

SCENTRE MANAGEMENT LIMITED
ABN 41 001 670 579

**CONSTITUTION OF
THE CARINDALE PROPERTY TRUST**

This document is a consolidated copy of the version of the trust deed dated 29 October 1996 for Carindale Property Trust (“Original Constitution”) adopted on 29 June 2000 pursuant to the transition under the provisions of the Managed Investments Act, as amended by the Supplemental Deeds dated 21 December 2000, 30 June 2005, 2 May 2006 and 5 July 2018.

This is not a legally binding document. Reference should be made to the Original Constitution and each amending deed for the operative provisions of the Constitution.

SCENTRE MANAGEMENT LIMITED
Level 30
83-85 Castlereagh Street
SYDNEY NSW 2000

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THIS DEED OF TRUST is made the 29th day of October 1996.

WESTFIELD MANAGEMENT LIMITED ABN 41 001 670 579 of Level 24, Westfield Towers, 100 William Street, Sydney, New South Wales (the ‘**Manager**’)¹

RECITALS:

- A. It is intended by this deed to establish a trust fund to be known as the ‘Carindale Property Trust’ which is to be administered for the benefit of the holders of Units.
- B. The Manager¹ intends on the execution of this deed to pay to the Trustee¹ the sum of \$100 by way of cheque (the Settled Sum) to be held by the Trustee for the benefit of the holders of Units and otherwise for the purposes set out in this deed, on and subject to the terms, conditions and provisions contained in this deed.
- C. The Trustee has agreed to act as trustee of the Trust for the benefit of the holders of Units and otherwise for the purposes set out in this deed, on and subject to the terms, conditions and provisions contained in this deed.
- D. This deed is made with the intent that the benefits and obligations under it may enure not only to the Manager and the Trustee, but also to the extent provided, to every holder of Units on its terms, conditions and provisions.
- E. Pursuant to section 1455 of the Corporations Law, Perpetual Trustee has given notice of its proposed retirement from the office of trustee of the Trust.
- F. Pursuant to section 1456 of the Corporations Law, the Manager lodged a registration application in relation to the Trust naming itself as the proposed responsible entity.
- G. By a Fourth Supplemental Deed, the Manager exercised the statutory power granted by section 1460(3) of the Corporations Law as augmented by ASIC Class Order 98/2159 to amend this deed (as previously amended) without the need to comply with either its provisions or section 1069A of the Corporations Law.
- H. In accordance with section 1460(6)(a) of the Corporations Law, the amendments set out in the Fourth Supplemental Deed to this Deed came into effect in relation to the Trust when the Trust was registered as a managed investment scheme by the Australian Securities and Investments Commission (“**ASIC**”) under Chapter 5C of the Corporations Law and the retirement of Perpetual Trustee under section 1455 of the Corporations Law took effect and it ceased to be a party to this deed.

¹ The initial trustee was Perpetual Trustee Company Limited (ACN 000 001 007) and the initial manager was Suncorp Property Funds Management Limited (ACN 075 978 817). On 21 December 1999, the name of Suncorp Property Funds Management Limited (ACN 075 978 817) was changed to Carindale Management Limited. On 28 June 2000, Carindale Management Limited (ACN 075 978 817) became the responsible entity. On 21 December 2000, Carindale Management Limited (ACN 075 978 817) retired as the responsible entity and Westfield Management Limited (ABN 41 001 670 579) was appointed as the responsible entity. On 30 June 2014 the name of Westfield Management Limited (ABN 41 001 670 579) was changed to Scentre Management Limited. On 12 December 2011 the registered office of the Manager was changed to Level 30, 83-85 Castlereagh Street, Sydney NSW 2000.

NOW THIS DEED WITNESSES AND IT IS HEREBY DECLARED as follows:

1. EFFECTIVE DATE

This deed shall take effect from the date upon which this deed is executed.

2. INTERPRETATION AND EFFECT OF THE DEED

2.1 Definitions

In this deed including the recitals, the schedules and all documents referred to in this deed unless a contrary intention appears or the context otherwise requires:

‘Accounting Standards’ means:

- (a) the applicable accounting standards under the Corporations Law and any other law;
- (b) the applicable requirements of the Corporations Law in relation to the preparation and content of the Accounts; and
- (c) generally accepted accounting practices and principles which are not inconsistent with the applicable requirements referred to in paragraphs (a) and (b) of this definition;

‘Accounts’ means the accounts prepared and kept in accordance with clause 31;

‘Additional Units’ means all Units other than the Initial Units;

‘Affiliate’ in relation to the Manager means an Associate of the Manager or any other person whose relationship with the Manager is of such a nature that a reasonable person might consider that dealings between them would not be at arm’s length;

‘Allotment Price’ means in relation to the issue of a Unit:

- (a) in the case of the Initial Units and the first Additional Units issued under a Prospectus after the issue of the Initial Units, the price set out in item 3 of the seventh schedule;
- (b) other than in the case referred to in paragraph (c) of this definition, the sum of:
 - (i) the Current Unit Value as most recently determined prior to the date of such issue;
 - (ii) any Statutory Revenue Charges, brokerage and all other charges and disbursements incurred or to be incurred by the Manager in respect of the application for the Unit or the issue of the same not included in the Issue Provision; and
 - (iii) the Issue Provision; or

- (c) while the Trust is Listed and Units of the class of Unit to be issued are quoted and have not been suspended from quotation for a continuous period exceeding 60 days at the time for the calculation, the weighted average of the last sale prices quoted on ASX for the five Business Days before the date when the Allotment Price is to be ascertained on which such a sale price was recorded, provided that if the class of Units includes Partly Paid Units then the price calculated will be adjusted for the unpaid Contributions so that the price reflects the price of a fully paid Unit;

‘**AMIT**’ means trust which is an attribution managed investment trust for the purposes of the Tax Act;

‘**AMIT Income Year**’ means an income year in which the Trust is an AMIT;

‘**AMIT Regime**’ means the regime for the taxation of AMITs, and their members, as set out in the Tax Act;

‘**AMMA Statement**’ has the meaning given to that phrase in the Tax Act;

‘**Applicant**’ means a person who has made an application for Units;

‘**Application for Units**’ means an application for Units under clause 10.1 in such form as the Manager may from time to time determine (including any terms required by clause 10.5);

‘**Application Moneys**’ means payment for Units in respect of an Application for Units;

‘**Approved Valuer**’ means a valuer appointed pursuant to clause 20.2;

‘**Associate**’ has the same meaning as in Division 2 of Part 1.2 of the Corporations Law;

‘**ASX**’ means ASX Limited ACN 008 624 691;

‘**Auditor**’ means the auditor for the time being of the Trust appointed pursuant to section 331AB of the Corporations Law;

‘**Auditor General**’ means the auditor general for the time being of Queensland and his representatives;

‘**Australian Bank**’ has the meaning given to that expression in section 9 of the Corporations Law;

‘**Authorised Investment**’ means any of the investments described in clause 16.2;

‘**Bank**’ means:

- (a) a bank as defined in section 5 of the Banking Act 1959 of the Commonwealth of Australia;
- (b) a body corporate formed or incorporated under an Act of the Parliament of a

State of the Commonwealth of Australia to carry on the general business of banking; and

- (c) any corporation not falling within paragraph (a) or paragraph (b) of this definition, which carries on the business of banking and which has net assets equivalent to at least \$100,000,000 as shown in its most recently published audited consolidated financial statements;

‘Business Day’ means a day that is not a Saturday, a Sunday, a public holiday or a Bank holiday in the State of Queensland or if the Trust is Listed, a day which is a “business day” as defined in the Listing Rules;

‘Call Option’ means a call option contract under which a Grantee has the right to purchase a quantity of an Authorised Investment from a Grantor upon exercise of the option being a contract which specifies a price and date (or last date) for delivery in the future;

‘Cheque Dishonour Reimbursement’ means all costs incurred in relation to any cheque payment which has been refused by the bank on which it was drawn and any representation thereof;

‘Commencement Date’ means the date of this deed;

‘Commission’ means the Australian Securities Commission and includes any body which replaces the Australian Securities Commission;

‘Commodity’ has the meaning given to that expression in section 9 of the Corporations Law applicable;

‘Confirmation Note’ means a notice issued pursuant to clause 11.1 in the form or terms as prescribed from time to time by the Manager;

‘Contribution’ means in respect of a Partly Paid Unit any payment or instalment due or owing or which will become due or owing in respect of the Partly Paid Unit;

‘Current Unit Value’ on any date means the amount which is the quotient derived by dividing the number of Units in Issue (calculated having regard to clause 6.6(b)) on that date into the Current Value of the Fund on that date;

‘Current Value of the Fund’ on any date means the amount computed by deducting from the Total Tangible Assets the Amounts and any moneys which have been transferred to a Distribution Account and by making such other adjustments as are determined by the Manager as being reasonable to allow for particular circumstances. For this purpose the **‘Amounts’** are such amounts determined in writing by the Manager (in accordance with the Accounting Standards) as being required to meet such liabilities (including without limitation contingent liabilities of such kind and in such amount as the Manager deems reasonable):

- (a) of the Trust; or
- (b) arising in connection with the acquisition, holding or disposal of the assets

of the Trust,

as are not otherwise allowed for at that time by the Manager in determining the value of the Trust Fund.

Such liabilities include but are not limited to any accrued but unpaid entitlements of Unitholders under clause 21.7 to payment of a Distributable Amount (which have not already been transferred to a Distribution Account) and any expenses, charges, taxes (whether payable by the Manager or a Unitholder) and duties (whether unpaid or accrued) and any provision in respect thereof or in respect of any future loss on realisation of an Investment which in the opinion of the Manager (recorded in writing) should or may properly be made, but where the Current Value of the Fund is calculated to ascertain the Allotment Price or Redemption Value, exclude any amount provided for in the Issue Provision or Redemption Provision respectively in respect of the particular Units. The liabilities of the Trust do not include any amount representing Unitholders' capital, or any surplus to which Unitholders would be entitled upon the winding up of the Trust, regardless of whether characterised as equity or debt in the accounts of the Trust.;

'Custodian' means a custodian appointed pursuant to clause 18;

'Derivatives' means any investment whose economic performance is dependent on any change in any interest rate, currency value or exchange rate or the economic performance of another security or Commodity including without limitation warrants, swaps, caps, collars and floors;

'Determined Member Component' has the meaning given to that phrase in the Tax Act;

'Determined Rate' means the rate per annum (expressed as a percentage) being the IBSA rate payable for 90 day bills or (if such rate ceases to be ascertainable) a rate per annum determined by the Manager as being (as nearly as practicable) equivalent thereto;

'Determined Trust Component' has the meaning given to that phrase in the Tax Act;

'Distributable Amount' has the meaning set out in clause 21.5;

'Distribution Account' means the account in the name of the Manager kept as provided in clause 21.6(a);

'Distribution Date' means in respect of any Distribution Period the date not more than 90 days or such other time as is required by any applicable law after the end of that Distribution Period;

'Distribution Period' means:

- (a) any period of three months commencing on 1 January, 1 April, 1 July or 1 October and ending on the last day of March, June, September or December respectively: or

(b) if the Trust is Listed, the period specified in item 1 of the seventh schedule; and includes as the first such period, the period commencing on the Commencement Date and ending on 31 December 1996 except that:

- (a) if the Trust is terminated, the last such period shall end on the date when the distribution of the Trust Fund pursuant to clause 13.7 has been completed; and
- (b) in the event that the Manager makes an interim distribution in accordance with clause 21.9 the period shall end on the date determined by the Manager and the next period shall commence on the immediately following day;

‘**Eligible Money Market Dealer**’ has the meaning given to that expression in section 9 of the Corporations Law;

‘**Entitlement**’ means in respect of a Unitholder, a portion of the Distributable Amount for a Distribution Period calculated in accordance with the following formula:

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

Where:

- ‘**A**’ means the Distributable Amount;
- ‘**B**’ means the number of Units held by the Unitholder on the last Business Day of that Distribution Period; and
- ‘**C**’ means the total number of Units in Issue on the last Business Day of that Distribution Period.

The number of Units will be calculated having regard to the final sentence of clause 6.6(b);

‘**Exchange Unit**’ means a unit of measurement in which a relevant Exchange Quotation is made of the subject class of futures contract;

‘**Exchange Quotation**’ has the meaning given to that expression in clause 16.2(t)(iii);

‘**Financial Year**’ means a period of 12 months commencing on 1 July and ending on the following 30 June except that:

- (a) the first Financial Year shall commence on the Commencement Date and end on the following 30 June; and
- (b) where the Trust is terminated, the last Financial Year will end on the date when the distribution of the Trust Fund pursuant to clause 13.7 has been completed;

‘Futures Contract’ means a contract for purchase or sale of a Commodity at a fixed price and for delivery or adjustment at a future date upon a Futures Exchange;

‘Futures Exchange’ means the exchange conducted by the Sydney Futures Exchange Limited or any market or exchange elsewhere in the world which is a recognised futures exchange under the Corporations Regulations, or is otherwise nominated by the Manager;

‘Grantor’ means in relation to any option the entity granting the option and its assignees and other successors;

‘Grantee’ means in relation to any option the entity to which is granted the option and its assignees and other successors;

‘IBSA’ means International Banks and Securities Association of Australia (or if such Association has ceased to exist, some other association or body serving substantially the same objects as that Association);

‘Index’ means Consumer Price Index All Groups for Australia issued by the Australian Bureau of Statistics for the relevant period (or period most closely approximating that period) but:

- (a) if that index is no longer published, then such index as is published in substitution therefor and otherwise such indicator of the rate of inflation for the period as the Manager may determine; or
- (b) if any change is made to the coverage, periodicity or method of basic calculation of that index and the Manager so determines then such indicator of the rate of inflation for the period as the Manager may determine,

and failing agreement as the Auditor determines;

‘Index Linked Securities’ means any Investment whose economic performance is dependent on changes in any Index;

‘Initial Units’ has the meaning set out in clause 7.2;

‘Initial Unitholders’ has the meaning set out in clause 7.3;

‘Investments’ means all investments from time to time comprising the Trust Fund;

‘Issue Provision’ means 5% of the Current Unit Value or such other amount as may from time to time be determined in writing by the Manager, in respect of or as an allowance for costs and disbursements, commissions, expenses, legal fees, brokerage, stamp duty, taxes and other costs that may be incurred or expected to be incurred in connection with the conversion of Application Moneys into Authorised Investments;

‘Land’ includes, without limitation, any estate and interest including a part interest in real property, whether vested or contingent, freehold or leasehold, and whether at law or in equity, in severalty or otherwise, wherever that real property is situated,

whether within or outside Australia, and further includes all buildings and other improvements erected on it and all fixtures, fittings, furniture and furnishings contained in or on it;

‘Land Swaps’ means any investment whose economic performance is dependent on changes in the performance or relative performance of any Land and any agreement, arrangement or understanding tied to the changes in the performance of any Land or relative performance of any Land;

‘Liquid’ has the same meaning as in Part 5C.6 of the Corporations Law;

‘Listed’ means included on the Official List of ASX;

‘Listing Rules’ means the listing rules of ASX and any other rules of ASX which are applicable while the Trust is admitted to the Official List, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

‘Manager’ means the manager or responsible entity, for the time being of the Trust, whether original, additional or substituted;

‘Manager’s Remuneration’ means the fee payable to the Manager as specified in clause 22.1;

‘Market Transfer’ means:

- (a) any SCH Transfer; and
- (b) any other transfer of a Unit where the transfer is pursuant to, or connected with, a transaction entered into on a stockmarket operated by ASX, where, in either case, the SCH Business Rules, the Listing Rules, or the Corporations Law does not allow the Manager to refuse to register the transfer;

‘Maximum Issue’ means, if the Trust is Listed the number of Units specified in item 2 of the seventh schedule;

‘Maximum Percentage’ means 10%;

‘Member Objection Choice’ means a choice made by a Unitholder under the AMIT Regime for the Unitholder’s Determined Member Component to be the Unitholder’s Member Component, including a choice made by a Unitholder under section 276-205(5) of the Tax Act;

‘Minimum Initial Application’ has the meaning set out in clause 10.4;

‘Minimum Subsequent Application’ has the meaning set out in clause 10.4;

‘Minimum Unitholding’ means such amount as the Manager may from time to time determine;

‘month’ means calendar month;

‘Mortgagee’ in respect of any Units, means any person noted in the Register as mortgagee in respect of those Units;

‘Net Accounting Income’ has the meaning set out in clause 21.3;

‘Net Taxable Income’ has the meaning set out in clause 21.4;

‘Notice Date’ means the date on which the Manager receives a Redemption Application;

‘Official List’ means the Official List of ASX or equivalent in relation to any other stock exchange;

‘Ordinary Resolution’ means a resolution passed at a meeting of the Unitholders duly convened and held in accordance with this deed by a majority of the persons voting thereat on a show of hands or if a poll is demanded then by a majority of the votes cast on such poll;

‘Over’ has the meaning given to that term in Tax Act;

‘Partly Paid Unit’ means a Unit issued on terms such that the amount of the price per Unit is payable by a number of payments (Contributions) over a period to be determined by the Manager at the time of the issue of such Units, whilst Contributions remain unpaid;

‘Person’ includes company, corporation, firm, association or body of persons (whether incorporated or unincorporated) and any government or department, agency, authority or instrumentality of any government;

‘Perpetual Trustee’ means Perpetual Trustee Company Limited in its former capacity as Trustee of the Trust;

‘Principal Investment Policy’ means the Manager’s principal investment policy for the Trust as determined from time to time in accordance with clause 15.1;

‘Prospectus’ has the meaning given to that expression in section 9 of the Corporations Law;

‘Put Option’ means a put option contract under which a Grantee has the right to require a Grantor to purchase a quantity of an Authorised Investment from the Grantee upon exercise of the option being a contract which specifies a price and date (or last date) for delivery in the future;

‘Redeeming Unitholder’ means a Unitholder who has given to the Manager a Redemption Application which has not been withdrawn and in respect of which the Subject Units have not been Redeemed in accordance with clause 12;

‘Redeem’ and **‘Redemption’** include purchase and redemption;

‘Redemption Application’ means an application delivered by a Unitholder to the Manager as provided in clause 12.2;

‘Redemption Date’ means in respect of a Subject Unit the date not later than the earlier of:

- (a) the first anniversary of the Notice Date in respect of the Subject Unit or such other period as is determined by the Manager as reasonable having regard to the liquidity of the Trust Fund; and
- (b) such date as is reasonable having regard to the liquidity of the Trust Fund as determined by the Manager;

‘Redemption Provision’ means 3% of the Current Unit Value or such other amount as may from time to time be determined in writing by the Manager, in respect of or as an allowance for costs and disbursements, commissions, expenses, legal fees, brokerage, stamp duty, taxes and other costs that may be incurred or expected to be incurred in connection with the realisation and conversion into cash of the Investments;

‘Redemption Value’ means in relation to the Redemption of a Unit, an amount equal to the Current Unit Value at the time of Redemption less:

- (a) the Statutory Revenue Charges payable by either or both of the Trustee and the Manager in connection with the Redemption;
- (b) all other charges and disbursements payable by the Manager in connection with the Redemption not included in the Redemption Provision; and
- (c) the Redemption Provision;

or the fraction thereof in respect of a fraction of a Unit;

‘Register’ means either the register of Unitholders maintained pursuant to the Corporations Law or a separate register maintained pursuant to clause 35 as the case requires unless it appears from the context that the register on which particular Units are registered is referred to, in which case the reference will be treated as being to that particular register (including any computerised or electronic sub-register established and administered under the SCH Business Rules);

‘Registered Company Auditor’ means a person who is a registered company auditor as defined in section 9 of the Corporations Law and includes the Auditor General;

‘Repos’ means agreements, arrangements or understandings with a person whereby any Investments are transferred to or investments are acquired from that person on the basis that the transaction will be reversed on a predetermined date and at an agreed price;

‘Reserve Account’ means any of the reserve accounts for the Trust established as provided in clause 21;

‘RITS’ means rights of the Manager against the Reserve Bank of Australia arising out of the participation by the Manager in the Reserve Bank Information and Transfer System;

‘SCH Business Rules’ means the ‘SCH business rules’ as defined in section 9 of the Corporations Law;

‘SCH Transfer’ means a transfer which is a ‘proper SCH transfer’ as defined in section 9 of the Corporations Law;

‘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 a clearing agency which acts as a securities depository or a book entry system for the central handling of investments;

‘Settled Sum’ has the meaning given to that expression in Recital B;

‘Special Resolution’ means a resolution, whether or not such resolution is described as a special resolution, passed at a meeting of the Unitholders duly convened and held in accordance with this deed, by not less than 75% of the persons voting on it on a show of hands or if a poll is demanded then by not less than 75% of the votes cast on that poll;

‘Statutory Revenue Charge’ means a fee, tax, fine, duty, penalty, impost or other charge imposed by statute, rule or regulation and includes any bank account debit or financial institutions duty or tax;

‘Stock Exchange’ means any one of the stock exchanges specified in paragraphs (b) and (c) of the definition of ‘stock exchange’ in section 9 of the Corporations Law or from time to time defined as such in, or declared to be a stock exchange by, the Corporations Regulations and includes any other stock exchange in Australia or elsewhere from time to time approved by the Manager;

‘Subject Units’ means Units subject to a Redemption Application under clause 12.2 or, where the Redemption Application specifies an amount to be realised on Redemption, the number of Units to be redeemed to realise such amount;

‘Tax Act’ means the Income Tax Assessment Act 1936 (“**1936 Act**”), the Income Tax Assessment Act 1997 (“**1997 Act**”) or both the 1936 Act and the 1997 Act, as appropriate.

‘Total Tangible Assets’ at any time means the amount computed by adding the following:

- (a) the total of all cash comprised in the Trust Fund then on hand or on deposit in an account at a Bank or elsewhere in the name of the Manager for the benefit of the Trust or in the name of the Trust or the Manager as trustee of the Trust at the time;
- (b) the total of the most recent Values of Investments shown in the Valuation

Roll; and

- (c) the total of the values of all other assets of the Trust Fund as last determined by an Approved Valuer, and

except in clause 14.3, excluding Contributions unpaid in respect of Partly Paid Units.

‘Trust’ means the trust constituted by this deed;

‘Trust Component’ has the meaning given to that phrase in the Tax Act;

‘Trust Fund’ means the Settled Sum and all cash on hand or at Bank, moneys, Land, property and other investments paid or transferred to and accepted by the Manager or otherwise subjected to or held on the trusts hereof, all accumulations of income thereof, all accretions thereto, all moneys borrowed by the Manager for the purposes of the Trust, all amounts owing to the Trust by way of debt, all moneys and property received from the carrying on of any business of the Trust and all profits derived therefrom, or any part or parts thereof respectively, but not including moneys transferred to a Distribution Account;

‘Trustee’ includes the trustee or responsible entity for the time being of the Trust whether original, additional or substituted and includes the Manager;

‘Trustee Investment’ means any investment wherever made which would be an investment in which a trustee would at the time the investment is made be authorised to invest trust moneys under any of the laws of any State or Territory of the Commonwealth of Australia whether or not such law applies to the Manager or the Trust or to any investment of moneys under this deed;

‘Under’ has the meaning given to that phrase in the Tax Act;

‘Unit’ means, subject to the restriction on the interests of the holders of a particular class of Units from time to time created, an undivided part or share in the Trust Fund as described in clause 6;

‘Unitholder’ in relation to any Units means the person who is for the time being registered or treated as being registered under this deed as the holder of the Units and includes persons jointly so registered or treated as being registered;

‘Units in Issue’ means all Units for the time being created and issued and not cancelled;

‘Valuation Date’ means such dates as the Manager may nominate in writing, or in the absence of such a nomination, the Commencement Date and the last day of March, June, September and December in each year (or part thereof) during the term of the Trust or if the Trust is Listed, the last day of June and December in each year (or part thereof);

‘Valuation Roll’ means the roll of Investments kept pursuant to clause 20.1;

‘Value’ of an Investment means:

- (a) in the case of Land, all costs and expenses of its acquisition plus all expenditure on improvements to the Land after acquisition until the Land is revalued under clause 20 and thereafter, the value indicated by the most recent re-valuation plus all expenditure on improvements to the Land after the last re-valuation;
- (b) in the case of mortgage investments, Trustee Investments (other than debentures or deposits), units in unlisted unit trusts and personal property investments the value of which is not otherwise defined in the succeeding paragraphs of this definition, all costs and expenses of acquisition or creation of the investment including all costs and expenses relating to such acquisition or creation until the investment is revalued under clause 20 and thereafter, the value indicated by the most recent re-valuation plus all capital costs and expenses (less capital losses) incurred in relation to the investment following the last re-valuation;
- (c) in the case of shares, units or debentures (including Trustee Investments being debentures) or other securities quoted on a Stock Exchange, the last sale price thereof according to Stock Exchange quotations on the date when value is to be ascertained or the nearest day to that on which the relevant Stock Exchange was open for business, unless the Manager determines that such price does not accurately reflect the value of the shares, units or debentures, in which case, value is the price determined by the Manager (and recorded in writing) to be a fair and reasonable price after taking into consideration previously quoted seller prices, buyer prices and sale prices for the same shares, units or debentures and any other relevant factors;
- (d) in the case of shares which are not quoted on a Stock Exchange, their value as calculated by an Approved Valuer on the basis of net tangible asset backing as shown in the last audited consolidated balance sheet of the company in which the shares are held (and its subsidiaries, where applicable) subject only to such adjustments as the Manager in its discretion considers necessary and records in writing;
- (e) in the case of a deposit or an unsecured loan, the amount of such deposit or unsecured loan at the date when the Value is required to be ascertained or taken into account;
- (f) in the case of commercial bills of exchange or negotiable certificates of deposit, the value based on the yield per annum to maturity as determined by an Approved Valuer;
- (g) in the case of an option to purchase or sell, excluding an option quoted on a Stock Exchange, an interest under a Futures Contract, a Put Option, a Call Option, Derivatives, Index Linked Securities and Land Swaps, their market value determined by an Approved Valuer;
- (h) in the case of interests in a managed investment scheme (unless otherwise

provided in this definition other than paragraph (b)), the amount obtained by multiplying the certified price by the number of the units, sub-units or other interests comprised therein. '**Certified price**' means the price per unit, sub-unit or other interest at the valuation date arrived at by the application of provisions applicable to the units, sub-units or other interests for the calculation of:

- (i) the repurchase or redemption (or, if different, the greater of the two) price per unit, sub-unit or other interest; or
- (ii) in the event that there is no repurchase or redemption price per unit, sub-unit or other interest, then the maximum selling price of a unit, sub-unit or other interest, but excluding from the calculation any provision for any initial service charge or other entry fee and for the rounding up of the selling price to a point above the actual calculated price;

but in the event that such amount is determined by the Manager as not representative of the value of the Investment then the amount determined by an Approved Valuer as the fair market value of the investment having regard to the Manager's recommendation;

and in the case of any other Investment the amount determined by an Approved Valuer as the fair market value of the investment having regard to the Manager's recommendation; and

'**Vesting Date**' means the date immediately preceding the eightieth anniversary of the Commencement Date.

2.2 Interpretation

In the interpretation of this deed, the schedules and any agreement, instrument or other document made, entered into or executed under this deed, unless a contrary intention appears or the context otherwise requires:

- (a) words importing the singular include the plural;
- (b) words importing any gender include each other gender;
- (c) any reference to any act, statute or statutory provision will be taken to include any act, statute or statutory provision which amends, extends, consolidates or replaces the same or which has been amended, extended, consolidated or replaced by the same and any regulations, orders, instruments or other subordinate legislation made thereunder;
- (d) references to a 'clause', are to the part, or clause (including sub-clause, paragraph, and sub-paragraph) of this deed and references to a schedule are to a schedule to this deed;
- (e) references to '\$' and 'dollars' are to the lawful currency of Australia; and

- (f) each reference in this deed to another provision of this deed is to be taken to be a reference to that other provision as modified or varied from time to time.

2.3 Headings and Parts of Speech

In this deed, including the recitals:

- (a) headings are for convenience of reference only and do not affect interpretation; and
- (b) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning.

2.4 One Unitholder

Notwithstanding anything contained in this deed or implied to the contrary, if at any time there is only one Unitholder, all references to 'Unitholders' or 'holders of Units' must, to the extent necessary to permit this deed to take effect, be construed as if such Unitholder were two or more Unitholders.

2.5 Relationship of the Parties

Nothing in this deed constitutes or may be taken to constitute the relationship of principal and agent between the Manager and the Unitholders nor the relationship of partners as between the Manager and the Unitholders or between all or any of the Unitholders, and nothing in this deed gives rise to any association amongst the Unitholders.

2.6 Related Bodies Corporate

In determining whether a company is the holding company, a subsidiary or a related body corporate of another corporation, the provisions of Division 6 of Part 1.2 of the Corporations Law apply.

2.7 Severance

If any provision of this deed is invalid or otherwise not enforceable in accordance with its terms, all other provisions of this deed which are self-sustaining and capable of separate enforcement without regard to the invalid provision, will be and continue to be valid and enforceable in accordance with their terms.

2.8 Exchange of Currencies

Whenever it is necessary for the calculation of any cost, value, price or any other amount under this deed:

- (a) to convert a foreign currency amount into Australian currency, the Australian currency equivalent of the foreign currency amount shall be determined at the spot rate of that foreign currency for Australian currency; or

- (b) to convert an Australian currency amount into a foreign currency, the foreign currency equivalent of the Australian currency amount shall be determined at the spot rate of the Australian currency for that foreign currency,

quoted by the Bank that the Manager may at any time and from time to time nominate on the date and at the time of the calculation, or where the nominated Bank is closed for business on the date of calculation on the next day on which the nominated Bank was open for business as at the time of opening of the Bank's business, or by such other method as an Approved Valuer at the request of the Manager considers prudent.

3. DEEMED COVENANTS

3.1 Corporations Law

Notwithstanding anything to the contrary contained in this deed (including any provision of this deed which purports to apply notwithstanding other provisions of this deed), any provision in this deed which purports to:

- (a) give the Manager a right to be indemnified out of the Trust Fund for liabilities or expenses (however described) incurred in relation to the performance of the Manager's duties; or
- (b) limit the Manager's liability to Unitholders for the acts or omissions of a person engaged by the Manager to do anything the Manager is authorised to do in connection with the Trust

applies only to the extent that the right or limitation is not inconsistent with the Corporations Law.

3.2 Reconciliation of Inconsistency

Although other provisions of this deed state that they apply 'notwithstanding anything to the contrary contained in this deed' or words to that effect, the provisions of this clause 3 shall prevail over the rest of this deed to the extent of any inconsistency provided that where a provision of this deed and a covenant required by the Corporations Law are inconsistent but to give effect to the provision of this deed would not derogate from the operation of the Corporations Law covenant, then both that provision of this deed and the Corporations Law covenant shall apply.

3.3 Compliance with Listing Rules

If the Trust is Listed, the following clauses apply:

- (a) notwithstanding anything contained in this deed, if the Listing Rules prohibit an act being done, the act shall not be done;
- (b) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;

- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require the deed to contain a provision and it does not contain such a provision, this deed is deemed to contain that provision;
- (e) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is deemed not to contain that provision;
and
- (f) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is deemed not to contain that provision to the extent of the inconsistency.

4. DELETED

5. THE TRUST

5.1 Name

The Trust is called the 'Carindale Property Trust'.

5.2 Fund Vested in Trustee

It is hereby declared:

- (a) by the Manager that the Trustee shall stand possessed of the Settled Sum as part of the Trust Fund; and
- (b) by the Trustee, that the Trustee agrees to act as the trustee of the Trust on the terms of this deed and that, subject to clause 18, as from and including the Commencement Date the Trust Fund will be vested in and held by the Trustee,

on trust for the Unitholders on the terms and subject to the conditions of this deed.

5.3 Application Moneys Added to Trust

Where the Manager has received Application Moneys for Units and proposes to proceed with an allotment of Units, the Application Moneys in respect of which applications for subscription have been accepted must be added to the Trust Fund and held on the terms and subject to the conditions of this deed.

5.4 Authorised Investments Added to Trust Fund

Where the Manager acquires an Authorised Investment in accordance with this deed and the purchase price for the Authorised Investment is paid or satisfied in whole or in part by the creation and issue of Units, that Authorised Investment must be added to the Trust Fund and held on the terms and subject to the conditions of this deed.

6. UNITS

6.1 Trust Divided into Units

The beneficial interest in the Trust Fund is divided into Units.

6.2 Units Confer Equal Interest

Except as provided in this deed, each Unit confers an equal interest in the Trust Fund but does not confer any interest in any particular part of the Trust Fund or any Investment.

6.3 Limitation of Beneficiary's Entitlement

Other than as provided in this deed, the beneficial interest of a Unitholder in the Trust does not entitle the Unitholder to:

- (a) interfere with any of the trusts, rights, powers, authorities or discretions of the Manager in respect of any Investment;
- (b) interfere with or question the exercise or non-exercise by the Manager of any of those trusts, rights, powers, authorities or discretions;
- (c) exercise any rights, powers or privileges in respect of any Investment including without limitation:
 - (i) attend, vote or take part at any meeting;
 - (ii) exercise any other right where that right is given to the holder of an asset and such asset is an Investment;
 - (iii) lodge a caveat or other notice in respect of any Investment prohibiting whether conditionally or unconditionally, the taking of any action in respect of the Investment or registration of any dealing in respect of the Investment; or
 - (iv) claim any estate or interest in any particular Investment; or
- (d) require the transfer to him of any part of the Trust Fund or any Investment.

6.4 Addition of Classes

Subject to the Corporations Law, this deed may be amended from time to time as provided in this deed so as to provide for different classes of Units but unless and until this deed is so amended all Units are of equal value on any given date (except that the value of any Partly Paid Unit shall be decreased by the amount of the unpaid Contributions in respect thereof) and after any such amendment all Units in any one class will be of equal value on any given date.

6.5 Time of Unit Issue

Each Unit is treated as having been issued when the name of the person entitled to

it has been entered or taken to have been entered in the Register and no Unit may be issued otherwise than by entry or deemed entry in the Register.

6.6 Partly Paid Units

- (a) Units may be issued as Partly Paid Units from time to time and at such times as the Manager may determine.
- (b) The terms and conditions of the issue of Partly Paid Units and the manner of payment of Contributions shall be determined by the Manager who shall set out such terms in any Prospectus, if applicable, and otherwise on the Application for Units. The terms and conditions and manner of payment in respect of a particular issue of Partly Paid Units may be varied or waived only by the Manager. Unless otherwise provided, all Partly Paid Units are deemed to be fractional Units, where the fraction is the total paid on the Unit at the relevant time as a proportion of the Allotment Price at which the Unit was issued.
- (c) If a Unitholder fails to pay in full a Contribution due on a Partly Paid Unit on or by the day specified for payment thereof the Manager may, at any time thereafter during such time as the Contribution or any part thereof remains unpaid, serve a notice ('**Contribution Notice**') on the Unitholder requiring payment of so much of the call or instalment as is unpaid.
- (d) The Contribution Notice shall name a further day (not earlier than the expiration of 7 days from the date of service of the Contribution Notice) on or by which the payment as required by the Contribution Notice is to be made and shall state that in the event of non-payment on or before the time appointed, the Partly Paid Unit in respect of which the Contribution or part thereof remains unpaid will be liable to be forfeited in the terms of this deed.
- (e) If:
 - (i) the requirements of a Contribution Notice are not complied with; and
 - (ii) the provisions of paragraph (m) of this clause 6.6 are not applicable; and
 - (iii) the Manager makes a determination to do so in writing,

the Partly Paid Units in respect of which the notice was given may be forfeited to the Manager on trust for the Unitholders at any time after the date specified in the Contribution Notice for payment of the outstanding Contributions and before that payment has been made. Such a forfeiture shall include all accrued entitlements to payment of a Distributable Amount under clause 21.7 in respect of the forfeited Units not paid before the forfeiture.

- (f) A forfeited Unit:
- (i) may be sold by the Manager as a Unit on which the Contributions due but unpaid as at the date of sale have been paid and on such terms and in such manner (subject to the provisions of clause 8) as the Manager may think fit; and
 - (ii) at any time before a sale the forfeiture may be cancelled on such terms as the Manager may think fit;
- except that unless the prior approval of the Unitholders by Ordinary Resolution of the precise terms and conditions of the sale has been obtained, the Manager shall not sell forfeited Partly Paid Units so as to transfer or confer a controlling interest in the Trust.
- (g) The holder of a Partly Paid Unit which has been forfeited shall cease to be a Unitholder in respect of the forfeited Unit but shall notwithstanding forfeiture remain liable to pay all moneys which at the date of forfeiture were payable by that Unitholder to the Manager in respect of the Unit together with (if the Manager thinks fit) interest on the moneys for the time being unpaid at a rate per annum being the Determined Rate plus one-eighth thereof but this liability shall cease if and when the Manager receives payment in full of all such money in respect of the Unit.
- (h) A certificate signed by a Director or the Secretary of the Manager that a Unit has been duly forfeited on a date stated in the certificate shall be conclusive evidence of the due forfeiture of the Unit as against all persons claiming to be entitled to the forfeited Units.
- (i) Where a Partly Paid Unit is forfeited pursuant to this clause, the Manager will receive the consideration, if any, given for a forfeited Unit on any sale thereof and the Manager may effect a transfer of the Unit in favour of the person to whom the Unit is sold and the transferee shall thereupon be registered as the holder of the Unit and shall not be bound to see to the application of the purchase money, if any, nor shall the transferee's title to the Unit be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture or sale of the Unit.
- (j) Where a forfeited Unit is sold for cash, the Manager shall deduct from the amount of the consideration (to the extent that the amounts hereinafter specified have not been recovered from accrued but unpaid entitlements to a payment of a Distributable Amount under clause 21.7 applicable to the forfeited Unit as provided for in paragraph (k) of this clause 6.6) the total of the amounts of the Contributions owing at the date of the forfeiture together with interest (if any) payable thereon pursuant to paragraph (g) of this clause 6.6 and together with a sum representing the amount which has been or will be incurred for commissions, stamp duties, transfer fees and other usual charges (if any) in the sale of the forfeited Unit and any costs associated with the forfeiture or any proceedings brought against the Unitholder to recover any Contribution or part thereof and the balance remaining shall be

paid to the person who was the Unitholder in respect of that forfeited Unit on the date of its forfeiture.

- (k) A Partly Paid Unit which is forfeited under this sub-clause and in relation to which there is an accrued but unpaid entitlement to payment of a Distributable Amount under clause 21.7 shall be sold by the Manager without rights to such entitlement. If the Units are forfeited or sold as provided for in this sub-clause any such entitlement will:
 - (i) firstly be available to the Trust Fund for payment of any outstanding Contributions payable on the Units forfeited or sold together with the amount of any commissions, stamp duties, transfer fees and other charges incurred in the forfeiture or sale of the Units (to the extent that any outstanding Contribution and expenses as aforesaid have not otherwise been recovered pursuant to paragraph (j) of this clause 6.6);
 - (ii) secondly after all moneys specified in paragraph (k)(i) of this clause 6.6 have been deducted then the balance of such an entitlement shall be available for distribution to Unitholders in accordance with clause 21.13.
- (l) Joint holders of a Partly Paid Unit shall be jointly and severally liable to pay all amounts due and payable on or in respect of or arising in consequence of the forfeiture of the Partly Paid Units held by them.
- (m) Notwithstanding anything contained in this clause 6.6, prior to the Manager forfeiting any Unit pursuant to paragraph (e) of this clause 6.6 the Manager shall ascertain whether there is any accrued but unpaid entitlements to payment of a Distributable Amount under clause 21.7 in respect of the Units proposed to be forfeited. If such an entitlement will satisfy the amount of the outstanding Contribution (in respect of which the proposed forfeiture has arisen) and all expenses arising in consequence of the proposed forfeiture the entitlement shall be notionally distributed by the Manager to the Unitholder (and the Unitholder informed accordingly) and then shall be utilised by the Manager at the direction of the Unitholder (such direction having been deemed to have been given by the Unitholder to the Manager pursuant to this clause) in payment of all expenses arising in consequence of the proposed forfeiture and secondly in paying the said Contribution on behalf of the Unitholder and the provisions of paragraphs (e), (f) and (g) of this clause 6.6 shall no longer apply.
- (n) This clause 6.6 applies subject to clause 8 (and in particular, the requirements of paragraph 8.5(d) where the Manager wishes to rely on that paragraph).

7. CREATION AND ISSUE OF INITIAL UNITS

7.1 Lodgement of Settled Sum

The Manager shall on execution of this deed lodge the Settled Sum with the Trustee.

7.2 Initial Units

The Settled Sum shall be divided into the number of ordinary units set out in the first schedule (the 'Initial Units').

7.3 Deemed Registration

The Initial Units will be taken to have been entered in the Register on the Commencement Date in the name of the persons referred to in the first schedule (the 'Initial Unitholders') and in their respective numbers referred to in the first schedule.

8. ISSUE OF ADDITIONAL UNITS

8.1 Acceptance / Rejection of Applications

(a) No later than 10 Business Days, or, in the case where the Application for Units relates to a Prospectus which includes a statement that the Manager has or will apply for the Trust to become Listed or where the Trust is Listed, 25 Business Days after receipt by the Manager of an Application for Units and receipt by the Manager of Application Moneys made payable to the Manager, the Manager must either:

(i) reject the application for Units and cause the Application Moneys (less all Statutory Revenue Charges incurred in respect of that Application for Units including the deposit of any Application Moneys into any account) to be returned to the Applicant together with written notice of rejection; or

(ii) accept the Application for Units;

and the Manager must refuse an Application for Units if the issue of units in consequence of acceptance of the Application for Units would exceed any applicable Maximum Issue.

(b) Deleted

8.2 Registration

When the cheque or bank draft by which the Application Moneys is paid by the bank on which it is drawn or any telegraphically or electronically transferred Application Moneys are received in the relevant account and the relevant application for Units has been accepted the Manager must register the Applicant as a Unitholder, with the number of Units issued to the Applicant being determined in

accordance with clause 8.4. Thereupon, the Application Moneys form part of the Trust.

Without limiting the generality of the preceding provisions of this clause but otherwise notwithstanding any contrary provisions of this deed, if any amount paid in respect of any application for Units comprises a cheque, or is lodged by way of telegraphic or electronic transfer, the sale or issue of Units in consequence thereof is conditional upon the clearance of such cheque by the bank on which it is drawn, or receipt thereof by the Manager and if such cheque is dishonoured or money not so received any entry in the Register in respect of such Units shall thereupon be cancelled by the Manager and such cancellation shall take effect from the date of that entry in the Register.

8.3 Additional Units

Additional Units may be issued:

- (a) when the Manager accepts an Application for Units and receives the relevant Application Moneys in accordance with clause 10; or
- (b) where the terms of the acquisition by the Trust of an Authorised Investment provide for the satisfaction of the whole or part of the purchase price for the Authorised Investment by the issue of Units, on receipt of a statement from the Manager of acceptance of an Application for Units and that either clause 8.6(a) or clause 8.6(b), as applicable, is satisfied.

8.4 Number of Units for Cash or Authorised Investments

- (a) Except where clause 8.4(b) applies:
 - (i) in a case to which clause 8.3(a) applies, the number of Additional Units to be issued will be that number (rounded down to the nearest integer) arrived at by dividing the amount of Application Moneys received by the Allotment Price (as varied in accordance with clause 8.5 if applicable or as otherwise permitted by this deed) current at the date of issue; or
 - (ii) in a case to which clause 8.3(b) applies, the number of Additional Units to be created will be that number (rounded down to the nearest integer) arrived at by dividing the purchase price of the Authorised Investment which is being acquired by the Allotment Price (as varied in accordance with clause 8.5 if applicable or as otherwise permitted by this deed) of the Units on the date of completion of the acquisition of that Authorised Investment (being the date of issue of the Units).
- (b) If the Application Moneys are for Partly Paid Units:
 - (i) in a case to which clause 8.3(a) applies, the number of Additional Units to be issued will be that number (rounded down to the nearest integer) arrived at by dividing the amount of Application Moneys

received plus all Contributions by the Allotment Price (as varied in accordance with clause 8.5 if applicable or as otherwise permitted by this deed) of the Units current at the date of issue; or

- (ii) in a case to which clause 8.3(b) applies, the number of Additional Units to be created will be that number (rounded down to the nearest integer) arrived at by dividing the purchase price of the Authorised Investment which is being acquired plus all Contributions by the Allotment Price (as varied in accordance with clause 8.5 if applicable or as otherwise permitted by this deed) of the Units on the date of completion of the acquisition of that Authorised Investment (being the date of issue of the Units).

8.5 Variation of Allotment Price

Units in the Trust may at the determination of the Manager be issued or sold at a price determined by the Manager:

- (a) under an arrangement where:
 - (i) the whole or part of any money payable to a Unitholder under this deed, by way of distribution of capital or income, is applied in payment for the purchase of or subscription for Units in the Trust where the Units issued are all of the same class;
 - (ii) each Unitholder in the Trust may from time to time elect to participate in that arrangement as to the whole, or some proportion, of the distribution which is, payable to that Unitholder;
 - (iii) the price of each Unit issued pursuant to that arrangement at substantially the same time is the same; and
 - (iv) the amount by which the price is less than the Allotment Price does not exceed the Maximum Percentage; or
- (b) pursuant to pari passu offers made at substantially the same time to only and all the then Unitholders in the Trust or all of the Unitholders whom are residents in Australia, New Zealand and such other country as the Manager from time to time determines (“**Resident Unitholders**”) provided that:
 - (i) if the offer is made to all Resident Unitholders:
 - (A) the Trust is Listed and the Units the subject of the pari passu issue are quoted on ASX and have not been suspended from quotation for a continuous period exceeding 60 days at the time of the offer and the rights attaching to the Units offered will also be quoted;
 - (B) at the same time as the Resident Unitholders are notified the Unitholders who are not Resident Unitholders (“**Non-Resident Unitholders**”) are notified of the pari passu issue;

- (C) the rights that the Non-Resident Unitholders would have been entitled to but for the fact that they are non-resident unitholders are offered to a nominee who will act as an agent of such Non-Resident Unitholders and arrange for the disposal of such rights and forward any net proceeds to Non-Resident Unitholders;
- (D) the number of Units held by Non-Resident Unitholders is less than 5% of the total number of the Units on issue in the class the subject of the issue; and
- (E) any waivers or approvals required by ASX to permit the pari passu issue have been granted; and

if:

- (ii) all the Units offered are in the same class;
- (iii) the price of all the Units offered is the same; and
- (iv) the amount by which the price is less than the Allotment Price does not exceed the Maximum Percentage; or

(c) if the Trust is Listed, and the Units, or if the Units to be issued are in a class of Units, Units of that class have not been suspended from quotation where:

- (i) deleted
- (ii) the issue (in this clause 'the Issue') is not to the Manager or any person who is an Associate of the Manager

and, in the case where:

- (A) the Issue (together with any issue of Units up to one year previously, at a price other than the price calculated in accordance with this deed, but excluding Units the issue of which was approved or ratified by Unitholders in accordance with paragraphs (iii) to (viii) of this clause 8.5(c) and Units issued in accordance with any other provision permitted to be contained in this deed under a declaration made pursuant to section 1069(3) of the Corporations Law in respect of the covenant described in section 1069(1)(b)(ii) of the Corporations Law) would immediately after the Issue, comprise more than 10% of:
 - (1) all of the Units in Issue; or
 - (2) the Units in Issue in the same class as the Units comprised in the Issue; or
- (B) the amount by which the Issue price is less than the current

market price for the Units (if applicable, of that class) exceeds 10%,

the following requirements are satisfied:

- (iii) the Unitholders approve the Issue;
 - (iv) if the Units are to be issued in a particular class, the Unitholders in that class approve the Issue;
 - (v) unless the Manager reasonably considers that the Issue will not adversely affect the interests of Unitholders in another class, Unitholders in that class approve the Issue;
 - (vi) any notice convening a meeting to vote on the Issue contains particulars of the use to be made of the capital raised by the Issue;
 - (vii) an approval for the purposes of paragraph (iii), (iv) or (v) is given by separate resolution of the relevant Unitholders who vote (whether in person or by proxy) at a meeting and hold relevant units equal in value to at least 75% of the total value of all relevant Units of those Unitholders who vote (whether in person or by proxy) on the question at the meeting and holders of at least 25% of the total value of all the relevant Unitholders entitled to vote on the question at the meeting;
 - (viii) in making the calculations referred to in paragraph (vii) above, any vote of a person to whom the Units are to be issued or any vote of any Associate of that person is not counted.
- (d) if the Trust is Listed, and the Units, or if the Units to be issued are in a class of Units, Units of that class have not been suspended from quotation where:
- (i) part of the issue price of the Unit has not been paid and, in accordance with clause 6.6, the interest has consequently been forfeited to the Manager;
 - (ii) the sale of the forfeited Unit is by public auction;
 - (iii) the sale of the forfeited Unit is in accordance with section 254Q of the Corporations Law (other than subsections 254Q(1), (10) and (13)) as if the Units were shares, the Trust was the company and the Manager was directors of the company;
 - (iv) the Manager complies, so far as practicable with sections 254P(3) and 254R of the Corporations Law as if those provisions related to the sale of the Units; and
 - (v) the Manager ensures that the time and the place of the auction of the relevant Units is publicly advertised and notified to all Unitholders.

8.5A Issue to Westfield Trust

- (a) Notwithstanding any other provision of this deed:
 - (i) the issue of up to 35 million Units to PT Limited as trustee for the Westfield Trust (or to any company trust or managed investment scheme which is wholly-owned by the trustee or responsible entity of the Westfield Trust, in its capacity as trustee or responsible entity for the Westfield Trust) in consideration of a payment of \$2.30 per Unit and satisfaction of the other conditions outlined in the Information Memorandum dated 12 November 1999 forwarded to Unitholders of the Trust, is permitted notwithstanding that Perpetual Trustee and the subscriber for the Units are Associates; and
 - (ii) the number of Units issued in accordance with paragraph (i) above will be identical to the number of Units redeemed in accordance with the proposal outlined in the Information Memorandum referred to in paragraph (i) above.
- (b) This clause 8.5A will be deemed to be deleted on 30 June 2000 without further action by the Manager.

8.6 Time for Issue of Units

Subject to clauses 10.2, 10.4, 10.5 and 48 the Manager must cause Additional Units which may be issued pursuant to clause 8.3(b) to be issued when it has received from the Applicant:

- (a) in the case of a purchase of an Authorised Investment which is Land, when the Manager is satisfied that it is presently entitled to become the registered proprietor or otherwise to complete its acquisition of that Authorised Investment; or
- (b) in the case of any other Authorised Investment, when all matters, things and actions necessary in order to permit the vesting of the title of the Manager to, or otherwise to complete the acquisition by the Manager of, the Authorised Investment have taken place or been carried out to the reasonable satisfaction of the Manager.

8.7 Underwriting

Any offer of Units for sale or subscription may in the Manager's discretion be underwritten by an underwriter (who may be the Manager or any related body corporate of the Manager) but in that case the underwriter must be required to take up any Units not purchased or subscribed for subject to any conditions in the agreement with the underwriter.

8.8 Division and Consolidation

The Manager may at any time in its discretion divide or consolidate the Trust Fund into any number of Units other than the number into which the Trust Fund is for the

time being divided, provided the division or consolidation does not change the ratio of the number of Units held by each Unitholder to the number of Units in Issue and provided that the division does not change the ratio between the Contribution and the amount paid up on a Partly Paid Unit.

8.9 Rights Issues

- (a) The Manager may from time to time, subject to clause 8.9(b), offer further Units for subscription at a price, and to those persons who were Unitholders at a date (not being more than 30 days immediately prior to the date of the offer) determined by the Manager, having due regard to the Corporations Law and, if the Trust is Listed, the requirements of the Listing Rules.
- (b) An offer of further Units at a price determined by the Manager shall only be made under clause 8.9(a) if:
 - (i)
 - (A) the offer of Units is made *pari passu* to Unitholders in accordance with clause 8.5(b); or
 - (B) the Units are issued to Unitholders under a reinvestment scheme in accordance with clause 21.12;
 - (ii) deleted
 - (iii) all Units are offered at the same price;
 - (iv) where the Trust is Listed and it is proposed to issue the Units concerned at a price less than the ASX quoted price of a Unit, that price is not less than the price prescribed in clause 8.5(b)(iii) as at:
 - (A) in the case of an offer of Units made *pari passu* to all Unitholders, the date being not more than five Business Days prior to the date on which the Prospectus under which the offer is made is lodged with the Commission; or
 - (B) in the case of a reinvestment scheme, the date of issue of the Units;
 - (v) where the Trust is not Listed and it is proposed to issue the Units concerned at a price less than a price calculated as at the date of the offer concerned in accordance with the formula contained in paragraph (b) of the definition of 'Allotment Price' in clause 2.1, at a price not less than the price described in clause 8.5(b)(iii).
 - (vi) the offer specifies the period during which the offer may be accepted;
 - (vii) in the case of fractions, the Manager offers the next higher whole number of Units; and
 - (viii) the offer specifies the procedures for issue and allotment of Units.

- (c) Any Unitholder may renounce its entitlement in respect of any Units offered to it on the terms described in clause 8.9(b)(i)(A) in favour of some other person, unless the issue is expressed to be non-renounceable.

8.10 Bonus Issues

- (a) The Manager may from time to time resolve to distribute in whole or in part:
 - (i) any surplus of the Total Tangible Assets of the Trust Fund over the aggregate of the cost of acquisition of the Investments and available cash of the Trust Fund; or
 - (ii) where bonus Units have previously been issued, the surplus of the Total Tangible Assets of the Trust Fund over the Total Tangible Assets of the Trust Fund used in determining the previous bonus issue less the value of the previous bonus Units issued.
- (b) The amount to be so distributed may be applied in paying up in full Units which shall be issued to the Unitholders as at a date the Manager determines.
- (c) If the Manager resolves to distribute any surplus under clause 8.10(a):
 - (i) the new Units will be created;
 - (ii) the amount of the Allotment Price (as varied in accordance with clause 8.5 if applicable or as otherwise permitted by this deed) per Unit shall be deemed to have been subscribed for each new Unit;
 - (iii) the new Units so created shall be distributed to Unitholders in proportion to the number of Units each Unitholder holds as at the relevant date; and
 - (iv) the Allotment Price shall be determined in accordance with the provisions of clause 8.5(b).

The Manager may ignore fractions and round down each Unitholder's entitlement under this clause to the nearest whole number. Any Units created under this clause but not issued as a result of the rounding down must be cancelled.

8.11 Mortgagee's Interest

Where any new Units are created in relation to any existing Units, any person who is registered as a Mortgagee of those existing Units shall be registered as a Mortgagee in respect of the new Units, unless the Mortgagee and Unitholder otherwise notify the Manager.

8.12 Maximum number of Units

If the Trust is Listed, the Manager may not issue a number of Units in excess of the Maximum Issue.

8.13 Listing

The Manager may at any time apply to ASX for admission of the Trust to the Official List and for permission for the Units to be quoted on ASX.

8.14 Restriction on issue and redemption of Units

The perpetuity period for the purposes of section 209 of the Property Law Act 1974 is the period of 80 years ending on the Vesting Date and no Units may be issued or redeemed after the Vesting Date if that issue or redemption would cause a contravention of the rule against perpetuities or any other rule of law or equity.

9. MANAGER MAY HOLD UNITS

9.1 Entitlement of Manager to hold Units

Subject to the Corporations Law, the Manager and each of its Associates is entitled, either by itself or by a nominee, to subscribe for, purchase, hold or dispose of any Units and will thereafter, for so long as it is a Unitholder, unless expressly provided in this deed to the contrary, have all of the rights of a Unitholder under this deed.

9.2 Deleted

10. APPLICATION FOR UNITS

10.1 Form and Manner of Application

Any person wishing to subscribe for Units must complete an Application for Units and lodge it or cause it to be lodged together with the Application Moneys for the Units with the Manager at such place and in such manner as the Manager may from time to time determine.

10.2 Discretion to Accept Applications

The Manager may in its absolute discretion accept or refuse in whole or in part any Application for Units and is not required to assign any reason for refusal.

10.3 Payment

Application Moneys must be paid by cheque, bank draft, telegraphic or electronic transfer into an account nominated by the Manager (or such other method as the Manager may from time to time accept) in favour of the Manager.

10.4 Minimum Application

The minimum amount of Application Moneys which may be lodged with an Application for Units in relation to an initial application or a subsequent application

shall be an amount determined by the Manager from time to time or as set by the Manager in a current Prospectus in relation to Units.

10.5 Vendor Unit Application

No Units may be issued pursuant to clause 8.3(b) unless the person to whom Units are to be issued as the whole or part of the purchase price of an Authorised Investment duly executes an Application for Units which application may be conditional on due completion of the agreement pursuant to which the Authorised Investment concerned is to be acquired.

10.6 Acknowledgment in Applications

Notwithstanding any other provision in this deed every Application for Units is deemed to contain an acknowledgment that:

- (a) the Application is subject to the terms and conditions of this deed; and
- (b) the Manager does not make any warranty or representation in connection with the Trust Fund or as to the future price of Units or the income payable in respect thereof.

11. REGISTRATION AND CONFIRMATION NOTES

11.1 Registration and Issue of Confirmation Notes

Subject to clause 11.2:

- (a) Whenever the Manager is required by this deed or otherwise to register a person as a Unitholder the Manager must cause that person's name to be entered on the Register.
- (b) The Manager covenants that not later than 2 months after allotment of the Units it will issue to subscribers for, or purchasers of, Units a Confirmation Note.
- (c) Confirmation Notes are issued solely for the purpose of confirming acceptance of a Unitholder's application for Units or notification of the balance of Units remaining after any change in a Unitholder's Unitholding and are not certificates or documents which provide evidence of ownership of the Units referred to therein.
- (d) No Unitholder is entitled to a certificate in respect of Units which the Unitholder holds in the Trust and the Manager is not required to prepare or deliver to a Unitholder a certificate for any Units.
- (e) Upon entry of a Unitholder in the Register or upon a change in the Unitholding of a Unitholder, the Unitholder will be sent a Confirmation Note confirming acceptance by the Manager of their application for Units or confirming that change, as the case may be.

11.2 Quoted Units

Notwithstanding the provisions of clause 11.1, if the Trust is Listed the Manager must comply with the requirements of the Listing Rules and the SCH Business Rules regarding the issue of holding notices and certificates for Units. If the Manager so complies, it will be deemed to have complied with the provisions of clauses 11.1(b) and (e).

11.3 Printing and Signature

Confirmation Notes may be printed as the Manager from time to time determines and must be signed on behalf of the Manager by a duly authorised officer by autographical, mechanical or other means.

11.4 Death of Signatory

If an officer of the Manager whose signature appears on a Confirmation Note, holding notice or certificate (“unit notice”) dies or otherwise ceases to be such officer before that unit notice has been issued, the unit notice will nevertheless be as valid and binding as though the officer whose signature so appeared had continued in office up to and including the time of issue of the unit notice.

12. REDEMPTION AND CANCELLATION OF UNITS

12.1 Exclusions From Redemption

Notwithstanding any other term of this deed including, without limitation, any other clause of this clause 12, Units in the Trust are not required to be Redeemed at any time:

- (a) while the Trust is Listed and the Units, the subject of an application under clause 12.2, are quoted and have not been suspended from quotation for a continuous period exceeding 60 days at the time the request is made;
- (b) the request is made by a Unitholder less than 90 days after the date on which:-
 - (i) the first prospectus in relation to Units is issued in which it is stated that the Trust will be, or will apply to become, Listed (except where only a different class of Units from those subject to the request are to be quoted); or
 - (ii) the Unitholders pass a resolution in favour of the Trust becoming Listed;
- (c) after any notice convening a meeting of Unitholders in the Trust to vote on whether to wind up the Trust has been sent to the Unitholders by the Manager and before those eligible to vote have so voted; or
- (d) while the Trust is being lawfully wound up whether pursuant to a resolution to wind up the Trust or otherwise.

12.2 Application for Redemption

Subject to clause 12.1, a Unitholder may apply for the Redemption of his Units by delivering to the Manager an application in the form from time to time prescribed by the Manager, specifying the number of Units required to be Redeemed. If a Mortgagee is noted on the Register in respect of the Units the consent of the Mortgagee must accompany the application. Where the Manager is not required to Redeem a Unit, it may Redeem the Subject Units or reject the Redemption Application in whole or in part (without being required to give any reason therefor).

12.3 Redemption Arrangements - Trust Liquid

- (a) Subject to clauses 12.1, 12.3(b) and 12.3(c), the Manager covenants that:
- (i) deleted
 - (ii) during the continuance of the Trust it will on receipt of a Redemption Application:
 - (A) deleted;
 - (B) cause the purchase from such Unitholder of;
 - (C) redeem; or
 - (D) take action which is any combination of the action mentioned in paragraphs (B) and (C) in respect of,

the Subject Units.
- (b) Within sixty days of the first Valuation Date after the Notice Date, the Manager must elect which action it will take under clause 12.3(a)(ii) or if it is not required to Redeem the Units, notify the Unitholder that it will not Redeem the Subject Units.
- (c) If:
- (i) the Manager receives a Redemption Application which specifies a number of Units subject to the application (or an amount to be realised on Redemption which would require Redemption of a number of Units) which is less than the total number of Units held by a Unitholder and which is such that if the Manager satisfies the Redemption Application in accordance with clause 12.3(a)(ii), the Unitholder's remaining Units will have a total face value less than the Minimum Unitholding, the Manager may by written notice to the Unitholder elect to treat the Redemption Application as being a Redemption Application for all the Units held by the Unitholder, and on delivery of such notice to the Unitholder all the Units held by the Unitholder will be treated as being the Subject Units; or
 - (ii) the total Unitholding of a Unitholder has a total face value less than

the Minimum Unitholding the Manager may by written notice to the Unitholder elect to treat the Unitholder as if he has made a Redemption Application for all the Units held by the Unitholder, and on delivery of notice to the Unitholder of such election all the Units held by the Unitholder will be treated as being the Subject Units.

12.4 Suspension of Powers Pending Redemption

After a Redemption Application has been delivered to the Manager the Redeeming Unitholder will have no right or power to deal with the Subject Units pending Redemption of the Subject Units or notice that the Subject Units will not be Redeemed in accordance with this clause 12.

12.5 Purchase - Trust Liquid

If the Manager elects to cause the purchase of Subject Units it must cause the purchase to be effected at the Redemption Value on the date of purchase and no later than the Redemption Date.

12.6 Deleted

12.7 Deleted

12.8 Redemption by Manager - Trust Liquid

If the Manager elects to redeem, the Manager must, subject to this clause 12, redeem the Subject Units by payment of the Redemption Value at the date of redemption to the Unitholder or the Mortgagee out of the Trust Fund on the date specified in a notice under clause 12.7(c), or if no such date is specified, on or before the Redemption Date.

12.9 Cancellation on Redemption

On the redemption of Units in accordance with this clause 12 the Manager must make an appropriate entry in the Register cancelling the Units which have been redeemed and specifying the date on which the redemption was made and note the redemption on the Redemption Application, if any, relating thereto.

12.10 Irrevocable Redemption Application

Except with the consent of the Manager, a Unitholder is not entitled to withdraw a Redemption Application made or given pursuant to this deed.

12.11 Realisation in Anticipation of Redemptions

Subject to clause 14.3, the Manager may from time to time (in anticipation of one or more Redemption Applications being made) realise Investments or borrow, raise money or arrange other financial accommodation so that cash will be available in the Trust Fund in order to enable the Manager to comply with clause 12.8.

12.12 Reserve Accounts - Trust Liquid

The Manager may pay to a Redeeming Unitholder such amount from any Reserve Account referred to in clause 21.5(f) for the Trust as the Manager in its absolute and uncontrolled discretion thinks fit. This amount will be deducted in determining the Redemption Value of the Subject Units.

12.13 Redemption Value to Reflect Asset Value - Trust Liquid

The Manager will ensure that the Redemption Value offered for Units in the Trust reflects, so far as is practicable, the value of the Trust's assets on the day on which the Redemption occurs.

12.14 Mortgagee's Consent and Payment to Mortgagee

The Manager:

- (a) shall not cause the Redemption of any Subject Units at the request of a Unitholder without the written consent of the Mortgagee in respect of those Units, if any; and
- (b) shall pay any Redemption Value in respect of Redeemed Units to the Mortgagee of the Subject Units, unless the Mortgagee directs in writing that the amount or any part thereof is to be paid to the Unitholder, and any such payment shall be valid and effectual as payment to the Unitholder.

12.15 Trust Not Liquid

- (a) This clause 12.15 applies only while the Trust is not Liquid.
- (b) The Manager must not allow a Unitholder to withdraw from the Trust other than in accordance with the terms of any current withdrawal offer made by the Manager in accordance with the provisions of the Corporations Law regulating offers of that kind. If there is no withdrawal offer currently open for acceptance by Unitholder, a Unitholder has no right to withdraw from the Trust.

The Manager is not at any time obligated to make a withdrawal offer. If it does, it may do so by:

- (i) publishing it by any means (for example in a newspaper or on the internet); or
- (ii) giving a copy to all Unitholders of a class (as relevant).

If the Manager receives a redemption request before it makes a withdrawal offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.

12.16 Corporations Law

- (a) This clause 12 applies subject to the Corporations Law.
- (b) Clauses 12.3, 12.5, 12.8, 12.12 and 12.13 apply only while the Trust is Liquid.

13. PERIOD OF FUND AND DETERMINATION THEREOF

13.1 Commencement and Termination and Deed Status

The Trust will commence on the Commencement Date and terminate on the date on which the Trust is terminated under this deed or by law. The specification in clause 8.14 of a perpetuity period does not require the Trust to terminate on the expiration of that period.

13.2 Termination if Office of Manager Vacated

Subject to the Corporations Law, if the office of Manager becomes vacant and a new Manager is not duly appointed within three months of the vacancy occurring, the Trust will immediately terminate.

13.3 Termination of Trust by Special Resolution

If at a duly convened meeting of Unitholders a Special Resolution is passed that the Trust will be determined, the Trust will immediately terminate.

13.4 Termination for Legislative Diminution of Income or Capital

If at any time legislation is enacted which in the opinion of the Manager will have the effect of materially diminishing the amount of income or capital growth of the Trust Fund available for distribution to Unitholders then the Manager may terminate the Trust.

13.5 Realisation of Trust Fund

On termination of the Trust the Manager must sell and realise the Trust Fund as it determines. The sale, so far as reasonably practicable, must be completed within 180 days after the termination of the Trust but the Manager may postpone the sale until after the expiration of this period where it considers that the postponement is in the best interests of Unitholders.

13.6 Remuneration and Provisions

The Manager is entitled to retain out of the proceeds of sale and realisation of the Trust Fund its remuneration pursuant to this deed and full provision for all actual or contingent costs, charges, duties, expenses, claims and demands whatsoever incurred, made or anticipated by the Manager in connection with or arising out of the termination of the Trust as well as the fees of any agents, solicitors, bankers, accountants, valuers or other persons whom the Manager may employ in connection with the termination of the Trust and out of the moneys so retained are each entitled

to be indemnified against any such costs, charges, duties, expenses, claims and demands.

13.7 Distributions

On realisation of the Trust Fund the Manager must (subject to clause 13.6) distribute to the Unitholders or Mortgagees in respect of any Units all net cash proceeds derived from the realisation of the Trust Fund and available for the purpose of distribution and subject to the terms of the issue of any Unit, all Units will rank equally (without regard to the last sentence of clause 6.6(b)) for that purpose but in calculating the amount to be distributed to each Unitholder there shall be added to the amount of the net cash proceeds derived from realisation of the Trust Fund the amount of unpaid Contributions in respect of the Partly Paid Units and there shall be deducted from the amount to be distributed to holders of Partly Paid Units the amount of unpaid Contributions in respect of Partly Paid Units. In the event of a deficiency of the assets of the Trust Fund as compared to the liabilities of the Manager in relation to the Trust on winding up, the holders of Partly Paid Units will not be required to make any further contribution (unless under the terms of issue a Contribution is due and owing) and clause 47.1 will apply.

13.8 Pre-requisites to Distribution

Every such distribution may be made only against delivery to the Manager of such form of receipt and discharge as may be required by the Manager.

13.9 Time for Winding Up the Trust

The Manager covenants that it will ensure that the Trust is wound up as soon as is reasonably practicable having regard to the interests of the Unitholders and the decision to wind up the Trust.

13.10 Audit of Winding Up

If and to the extent that the policy of the Commission so requires, the Manager must arrange for an independent review or audit of the final accounts of the Trust by a registered company auditor.

14. MANAGEMENT OF THE FUND AND MANAGER POWERS

14.1 Powers

Subject to this deed, the Manager has in addition to any powers which it has at general law, all of the powers over and in respect of the property constituting the Trust Fund which it could exercise if it were the absolute and beneficial owner of that property.

14.2 Deleted

14.3 Borrowing Limit

The total liabilities repayable out of the Trust Fund must be less than 60% of the Total Tangible Assets.

14.4 Agents and Advisers

Without limiting the generality of any other provision of this deed, the Manager may employ, engage, appoint and contract with solicitors, barristers, accountants, surveyors, valuers, real estate agents, bankers, brokers, managing agents, engineers and other professional or technical advisers, contractors, Approved Valuers and representatives to do all things usual or desirable to be done in connection with or for the purpose of exercising the powers of the Manager with respect to managing, developing or exploiting any Authorised Investments or Investments or for the purpose of allowing the Manager to be fully and properly advised and informed in the exercise of the Manager's powers or the performance of the Manager's duties and all fees and charges payable to any such persons and all associated disbursements and outgoings properly chargeable must be paid, or reimbursed to the Manager, from the Trust Fund.

14.5 Management

The Manager has in managing the Trust Fund full and complete powers of management and will perform its functions and exercise its powers under this deed diligently.

14.6 Management Function

The Manager itself, or by its agents, must manage and supervise all Investments included in the Trust Fund and the Manager has the power to so manage and supervise the Investments. Where the Manager appoints an attorney, agent, sub-delegate or sub-agent the Manager will remain liable for the acts and omissions of any such attorney, agent, sub-delegate or sub-agent and will be solely responsible for its fees (subject to any right of reimbursement under this deed). The Manager may appoint a real estate agent (which may be the Manager or an Affiliate of the Manager) to be the managing agent for Land investments forming part of the Trust Fund and must remunerate such agent out of the income of the Trust Fund in accordance with usual rates of remuneration and commission and in accordance with clause 22.5.

14.7 Transactions With Manager's Associates

Subject to the Corporations Law, the Manager may dispose of or lease to, or acquire or lease from, an Associate of the Manager any Trust property or otherwise deal with an Associate of the Manager in respect of any Trust property, on such terms as it thinks fit in the circumstances.

14.8 Insurance

- (a) The Manager must cause to be insured and kept insured, Land investments of the Trust Fund on a replacement or reinstatement basis or for such

amounts as may from time to time be recommended by an Approved Valuer in lieu of a replacement or reinstatement basis in such insurance office as the Manager may from time to time nominate against the risks of fire, explosion, storm, tempest, lightning, earthquake, loss of rent and other usual risks and such additional risks as the Manager may in its discretion deem necessary and the Manager will also ensure that the property comprised in every security comprised in any mortgage investment of the Trust Fund (other than intangible property) is insured and kept insured in the names of the Manager and the mortgagors and other persons (if any) for their respective interests against all usual risks.

- (b) If the Manager is of the opinion that the cost of effecting any insurance required to be effected under clause 14.8(a)(i) is so excessive that it is not in the interest of Unitholders to effect or maintain the same the Manager may refrain from effecting such insurance for such period and on such other conditions as it may determine.
- (c) Without prejudice to clause 14.8(a) the Manager may at its discretion effect or cause to be effected such further or other insurance as it may consider necessary in respect of:
 - (i) the Land investments of the Trust, and the revenue derived therefrom;
 - (ii) the property secured by any mortgage investment of the Trust or the Manager's ownership thereof or interest therein; and
 - (iii) any liability, whether contingent or otherwise, which may arise in respect of any agreement, indemnity or guarantee granted by the Manager in pursuance of clause 14.10(m)(iii).

14.9 Facilitation of Management Powers

Subject to all applicable laws, the Manager may execute all such proxies, powers of attorney and other instruments as may be necessary or desirable to enable the Manager to exercise its powers of management under this deed itself or through its officers, attorneys, agents, sub-delegates or sub-agents.

14.10 Specific Powers of Manager

Without limiting the generality of anything elsewhere in this deed, the Manager has full and absolute powers of:

- (a) purchasing for cash or on terms (including purchase by way of lease or hire purchase) and sale for cash or on terms;
- (b) leasing and accepting surrender of leases with power to compromise with lessees and others and with power to enter into leases which permit or oblige lessees to develop Land with or without finance from the Trust;
- (c) executing and paying for repairs and improvements;

- (d) instituting, prosecuting, defending, settling, comprising and abandoning legal proceedings;
- (e) without limiting clause 14.8, insuring against any type of risk for such amounts and on such conditions and in such types of insurance as the Manager may deem necessary;
- (f) attending and voting at meetings;
- (g) paying all outgoings connected with the Trust or this deed which are not otherwise payable by the Manager;
- (h) drawing, endorsing, discounting, selling, purchasing and otherwise dealing with bills of exchange either alone or jointly and in particular commercial bills, but so that the totality of the moneys for the time being the subject of liability on the part of the Manager, whether as drawer or endorser of any and all of such bills of exchange and whether alone or jointly or severally will be payable out of the Trust Funds;
- (i) subject to clause 16, lending money;
- (j) subject to this deed, borrowing or raising money or procuring other financial accommodation (including, without limitation the issuing of convertible notes on such terms as the Manager may determine from time to time) either unsecured or secured on the Investments provided that the only property in respect of which the duties and obligations of the Manager arise in respect of any moneys borrowed, any financial accommodation procured, any guarantee given or any indemnity given or implied by law or any other liability incurred by the Manager pursuant to this clause is the Trust Fund and in no circumstances will the Manager be liable to satisfy any rights in respect of any matter undertaken pursuant to this paragraph out of any funds, property or assets other than the Trust Fund;
- (k) building, altering, repairing, extending, replacing, rebuilding, refurbishing and renovating any Investment;
- (l) without limiting the generality of clause 14.10(d) instituting, prosecuting or compromising legal proceedings for the purposes of securing compliance with this deed and the terms of any Prospectus in relation to Units and to recover any loss suffered by Unitholders in respect of their investment in Units;
- (m) in respect of an Authorised Investment which comprises Land:
 - (i) entering into agreements with any co-owner (or if that co-owner is a corporation, with any or all of its shareholders), mortgagee, lessee or occupier in relation to the erection of improvements on or the alteration, addition or demolition of existing improvements upon any such Land;
 - (ii) entering into or ratifying agreements with any adjoining occupiers,

landowners, public or statutory authorities or other persons which are required for the proper use or enjoyment of any such Land or of any neighbouring Land;

- (iii) providing indemnities or guarantees:
 - (A) to any co-owner or occupier of such Land in respect of any indemnity or guarantee given by that co-owner or occupier in its capacity as an owner or occupier of such Land to a third party;
 - (B) to adjoining landowners, occupiers, public or statutory authorities or other third parties in respect of any matters done or to be done by them or for any forbearance granted by them which benefit or tend to benefit such Land which constitutes the Authorised Investment;
- (iv) entering into, ratifying, extending or varying agreements, contracts or arrangements with any person including without limitation any co-owner and whether by way of partnership, joint venture or otherwise, regulating the rights, duties and obligations of co-owners *inter se* including but not limited to providing for pre-emptive rights or rights of first refusal as between co-owners with respect to the respective interests of each co-owner and limiting or abrogating the rights of co-owners to have access to the courts for orders of partition or sale;
- (n) subject to this deed with respect to the total amounts payable out of the Trust Fund, providing financial or other assistance to any person including but not limited to the provision of indemnities or guarantees and whether or not secured by a mortgage, charge or encumbrance over any asset of the Trust or the assets of the Trust generally, to any financier, mortgagee or lessee or any owner or occupier of Land in relation to assets or proposed assets of the Trust Fund;
- (o) lending money or providing financial or other assistance, including but not limited to the provision of indemnities or guarantees relating to the performance of any obligation by:
 - (i) a company, the whole of the issued ordinary share capital of which is owned by the Manager as part of the Trust Fund; and/or
 - (ii) a company, the whole of the issued ordinary share capital of which is owned by a company referred to in clause 14.10(o)(i); and/or
 - (iii) the trustee of a unit trust, units in which are owned by the Manager as part of the Trust Fund;
- (p) taking or granting options to acquire or dispose of any investment or proposed investment of the Trust;

- (q) entering into a contract in Australia or elsewhere which the Manager determines (and records in writing) to be for the purpose of hedging against any loss in respect of or in connection with any debt or other liability (whether actual or contingent) which might result from fluctuations in the rate of exchange between any currencies or from fluctuations in interest rates and generally entering into forward foreign exchange or currency transactions or into transactions concerning future interest rates or future rates of exchange which the Manager considers to be for such purpose and making payments under or doing any other thing connected with or incidental to any such contract or transaction provided that the Manager is not required to accept any personal liability whatsoever under any such contract or transaction;
- (r) to lodge Investments of the Trust and all documentation relating to or evidencing ownership of an Investment with a Securities System from time to time agreed by the Manager to hold on behalf of the Manager, and the Manager shall not be responsible for any loss incurred in connection with any such deposit or as a result of any breach or default of the Securities System. The Manager shall be responsible for payment of the fees and expenses of the Securities System but shall be entitled to be reimbursed out of the Trust Fund for such fees and expenses;
- (s) acquiring and accepting any asset which is otherwise within the definition of Authorised Investments notwithstanding that it is owned by the Manager or by a Custodian either as a trustee of some other trust or in their personal capacities or by a person which is associated with any trustee or manager which is itself associated with the Manager or a Custodian provided that in acquiring or accepting for the Manager any property which is owned by the Manager or a Custodian or such a person the Manager shall act in good faith to all Unitholders;
- (t) acquiring and accepting any equity of redemption;
- (u) creating, granting, renewing, altering or varying any mortgage, charge or other encumbrance over the whole or any part of the Trust;
- (v) doing anything, or authorising a Custodian to do anything, which the Manager thinks is reasonably necessary to exercise any of the powers and authorities herein contained with respect to Investments;
- (w) setting aside out of the capital and income of the Trust such moneys as shall from time to time be required to meet the obligations of the Manager under this deed;
- (x) employing such Approved Valuers and such other persons as the Manager considers necessary to administer the Trust in accordance with the provisions of this deed;
- (y) underwriting or sub-underwriting the issue of any Authorised Investment on such terms as the Manager considers prudent;

- (z) calling for reports on open positions and potential liabilities from time to time under any Futures Contract;
- (aa) participating in the rights and obligations, including obligations to contribute in any manner to the liabilities of the parties, under any agreement relating to Investments;
- (bb) making or carrying out any take-over, proposal, offer or invitation (whether or not a formal offer or announcement in accordance with the Corporations Law) or any corresponding law of any State or Territory or any other country;
- (cc) guaranteeing the performance of any person or company in relation to any agreement, contract, undertaking or promise and the Manager may secure any such guarantee by mortgage, charge or other encumbrance over the whole or any part of the Trust;
- (dd) initiating or agreeing to any one or more of the following:
 - (i) the release, modification or variation of any rights, privileges or liabilities of any equities or securities from time to time forming part of the Trust;
 - (ii) a scheme of arrangement for or reconstruction of any company including any increase or reduction in the capital of any company;
 - (iii) the amalgamation or merger of any company with any other company;
 - (iv) the sale or other disposition of all or any part of the property or undertaking of any company;
- (ee) entering 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 Manager either generally or on conditions as the Manager deems fit and to carry out exercise and comply with any of the same;
- (ff) joining with engaging or entering into any agreement or arrangement with any company for the purposes of forming a partnership or joint venture or joint venture company whose assets are to comprise or be invested in Authorised Investments for so long as such assets continue so to comprise or be so invested provided that the Manager shall not be required under any such agreement or arrangement to incur any liability otherwise than as Manager of the Trust;
- (gg) investing on contributory account in joint interests provided that the Manager shall not be required under any such arrangement to incur any liability otherwise than as Manager of the Trust; and
- (hh) fettering its future discretions.

14.11 Deleted**14.12 Powers of the Manager to Appoint Delegates and Agents**

- (a) Without limiting the generality of its powers, the Manager in managing the Trust Fund and in carrying out and performing the duties and obligations on its part in respect of the Trust may:
- (i) appoint any person to be attorney or agent of the Manager for such purposes and with such powers, authorities and discretions (not exceeding those vested in the Manager) as it thinks fit with power for the attorney or agent to sub-delegate in accordance with the terms of its appointment any such powers, authorities or discretions and also to authorise the issue in the name of the Manager of documents bearing a facsimile signature of the Manager or of the attorney or agent either with or without manuscript signatures of its officers thereon; and
 - (ii) appoint by writing or otherwise any person to be sub-agent of the Manager as the Manager may think necessary or proper for such purposes and with such powers, authorities and discretions (not exceeding those vested in the Manager) as it thinks fit.

Notwithstanding any delegation or appointment pursuant to this clause the Manager will remain liable for all acts and omissions of any officer, employee or attorney, agent, sub-delegate or sub-agent who is appointed under the preceding provisions of this clause and will (without limiting the rights of the Manager to fees and reimbursement permitted by this deed) be responsible for the fees (if any) of any such officer, employee or attorney, agent, sub-delegate or sub-agent.

- (b) For the purpose of exercising its powers and performing its duties and obligations under this deed, the Manager may (without limiting its other powers under this deed and its ability where it is a body corporate to act through its employees or officers in the usual course of business), subject always to its covenants in this deed, from time to time by instrument in writing appoint and engage any person and engage any person (which if the Trust is a registered managed investment scheme may only be any of its Associates which is a trustee company or trustee corporation for the purposes of any of the following:
- (A) Trustee Companies Act 1984 (Victoria);
 - (B) Trustee Companies Act 1968 (Queensland);
 - (C) Trustee Companies Ordinance 1947 (ACT);
 - (D) Trustee Companies Act 1987 (WA);

but otherwise, without limitation may include any officer or employee of the Manager) as its delegate (and where two or more such persons are

appointed, then as its delegates jointly and severally) to undertake, perform or discharge any or all of the duties, powers, discretions and other functions of the Manager under this deed or otherwise in relation to the Trust.

The terms of any such appointment may include provisions for the protection of those dealing with the delegate as the Manager thinks fit but notwithstanding any delegation or appointment pursuant to this clause or any such provision, the Manager will remain liable for:

- (i) all acts and omissions of any person who is appointed under the preceding provisions of this clause and will (without limiting the rights of the Manager to fees and reimbursement permitted by this deed) be responsible for the fees (if any) of any such delegate; and
- (ii) all duties taxes and charges by whomsoever payable which would not have been payable if the delegation or appointment had not been made or all duties, powers, discretions and other functions had been performed and exercised by the Manager personally and the Manager has no right to be reimbursed for those amounts out of the Trust Fund.

A delegate of the Manager may be paid or reimbursed from the Trust Fund for any liability or expense for which the Manager would be indemnified or reimbursed under this deed.

14.13 Provision For Replacement of Depreciable Investments

The Manager may cause such provision as it deems sufficient to be made out of income of the Trust Fund or from such other source as it may from time to time determine from which the replacement costs of such of the Investments as comprise property that tends to depreciate in value through use or effluxion of time, is to be met.

15. INVESTMENT POLICY

15.1 Principal Investment Policy

The principal investment policy of the Trust will be as determined by the Manager from time to time, but until otherwise determined will be primarily the purchase of and long term investment in:

- (a) Land and property associated therewith;
- (b) units and other interests in property trusts and property security trusts; and
- (c) other Authorised Investments the underlying assets of which are Land,

whether located within or outside Australia so as to achieve income with security and capital appreciation over a term of years.

16. INVESTMENT OF TRUST FUND

16.1 General Investment Requirement

The Trust Fund may be invested only, in accordance with the Principal Investment Policy, in Authorised Investments which may be located, except where the context otherwise indicates, either within or outside Australia.

16.2 Authorised Investments

Subject to the Corporations Law, an Authorised Investment is an investment, whether alone or jointly or together with any other person, in the following:

- (a) any interest in or right, conditional or otherwise, to acquire or in any way relating to Land of any description and, without limiting the foregoing, the erection of buildings thereon and improvements thereto or the development or exploitation thereof and fixtures and fittings erected or installed on Land, and any extensions, additions or alterations thereto;
- (b) furnishings, fittings, machinery, plant or moveables used or to be used in association with any buildings on or interests in Land forming part of the Trust Fund;
- (c) Trustee Investments;
- (d) the deposit of money at any Bank or with any company that is a member of the IBSA;
- (e) the deposit of money with a company declared pursuant to section 65(1)(a) of the Corporations Law to be an authorised dealer in the short term money market;
- (f) the lending of money on security (whether taken severally or otherwise, by way of mortgage, charge, transfer, assignment or otherwise) to any person or corporation in connection with the acquisition or development of Land and/or improvements thereon in an amount which, when aggregated with any other moneys secured by any charge over the same property and ranking prior to or pari passu with the security to be taken by the Manager does not at the time of making the investment exceed 70% (or, where repayment of the whole of the principal and interest is insured under a mortgage insurance policy, and with an insurer, acceptable to the Manager, then 90%) of the Value of that property and provided that the investment is made on terms requiring repayment within a period not exceeding 30 years;
- (g) the lending of money pursuant to the powers contained in clause 14.10(o);
- (h) units, sub-units, or other interests in any trust, unit trust or other undertaking or scheme, including any joint venture or partnership;
- (i) preference or ordinary shares or (without limiting the generality of clauses 16.2(d) and (e)) debentures or convertible notes or any rights or options

relating to any of the foregoing which are either listed for quotation on a Stock Exchange, or if not so listed, the purchase price of which is supported by a valuation of an Approved Valuer made within three months preceding acquisition of any such investment or within such greater period as the Manager may in its discretion determine or by such other evidence as to value as the Manager in the exercise of its reasonable discretion considers satisfactory, whether such investment is by way of purchase, subscription or otherwise;

- (j) bills of exchange and promissory notes and other negotiable instruments which have been drawn, endorsed or accepted by a Bank or any company that is a member of the IBSA;
- (k) any personal property not referred to in any of the above paragraphs and any share, estate or interest therein including (without limitation) any chose in action, book debt or currency, provided that in any such case the purchase price is supported by a valuation of an Approved Valuer made within one month preceding the acquisition or within such greater period as the Manager may in its discretion determine or by such other evidence as to value as the Manager in the exercise of its reasonable discretion considers satisfactory;
- (l) cash;
- (m) options to acquire any property referred to in the preceding paragraphs of this clause;
- (n) any security issued by the Government of the Commonwealth of Australia or by the Government of any State or Territory of Australia or by any instrumentality of any such Government, and any security granted by any such Government;
- (o) Exempt Asset Backed Securities;
- (p) RITS in respect of investments mentioned elsewhere in this definition of Authorised Investments and included in RITS;
- (q) Repos;
- (r) Index Linked Securities;
- (s) Derivatives;
- (t) entering into Futures Contracts, whether as a buyer or seller, and whether for the purposes of hedging or not, if:
 - (i) a broker or other agent acts on behalf of the Manager; and
 - (ii) deleted
 - (iii) the aggregate of the Contract Values of all Futures Contracts

forming part of the relevant Fund shall not at any time exceed 5% of the Current Value of the Fund;

For the purpose of this paragraph the term 'Contract Value' means:

- (A) where the interest is that of a seller, SCV where SCV means the amount by which FV is less than AFV; and
- (B) where the interest is that of a buyer, BCV where BCV means the amount by which AFV is less than FV ,

where:

'AFV' means FV on the date on which the relevant contract is acquired by or on behalf of the relevant Fund;

'FV' means the face value of the relevant contract, being at any time the product of the Exchange Quotation and the number of Exchange Units of the class of futures contract which is the subject of an investment;

'Exchange Quotation' means:

- (A) where the Futures Contract is traded on a Futures Exchange the most recent official closing quotation of the relevant Futures Exchange or the last sale price on the relevant Futures Exchange (whichever is the more recent); and
- (B) where the futures contract is not traded on a Futures Exchange the most recent sale price of a contract on a Futures Exchange for an Exchange Unit at that time;

(u) the taking or giving of options (whether or not listed on any Stock Exchange) to purchase or sell any investment which is an Authorised Investment (other than options in respect of Land as provided in clause 16.2(m)) if a broker or other agent acts on behalf of the Manager in relation to such option;

(v) Land Swaps,

and:

(w) any such investment may be acquired from or given in favour of any person including the Manager and any person or corporation related to or associated with or which is an Affiliate of the Manager; and

(x) security (whether taken severally or otherwise, by way of mortgage, charge, transfer, assignment or otherwise) may be given to or taken from any person or corporation in connection with any such investment as the Manager determines subject to any limitation otherwise provided in this clause.

17. EXTENSIONS, ADDITIONS OR ALTERATIONS**17.1 Deleted****17.2 Deleted****17.3 Deleted****17.4 Deleted****17.5 Deleted****17.6 Extensions, Additions or Alterations**

Where the Manager proposes to carry out extensions, additions or alterations to existing Investments or the erection of new improvements the Manager may:

- (a) engage a person designated by the Manager (who, without limitation but subject to the Corporations Law, may be an Associate of the Manager) to plan, control, co-ordinate and direct the carrying out of such works or to perform any one or more of such functions; and
- (b) award the contract for the carrying out of such works to a person designated by the Manager.

Every engagement or contract must be negotiated and concluded on normal commercial terms at arm's length and may, if the Manager so requires, include a provision for the making of progress payments for services rendered or work performed or goods or materials supplied.

17.7 Deleted**17.8 Unitholder Approval**

Notwithstanding anything contained in this deed, the Unitholders may by Ordinary Resolution approve the purchase or sale of, or other dealing with, any property by the Trust, whether or not the same is at a price which is supported by an Approved Valuer's valuation or a commercial appraisal thereof.

18. CUSTODIANS**18.1 Appointment**

Without limiting its powers included or referred to in this deed, the Manager may, subject always to the covenants of the Manager in this deed, from time to time appoint a body corporate (including without limitation any prior Manager or Trustee) to act as a Custodian to perform the following actions, whether within or outside Australia, in the name of the Manager or at the direction of the Manager in its own name or in a name nominated by the Custodian and approved by the Manager, as nominee for the Manager:

- (a) purchase Authorised Investments or sell Investments at the direction of the

Manager, in a country in which the Custodian carries on business, and execute all transfers and assurances necessary for any such purpose;

- (b) receive any Authorised Investment and any document of title thereto, and hold any Investment and any document of title thereto, on behalf of the Manager in a country in which the Custodian carries on business, in safe custody in the country of purchase;
- (c) procure registration of such Authorised Investments or Investments;
- (d) receive, hold and disburse moneys in the name of the Manager at the direction of the Manager;
- (e) receive or hold or procure the receipt and holding or purchase or sale or procure the purchase or sale of any Investment through any Securities System in accordance with the rules governing the operation of the Securities System;
- (f) do anything necessary or expedient in the interest of preserving the Investments, documents of title and any money held by the Custodian (including where held as provided in paragraph (e)); and
- (g) perform all actions incidental to any of the foregoing powers.

18.2 Terms of Appointment

The Manager may in the terms of any appointment under clause 18.1 include such provisions for the protection and convenience of those dealing with any such Custodian as it thinks fit. The Manager may pay the fees and expenses of any such Custodian out of the Trust Fund. For the purposes of this deed, any Investment of the Trust held on behalf of the Manager by either a Custodian or a Securities System shall be deemed to be vested in the Manager unless the context otherwise requires.

18.3 Sub-custodians

For the purposes of clauses 18.1 and 18.2, a Custodian may hold an Investment either directly or through another Custodian provided that such course of action has been approved by the Manager and the manner of such holding is in accordance with practices acceptable to the Manager.

18.4 Deleted

18.5 Registration of Investments

Subject to clauses 18.1 to 18.4 inclusive but without limiting the generality of clause 14.10(r), any proposed investments or Investments required to be registered must as soon as reasonably practicable after receipt of the necessary documents by the Manager be registered in the name of the Manager or Custodian and held in safe custody by the Manager or a Custodian and remain so registered and held until sold or disposed of in accordance with this deed.

19. DELETED**20. VALUATIONS****20.1 Valuation Roll**

The Manager must establish and maintain a roll recording the Value of all Investments.

20.2 Appointment of Approved Valuer

The Manager must, subject to this deed, from time to time appoint in writing and with such reasonable remuneration as the Manager may determine, a person to be an Approved Valuer to prepare valuation reports in accordance with this deed as instructed by the Manager.

20.3 Deleted**20.4 Deleted****20.5 Deleted****20.6 Valuation at Request**

The Manager may, at any time cause a valuation to be carried out in accordance with this deed of any part or all of the property comprising the Trust Fund, and must do so as and when required by the Corporations Law.

20.7 Valuation Instructions

If the Trust is a registered managed investment scheme the Manager must issue all valuation instructions to Approved Valuers in writing.

20.8 Deleted**20.9 Deleted****20.10 Deleted****20.11 Deleted****20.12 Provision of Information**

If the Trust is a registered managed investment scheme, the Manager must provide an Approved Valuer preparing a valuation report with access to all necessary information for the purposes of the valuation, including, in relation to valuation of Land, particulars of existing leases and current rent being received by the Trust in relation to the property and particulars of all discounts, incentives, inducements or other similar benefits paid or payable to lessees or other occupiers of Land subject to the valuation, of which the Manager is aware.

20.13 Cost of Valuations

The cost of valuations carried out under this deed are expenses of the Trust for the purposes of clause 21.

20.14 Confidentiality

The Manager will instruct all valuers of Trust property that the information provided to them and the results of their valuation are confidential.

21. INCOME AND EXPENSES OF THE FUND

21.1 Manager to Obtain Receipts

- (a) Subject to this deed, the Manager must receive all moneys, rights and property which are paid or receivable in respect of the Trust Fund.
- (b) The Manager will collect all rentals and other amounts paid or receivable in respect of the property forming part of the Trust Fund.

21.2 Payment of Expenses

The Manager must in each Distribution Period cause to be paid, in the first instance out of the income of the Trust and then (if the income is insufficient) out of the balance of the Trust Fund:

- (a) all expenses, costs, disbursements and other outgoings in respect of the Investments and the management and administration of the Trust or any Investments which are properly chargeable against the income of the Trust; and
- (b) the remuneration, costs, charges and expenses of the Manager payable in accordance with clause 22.

21.3 Net Accounting Income

For the purposes of this deed, the '**Net Accounting Income**' of the Trust in respect of any Distribution Period (the '**applicable period**') means the net income of the Trust for that period determined by the Manager by:

- (a) aggregating all income accrued or due or receivable or received (and not previously accounted for) on all Investments, cash and other assets of the Trust during the applicable period; and
- (b) deducting an amount estimated by the Manager to cover all disbursements, reimbursements, fees, duties and charges, costs, expenses and outgoings whatsoever due or incurred by the Trust or in connection with the operation, administration or management of the Trust or any investment or asset of the Trust in respect of the applicable period including, without limitation:
 - (i) valuation fees, where appropriate;

- (ii) interest on any unrepaid moneys borrowed for the Trust;
- (iii) all amounts of reimbursements, fees, costs, disbursements, duties and charges and expenses payable under this deed to the Manager, or a Custodian, including any deferred payment;
- (iv) the fees and expenses of the Auditor in connection with the audit of the Accounts or any other activity undertaken by the Auditor at the request of the Manager pursuant to this deed;
- (v) all depreciation of Investments, if the Manager determines that depreciation should be charged against income;
- (vi) the cost of any stand-by or other financial facilities as the Manager determines to be desirable in the interests of the Trust;
- (vii) all amounts considered by the Manager to be necessary to provide for the amortisation of the costs of any leasehold property comprising an investment of the Trust;
- (viii) all costs and expenses incurred in repairing and maintaining Investments;
- (ix) all financial institutions duties and bank accounts debit tax incurred in or about the receipt, collection, acquisition, investment, disposal or distribution of money or other property under or in relation to the Trust (including without limiting the generality of the foregoing the receipt of moneys by way of application for Units);
- (x) all allowances for prepayments, doubtful debts and bad debts;
- (xi) all amounts allocated to a provision or reserve account;
- (xii) all tax payable by the Manager in respect of the Trust;
- (xiii) all underwriting expenses incurred in respect of the issue of Units;
and
- (xiv) the amount of such other provisions and expenses as the Manager considers necessary to bring to account in order that the net income for the applicable period may fairly represent the results of the Trust for the relevant Distribution Period.

21.3A Accounting Standards

The preparation of accounts of the Trust in accordance with current Australian accounting standards and generally accepted accounting principles is not to be regarded as a determination of the method for calculating the Net Accounting Income of the Trust pursuant to clause 21.3.

21.4 Net Taxable Income

The **'Net Taxable Income'** for each Distribution Period is the amount which is calculated by the Manager as constituting the net income of the Trust Fund for that Distribution Period ascertained in accordance with the Income Tax Assessment Act 1936 of the Commonwealth of Australia applied in respect of the relevant Distribution Period (disregarding the operation of the AMIT Regime and section 95AAD of the Income Tax Assessment Act 1936 of the Commonwealth of Australia). The operation of this clause is not affected by any other provision of this deed.

21.5 Distributable Amount

- (a) For the purposes of this deed the **'Distributable Amount'** for each Distribution Period means the amount determined by the Manager in its discretion. Unless the Manager determines by a resolution of its directors from time to time before the end of a Distribution Period that the Distribution Amount is to be calculated in some other manner, the Distributable amount for a Distribution Period is the Net Taxable Income together with any capital amount from time to time described in paragraph (i) of this clause 21.5 provided that where the Net Accounting Income exceeds the Net Taxable Income the Manager may on or before the Distribution Date determine that the Distributable Amount will be the Net Accounting Income or some amount greater than the Net Taxable Income but less than the Net Accounting Income, and in any such case the Distributable Amount will be the amount so determined provided further however, that where the Manager has made an election under clause 21.5(b)(i) then the Distributable Amount will be determined after allowing for the amount not distributed under that clause.
- (b) Notwithstanding clause 21.5(a):
 - (i) the Manager may at its discretion elect not to distribute \$1000 of the Net Taxable Income in respect of any year of income and in this event the Distributable Amount referred to in clause 21.5(a) will be accordingly reduced; and
 - (ii) the Distributable Amount will not include the excess of the Net Taxable Income of the Trust over the Net Accounting Income of the Trust for a year of income which is due to the grossing up of any amount of income of the Trust in respect of any tax credit unless the Manager is of the opinion that tax is likely to become payable by the Manager if it does not make the distribution or unless the benefit of a tax credit or rebate cannot be made available to Unitholders. If an amount is not distributed for this reason, credit is deemed to have been distributed to Unitholders pro rata to their Entitlement to any Net Accounting Income of the Trust of the category or source of income in respect of which the credit or rebate applied.
- (c) It is hereby acknowledged that the Manager may determine that where the

Net Accounting Income exceeds the Net Taxable Income in respect of a Distribution Period (the ‘**Apportionable Excess**’) then it may characterise the Apportionable Excess into the following categories:

- (i) excess referable to amounts allowable as deductions pursuant to divisions 10C and 10D of the Income Tax Assessment Act (Cth) 1936; and
 - (ii) excess referable to other matters or causes.
- (d) The Manager may establish or cause to be established the following reserve accounts:
- (i) a building allowance reserve;
 - (ii) an others reserve;
 - (iii) an asset revaluation reserve; and
 - (iv) a realisation reserve,

and such other reserves as the Manager may from time to time determine.

- (e) If so determined by the Manager, any net realised and unrealised capital gains or losses of the Trust may be separated from the other receipts, profits and gains of the Trust and credited to a Reserve Account.
- (f) The Manager may distribute to the Unitholders from time to time by way of cash or other Investments of the Trust as at a date determined by the Manager an amount equal to so much of the net realised capital gains credited to that Reserve Account which is called the asset realisation reserve as the Manager may determine in the same manner as the Distributable Amount. The Manager must adjust a Reserve Account for the amount so distributed.
- (g) Any amount standing to the credit of a Reserve Account may be capitalised by a determination of the Manager. The capitalisation is to be effected by dividing the number of Units held by Unitholders by a proportion determined by the Manager which takes into account the number of Units held by the Unitholder, the amount to be capitalised and other matters in relation to the particular Unitholder determined by the Manager. Following the capitalisation:
 - (i) the number of Units in Issue will increase accordingly;
 - (ii) the Manager must cause the Register to be amended and take any other steps which the Manager considers necessary to amend the records of the Trust to reflect the capitalisation;
 - (iii) the sum capitalised must be debited to the relevant Reserve Account and thereafter be treated in the same manner as funds subscribed by

Unitholders to the Trust; and

- (iv) the additional Units created will rank for distribution of income and for all other purposes from a date determined by the Manager.
- (h) The number of additional Units created under clause 21.5(g) must not be less than the number calculated in accordance with the following formula:

$$\frac{A}{B}$$

Where:

A is the amount standing to the credit of the Reserve Account which is to be capitalised; and

B is the Allotment Price applicable on the day upon which the capitalisation is to take place,

and each Unit created upon the capitalisation must be issued at the same price which may be less than the Allotment Price on that date.

- (i) In addition to the distribution of income referred to in this clause, the Manager may, at its absolute discretion, distribute from time to time to Unitholders the amount specified by the Manager in the request representing capital arising from the net proceeds of realisation of Investments or representing other capital of the Trust howsoever arising and any such amount shall be distributed by the Manager in cash to the Unitholders in the proportions being their Entitlement (determined as if the distribution was a Distributable Amount).

21.6 Distribution Account and Distribution

- (a) The Distributable Amount for a Distribution Period must, subject to clause 21.5(e), be transferred by the Distribution Date to an account in the name of the Manager for that purpose and (subject to clause 21.5 and at the times specified in clause 21.11 and after payment has been made to the proper authority out of the Distributable Amount of any tax or duty payable by the Manager in respect of the Distributable Amount or in respect of the income entitlement of any individual Unitholder) must be distributed as determined by the Manager in accordance with their Entitlement among those Unitholders who:
 - (i) were registered on the Register on the last Business Day of the Distribution Period (the Register having been made up to and including the last Business Day of the Distribution Period); and
 - (ii) are entitled to a distribution of income.
- (b) Notwithstanding clause 21.6(a) the transferee of any Unit the subject of a valid transfer received by the Manager prior to the close of Business on the

last Business Day of the Distribution Period will for the purposes of this clause be taken to have been entered on the Register as holder of that Unit on the date of receipt by the Manager of the transfer to the exclusion of the transferor.

- (c) For the purposes of clause 21.6(a) a Redeeming Unitholder, some or all of whose Units are redeemed in accordance with clause 12, will be deemed to have ceased to be a Unitholder in respect of the redeemed Units upon payment of the Redemption Value for the relevant Units, notwithstanding that an entry recording the redemption of those Units has not been made on the Register in accordance with clause 12.9.
- (d) The Manager is entitled to distribute a Distributable Amount, including an amount representing capital of the Trust to a Unitholder, notwithstanding that there is a mortgage over the relevant Units, and the Manager will not bear any liability to any Unitholder or Mortgagee by reason of any distribution to a Unitholder.
- (e) The Manager is empowered but not bound to make an apportionment or keep separate accounts of the different categories and sources of income that relate to different types of Investments and the costs, charges and expenses attributable to each of those types of income. The Manager may allocate to every Unitholder all or part of the Net Accounting Income to which Unitholders are entitled from a particular category or source of income in which case the Manager must advise the Unitholders of the extent to which income allocated to the Unitholders consists of income from a particular category or source.

21.7 Interest of Unitholders in Income

The Unitholders entitled to part of the Distributable Amount pursuant to clause 21.6(a) have on the last day of each Distribution Period an absolute vested interest in and are entitled to call for payment of the Distributable Amount in the proportions determined according to clause 21.6.

21.8 Determination of Source

If a question arises as to whether any money or property constitutes Net Accounting Income or Net Taxable Income or not, or as to whether any loss or outgoing or any charge or provision (including an allowance) of any kind whatsoever is chargeable against Net Accounting Income or Net Taxable Income or not, that question must be determined by an accountant nominated and appointed by the Manager, acting as an expert and not as an arbitrator, and whose decision will be final and binding.

21.9 Distribution

The Manager may, in its absolute discretion, distribute any Distributable Amount at any time before the end of a Distribution Period.

21.10 Deemed Receipt

If any income is received at such a time that it is in the opinion of the Manager not practicable to include it in the Net Accounting Income for the Distribution Period in which it is received that income may be treated by the Manager as having been received in the next Distribution Period.

21.11 Payment of Distribution Entitlement

Where clause 21.6(a) applies, the Manager must pay the Unitholders' Entitlement (calculated in accordance with clause 21.6(a)) to the Unitholders by the Distribution Date for the Distribution Period.

21.12 Reinvestment of Income

Where a Unitholder has given a direction that the Entitlement in respect of that Unitholder (less any deductions made in accordance with this deed) (the '**Unitholder's Net Entitlement**') is to be reinvested in additional Units and the investment is not one which the Manager is precluded by this deed from accepting, then, unless the Manager otherwise determines, after a Distributable Amount in respect of a Unitholder is transferred to the Distribution Account, and after any permitted deduction is made, cause the Unitholder's Net Entitlement to be reinvested in additional Units, and an issue of Units shall take effect, with the number of additional Units calculated as if the Unitholder's Net Entitlement comprised Application Moneys, and the amount so reinvested shall become part of the Trust Fund, and, in so far as they are applicable, clauses 8 and 10 shall apply to the issue of the Units.

21.13 Partly Paid Units

Any Distributable Amount in respect of a Partly Paid Unit on which a Contribution is then due to be paid up but has not been paid and which is liable for forfeiture in accordance with clause 6.6 shall be accumulated in a Reserve Account and will not be distributed to the holder of that Partly Paid Unit until the amount of Contribution payable on the Partly Paid Unit together with any other outstanding charges has been paid to the satisfaction of the Manager. Where a Unit is forfeited, sold or disposed of pursuant to clause 6.6 the balance of any Distributable Amount so accumulated in respect of that forfeited Unit shall after deduction of all amounts as provided for in clause 6.6 become available for distribution to Unitholders in the next Distribution Period after the Manager is satisfied that all charges payable out of the income have been met.

21A AMIT Regime

21A.1 AMIT election

The Manager may, under the AMIT Regime, make an election to determine the Trust to be an attribution managed investment trust for the purposes of the Tax Act.

21A.2 Unders and overs

The Manager may determine how any Unders or Overs that arise for the Trust are to be dealt with in accordance with the AMIT Regime. The Trustee is not liable to any Unitholder or former Unitholder with respect to how it addresses any Unders or Overs, provided that the Trustee addresses the Unders and Overs in accordance with the AMIT Regime, and irrespective of whether the choices made result in an attribution outcome for a Unitholder or former Unitholder that is difference from the attribution outcome if the Manager had not made the choice, or had made the choice differently.

21A.3 Attribution of taxable income to Unitholder

- (a) Following the end of a Financial Year which is an AMIT Income Year, the Manager must attribute the Determined Trust Components of each particular category or character for tax purposes to Unitholders in accordance with the Tax Act.
- (b) The Manager may establish principles (“**Attribution Principles**”) to determine the manner in which Determined Trust Components are attributed to Unitholders.
- (c) If there are no Attribution Principles for an AMIT Income Year the Manager must attribute to each Unitholder in respect of an AMIT Income Year:
 - (i) if distributions have been paid to Unitholders in respect of the AMIT Income Year (whether of Distributable Amount or other distributions pursuant to clause 21.5(i)), so much of any Determined Trust Components of the Trust for the AMIT Income Year as the Manager reasonably determines based on the Unitholder’s proportionate share of the total distributions paid in respect of the AMIT Income Year; and
 - (ii) if no distributions have been paid to Unitholders in respect of the AMIT Income Year, so much of any Determined Trust Components of the Trust for the AMIT Income Year as the Manager reasonably determines based on the Unitholder’s proportionate share of the total units on issue as at the last day of the AMIT Income Year.

21A.4 Unitholder must notify, provide information and indemnify Manager in relation to objections

If a Unitholder or former Unitholder objects to the basis of the attribution of the Determined Member Components for the purposes of the AMIT Regime, including, without limitation, by making a Member Objection Choice, the Unitholder or former Unitholder must:

- (a) provide the Manager with a copy of the objection notice, including the basis for objection, within the time the member is required to do so under the Tax Act;

- (b) provide to the Manager any information the Manager reasonably requests in order to assess the Unitholder's objection or proposed objection; and
- (c) indemnify the Manager against all costs and liabilities incurred by the Manager as a result of the objection or proposed objection.

21A.5 Consequences if objection made

If a Unitholder or former Unitholder makes an objection to the basis of attributing the Determined Trust Components of the Trust under the AMIT Regime, including, without limitation, by making a Member Objection Choice the Manager may:

- (a) take such action as it considers necessary, appropriate or reasonable to provide for the rights and interests of other Unitholders to be protected, including in dealings with the Commissioner of Taxation; and
- (b) amend its attribution of the relevant Determined Trust Components to the Unitholders, having regard to the principles in clause 21A.3(a), 21A.3(b) and 21A.3(c) and issue amended AMMA Statements to Unitholders.

21A.6 Limitation of liability

The Manager has no liability in respect of any act, matter or thing done or omitted to be done by a Unitholder in relation to an objection to the basis of attribution of the Determined Trust Components of the Trust under the AMIT Regime, including, without limitation, by the Unitholder making a Member Objection Choice.

21A.7 Manager has a right to be indemnified for Tax payable

Without limiting clause 29, each Unitholder or former Unitholder is required to indemnify the Manager for:

- (a) any Tax payable by the Manager as a result of the application of the AMIT Regime which the Manager reasonably determines relates to the Unitholder or former Unitholder, to Units held by the Unitholder; and
- (b) any other costs, expenses or liabilities incurred by the Manager as a result of being liable to such Tax, and claiming on the indemnity provided by the Unitholder under this clause or under the AMIT Regime.

21A.8 Methods through which indemnity may be satisfied

The Manager may, if it is entitled to be indemnified by a Unitholder or former Unitholder under clause 21A.7, or under the AMIT Regime:

- (a) deduct (under clause 29.1(t)) from any amounts owing to the particular Unitholder, the aggregate of any amounts which the Manager is entitled to be indemnified under clause 21A.7, or under the AMIT Regime; and
- (b) redeem Units held by the Unitholder to satisfy any amounts owed to the Manager under clause 21A.7.

22. REMUNERATION OF MANAGER

22.1 Manager's Fees

The Manager is entitled to receive out of the Trust Fund and to retain for its own use and benefit, remuneration calculated at the following times and in the following manner:

- (a) not later than the Distribution Date the Manager's Remuneration for the Distribution Period or any part thereof such sum being payable in the first instance out of the income of the Trust Fund for the relevant period but after all other costs, charges and expenses (as set out in clause 21.3(b)) due, accrued or provided for in respect of such period with the residue of such sum (if any) being payable out of Trust Fund; and
- (b) the Manager's remuneration ('Manager's Remuneration') will be the aggregate of the amount computed at the last day of each Distribution Period being:

$$P \times \frac{D}{Y}$$

Where:

P is 2% of Total Tangible Assets on the date of calculation or such lesser amount as the Manager may on each applicable Valuation Date determine in writing that it is willing to accept;

D is the number of days in the Distribution Period; and

Y is the number of days in the then current calendar year.

22.2 Corporations Law

If the Corporations Law requires the Manager's Remuneration only to be available in respect of the proper performance of the Manager's duties, then, if it is finally and conclusively established that the Manager has not properly performed its duties in any respect, an appropriate pro-rata adjustment will be made to the Manager's Remuneration for the appropriate period.

22.3 Fees Accrue Daily

The remuneration of the Manager, if any, payable hereunder will be treated as accruing from day to day and will continue to accrue after termination of the Trust until completion of its winding up.

22.4 Expenses

The Manager, in addition to the remuneration payable to it under clause 22.1, is entitled to be indemnified and to pay or to be reimbursed out of the Trust Fund or, if applicable, to pay or reimburse any person or corporation which has incurred

such costs, charges, expenses or outgoings on behalf of the Manager out of the Trust Fund for all costs, charges, expenses and outgoings whatsoever (including without limiting the generality of the foregoing those associated with the use of computers) which they or any of them may incur or have incurred in connection with:

- (a) the convening and holding of any meeting of Unitholders; and
- (b) carrying out any directions or resolutions of any such meeting which does not involve any action which is normally carried out by the Manager under this deed,

and is entitled, without prejudice to any other provisions of this deed to pay out of the Trust Fund, or be reimbursed out of the Trust Fund on account of the following duties, taxes, disbursements, expenses and outgoings:

- (d) the Auditor's reasonable fees and expenses incurred in carrying out his duties under this deed in connection with the auditing of the accounts of the Trust;
- (e) the postage costs of sending out statements of account, distributions of cheques, circulars and other notices which are sent to Unitholders;
- (f) all income tax, stamp duties, financial institutions duties, bank account debit taxes and penalties, fines and interest and any other duty, tax or impost and any amount in reimbursement of any such duty, tax or impost properly charged to or payable by the Manager (whether by any taxing authority or any other person) in connection with the Trust Fund on any account whatsoever;
- (g) interest on borrowings and discounts and acceptance fees in respect of bill facilities;
- (h) expenses incurred in connection with:
 - (i) the establishment and maintenance of accounting systems by and the keeping of accounting records of the Manager including (without limitation) expenses incurred in calculating the Current Unit Value and the Current Value of the Fund;
 - (ii) the preparation and printing of the Accounts, distribution statements, financial reports, audit reports, reports, notices of meetings and other documents circulated amongst or sent out to Unitholders;
 - (iii) the establishment and maintenance of the Register; and
 - (iv) the preparation of tax, stamp duty, FID, land tax or similar returns in relation to the Trust;
- (i) all disbursements, expenses and outgoings incurred in establishing, modifying or varying the Trust including but without limiting the generality

of the foregoing legal, valuation, printing and marketing fees;

- (j) fees (on a full indemnity basis) payable to attorneys, barristers, solicitors, managers, consultants, agents, advisers, experts and other persons engaged by the Manager in relation to the Trust or its management or any functions to be performed by the Manager;
- (k) all duties, taxes, disbursements, expenses and outgoings which the Manager may incur in or about the acquisition, investment, realisation, valuation, collection and distribution of any money, property or Investments or proposed investments of the Trust received or held by it in respect of the Trust;
- (l) all expenses associated with the preparation and registration and publication of any Prospectus for the Trust;
- (m) all costs and expenses of establishing and maintaining official quotation of the Units on any Stock Exchange;
- (n) underwriting fees and professional and other expenses of any underwriter in respect of the issue of any Units and any other costs incurred in connection with the administration of the Trust;
- (o) all costs and expenses (including legal costs and expenses) in connection with:
 - (i) the preparation, registration, distribution and promotion (including advertising) of any Prospectus; and
 - (ii) the preparation, execution and stamping of this deed and of any deed amending this deed;
- (p) Cheque Dishonour Reimbursement;
- (q) all costs and expenses associated with the forfeiture of Units or the sale of forfeited Units under clause 6.6; and
- (r) all other costs, charges and expenses incurred in connection with the administration of the Trust.

These costs, charges, expenses and outgoings may only be met from the Trust Fund to the extent that they are reasonable in amount and were properly incurred by the Manager on behalf of or in respect of the Trust.

22.5 Managing Agent's and Other fees

In addition to the Manager's Remuneration the Manager is entitled to reasonable fees in respect of its services if it acts as property manager or managing agent in respect of any Land investment of the Trust, at the rates not exceeding those prescribed from time to time in respect of the provision of such services by property managers or managing agents, by the Real Estate Institute of Queensland or if that

Institute has ceased to exist, by such body as then serves substantially the same objects or the corresponding body in any other State or Territory in which the investment is situated and if the Institute or body has ceased to prescribe fees in respect of the provision of such services, at rates approved by the Manager not exceeding prevailing commercial rates chargeable from time to time by property managers and managing agents for the provision of similar services.

22.6 Power to Realise Investments to Pay Fees and Expenses

Notwithstanding anything else in this deed, the Manager has the power to sell or otherwise realise any Investments for the purposes of realising funds sufficient to pay the Manager, any sum to which it is entitled to be paid or reimbursed out of the Trust Fund to the extent that such sum exceeds the income for the time being of the Trust Fund which is available for payment or reimbursement or is not payable out of that income and the Manager may deduct and retain from the proceeds of sale or realisation such sum provided that prior to selling or realising an Investment pursuant to this clause the Manager must obtain a valuation of that Investment by an Approved Valuer no more than three months prior to the date of sale or realisation and may sell or realise the Investment only if the valuation supports the price proposed to be obtained or if the Manager otherwise reasonably believes that it is in the interest of the Unitholders to do so.

23. DELETED

24. ASX LISTING

24.1 Maintenance of Listing

If the Trust is Listed, the Manager will use its best endeavours to maintain the Trust's admission to the Official List and the official quotation of Units on ASX.

25. DELETED

26. COVENANTS BY THE MANAGER

The Manager covenants with the intent that the benefit of this covenant will enure to the Unitholders jointly and to each of them severally that :

- (a) the Manager will carry out and perform the duties and obligations on its part as Manager of the Trust and in particular will duly perform all engagements entered into by it with any Unitholder;
- (b) deleted
- (c) deleted
- (d) the Manager will prepare or cause to be prepared all distribution cheques and notices which are to be issued pursuant to this deed and stamp the same as required and sign (by autographical, mechanical or other means) such cheques for despatch on or before the day on which they ought to be despatched;

- (e) the Manager will supply information to the Auditor on all payments made from revenue of the Trust (both capital and income);
- (f) the Manager will act continuously as Manager under the trusts of this deed until the Trust is terminated or it has retired or is removed as Manager;
- (g) except as provided in this deed the Manager will not sell, mortgage, charge or part with possession of any of the Investments;
- (h) any officers of the Manager authorised by the Manager to perform its powers or functions under this deed will be required by the Manager to duly observe and perform the covenants and obligations of this deed in the same manner as is required of the Manager, and that the Manager will be liable for any loss or damage to the Trust Fund or the Unitholders which may have been incurred or sustained in connection with, or arising out of, any breach or default by such person in the observance or performance of such covenant or obligation;
- (i) the Manager will ensure that no Land is vested in the Manager or disposed of by the Manager or on its behalf until it has obtained the report of an Approved Valuer appointed and instructed in writing by it in accordance with clause 20; and
- (j) subject to clause 18, the Manager shall retain the Trust Fund in safe custody and shall hold it as trustee for the Unitholders entitled thereto upon the terms of this deed.

27. RETIREMENT OF MANAGER

27.1 Covenant to Retire

The Manager will retire from the management of the Trust if the holders of 75% of the Units in Issue in writing require the Manager to retire;

27.2 Retirement

Subject to the Corporations Law, the Manager may retire as Manager.

27.3 Removal

If the Trust is Listed, the Manager may be removed by Unitholders by way of an Ordinary Resolution passed at a meeting called for that purpose.

27.4 Appointment of Replacement

Subject to the Corporations Law, on the retirement or removal of the Manager under clauses 27.1, 27.2 or 27.3 the Manager may appoint in writing some other corporation qualified as required by any applicable law to be the Manager of the Trust.

27.5 Trust Fund Vests in New Manager

The Manager must on retirement or removal vest the Trust Fund or cause it to be vested in a new Manager appointed under clause 27.4 or the Corporations Law or any Custodian appointed pursuant to clause 18, and deliver to the new Manager all books, documents, records and other property whatsoever relating to the Trust Fund and all costs of and incidental thereto may be recouped from or borne by the Trust Fund. Removal, retirement or release of the Manager will not affect the rights or indemnities available to it under this deed or at law in relation to the performance and exercise by the Manager of its obligations and powers as Manager.

27.6 Release

On retirement, the retiring Manager is released from all further obligations in respect of the Trust and the new Manager may thereafter exercise all the powers and enjoy all the rights and is subject to all the duties and obligations of the Manager as fully as though the new Manager had been originally named as a party to this deed. Subject to the Corporations Law, no release of a retiring Manager will prejudice or affect any liability of the Manager to the Unitholders arising prior to the date of retirement of the Manager.

27.7 Deleted**27.8 Removal**

The Manager may not be removed as Manager except as provided by law or by this clause 27. Subject to any applicable law, in the case of removal of the Manager clauses 27.4 and 27.6 shall apply.

28. This clause has been intentionally deleted**29. MANAGER'S POWERS AND INDEMNITIES****29.1 Powers and Indemnities**

Subject to and without in any way limiting the covenants of the Manager and without prejudice to any indemnity allowed by law or elsewhere in this deed given to the Manager, it is hereby expressly declared as follows:

- (a) the Manager has the power to institute or bring legal proceedings to secure compliance with this deed and the Manager is indemnified out of the Trust Fund from and against any expense and liability that may be incurred in prosecuting or defending any action or suit in respect of this deed except where the action or suit arises out of default, negligence or breach of trust by the Manager;
- (b) the Manager is not responsible for any loss incurred as a result of any act of deceit, neglect, mistake or default of any Custodian or employees, attorneys, agents, sub-delegates or sub-agents of the Manager or any Custodian except to the extent that such loss is attributable to the Manager's own act of deceit, wilful neglect or default amounting in any such case to a breach of

trust on the part of the Manager having regard to the provisions of this deed conferring powers, authorities and discretions on the Manager, nor is the Manager responsible to check any information, documents, forms, or lists supplied to it by any Custodian or any employees, attorneys, agents, sub-delegates or sub-agents of the Manager or any Custodian whether or not an error in any such information, documents, forms or lists is reproduced by the Manager in any action taken by it provided that the Manager may rely on the information unless the Manager has reasonable grounds to believe that it is not genuine provided that the Manager will be liable for the acts or omissions of any Custodian in relation to Trust property as if the Custodian's acts and omissions were acts and omissions of the Manager;

- (c) the Manager will 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 of the Commonwealth of Australia or any State or Territory thereof or any ordinance, rule, regulation, policy, release, guideline or by-law made pursuant thereto or of any decree, order or judgment of any competent court the Manager is hindered, prevented or forbidden from doing or performing;
- (d) the Manager is not liable to account to any Unitholder or otherwise for any payments made by the Manager in good faith to any duly empowered fiscal authority of the Commonwealth of Australia or any State or Territory thereof for taxes or other charges on the Trust Fund or its income or with respect to any transaction under this deed notwithstanding that any such payment need not have been made;
- (e) the Manager may act on the opinion, advice or statement of or information obtained from a barrister, solicitor, banker, accountant, valuer or other independent expert or person instructed by the Manager independent of the Manager and may act on a statement of or information obtained by the Manager, from a banker, accountant, valuer or other independent expert instructed by the Manager, independent of the Manager and believed by the Manager in good faith to be competent in relation to the matters on which he or it is consulted, and the Manager will not be liable for anything done or suffered by it in good faith in reliance on such opinion, advice, statement or information;
- (f) deleted
- (g) deleted
- (h) the Manager will not be responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any banker, accountant, barrister, solicitor, valuer or other expert or other person except that the Manager will not be excused to the extent that any loss caused by such misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence is attributable to the Manager's own wilful neglect, deceit or default;

- (i) the Manager, as regards all the trusts, powers, authorities and discretions vested in it, but, subject to this deed, has discretion as to their exercise or whether or not to exercise them and whether in relation to the manner or as to the method of and time for exercise and unless attributable to the act of neglect, deceit or default of the Manager, the Manager is not in any way responsible for any loss, costs, damages or inconvenience that may result from the exercise or non-exercise thereof;
- (j) except as otherwise expressly provided in this deed the Manager, as regards all the trusts, powers, authorities and discretions vested in it, has absolute and uncontrolled discretion as to their exercise, whether or not to exercise them and whether in relation to the manner or as to the method of and time for exercise provided that nothing in this clause indemnifies, or may be treated as indemnifying, the Manager or exempting it from any liability for breach of trust where the Manager fails to show the degree of care and diligence required of a trustee having regard to the provisions of this deed or the general law conferring on the Manager any powers, authorities or discretions;
- (k) in this clause 29.1(k) all references to the Manager include any related body corporate or Affiliate of the Manager. Nothing in this deed prohibits the Manager or the holding company or any subsidiary of that holding company or any shareholder or stockholder of or in the Manager or a related body corporate of the Manager or the parent of the Manager or any directors or officers of the Manager, holding company, subsidiary, related body corporate or shareholder or stockholder (all of them in this clause where the context permits being included in the expression the 'Manager') from being a Unitholder or from acting in any representative capacity for a Unitholder and without limitation it is expressly declared:
 - (i) that the Manager may so act on its own account or as executor, administrator, trustee, receiver, attorney or agent or in any other fiduciary, vicarious or professional capacity and the acting in any such capacity will not be a breach of the obligations arising out of the fiduciary or other relationship between the Manager and the Unitholders established by this deed or otherwise imposed or implied by law;
 - (ii) that the Manager will not by reason of its fiduciary capacity arising under this deed or imposed or implied by law in any way be precluded from making any contracts or entering into any transactions with the Manager itself as Manager or from undertaking any insurance, assurance, banking, financial or agency services for the Manager or for itself as Manager and without limiting the generality of these provisions it is expressly declared that such contracts and transactions may include any contract or transaction in relation to insurance or assurance, leasing or otherwise dealing with any Trust property, the subscription or placing of or any other dealing with any stocks, shares, debenture stock, debentures, loan stock or other securities or notes or bills of exchange of the Manager

or of any other corporation in which the Manager is interested and the acceptance of any office of profit from or under the Manager or any contract of loan or deposit or other contract or transaction which any person or company not being the Manager could or might have entered into with the Manager or any such other corporation or with itself as Manager including provision for the customary share of brokerage and usual trustee company's or banker's profit. The Manager will not be accountable either to the Manager or any such other corporation or the Unitholders or any of them for any profits or benefits arising from any such contracts, transactions or offices if the Manager, in connection with any such transaction, acts in good faith to all Unitholders;

- (l) subject to this deed, the Manager has discretion to prescribe the time and manner for the purchase or Authorised Investments or the sale of Investments, including the right to request postponement of the purchase or sale for so long as in its discretion it thinks fit. The Manager may effect any sale or realisation over a period of time and in such lots or parcels as it considers advisable and to fix and vary reserve prices below which Investments may not be sold;
- (m) the Manager will not on account only of acting in that capacity be under any liability to any person by reason of not having realised any specific price or reserve in respect of any investment or property sold;
- (n) whenever the Manager sells or transfers any Investment, it is (subject to this deed) indemnified out of the Trust Fund against all costs, charges and expenses (including stamp duty) in connection therewith.
- (o) unless it has reasonable grounds to believe that the signature is not genuine, the Manager is entitled to rely on the validity of any signature on any transfer form or application or other instrument submitted to it and is not in any way liable to make good out of its own funds any loss incurred by any person in the event of such signature being forged or otherwise ineffective which loss (if any), subject to any right of reimbursement from any other person, must be borne by the Trust Fund;
- (p) the Manager may rely on the authenticity of documents or other instruments and will not in any way be liable to make good out of its own funds any loss incurred by any person if such documents or other instruments are not authentic unless the Manager has reasonable ground to believe that the documents or other instruments are not genuine;
- (q) except to the extent that any loss is attributable to the Manager's own act of deceit, neglect or default amounting in any such case to a breach of trust on the part of the Manager, the Manager will not in any event be liable to the Unitholders or any other person to any extent greater than the extent to which the liability can be satisfied out of property of the Trust out of which the Manager is actually indemnified for the liability;

- (r) the Manager is not bound to make any apportionment or keep separate accounts of the Investments and the Manager must hold the whole of the Trust Fund for the time being as one Trust Fund on the trusts of this deed;
- (s) if the Manager purchases any Authorised Investment in respect of which there is a liability of any kind whatsoever or in respect of which any such liability arises at any time, the Manager will have a right of indemnity out of the Trust Fund in respect of any such liability;
- (t) the Manager may at its discretion deduct from the income payable to each Unitholder or from the proceeds of any repurchase of Units payable to any Unitholder, as applicable, and retain as part of the Trust Fund any income tax, withholding tax or other tax or duty which is paid or payable by the Manager on account of or in respect of the Unitholder on the amount of income otherwise distributable to that Unitholder, such stamp, receipts or financial institutions duty as may have been paid or is payable in respect of moneys paid by that Unitholder for the purchase of Units in the Trust and may also deduct and retain any bank account debits tax which may have been paid or is payable in respect of any cheque payable to that Unitholder which is drawn on a bank account held in the name of the Trust. Sums retained as part of the Trust Fund pursuant to this clause may be applied in payment of the tax or duty to the person or authority entitled to it;
- (u) in no circumstances will the Manager be under an obligation to commence, institute, prosecute or defend any action or proceedings in respect of the Trust unless it is first satisfied that the Trust Fund is sufficient to adequately indemnify it against the costs, charges, expenses and liability it may incur in connection with such action or proceedings;
- (v) without limiting the generality of clause 14.1, it is hereby expressly declared that the Manager has the power:
 - (i) subject to clause 14.3, to borrow for the purposes of the Trust;
 - (ii) to mortgage or charge or part with possession of any investment comprising part of the Trust Fund for the purpose of securing such borrowing; and
 - (iii) to carry on business of any type whatsoever;
- (w) deleted
- (x) the Manager will not be liable to any Unitholder, a Unitholder's mortgagee or other person arising out of any failure by the Manager to comply with the provisions of this deed relating to a Unitholder's mortgagee's interests; and
- (y) the Manager is not obliged to enter into any agreement or transaction as Manager of the Trust unless it is satisfied that its personal liability in the absence of its own fraud, negligence or breach of trust, in respect of the agreement or transaction is excluded or limited to the extent to which the

liability can be satisfied out of property of the Trust from which the Manager is entitled to be and is in fact indemnified for the liability.

29.2 Breach of Trust

Nothing in this deed indemnifies or may be treated as indemnifying the Manager against or exempting it from any liability for breach of trust where the Manager fails to show the degree of care and diligence required of a trustee having regard to the provisions of this deed or the general law conferring on the Manager any powers, authorities or discretions.

29.3 Deleted

29.4 Limitation of Manager's Liability

Except in the case of and to the extent of its own fraud, negligence or breach of trust, in no event will the Manager be liable to Unitholders or any other person except to the extent to which the liability is able to be satisfied out of property of the Trust Fund from which the Manager is entitled to be and is in fact indemnified for the liability.

30. AUDITOR

30.1 Deleted

30.2 Retirement and Removal of Auditor

The Auditor may at any time and from time to time be removed by the Manager. The Auditor may also retire on the expiration of one month's notice to the Manager provided that such notice may not, without the written consent of the Manager, expire during the period commencing one month prior to the end of any Distribution Period and ending three months later.

30.3 Deleted

30.4 Auditor's Other Activities

The Auditor may be the auditor of the Manager, or of any other fund whether of a similar nature to the Trust or otherwise.

30.5 Auditor's Remuneration

The remuneration of the Auditor must be reasonable, and fixed by the Manager.

30.6 Corporations Law

This clause 30 applies subject to the Corporations Law.

31. BOOKS OF ACCOUNTS

31.1 Deleted

31.2 Manager to Keep Books of Account

The Manager must keep proper books of account in relation to the Trust and the Units and without limitation and to the extent not inconsistent with the foregoing will keep the books in accordance with applicable Australian Accounting Standards.

31.3 Inspection of Books

All books of account relating to the Trust Fund and the Units must be open to the inspection of the Auditor. The Auditor must be provided by the Manager with such information, accounts and explanations as may be necessary for the performance of its duties under this deed and, in particular, will be provided with a copy of all valuations of the Trust property.

31.4 Keeping Accounts

The Accounts may be kept in written, typed, electronic or similar form of storage.

32. ACCOUNTS AND AUDIT

32.1 Manager to Prepare Accounts

At the end of each Financial Year a statement of accounts (including a balance sheet and profit and loss statement) for that Financial Year must be prepared by the Manager and all such accounts must be open to inspection by Unitholders at the office of the Manager at all reasonable hours. The Manager will at the expense of the Trust cause an Auditor to audit the accounts of the Trust at the end of each Financial Year.

32.2 Deleted

32.3 Completion of Audit

The Auditor must be required to report:

- (a) deleted;
- (b) that the Auditor has conducted the audit;
- (c) whether or not the Auditor has obtained all the information and explanations which the Auditor has required;
- (d) whether or not in the opinion of the Auditor the annual accounts are properly drawn up in accordance with Australian Accounting Standards so as to disclose the true and fair state of affairs of the Trust;
- (e) on the results of the operation of the Trust for the relevant period; and

(f) as to such other matters as may be required by any applicable law.

33. DELETED

34. REGISTER OF UNITHOLDERS

34.1 Deleted

34.2 Notification of Change of Address

Any change of name or address on the part of any Unitholder must be notified to the Manager who must alter the Register accordingly.

34.3 Deleted

34.4 No Recognition of Trust

The Manager need not enter on the Register notice of any trust express, implied or constructive or, except as provided in clause 34.6, notice of any mortgage, encumbrance or lien in respect of any Unit.

34.5 Recognition of Ownership

Except as provided in clause 34.6, the Manager must recognise a Unitholder or his executors or administrators as the absolute owner of the Units in respect of which he is registered and all persons may act accordingly and the Manager is not, except as otherwise provided in this deed or except as ordered by a court of competent jurisdiction or as required by statute, bound to take notice of any trust or equity whether express, implied or constructive affecting the ownership of any Unit or the rights incidental thereto and the receipt of such Unitholder or his executors or administrators for any money payable in respect of the Units will be sufficient discharge to the Manager.

34.6 Registration of Mortgagee

- (a) A Unitholder may by notice in such form and terms as the Manager may from time to time prescribe, request the Manager to approve the registration of a mortgagee in respect of any Units.
- (b) If the Manager approves the registration of a mortgagee in respect of any Units the following shall be entered in the Register in respect of the relevant Units:
 - (i) the name of the Unitholder in respect of whose Units the mortgagee is to be registered;
 - (ii) the number of the Units to be registered as mortgaged;
 - (iii) the name and address of the mortgagee;
 - (iv) the date on which the mortgagee was entered in the Register as the mortgagee of the Units; and

- (v) the date on which the mortgagee ceased to be registered as the mortgagee of the Units.
- (c) Any change of name or address of any Unitholder or Mortgagee shall be notified to the Manager who shall alter the Register accordingly.
- (d) On receipt of a written request from a Mortgagee in such form as the Manager from time to time prescribes, the Manager shall remove from the Register the registration of that Mortgagee in relation to the Units referred to in the request.
- (e) The receipt of a Mortgagee, for any moneys payable in respect of the Units of which the Unitholder is registered shall be good discharge to the Manager. No entry in the Register relating to a Mortgagee shall put the Manager on notice of the terms of any mortgage of Units and neither shall it oblige the Manager to inquire into the terms of such a mortgage.

35. BRANCH REGISTERS

35.1 Establishment of Branch Registers

The Manager may at any time and from time to time establish and maintain a separate Register for any State or Territory of the Commonwealth of Australia or for any foreign country.

35.2 Designation of Branch Registers

Every such separate Register must be designated the Register for the capital city of the State or Territory or for the country in respect of which it is established.

35.3 Removal to Branch Register

The Manager may at the request of a Unitholder remove any Units and the names of the holders thereof and any Mortgagee from one Register to another. Such request must be in writing in the form prescribed by the Manager or in such other form as the Manager may approve and forwarded by the Unitholder to the Manager at the address of the Register on which he holds his Units and, where a Mortgagee is noted on the Register in respect of the Units, must be accompanied by the consent of the Mortgagee to the transfer.

36. TRANSFER OF UNITS

36.1 Form

All transfers of Units must be made by either way of a Market Transfer or be in writing in the form or to the effect of the form set out in the fifth schedule or if the Unit is quoted on the ASX in a form approved by the ASX and otherwise in such form as the Manager may from time to time approve and must comply with the requirements of the Corporations Law. Except in the case of a Market Transfer, if a Mortgagee is noted on the Register in respect of the Units the consent of the Mortgagee must accompany the transfer.

36.2 Manner of Transfer

- (a) Where a Unitholder seeks to transfer all or any of its Units by a Market Transfer, the Manager must comply with any obligations which are imposed on it by the Listing Rules or by the SCH Business Rules.
- (b) A transfer referred to in clause 36.1 other than a Market Transfer must be executed by the transferor and transferee and delivered to the Manager together with such evidence as the Manager may require to establish the title of the transferor to such Units or his right to transfer the same and the transferor will be treated as remaining the proprietor of the Units until the name of the transferee is entered in the Register in respect thereof or is treated as being so registered by this deed.

36.3 Manager's Power to Decline to Recognise or Register Transfers

- (a) Subject to clause 36.4, the Manager may decline to register any transfer of Units for any reason whatsoever and, without limitation of that power, may refuse to recognise any instrument of transfer unless the instrument of transfer is duly stamped and is accompanied by such evidence as the Manager may reasonably require to show the right of the transferor to make the transfer.
- (b) Where the Trust is Listed, the Manager may decline to register a transfer where to do so would not contravene the Listing Rules and must do so when required by law, by the Listing Rules or by the SCH Business Rules.
- (c) If the Trust is Listed and the Listing Rules so require, if the Manager declines to register a transfer it must notify the lodging party of the refusal and the reasons for the refusal within 5 Business Days of the day on which the transfer was delivered to the Manager.

36.4 Non-interference with Market Transfer

Notwithstanding any other provision of this deed, the Manager may not prevent, delay or interfere with, the registration of a Market Transfer where to do so would be contrary to any provision of the Listing Rules (if the Trust is Listed) or the SCH Business Rules.

36.5 SCH Authorisation

The Manager may do anything permitted by the Corporations Law and the Listing Rules it considers necessary or desirable in connection with the participation of the Trust in any computerised or electronic system established or recognised by the Corporations Law or the Listing Rules (if the Trust is Listed) for the purpose of facilitating dealings in Units.

36.6 Protection of Forfeiture Rights

If the Trust is Listed the Manager may take any action it is permitted to take under the Listing Rules or SCH Business Rules to enforce its powers in respect of clause

6.6, including the use of a holding lock under the SCH Business Rules or the initiation of a holding adjustment under SCH Business Rule 8.13.

37. TRANSMISSION OF UNITS

37.1 Recognition of Survivors and Executors

If a Unitholder dies, subject to the continuing provision of this deed in respect of any Mortgagee in respect of the Units, the survivor or survivors, where the deceased was a joint holder, and the executors or administrator of the deceased where he was a sole holder, will be the only persons recognised by the Manager as having any title to the Units registered in the name of the deceased.

37.2 Election on Death or Bankruptcy

Any person becoming entitled to any Units in consequence of the death or bankruptcy of a Unitholder may on such evidence being produced as may be required by the Manager, but subject to clauses 37.3 and 37.4, elect either to be registered himself as holder of those Units or to have some person nominated by him in writing registered as the transferee thereof.

37.3 Election to be Registered - Self or Nominee

If the person so becoming entitled elects to be registered himself he must give notice to the Manager in a form approved by the Manager signed by him stating that he so elects. If he elects to have his nominee registered he and the nominee must testify the election by delivering or sending to the Manager a transfer in favour of that nominee duly signed or executed by the person entitled. The provisions of this deed relating to the registration of transfers of Units apply to any such notice or transfer as if the death or bankruptcy of the Unitholder had not occurred and the notice or transfer were a transfer signed or executed by the Unitholder.

37.4 Discharge for Receipts

A person becoming entitled to Units in consequence of the death or bankruptcy of a Unitholder will be entitled to receive and may give a discharge for all moneys payable in respect of the Units but he will not be entitled to receive notices of or to attend or vote at any meetings of Unitholders until he has been registered as a Unitholder in respect of the Units.

38. MEETINGS OF UNITHOLDERS

38.1 Convening Meetings

- (a) The Manager may, at any time and for any purpose, convene a meeting of the Unitholders.
- (b) The Manager must convene a meeting of the Unitholders whenever required to do so by law.

- (c) The Manager must, within 21 days after a requisition is delivered to it, being a requisition by not less than 10 Unitholders or one-tenth in number of Unitholders, whichever is greater, convene a meeting of Unitholders for the purpose specified in the requisition. A requisition under this clause must state the objects of the meeting and the terms of any resolution proposed to be put to the meeting. A requisition may consist of several documents in like form each signed by one or more of the requisitionists. If the Manager fails within 21 days after having received a requisition to convene a meeting to be held within two months of the date of receipt of the requisition, the requisitionists or a majority of them in number of Units held, may convene the meeting but that meeting must be held within two months of the date on which the original requisition was received by the Manager.

38.2 Deleted

38.3 Period of Notice and General Requirements For Notices

- (a) Unless otherwise provided in clause 38.1, at least 10 business days' notice in writing specifying the place, day and hour of meeting, the object of the meeting, the general nature of the business to be transacted, and such further information as the Manager may think fit must be given to all Unitholders.
- (b) The accidental omission to give such notice to, or the non-receipt of a notice of meeting by, a Unitholder will not invalidate the meeting.
- (c) The Manager and any person on behalf of the Manager if a corporation and his or its solicitor and any director or secretary, officer, solicitor or auditor of the Manager and any counsel instructed by the solicitor of the Manager may attend any meeting of Unitholders and all such persons will have the right of audience.

38.4 Deleted

38.5 Chairman

The chairman of any other meeting of Unitholders must be:

- (a) the person appointed for that purpose by the Manager; or
- (b) where no appointment referred to in paragraph (a) is made or the person appointed is not present within 15 minutes after the time appointed for holding the meeting, a person appointed for that purpose by the meeting.

38.6 Voting Right

Subject to any provision of this deed and any applicable law, every Unitholder is entitled to attend and vote at any meeting of Unitholders and to appoint another person as his proxy to attend and vote at any such meeting.

38.7 Quorum

- (a) No business may be transacted at any meeting unless a quorum is present when the meeting proceeds to business. Subject to clause 38.7(c) and any applicable law, the quorum necessary for a meeting of Unitholders is at least five Unitholders or persons holding or representing by proxy or attorney at least 10% of the Units in Issue, except that, other than if the Trust is Listed, where there are fewer than 10 Unitholders the number of persons constituting a quorum will be two and if there is only one Unitholder the quorum will be one. If within fifteen minutes from the time appointed for any meeting a quorum is not present the meeting will:
 - (i) if called for the purpose of passing an Ordinary Resolution, stand adjourned to the same day in the next week at the same time and the same place or if that place is not available, such other place as the Manager determines; or
 - (ii) if called for the purpose of passing a Special Resolution, stand adjourned for such period not exceeding 21 days as the chairman directs.
- (b) The Manager must give notice to all Unitholders of an adjourned meeting in accordance with clause 38.3 and, if applicable, that a Special Resolution will be proposed at the adjourned meeting and that the requirements for a quorum are as set out in clause 38.7(c).
- (c) At an adjourned meeting the Unitholders present in person by attorney or by proxy (whatever their number and the number of Units they hold) will constitute a quorum and have power to pass Ordinary or Special Resolutions of which due notice was given.

38.8 Result of Resolution

Except as otherwise provided in this deed or required by any applicable law, every question submitted to a meeting of the Unitholders must be decided by a show of hands unless a poll is properly demanded.

38.9 Chairman's Casting Vote

In the case of an equality of votes the chairman of the meeting, both on the show of hands and on a poll has a casting vote in addition to the votes (if any) to which he may be entitled as a Unitholder or proxy or attorney for a Unitholder.

38.10 Voting Entitlement

On a show of hands each Unitholder who is present in person or by proxy or corporate representative, attorney or officer has one vote and on a poll each Unitholder who is present in person or by proxy has one vote for each fully paid Unit of which he is the holder and a fraction of a vote for each Partly Paid Unit equivalent to the proportion which the amount paid is of the total amounts paid and payable. Amounts paid in advance of a call are to be disregarded. The holder of a

Partly Paid Unit who has not paid a Contribution which is due and payable is not entitled to vote on a show of hands or on a poll.

38.11 Votes of Joint Unitholders

In the case of joint holders of a Unit only one may vote in respect of the relevant Unit and the votes of the senior who tenders a vote whether in person or by proxy will be accepted to the exclusion of the votes of the other joint holders and for this purpose seniority is determined by the order in which the names stand in the Register (the prior entry being the senior).

38.12 Votes of Bodies Corporate

A body corporate which is a Unitholder may vote by an attorney or by any officer or representative duly authorised by resolution of its board of directors or governing body who is entitled to speak, demand a poll, vote, act as proxy and in all other respects exercise the rights of a Unitholder and will be counted as a Unitholder for all purposes. A deed or certificate under the seal of a body corporate will be prima facie evidence of the appointment or revocation of the appointment of an attorney, officer or representative to vote for the body corporate.

38.13 Votes of Unitholders of Unsound Mind

A Unitholder of unsound mind or in respect of whom an order has been made by any court having jurisdiction in mental health, may vote whether on a show of hands or on a poll by his committee or *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 vote by proxy.

38.14 Objections To Qualification of Voter

No objection may 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 will be valid for all purposes. Any objection made in due time must be referred to the chairman of the meeting and his decision will be final and conclusive.

38.15 Right to Appoint Proxies

On a show of hands and on a poll votes may be given either personally or by proxy and a proxy will have the same right to vote, of audience and to be reckoned in a quorum as the appointing Unitholder.

38.16 Proxies

- (a) The instrument appointing a proxy must be in writing under the hand of the appointor or of his attorney duly authorised in writing or if the appointor is a body corporate either under its common seal or under the hand of an officer or attorney so authorised.
- (b) Except as precluded by any applicable law, a Unitholder entitled to attend

and vote at a meeting of Unitholders is entitled to appoint not more than two proxies.

- (c) Where more than one proxy is appointed, each proxy must be appointed to represent a specified proportion of the Unitholders' voting rights.

38.17 Unitholder as Proxy

Any person may act as a proxy whether or not he is a Unitholder.

38.18 Lodgment of Proxies

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 must be:

- (a) deposited with the Manager not less than two clear days (or any other period required by any applicable law) before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote; or
- (b) faxed to the Manager not less than two clear days (or any other period required by any applicable law) before the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote and 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 must be deposited with the Manager not later than the time appointed for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote,

and in default the instrument or proxy will not be treated as valid . No instrument appointing a proxy will be valid after the expiration of 12 months from the date named in it as the date of its execution.

38.19 Form of Proxy

An instrument appointing a proxy may be in the form that the Manager may from time to time approve.

38.20 Validity of Proxy Vote

A vote given in accordance with the terms of an instrument of proxy will 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 if no notice in writing of such death, insanity or revocation was received by the Manager or proxy before the commencement of the meeting or adjourned meeting at which the proxy is used.

38.21 Declaration of Result of the Meeting

At any meeting of the Unitholders, every question shall be decided in the first

instance by a show of hands and unless a poll is demanded or unless it is required by this deed or by law that the question be decided by a specified majority, 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 will be conclusive evidence of the fact.

38.22 Poll

A poll shall be taken if it is required by this deed or by law that a question be decided by a majority which is to be measured by a percentage of the votes of those present, or if demanded (either before or immediately after any question is put to a show of hands) by the chairman or the Manager or by any persons or Unitholders present personally or by proxy or corporate representative officer or attorney holding or representing by proxy between them at least 10% of the Units in Issue either before or immediately after any question is put to a show of hands. If at any meeting a poll is demanded it must be taken in such manner and either at once or (subject to clause 38.24) after an adjournment, as the chairman directs and the result of the poll will be treated as being the resolution of the meeting at which the poll was demanded. A demand for a poll may be withdrawn.

38.23 Adjournment

Subject to clause 38.7, the chairman may with the consent of any meeting of Unitholders adjourn the same from time to time and from place to place.

38.24 Taking of Poll

Any poll demanded at any meeting of Unitholders on the election of a chairman or any question of adjournment must be taken at the meeting without adjournment. The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

38.25 Resolutions Binding

A resolution passed at a meeting of the Unitholders duly convened and held in accordance with this deed is binding on all Unitholders whether present or not present at the meeting and each of the Unitholders is bound to give effect thereto accordingly.

38.26 Meeting's Power to Sanction Amendments

Without limiting the provisions of clause 42 or the rights and discretions conferred in this deed a meeting of Unitholders has the power by Special Resolution to sanction or assent to any alteration, addition, modification or cancellation proposed by the Manager of or to any of the covenants or provisions of this deed and to authorise the Manager to concur in and execute any deed making any such alteration, addition, modification or cancellation.

38.27 Minutes

Minutes of all resolutions passed and proceedings at every meeting of Unitholders must be made and duly entered by the Manager in a book to be provided for that purpose by the Manager and any such minutes if purporting to be signed by the chairman of the meeting at which the resolutions were passed or proceedings had or by the chairman of the next succeeding meeting (if any) of Unitholders will be conclusive evidence of the matters therein stated and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made, must be treated as having been duly held.

38.28 Short Notice

Unless a specified period of notice of a meeting is required by law, a meeting, notwithstanding that it is convened by notice shorter than is required by clause 38.3, will have been duly convened if it is so agreed:

- (a) in the case of a meeting convened in accordance with a requisition of Unitholders - by all the Unitholders entitled to attend and vote at the meeting; or
- (b) in the case of any other meeting - by a majority in number of the Unitholders having a right to attend and vote at the meeting, being a majority that is together entitled to not less than 75% of the Units in Issue.

38.29 Telephone and Electronic Links

- (a) For the purposes of this clause 38 a Unitholder will be regarded as being present at a meeting of Unitholders if the meeting is so conducted by telephone or other electronic means of conferring that the Unitholder is able to hear the proceedings of the entire meeting and to be heard himself by all others attending the meeting.
- (b) A meeting conducted in accordance with clause 38.29(a) will be treated as having been held at such place as is agreed upon by the Unitholders, provided that at least one of the Unitholders present at the meeting was at that place for the duration of that meeting.

38.30 Meeting By Notice

Except as required by any applicable law, in lieu of holding a meeting of Unitholders, the Manager may send to the Unitholders entitled to receive notice of a meeting or to vote, a notice which contains:

- (a) the resolutions to be considered and voted on by the Unitholders;
- (b) a summary of information relating to the resolutions which the Manager considers relevant to the decision as to how to vote on the resolutions;
- (c) provision for the Unitholder to indicate the way in which they cast their votes on the resolutions;

- (d) an address to return the notice to;
- (e) a date by which the notice is to be returned if the Unitholder's vote on the resolutions is to be counted.

If the number of Unitholders who return a notice would constitute a quorum of a meeting to pass the resolutions had a meeting been convened and those Unitholders attended and voted then a meeting is deemed to have been held with the Unitholders who returned the notices present and votes cast as set out in the returned notices received by the date set out in the notices. The resolutions will be deemed to have been passed if the resolutions would have been passed had a meeting been held and the votes cast as if on a poll as set out in the returned notices received by the date set out in the notices.

38.31 Corporations Law

This clause 38 applies subject to the Corporations Law.

39. UNITHOLDER'S REPRESENTATIVES

39.1 Appointment

A Unitholder may appoint an agent ('**Unitholder's Representative**') by submitting to the Manager at its registered office or such other place as is nominated by the Manager a notice of appointment of Unitholder's Representative in the form accepted from time to time by the Manager prior to the entering into of any transaction by the Unitholder's Representative under this deed on behalf of that Unitholder, and such form may include an acceptance by the Unitholder of any act, matter or thing being done by the Unitholder's Representative as being binding on the Unitholder in relation to the Manager and the Trust, whether or not such act matter or thing is within the scope of the Unitholder's Representative's authority.

39.2 Actions of a Representative

A Unitholder's Representative may perform on behalf of the Unitholder such matters under this deed as are approved by the Manager, including, without limitation, subscribing for, purchasing, requesting the Redemption of, transferring or otherwise dealing with Units in the Trust.

39.3 Revocation of Appointment

A Unitholder may revoke the appointment of a Unitholder's Representative by delivering to the Manager a notice of revocation of appointment of Unitholder's Representative in the form in which the Manager accepts from time to time.

39.4 Manager Not Bound To Acknowledge Representative

The Manager may in its absolute discretion refuse to acknowledge the appointment of a Unitholder's Representative or refuse to accept or give effect to the exercise of any direction or authority of the Unitholder's Representative and the Manager shall not be required to assign any reason or ground for such refusal.

39.5 Officers and Others

Any direction or authority which the Manager reasonably believes to have been given by any director, partner or authorised officer of the Unitholder's Representative is deemed to be a direction or authority validly given by the Unitholder's Representative.

39.6 Multiple Representation

Notwithstanding anything contained in this deed (other than clause 3), if a Unitholder's Representative acts as an agent for more than one Unitholder under this deed, the Manager may, after taking into account all transactions or dealings entered into by the Unitholder's Representative on that day on behalf of the Unitholders for which the Unitholder's Representative acts under this deed:

- (a) pay or cause to be paid to the Unitholder's Representative an amount equal to the net sum payable to those Unitholders;
- (b) accept or cause to be accepted from the Unitholder's Representative an amount equal to the net sum payable by those Unitholders; or
- (c) not pay or cause not to be paid to the Unitholder's Representative an amount if the amount to be paid to the Unitholder's Representative equals the amount to be accepted from the Unitholder's Representative,

and any such payment or acceptance or, in the case of clause 39.6(c), absence of payment or acceptance, constitutes a full and good discharge to the Manager for all obligations of the Manager to make payment of moneys otherwise payable under this deed to a Unitholder and to accept moneys otherwise receivable under this deed in respect of a Unitholder.

39.7 Confirmation of Transactions

Notwithstanding anything contained in this clause 39, the Manager shall send to each Unitholder, within two months after any transaction is entered into by a Unitholder's Representative on behalf of that Unitholder, details of the transaction.

A Confirmation Note or, if the Trust is Listed, some other notice or certificate given in accordance with the Listing Rules or the SCH Business Rules shall be sufficient evidence of details of a transaction in the case of any issue or sale of Units or change in that Unitholder's Unitholding.

39.8 Meetings

Notwithstanding anything contained in this clause 39, a Unitholder's Representative shall not be entitled to represent the Unitholder at any of the meetings where appointment of a proxy or representative is not permitted at law or by this deed, and the Unitholder's Representative shall have no right to speak, vote, demand a poll or otherwise act as proxy or agent at any such meeting.

40. NOTICES

40.1 Address for Notice

Any notice required or permitted to be given by or to a Unitholder will be properly given if it is in writing and either delivered to or sent by post addressed in the case of a Unitholder to its address appearing in the Register or in the case of the Manager, to its address specified in or changed in accordance with clause 40.3. In the case of joint holders of a Unit a notice given to the joint holder whose name stands first on the Register in respect of that Unit will be sufficient notice to the joint holders. Any notice given by prepaid post will be treated as having 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 Manager, that it was so posted and when it was posted, will be conclusive of that fact.

40.2 Method of Giving Notice

A notice, request, election, proposal or other communication required or permitted to be given by a Unitholder to the Manager under this deed must be in writing and signed by a duly authorised officer of the party giving the notice and is treated as being duly given if it is:

- (a) left at the address of the Manager;
- (b) sent by pre-paid mail to the address of the Manager; or
- (c) transmitted by facsimile to the facsimile number of the Manager.

40.3 Deemed Receipt

A notice given in accordance with clause 40.2 is treated as having been duly given and received:

- (a) when delivered (in the case of it being left at the address of the Manager);
- (b) on the third Business Day after posting (in the case of it being sent by pre-paid mail); and
- (c) on the Business Day of transmission (in the case of it being given by facsimile and sent to the facsimile receiver number of the Manager and no intimation having been received that notice has not been received, whether that intimation comes from the recipient or from the operation of facsimile machinery or otherwise).

40.4 Address of Manager for Notice

For the purposes of clauses 40.1, 40.2 and 40.3 the addresses of the Manager is its address set out below or another address of which the Manager may from time to time determine:

The Manager: Scentre Management Limited
Level 30
83-85 Castlereagh Street
SYDNEY NSW 2000
Facsimile: +61 2 9358 7241
Attention: Company Secretary

41. PAYMENTS

Any moneys payable by the Manager to a Unitholder or a Mortgagee under this deed may (without limiting any other methods of payment or satisfaction approved by the Manager) be paid into the bank account nominated by the Unitholder or Mortgagee or paid by crossed 'not negotiable' cheque made payable to the Unitholder or Mortgagee and sent through the post to the registered address of the Unitholder or Mortgagee or in the case of joint holders made payable to the joint holders of a Unit or bearer and sent to the registered address of that one of the joint holders who is first named on the Register in respect of that Unit. Payment of every such cheque if presented and paid or such deposit or other payment will be a satisfaction of the moneys payable and a good discharge to the Manager.

42. AMENDMENTS TO DEED

42.1 Manager may Amend

Subject to any approval required by law, the Manager may make any alteration, modification, addition or cancellation to this deed (including this clause) or any deed supplemental hereto.

42.2 Notice of Amendment

Within 1 month after any alteration, modification, addition or cancellation is made to this deed the Manager must notify all Unitholders of the same. Failure to give such notice does not invalidate the alteration, modification, addition or cancellation.

43. DOCUMENTS TO BE RETAINED BY THE MANAGER

Applications for Units and instruments of transfer and transmission must be retained by the Manager but after six years from the date of each of them they may, at the discretion of the Manager, be destroyed.

44. UNITHOLDER BOUND BY DEED

44.1 Unitholders and Persons Claiming Through Them

This deed binds each Unitholder and all persons claiming through a Unitholder as if each of them were a party to this deed.

45. DELETED

46. COPIES OF DEED

46.1 Inspection of Deed

A copy of this deed and any supplemental deeds must be made available at all times during usual business hours by the Manager for the inspection of Unitholders at its registered office and at such place within each other State, Territory or country as the Manager may from time to time determine and a copy of this deed and any supplemental deeds will be provided to Unitholders on request on payment of such reasonable sum as is determined by the Manager from time to time.

47. LIMITATION OF LIABILITY

47.1 Unitholders

Notwithstanding any other provision of this deed or provision treated as being included in this deed, no Unitholder will, by reason of holding a Unit or by reason of the relationship thereby created with the Manager, have any liability to make any contribution to the Trust Fund or be under any obligation personally to indemnify or make any payment whatsoever to the Manager or any of its creditors in the event of there being any deficiency of the assets of the Trust Fund as compared with the liabilities of the Manager in relation thereto. The only right, if any, of indemnity of the Manager or such creditor will be to have recourse to the Trust Fund.

48. APPLICABLE LAW

48.1 Law of Queensland

The rights, liabilities and obligations of the Manager and the Unitholders are governed by the law of Queensland and any proceedings to enforce those rights liabilities or obligations may be taken in the courts of that State and any court of appeal therefrom.

49. MANAGER'S RIGHT TO LIMIT FOREIGN OWNERSHIP

49.1 Interpretation

For the purposes of this clause, unless a contrary intention appears or the context otherwise requires:

- (a) **'Australian person'** means:
 - (i) an individual who is a resident of Australia (other than a trustee of a trust); or
 - (ii) an individual, wherever residing, who is an Australian citizen and the centre of whose economic interests is not located outside Australia; or
 - (iii) a corporation incorporated under the law of the Commonwealth of Australia or of any State or Territory of Australia other than a

corporation which is a foreign person as defined in section 5 of the FATA; or

- (iv) the trustee or trustees of a trust governed by the laws of Australia or any State or Territory of Australia created inter vivos or by will by any individual who, at the time of creation of the trust or at the time of death (as the case may be) was a person as described in clause 49.1(a)(i) or clause 49.1(a)(ii) or the trustee or trustees of a trust created by a corporation which is a corporation as described in clause 49.1(a)(iii), provided that, in any such case, the trustee or trustees of the trust or a majority of them are residents of Australia, or the trustee (which includes an executor or administrator) or trustees of an estate, if the deceased was an Australian person as defined in clause 49.1(a)(i) or (ii) at the time of his death,

who, in relation to any particular allotment, transfer or transmission which falls to be considered under this deed, is not an associate;

- (b) ‘**associate**’ means an associate (as defined in section 6 of the FATA, or who would be such an associate in the case of shares in a company, or as otherwise determined by the Manager) of a foreign person;
- (c) ‘**foreign person**’ means any person who is not an Australian person;
- (d) ‘**FATA**’ means the Foreign Acquisitions and Takeovers Act 1975 of the Commonwealth of Australia as at the date of execution of this deed;
- (e) ‘**prescribed allotment**’ means an allotment of Units to persons who are Unitholders immediately prior to the allotment or to Australian persons to whom any Unitholders may have renounced their rights to such allotment, where the allotment concerned is declared by the Manager to be a prescribed allotment for the purposes of this clause 49 and is made in accordance with offers to Unitholders in, or substantially, in proportion to their holding of Units in the Trust, without differentiation between Unitholders except to the extent that an allotment to particular Unitholders would be prohibited by law; and
- (f) ‘**prescribed Unit**’ means a Unit allotted pursuant to a prescribed allotment.

49.2 Ineligible Foreign Applicants

Notwithstanding anything to the contrary contained or implied elsewhere in this deed:

- (a) A foreign person shall not be eligible to be registered as a Unitholder with respect to any Units or, where a foreign person is already a Unitholder, any further Units, in the Trust (other than as a result of a prescribed allotment) if as a result of any such registration:
 - (i) that person (either alone or together with its associates) would hold interests in not less than 15% of the total number of Units in Issue in

the Trust;

- (ii) any two or more foreign persons either alone or together with their respective associates would hold interests in not less than 40% of the total number of Units in Issue in the Trust; or
- (iii) there would or may be in the Manager's opinion a contravention of any guidelines or instructions issued by or on behalf of the Government of the Commonwealth of Australia in respect of ownership of assets by persons not being Australian persons,

but the Manager may expressly waive this requirement either generally or in any particular case or in relation to any number of Units in the Trust on such terms and conditions (if any) as it deems fit from time to time; and

- (b) A foreign person (other than a person in respect of whom a waiver has been given as described in clause 49.2(a)) shall not (without the express consent of the Manager) be eligible to remain a Unitholder other than with respect to his prescribed Units if he (either alone or together with his associates) would hold interests in not less than 15% of the total number of Units in Issue in the Trust.

49.3 Manager May Decline To Issue or Register

Without limiting the generality of clauses 10.2, 10.5 and 36.3 and any other power which the Manager has under this deed or at law, the Manager may decline to allot or to register any issue, transfer or transmission of a Unit if in the Manager's opinion, the allotment or registration thereof would or might result in or have the effect of causing an infringement or contravention of the matters described in clause 49.2(a) or clause 49.2(b) or if any such allotment is prohibited in any enactment or regulation or directive whether generally or in specific circumstances.

49.4 Manager May Order Disposal

If the Manager is satisfied that:

- (a) a person not eligible to become a Unitholder (other than as a result of a prescribed allotment) has become a Unitholder with respect to Units other than his prescribed Units;
- (b) any Unitholder has ceased to be eligible to remain a Unitholder other than with respect to his prescribed Units; or
- (c) a person has become a Unitholder in circumstances where such acquisition may in the opinion of the Manager result, when regard is had to the relevant interests of his associates, in a breach of or in any action being taken by the Treasurer under the FATA or any Act of Parliament amending, modifying or re-enacting the same, or dealing with the same or similar subject matter,

the Manager may by notice in writing to such Unitholder, require him to dispose of all or such part of the Units as shall be specified in the notice, with respect to which

he is registered as a Unitholder (other than his prescribed Units) within the time specified in the notice provided that in the absence of any such requirement by the Manager, the Unitholder concerned shall not be entitled in any way to set aside or cancel the transaction whereby the Unitholder became the holder of the Units concerned, nor to claim any refund or to otherwise recover any money paid in respect thereof.

49.5 Sale or Redemption

If the requirements of any such notice are not complied with by such Unitholder within the time specified and if the Unitholder is still not eligible to be a Unitholder (except with respect to his prescribed Units) the Manager may:

- (a) cause the number of Units held by such Unitholder which are specified in such notice (excluding his prescribed Units) or any lesser number thereof, to be sold or redeemed in such manner as the Manager may determine;
- (b) if the Units to be sold or redeemed are registered on a Branch Register, cause such Units to be transmitted to the principal Register of the relevant Trust without any request or consent of such Unitholder; and
- (c) appoint a person to execute on behalf of such Unitholder the transfer of such Units and to receive and give good discharge of the purchase money therefor.

The purchase money or Redemption Value less the expenses of sale or the repurchase price shall be paid to the Unitholder whose Units were sold or redeemed.

49.6 Statement Supporting Unitholding Eligibility

Any person seeking to become a Unitholder, whether by allotment, transfer, transmission or otherwise, shall if required by the Manager, deliver to the Manager a written statement on oath or otherwise verified as the Manager may require, made by such person or, where the person is a corporation, made by a competent officer thereof, stating whether the person is an Australian person and such further facts as the Manager may require to satisfy itself of his eligibility to become a Unitholder.

49.7 Notice To Furnish Information

The Manager, before or at any time after allotting any Units, or approving or rejecting any transfer or transmission of Units, or any other time and from time to time, may, by notice in writing to the applicant, allottee, transferee, transmittee or Unitholder, require him to furnish to the Manager such information or evidence as is therein specified and as the Manager may consider likely to assist it in determining whether or not such person is eligible to become or to remain a Unitholder.

49.8 No Liability of Manager

The Manager is not rendered liable or responsible by reason of any ineligible

person becoming or remaining a Unitholder or failing to become or ceasing to remain a Unitholder.

49.9 Interest in Units

For the purposes of this clause a person has an interest in a Unit in the same circumstances as he has or would have an interest in a share pursuant to section 11 of the FATA.

49.10 Application of Clause

Clause 49 is of no force or effect for so long as the Trust is Listed.

50. DELETED

51 COMPLAINTS

If and for so long as the Corporations Law or Commission policy requires, a Unitholder submits to the Manager a complaint alleging that the Unitholder has been adversely affected by the Manager's conduct in its management or administration of the Trust, the Manager:

- (a) must, if the complaint is in writing, acknowledge in writing receipt of the complaint as soon as practicable and in any event within 14 days from receipt;
- (b) must ensure that the complaint receives proper consideration resulting in a determination by a person or body designated by the Manager as appropriate to handle complaints;
- (c) must act in good faith to deal with the complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties;
- (d) may in its discretion give any of the following remedies to the complainant:
 - (i) information and explanation regarding the circumstances giving rise to the complaint;
 - (ii) an apology; or
 - (iii) compensation for loss incurred by the Unitholder as a direct result of the breach (if any); and
- (e) must communicate to the complainant as soon as practicable and in any event not more than 45 days after receipt by the Manager of the complaint:
 - (i) the determination in relation to the complaint;
 - (ii) the remedies (if any) available to the Unitholder; and
 - (iii) information regarding any further avenue for complaint.

FIRST SCHEDULE (clause 7.3)**INITIAL UNITHOLDERS**

Name of Unitholder	Number of Initial Units and Amount Paid
SUNCORP General Insurance Limited ACN 075 695 966	100 Units paid to \$1.00 each

SECOND SCHEDULE

DELETED

THIRD SCHEDULE

DELETED

FOURTH SCHEDULE

DELETED

FIFTH SCHEDULE (clause 36.1)

FORM OF TRANSFER

CARINDALE PROPERTY TRUST

TRANSFER

_____ of Carindale being the registered holder of _____ Units in the Carindale Property Trust (**“Transfer Units”**) on the _____ register in consideration of the sum of \$ _____ hereby agreed to be paid to me by (‘transferee’) _____ of _____ hereby transfer the Transfer Units to the transferee and the transferee does hereby agree to accept the same upon and subject to the terms and conditions of the Trust Deed dated _____, 19 (as amended from time to time) as applicable to the Carindale Property Trust and agree to be bound thereby.

MANAGER: Scentre Management Limited ACN 001 670 579, a company duly incorporated in the State of New South Wales.

DATED this _____ day of _____ 199 .

..... Transferor

..... Transferee

NOTE if a mortgagee is noted on the Register in respect of the relevant Units the consent by that mortgagee to the transfer must be lodged with the Manager by the transferor together with this transfer.

SIXTH SCHEDULE (clause 38.19)

DELETED

SEVENTH SCHEDULE (clause 2.1)**DEFINITIONS**

- ITEM 1: Distribution Period:
- 6 months ending 31 December
 - 6 months ending 30 June
- ITEM 2: 1,000,000,000 Units
- ITEM 3: \$2.80 per Unit

EIGHTH SCHEDULE

DELETED

NINTH SCHEDULE

DELETED

SIGNED as a deed.

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

Secretary

Director

Name of secretary (print)

Name of director (print)