusal.
- (4) Any direction or authority which the Trustee reasonably believes to have been given by any partner or authorised officer of the Authorised Person shall be deemed to be a direction or authority validly given by the Authorised Person.
- (5) Notwithstanding anything contained in this Deed, if an Authorised Person acts as a representative or agent for more than one Unit Holder under this Deed, the Trustee may daily, after taking into account all transactions or dealings entered into by the Authorised Person on that day on behalf of the Unit Holders for which the Authorised Person acts under this Deed:-
 - (a) pay or cause to be paid to the Authorised Person an amount equal to the net sum payable;
 - (b) accept or cause to be accepted from the Authorised Person an amount equal to the net sum payable; or
 - (c) not pay or cause to be paid to the Authorised Person, nor accept or cause to be accepted from the Authorised Person, an amount if the amount to be paid to the Authorised Person equals the amount to be accepted from the Authorised Person,and any such payment or acceptance or, in the case of paragraph (c) of this sub-clause (5), absence of payment or acceptance shall constitute a full and good discharge to the Trustee for all obligations of the Trustee to make payment of moneys otherwise payable under this Deed to a Unit Holder and to accept moneys otherwise receivable under this Deed in respect of a Unit Holder.
- (6) Notwithstanding anything contained in this clause, the Trustee shall send to each Unit Holder, within fourteen (14) days after any transaction is entered into by such Authorised Person on behalf of that Unit Holder, details of the transaction. An Acknowledgment is

sufficient evidence of details of a transaction in the case of an application for Units or a partial redemption of Units as the case may be.

46 Appointment of Custodians outside Australia

The following provisions apply to the appointment of a Custodian to hold assets outside Australia.

- (1) The Trustee may, subject to the covenants of the Trustee herein contained and in particular to the covenants contained in clause 31 hereof, from time to time appoint any one or more corporations as a Custodian in relation to all Trusts or any Trust to perform any one or more of the following actions outside Australia in the name of the Trustee or at the direction of the Trustee in the Custodian's name:-
 - (a) purchase or sell in a country in which the Custodian is resident 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 in a country in which the Custodian is resident, any interest, dividend or other interest accruing in respect thereof 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.
- (2) A Custodian appointed by the Trustee to hold assets outside Australia must be a corporation or wholly-owned subsidiary of a corporation which is independent of the Trustee and carries on in any jurisdiction in which it is to be appointed so to act as its principal business the business of banking or the provision of trustee services and which is eligible to be appointed a Custodian of a Trustee under Superannuation Law.
- (3) The Trustee may by the terms of any appointment under sub-clause 46(1) insert such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit.
- (4) Notwithstanding any appointment of a Custodian the Trustee shall remain liable for any act or omission of a Custodian as if any such act or omission was an act or omission of the Trustee.
- (5) The Trustee shall be responsible for payment of the fees and expenses of such Custodian but shall be entitled to be reimbursed out of the relevant Trust or Trusts in respect of any such fees and expenses subject to a maximum equal in aggregate in respect of all Custodians appointed under this clause an amount calculated at a rate not exceeding one-quarter of one percent (.25%) per annum of the daily Value of a Trust. If the aggregate of the fees and disbursements of all Custodians appointed under this clause exceed the aforesaid amount the excess shall be paid by the Trustee and shall not be paid from the Trust.

However, if this provision would otherwise be void under Superannuation Law:

- (a) the Trustee will be entitled to be indemnified and to reimburse itself out of a Trust for the excess; but

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- (b) this does not prevent the Trustee from electing not to be so indemnified or reimbursed in respect of any excess.
- (6) The Trustee shall make it a term of any appointment that the Custodian agrees irrevocably, to be bound by the terms of this Deed governing the appointment and conduct of the Custodian and to submit to the jurisdiction of Courts of competent jurisdiction in the State of New South Wales in respect of all matters relating to a Trust.

46A Appointment of custodians within Australia

The following provisions apply to the appointment of a Custodian to hold assets in Australia:

- (1) Subject to Superannuation Law, the Trustee may appoint one or more corporations as a Custodian in relation to all of the Trusts or a Trust to perform any one or more of the following actions in Australia in the name of the Trustee or at the direction of the Trustee in the Custodian's name:
 - (a) at the direction of the Trustee, purchase or sell Authorised Investments of the relevant Trust or Trusts and execute all transfers and assurances;
 - (b) receive and hold on behalf of the Trustee any Authorised Investment, any interest or dividend accruing in respect thereof and any document of title thereto in safe custody;
 - (c) procure registration of 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.
- (2) A Custodian appointed by the Trustee to hold assets in Australia must be a corporation which is eligible to be appointed a Custodian of a Trust under Superannuation Law.
- (3) The Trustee may by the terms of any appointment under sub-clause 46A(1) agree to such provisions for the protection and convenience of those dealing with any such custodian as it thinks fit.
- (4) Notwithstanding the appointment of a Custodian or Custodians, the Trustee remains liable for any act or omission of a Custodian as if any such act or omission was an act or omission of the Trustee.
- (5) The fees and expenses of a Custodian are payable by the Trustee but the Trustee is entitled to be reimbursed out of the relevant Trust or Trusts in respect of any such fees and expenses.

47 Copies of deed

A copy of this Deed shall at all times during usual business hours be made available by the Trustee at its office in Sydney 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 twenty five dollars (\$25.00) or such other sum as the Trustee may from time to time determine.

48 Deleted

49 Governing law

The rights liabilities and obligations inter se of the Trustee and the Unit Holders shall be governed by the law of the State of New South Wales and any proceedings to enforce such rights liabilities or obligations may be taken in the courts of that State.

50 Deleted

51 Saving clause

If a provision in this Deed would otherwise be void because it:

- (a) subjects the Trustee to direction by another person; or
- (b) permits a person to exercise a discretion without the consent of the Trustee,

then the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

Overriding provisions

- 52. A standard included by Clause 24(6) prevails over any other clause which is inconsistent with it.
- 53. If a provision of the Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of a Trust in circumstances or to an extent that would, but for this Clause render the provision void because of section 56(1) of the SIS Act, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent but is to have the effect of depriving the Trustee of that right in respect of any liability of the kind mentioned in Section 56(2)(a) or (b) of the SIS Act.
- 54. If any provision of this Deed has the effect of exempting the Trustee from liability in circumstances or to an extent that would, but for this Clause, render the provision void because of Section 56(2) of the SIS Act, the provision is not to exempt the Trustee from liability in those circumstances or to that extent.
- 55. If any provision of this Deed has the effect of depriving the Trustee of its right to be reimbursed or indemnified out of a Trust in circumstances or to an extent that would, but for this Clause, render the provision void because of Section 56(3) of the SIS Act, the provision is not to have the effect of depriving the Trustee of that right in those circumstances or to that extent.
- 56. Notwithstanding any other provision of this Deed, if there is a conflict between a provision of this Deed, and any requirements of Superannuation Law, the requirements of Superannuation Law prevail over it and that provision of this Deed shall be effective only to the extent that it is not inconsistent.
- 57. The Trustee has the power to do or cause to be done any act, matter or thing permitted under Superannuation Law except in so far as it would be inconsistent with the obligations of the Trustee under this Deed.