

ASX Announcement

11 April 2011

Brookfield Australian Opportunities Fund (ASX: BAO) Supplemental Deed

Please see attached Supplemental Deed regarding amendments to the Complaints provision of the constitution of BAO, to be consistent with the new ASIC Regulatory Guide 165 (“Licensing: Internal and external dispute resolution”) and best practice. A Conformed Constitution is also attached for ease of reference.

~ * ~ * ~

For more information please contact:

Brookfield Customer Service

Ph: 1800 570 000

Email: clientenquiries@au.brookfield.com

MALLESONS STEPHEN JAQUES

Supplemental Deed - Brookfield Australian Opportunities Fund

Dated 11 April 2011

Brookfield Capital Management Limited (ACN 094 936 866)

Mallesons Stephen Jaques
Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.mallesons.com

Supplemental Deed - Brookfield Australian Opportunities Fund

Contents

Details	2
General terms	4
<hr/>	
1 Amendments to the Constitution	4
<hr/>	
2 No redeclaration etc	4
<hr/>	
3 Effective time	4
<hr/>	
4 Governing law	4
<hr/>	
5 Interpretation	5
5.1 Terms defined in Constitution	5
5.2 Definitions	5
5.3 Deed supplemental to Constitution	5
5.4 Headings	5
Annexure 1 (clause 1)	6
Signing page	8

Supplemental Deed - Brookfield Australian Opportunities Fund

Details

Party	Responsible Entity as described below.	
Responsible Entity	Name	Brookfield Capital Management Limited
	ACN	094 936 866
	Address	Level 22
		135 King Street
		SYDNEY NSW 2000
	Fax	+61 2 9322 2001
	Telephone	+61 2 9322 2000
Attention	Company Secretary	
Recitals	A	The Trust is governed by the Constitution. The Trust is a registered as a managed investment scheme under Chapter 5C of the Corporations Act.
	B	Under clause 21 of the Constitution, the Responsible Entity may, by deed, amend the Constitution in accordance with section 601GC of the Corporations Act.
	C	Section 601GC(1) of the Corporations Act provides that the constitution of a registered scheme may be modified, or repealed and replaced with a new constitution: <ul style="list-style-type: none"> (a) by special resolution of the members of the scheme; or (b) by the responsible entity if it reasonably considers the change will not adversely affect members' rights.
	D	The Responsible Entity wishes to amend the Constitution as set out in this deed.
	E	The Responsible Entity reasonably considers that the amendments to the Constitution contained in this deed will not adversely affect the rights of members of the Trust.

Governing law Western Australia

Date of supplemental deed See signing page

Supplemental Deed - Brookfield Australian Opportunities Fund

General terms

1 Amendments to the Constitution

The Constitution is amended by:

- (a) replacing each reference in the Constitution to “Brookfield Multiplex Capital Management Limited” with “Brookfield Capital Management Limited”;
- (b) in clause 24:
 - (i) inserting the text that is underlined; and
 - (ii) deleting the text that is shown as deleted,in the copy of clause 24 set out as Annexure 1 of this deed; and
- (c) in clause 1.1, inserting the following definition:

“**Complaint** means an expression of dissatisfaction made to the Responsible Entity, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.”

2 No redeclaration etc

The Responsible Entity declares that it is not, by this deed:

- (a) redeclaring the Trust or declaring any trust;
- (b) resettling the Trust; or
- (c) causing the transfer, vesting or accruing of property in any person.

3 Effective Time

The amendments made by this deed take effect from the date a copy is lodged with the Australian Securities and Investments Commission pursuant to section 601GC(2) of the Corporations Act.

4 Governing law

This deed is governed by the laws in force in the place specified in the Details. Each person affected by it must submit to the non-exclusive jurisdiction of the courts of that place and the courts of appeal from them.

5 Interpretation

5.1 Terms defined in Constitution

The terms used in this deed have the same meaning as in the Constitution unless the contrary intention appears.

5.2 Definitions

These meanings apply unless the contrary intention appears:

Constitution means the trust deed dated 4th April 2003, as amended, under which the Trust was constituted.

Corporations Act means the Corporations Act 2001 (Cwlth).

Details means the section of this deed entitled "Details".

Trust means the Brookfield Australian Opportunities Fund (ARSN 104 341 988).

5.3 Deed supplemental to Constitution

This deed is supplemental to the Constitution.

5.4 Headings

Headings are inserted for convenience only and do not affect the interpretation of this deed.

EXECUTED as a deed

Annexure 1 (clause 1)

24 Complaints [s.601GA(1)(c)]

24.1 Complaints handling

The Responsible Entity must establish and maintain a procedure for dealing with eComplaints by Holders in relation to a Trust which is consistent with ~~AS4269-AS10002 - 2006~~ Australian Standard on Complaints Handling or such other standard which satisfy's the requirements (if any) of the Corporations Act or the Commission from time to time.

24.2 Holder Complaints

- (a) A Holder may by notice ~~in writing to the Responsible Entity (or by such other method as the Responsible Entity may approve)~~ lodge a eComplaint in relation to the Trust.
- (b) The Responsible Entity must:
 - (i) record the eComplaint and the date it was received in a register maintained for that purpose; and
 - (ii) send the Holder an acknowledgment of receipt of the eComplaint as soon as possible and in any event within 14 days from receipt.

24.3 Handling of Complaints

- (a) The Responsible Entity must use reasonable endeavours to deal with a eComplaint by a hHolder under clause 24.2 in accordance with this clause 24, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) Subject to clause 24.3(c), the ~~The~~ Responsible Entity must use reasonable endeavours to deal with and resolve the eComplaint within a reasonable time from the date of receipt of the eComplaint.
- (c) The Responsible Entity must, as soon as practicable and in any event not more than 45 days after receipt of the Complaint, inform the Holder by notice in writing of:
 - (i) its decision in relation to the eComplaint;
 - (ii) the remedies available to the Holder in relation to the eComplaint; ~~and~~
 - (iii) any avenues of appeal that may be available to the Holder if the Holder is dissatisfied with the decision.

- (d) The Responsible Entity 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.
- (e) The Responsible Entity 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.
- (f) The Responsible Entity may in its discretion give any of the following remedies to the Holder:
 - (i) information and explanation regarding the circumstances giving rise to the Complaint;
 - (ii) an apology; or
 - (iii) compensation for loss incurred by the Holder as a direct result of the breach (if any).

24.4 Assistance and Information

- (a) The Responsible Entity must provide a Holder with all reasonable assistance and information that the Holder may require for the purpose of making a eComplaint and understanding the complaints handling procedures adopted by the Responsible Entity.
- (b) A Holder lodging a eComplaint in relation to a Trust must provide the Responsible Entity with all information the Responsible Entity may reasonably require in order to properly deal with and resolve the eComplaint.

Supplemental Deed - Brookfield Australian Opportunities Fund

Signing page

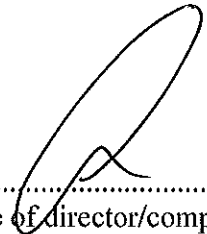
DATED: _____

EXECUTED by BROOKFIELD)
CAPITAL MANAGEMENT)
LIMITED in accordance with section)
127(1) of the Corporations Act 2001)
(Cwlth) by authority of its directors:)


.....)
Signature of director)

Russell Todd Proutt)

.....)
Name of director (block letters))


.....)
Signature of director/company)
secretary*)

*delete whichever is not applicable)
NEIL OLOFSSON)

COMPANY SECRETARY)

.....)
Name of director/company secretary*)
(block letters))

*delete whichever is not applicable)

Consolidated constitution for the Brookfield Australian Opportunities Fund

Consolidated constitution prepared on 11 April 2011
Brookfield Capital Management Limited ACN 094 936 866

This document is a consolidated copy of the Constitution dated 4 April 2003 for Brookfield Australian Opportunities Fund (ARSN 104 341 988) (“Trust”) (“**Original Constitution**”) as amended by the Supplemental Deed dated 19 May 2003, the Second Supplemental Deed dated 22 April 2004, the Supplemental Deed Poll dated 21 February 2007, the Supplemental Deed Poll dated 2 September 2010 and the Supplemental Deed dated 11 April 2011.

This is not a legally binding document. Reference should be made to the Original Constitution and each amending deed for the operative provisions. Section headings, indices and the provisions in square brackets do not form part of the text.

Mallesons Stephen Jaques

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.mallesons.com

Brookfield Australian Opportunities Fund

Contents

1	Definitions and Interpretation	5
1.1	Definitions	5
1.2	Interpretation	17
1.3	Market Price and DRP Market Price	18
1.4	General compliance provision	19
1.5	Inconsistency with the Listing Rules	19
1.6	Additional Listing Rule requirements	20
2	The Trust	21
2.1	Trustee of Trust	21
2.2	Declaration of trust	21
2.3	Name of Trust	21
3	Interest of Unitholder	21
3.1	Division into Units	21
3.2	Consolidation and division of Units	22
3.3	Issue of Partly Paid Units	22
3.4	Joint Holders	23
3.5	Classes of Units and Terms of Issue	23
3.6	Benefits and obligations of Unitholders and Optionholders	23
3.7	No further liability	24
3.8	Failure to pay instalment on Partly Paid Unit	24
3.9	Sale of Forfeited Unit	25
3.10	Income and Capital of a Forfeited Unit Distribution of income and capital under clause 12:	25
3.11	Notice of sale of Forfeited Unit	25
3.12	Cancellation of Forfeiture	26
3.13	Consequences of sale and continuing liability	26
3.14	Proceeds of sale of Forfeited Unit	27
3.15	Lien for Amounts Owing	27
4	Issue of Units and of Options	27
4.1	Number of Units issued	27
4.2	Application for Units or for Options	28
4.3	Payments to the Responsible Entity	28
4.4	Allotment of Units or grant of Options	29
4.5	Responsible Entity's discretion on Application	29
4.6	Certificates	29
4.7	Foreign Holders	30
5	Power to issue Units and to grant Options	31
5.1	Powers Cumulative	31
5.2	Underwriting of Issue	31
5.3	Grant of Options	32
5.4	Issue of Units under Options	32
5.5	Initial issue of Units at price of \$1	32
5.6	Issue of Units at Issue Price which is Market Price or Current Unit Value or DRP Market Price	32
5.7	Issue of Units at Issue Price determined by Responsible Entity - placements of Units without Unitholder approval	33

5.8	Issue of Units at Issue Price determined by Responsible Entity - placements of Units with Unitholder approval	33
5.9	Issue of Units at Issue Price determined by Responsible Entity - rights issues of Units	34
5.9A	Issue of Units at Issue Price determined by Responsible Entity rights issues of Units	35
5.10	Issue of Units at Issue Price determined by Responsible Entity - distribution reinvestment	36
5.11	Issue of Units at Issue Price determined by Responsible Entity - issue of Units at an individually negotiated price	36
5.12	Issue of Units at Issue Price determined by Responsible Entity — rights issue of Units at price totalling no more than \$5,000	37
5.13	Grant of Options and subsequent Issue of Units at Issue Price determined by Responsible Entity - rights issues of Options	38
5.14	Placements of Units at Market Price	38
5.15	Income Units - issue of Units on Conversion	39
5.16	Issue price for Units under the 2010 Entitlement Offer	39
6	Options	39
6.1	Terms and Subscription	39
6.2	Nominees	40
6.3	Exercise	40
6.4	Optionholder's Rights and Interest	40
6.5	Redemption or Repurchase	40
7	Responsible Entity's Powers	41
7.1	General powers of Responsible Entity [s.601GA(1)(b)]	41
7.2	Delegation by Responsible Entity	41
8	Responsible Entity's responsibilities and liabilities	41
8.1	No limitation of other undertakings	41
8.2	Limitation of liability of Responsible Entity	41
8.3	Circumstances where Responsible Entity is not liable	42
8.4	Responsible Entity may rely on advice	42
8.5	Interested dealings by Responsible Entity	42
9	Investment of the Fund	43
9.1	Investment policy	43
9.2	Investments	43
9.3	Transactions costs associated with investing	44
10	Limitation on borrowings of the Trust	44
11	Valuation	44
11.1	Valuation of assets	44
11.2	Currency Conversion	45
11.3	Determining Current Unit Value for purposes of clause 5.6(b) or clause 17	45
11.4	Valuation of Application Monies	45
12	Income and Distributions	45
12.1	Determination of income and reserves	45
12.2	Distribution of Distribution Entitlement	46

12.3	Calculation of Distribution Entitlement	46
12.4	Retentions or deductions from Distribution Entitlement	47
12.5	Composition of Distribution Entitlements	48
12.6	Distribution Reinvestment Arrangements	48
12.7	Discharge of Responsible Entity's obligation	48
12.8	Change in taxation of Trust	48
13	Responsible Entity's indemnity for costs, liabilities and expenses	48
13.1	Responsible Entity's Indemnity [s.601GA(2)]	48
13.2	Proper performance of duties [s.601GA(2)]	49
14	Compliance Committee Member Indemnity and insurance	49
14.1	Persons to whom clauses 14.2 and 14.4 apply	49
14.2	Indemnity in favour of member of Compliance Committee	49
14.3	Extent of indemnity	49
14.4	Insurance	50
14.5	Savings	50
15	Register and Transfers	50
15.1	Recognition of Holder	50
15.2	Transfer - general	50
15.3	Transaction advice after transfer	51
15.4	No General Restriction on Transfer whilst Trust admitted to Official List	51
15.5	Restricted Securities	51
15.6	Death, legal disability	52
15.7	Participation in Transfer Systems	52
16	Unmarketable parcels	52
16.1	Application of clause	52
16.2	Definitions	52
16.3	Unitholder's Units less than Marketable Parcel	52
16.4	Responsible Entity may sell Units	53
16.5	Procedures for sale	53
16.6	Validity of sale	53
16.7	Costs of sale	53
16.8	Consideration	53
16.9	Instrument of transfer	54
16.10	Title of transferee	54
16.11	Proceeds of sale	54
16.12	Certificate is evidence	54
16.13	Duration of clause	54
16.14	Effect of clause following announcement of takeover	55
16.15	Frequency of invoking clause	55
16.16	Evidence of adoption or re-adoption	55
17	Buy back of Units [Part 5C.6]	55
17.1	Unitholders' rights to withdraw from Trust (s.601GA(4); s.601KA)	55
17.2	Buy Back Offer Record Date and Offer Date	55
17.3	Responsible Entity may make buy back offer to all Unitholders	55
17.4	Request by Unitholder for buy back of Units	56
17.5	Buy back of Units	56
17.6	Deductions from amounts payable to Unitholder	57

18	Remuneration of Responsible Entity	58
18.1	Management fee [s.601 GA(2)]	58
18.2	Performance Fee [s.601GA(2)]	58
18.3	Waiver of remuneration	60
18.4	Priority of Responsible Entity's remuneration	60
18.5	Proper performance of duties [s.601GA(2)]	60
19	Goods and Services Tax	60
19.1	Definition and interpretation	60
19.2	Adjustment for GST	60
19.3	Tax invoice	60
19.4	Reimbursements	60
20	Retirement or Removal of Responsible Entity	61
20.1	Retirement of Responsible Entity	61
20.2	Name of Trust to be changed	61
21	Alterations to Trust Deed	61
22	Duration of Trust and termination of Trust	61
22.1	Duration of Trust	61
22.2	Perpetuity period and restriction on issue and buy back of Units	61
22.3	Procedure on suspension or removal from Official List	62
22.4	Procedure on winding up of Trust [s.601GA(1)(d)]	62
22.5	Audit of accounts of Trust [PS134.24(b)]	63
23	Meetings	63
23.1	Meetings	63
23.2	Resolution by Postal Ballot	63
23.3	Passing of resolution	64
24	Complaints [s.601GA(1)(c)]	64
24.1	Complaints handling	64
24.2	Holder Complaints	64
24.3	Handling of Complaints	64
24.4	Assistance and Information	65
25	General	65
25.1	Service of notices	65
25.2	Method of payment or repayment by Responsible Entity to Holders	66
25.3	Binding conditions	67
25.4	Governing law and jurisdiction	67
25.5	Severability	67
	Schedule 1 - Meetings of Holders	68
	Schedule 2 - Market Value	71
	Schedule 3 - Costs and expenses	75

1 Definitions and Interpretation

1.1 Definitions

- (a) In this deed, unless the context otherwise requires:

Application means any of the following, as the context requires:

- (1) an application for Units;
- (2) an application for Options; or
- (3) a notification of the exercise of Options;

Application Moneys means the property required to be transferred by an applicant to the Responsible Entity on the making of an Application, which property may be in the form of:

- (1) Cash;
- (2) property other than Cash;

ASIC means Australian Securities and Investments Commission or any regulatory body that replaces it or performs its functions.

Associate has the meaning given to that term in the Corporations Act;

ASTC Settlement Rules means the settlement rules of ASX Settlement and Transfer Corporation Pty Ltd ABN 49 008 504 532;

[Definition inserted by Second Supplemental Deed dated 22 April 2004]

ASX means Australian Stock Exchange Limited and any successor to the stock exchange operated by it;

ASX Market Rules means the market rules of Australian Stock Exchange Ltd ABN 98 008 624 691;

[Definition inserted by Second Supplemental Deed dated 22 April 2004]

Auditor means the auditor from time to time appointed by the Responsible Entity to audit the financial reports of the Trust;

Australian ADI means:

- (1) an ADI (authorised deposit-taking institution) within the meaning given to that term in the Banking Act 1959 (Cth); and
- (2) a person who carries on State banking within the meaning of paragraph 51(xiii) of the Commonwealth Constitution;

Authorised Investment means any of the following investments provided that they are sited in the Commonwealth of Australia:

- (1) any interest in real estate;
- (2) any licence to occupy real estate;

- (3) a fitting or fittings installed or present on real estate;
- (4) Securities in, or of, an entity where the Responsible Entity is satisfied that:
 - (a) the majority of the assets held by the entity is real estate; or
 - (b) the principal activity or activities of the entity are the ownership or development of real estate or the carrying out of construction on real estate; and
 - (c) where the Security is an Interest in a Managed Investment Scheme the scheme is registered by the Commission under Part 5C.1 of the Corporations Act.
- (5) Interests in a Managed Investment Scheme in respect of which all of the following are satisfied:
 - (a) the scheme is registered by the Commission under Part 5C.1 of the Corporations Act; and
 - (b) the majority of the assets held by the scheme are Interests in a Managed Investment Scheme or Schemes (the "Underlying Schemes") and the Responsible Entity is satisfied that:
 - (1) the majority of the assets held by each of the Underlying Schemes is real estate; or
 - (2) the principal activity or activities of each of the Underlying Scheme is the ownership or development of real estate or the carrying out of construction on real estate;
- (6) Cash, money on deposit with an Australian ADI, a Cash Management Trust Interest;
- (7) bills of exchange and promissory notes, whether purchased or discounted, which have been either drawn, issued, endorsed or accepted by:
 - (a) an ADI; or
 - (b) a public statutory body constituted under a law of the Commonwealth of Australia or any State or Territory of Australia; or
 - (c) a company which is currently included in the Official List and which has paid up share capital in excess of twenty million dollars (\$20,000,000);
- (8) certificates of deposit (whether negotiable or otherwise) issued by an ADI or a company which is currently included in the Official List and which has paid up share capital in excess of twenty million dollars (\$20,000,000);

- (9) Debentures, stocks, or bonds issued by a governmental or public authority of the Commonwealth of Australia or any State or Territory of Australia;
- (10) the lending of money on security (whether that security is by way of mortgage, charge, transfer, assignment or otherwise, and whether ranking first or otherwise, and whether taken severally or otherwise) of any property of the type described in paragraph (a) of this definition for a duration not exceeding 20 years, and for an amount which when added to moneys owing on any charge ranking prior to, or pari passu with, the security to be taken by the Responsible Entity does not exceed:
- (a) two-thirds; or
- (b) if repayment of the whole of the principal and interest under any mortgage is insured under a mortgage insurance policy acceptable to the Responsible Entity, then nine-tenths,
- of the value of the property as determined by an approved valuer within the period of 3 months preceding the taking of the security by the Responsible Entity;
- (11) loans on mortgage (including sub-mortgage) or charge of real estate (including without limitation a mortgage or charge granted by a person guaranteeing repayment of a loan), whether or not the mortgage or charge ranks as first mortgage or charge over the real estate, and whether taken severally or otherwise, including, but not limited to, by way of contributory mortgage. A loan on mortgage or charge of real estate is an Authorised Investment notwithstanding that the amount of the loan exceeds the proportion borne by the amount of the loan to the value of the real estate (at the time the loan was made) prescribed by any statute, and notwithstanding that the loan is made for a period of more than 7 years or any other period so prescribed;
- (12) loans on mortgage, sub-mortgage, charge, hypothecation, transfer, assignment or other security of any personal property, rights, licences or obligations (including any interest therein or any interest in any contract for the sale or purchase of real estate or personal property and including a mortgage or charge granted by a person guaranteeing repayment of a loan), and whether or not the security ranks as a first security over the secured personal property, and whether taken severally or otherwise including, but not limited to, those taken by way of contributory security;
- (13) the acquisition of any loan secured by any mortgage or security described in paragraph (10) or (11) of this definition and on the terms and conditions in it by way of taking an acquisition of the benefit and interest of the relevant mortgagee or security holder in it and in any policies of insurance relating to it;
- (14) real estate or other property which comes into the possession of, or under the control of, the Responsible Entity by virtue of its

exercise of any rights or powers vested in it as mortgagee or security holder under any mortgage or security described in paragraph (10) or (11) of this definition, or real estate or other property which is acquired by the Responsible Entity in order to facilitate the disposal of real estate or other property;

- (15) Mortgage Backed Securities;
- (16) contracts to underwrite or sub-underwrite any issues of any of the investments referred to in paragraphs (1) to (15) above;
- (17) options or warrants in respect of any of the investments referred to in paragraphs (1) to (15) above; or
- (18) any investment in, or of, or by, an entity, other than set out above in paragraphs (1) to (17) above where the Responsible Entity is satisfied that either:
 - (a) the majority of the assets held by entity is real estate; or
 - (b) the principal activity or activities of the entity is the ownership or development of real estate or the carrying out of construction on real estate;

Business Day has the meaning given to that term in the Listing Rules;

Buy Back Offer Day means the day the written buy back offer is signed for and on behalf of the Responsible Entity and sent to a Unitholder;

[Definition amended by Supplemental Deed dated 19 May 2003]

Buy Back Offer Record Date means the time and date on which a Person must be recorded in the Register as a Unitholder in order to be entitled under clause 17 to receive a buy back offer;

[Definition amended by Supplemental Deed dated 19 May 2003]

Buy Back Offer Period means the period specified by the Responsible Entity during which a buy back offer will remain open for acceptance by an offeree (which period must last for at least 21 days after the Buy Back Offer Day);

Buy Back Period means the period of 21 days after the last day of the Buy Back Offer Period;

Buy Back Price for a Unit means the amount calculated as follows:

- (1) where the Trust has been admitted to the Official List and the Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), the Market Price of a Unit on the Business Day prior to the Buy Back Offer Day, less the Buy Back Transaction Charge per Unit; and
- (2) where Units have been suspended from Official Quotation (other than temporarily) or have otherwise ceased to be Officially Quoted or the Trust has been removed from the Official List, the

Current Unit Value on the Business Day prior to the Buy Back Offer Day, less the Buy Back Transaction Charge per Unit;

Buy Back Transaction Charge per Unit means the total amount, which may be nil, determined or estimated by the Responsible Entity as the costs incurred, or which would be incurred, for the sale or disposal of an asset or assets of the Fund necessary to facilitate the buy back of Units, divided by the Units on Issue;

[Definition amended by Supplemental Deed dated 19 May 2003]

Cash Management Trust Interest has the meaning given to that term in the Corporations Act;

Cash means money in Australian currency and includes cheques and bank cheques in Australian currency;

Change of Control Event has the same meaning as in the Income Units Terms of Issue;

CHESS Approved Securities means securities in respect of which approval has been given by the securities clearing house (being the body corporate approved by the Minister as the securities clearing house under section 779B(1) of the Corporations Act, namely, ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532) in accordance with the ASTC Settlement Rules;

[Definition amended by Second Supplemental Deed dated 22 April 2004]

Commission means the Australian Securities and Investments Commission;

Complaint means an expression of dissatisfaction made to the Responsible Entity, related to its products or services, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.

Compliance Committee means the compliance committee (if any) for the Trust as required by section 601JA of the Corporations Act;

Compliance Plan means the compliance plan for the Trust as required by section 601HA of the Corporations Act;

Conversion means the redemption of Income Units and the application of the redemption proceeds to subscribe for Units in the Trust.

Corporations Act means the Corporations Act 2001 (Cth);

Corporations Regulations means the Corporations Regulations made pursuant to the Corporations Act;

Costs includes costs, charges, fees, expenses, commissions, losses, damages and Taxes and all amounts payable in respect of any of them or like payments;

Current Unit Value means the amount calculated as follows:

$$\text{CUV} = \frac{\text{NAV}}{\text{NU}}$$

where:

CUV is Current Unit Value

NAV is Net Asset Value

NU is the number of Units on Issue;

Distributable Amount means the amount determined in accordance with clause 12.3(a);

Distribution Calculation Date means 31 March, 30 June, 30 September and 31 December in each year, or such other dates as the Responsible Entity may determine;

Distribution Date means a Business Day not more than two calendar months after the Distribution Calculation Date for the relevant Distribution Period;

[Definition amended by Supplemental Deed dated 19 May 2003]

Distribution Entitlement means the entitlement to the Distributable Amount determined in accordance with clause 12.3;

Distribution Period means:

- (1) for the first Distribution Period, the period beginning on the creation of the Trust to the next occurring Distribution Calculation Date;
- (2) for the last Distribution Period, the period beginning on the day after the preceding Distribution Calculation Date to the date of termination of the Trust; and
- (3) in all other circumstances, the period beginning on the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date;

Distribution Recipient means the Person determined in clause 12.2(b) who is entitled to receive its Distribution Entitlement;

Financial Year means:

- (1) for the first Financial Year, the period beginning on the creation of the Trust to 30 June in that year;
- (2) for the last Financial Year, the period beginning on 1 July before the date the Trust terminates to the date the Trust terminates; and
- (3) in all other circumstances, the 12 month period ending on 30 June in each year;

Foreign Holder means a Unitholder or an Optionholder (as the context may require) whose address appearing in the Register is a country other than Australia;

Foreign Unitholder means a Unitholder whose address appearing in the Register is a country other than Australia;

Forfeited Unit means a Partly Paid Unit which is forfeited pursuant to clause 3.8(c) by non-payment of an Instalment;

Fully Paid Unit means a Unit on which the whole of the Issue Price has been paid;

Fund means all the cash, investments, rights and other property of the Trust held by the Responsible Entity pursuant to this deed (including, but not limited to, each Instalment in respect of each Partly Paid Unit);

Fund Return has the meaning given in clause 18.2;

Governmental Agency means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world;

Gross Asset Value means the sum of:

- (1) the value of the Fund; and
- (2) any other amounts which, in the opinion of the Responsible Entity should be included for the purpose of making a fair and reasonable determination of the value of the Trust on an undiscounted basis, having regard to generally accepted accounting principles;

GST means goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply;

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth);

Holder means a Unitholder or an Optionholder (as the context may require);

Income means the gross income realised by the Trust from its operations including rent, interest, dividends, distributions and otherwise less expenses arising in deriving that income including, but not limited to:

- (1) property outgoings;
- (2) repairs and maintenance;
- (3) interest and other borrowing costs;
- (4) fees paid to the Trustee; and

- (5) any other amount that the Trustee considers prudent or appropriate to allow for contingencies or future expenses that will or may arise in respect of the Trust;

Income Fund means the trust to be known as Multiplex Acumen Property Income Fund established pursuant to a constitution to be dated on or about 21 December 2005.

Income Unit means an income unit in the Income Fund.

Income Units Terms of Issue means the Terms of Issue pursuant to which the Income Units were or are to be issued as varied from time to time.

Independent Expert means an expert appointed by the Responsible Entity for the purpose of carrying out a valuation;

Instalment means, in relation to a Partly Paid Unit, each instalment of the Issue Price of that Unit which is not paid on Application for the Unit and must be paid at the time specified in the Terms of Issue;

Interest in a Managed Investment Scheme has the same meaning given to that term in the Corporations Act;

Issue Price in relation to a Unit or in relation to an Option means the dollar value of the total consideration payable at any time in respect of the issue of that Unit or the grant of that Option determined in accordance with the sub-clause in clause 5 pursuant to which the Unit was issued or the Option was granted;

Liabilities means the liabilities of the Trust and includes:

- (1) unpaid administrative costs and expenses including fees of the Responsible Entity;
- (2) accrued charges in respect of or owing in relation to any assets of the Fund;
- (3) amounts required to meet present liabilities;
- (4) amounts of all borrowings;
- (5) any provision for Tax which in the opinion of the Responsible Entity should be taken into account; and
- (6) any other amounts required to meet liabilities or other expenditure (including deferred liabilities) which in the opinion of the Responsible Entity should be taken into account in determining the amount of liabilities in any of the preceding paragraphs having regard to generally accepted accounting principles from time to time,

but excludes:

- (i) liabilities to applicants for Units in respect of application money or property in respect of which Units have not yet been issued;

- (ii) to Unitholders, arising by virtue of the right of Unitholders to request buy-back of their Units or to participate in the distribution of the Trust's assets on winding up of the Trust.

Liquid Scheme has the meaning given to that term in sub-section 601KA(4) of the Corporations Act;

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 of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX;

Managed Investment Scheme has the same meaning given to that term in the Corporations Act;

Management Fee means the fee payable under clause 18.1; Market Price has the meaning given in clause 1.3;

Market Value means the value of an asset determined in accordance with Schedule 2;

Marketable Parcel has the meaning given to that expression in the Listing Rules;

Meeting means a meeting of Holders convened in accordance with this deed;

Mortgage Backed Security means:

- (1) a "mortgage backed security" or a "mortgage backed certificate" as defined in, or for the purposes of, any Act of any State or Territory of Australia intended to specifically govern the activity of trustees or the imposition of stamp duty;
- (2) Interest in a Managed Investment Scheme where not less than half of the assets, profits or income of the scheme arise from the acquisition, holding, management or disposal of mortgages or a pool of mortgages;
- (3) a mortgage or charge over an interest to which paragraph (1) or (2) of this definition applies;

where a reference to a "pool of mortgages" is a reference to:

- (4) a "pool of mortgages" as defined in, or for the purposes of, any Act of any State or Territory of Australia intended to specifically govern the activity of trustees or the imposition of stamp duty; or
- (5) a pool or collection of assets, not less than half being assets of the kinds mentioned in paragraphs (i), (ii) or (iii) below, but otherwise being of any or all of the following kinds:
 - (i) mortgages;
 - (ii) mortgage backed securities or certificates;

- (iii) debentures of corporations, not less than half of the payments under each of which are derived by the corporation in question from the receipts, whether of capital or income, from mortgages or a pool of mortgages;
- (iv) Cash;
- (v) bonds, debentures, stock, treasury bills or notes of the Commonwealth of Australia or the Government of any State or Territory of Australia;
- (vi) debentures or stock of any public statutory body constituted under the law of the Commonwealth of Australia or any State or Territory of Australia;
- (vii) deposits with, or certificates of deposit issued by, an Australia ADI;
- (viii) bills of exchange, promissory notes or other negotiable instruments accepted, drawn or endorsed by an Australian ADI;
- (ix) “guaranteed investment contracts” or “guaranteed certificates” as defined in, or for the purposes of, any Act of any State or Territory of Australia intended to specifically govern the activity of trustees or the imposition of stamp duty,

and, except in paragraph (3) of this definition, a reference to “mortgage” is a reference to a mortgage of any estate or interest (including a leasehold interest) in land.

Net Asset Value means the Gross Asset Value less the following:

- (1) all amounts required to repay borrowings and to meet Liabilities (including the amount of any provisions the Responsible Entity determines, in consultation with the Auditor, should be made);
- (2) following any Distribution Calculation Date, the amount of any Distributable Amount payable but not paid to Unitholders on the day on which the Net Asset Value is determined; and
- (3) any amount paid in advance of a call on a Partly Paid Unit;

Net Taxable Income means, for any Distribution Period, the net income for that period determined in accordance with the principles applicable under section 95(1) of the Tax Act;

Official List means the official list of ASX;

Official Quotation or Officially Quoted means official quotation by ASX of the Units or of the Options (as the context may require);

Option means an option granted by the Responsible Entity in respect of unissued Units giving the holder of the option the right, but not the obligation, to subscribe for Units;

Optionholder means a Person recorded in the Register as a holder of an Option, including any persons jointly registered;

Paid-up Proportion in relation to a Unit means the fraction determined by dividing the amount to which the Unit has been paid (excluding any amount paid in advance of a call or any other amount credited in respect of the Unit) by the Issue Price of the Unit;

Partly Paid Unit means a Unit in respect of which any portion of its Issue Price remains unpaid;

PDS means a product disclosure statement as required by Part 7.9 of the Corporations Act in respect of an offer or an issue of Units or of Options (as the context requires);

Performance Fee means the fee payable under clause 18.2;

Person includes a natural person, a company, a partnership or a body of persons whether resident, constituted, incorporated or otherwise formed in Australia;

Quarter means each 3 month period ending on the last day of March, June, September and December in each year;

Realisation Date in relation to an Income Unit means the date determined in accordance with clause 3.4 of the Income Units Terms of Issue.

Register means the register of Unitholders or Optionholders maintained by the Responsible Entity pursuant to Chapter 2C of the Corporations Act, as the context requires;

Schedule means a schedule to this deed;

Securities has the same meaning given to that term in sub-section 92(3) of the Corporations Act;

Tax means any tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Governmental Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect of any of the above;

Tax Act means the Income Tax Assessment Act 1936 (Cth) and the Income Tax Assessment Act 1997 (Cth);

Terms of Issue in relation to a Unit or to an Option means the terms and conditions upon which that Unit or that Option is issued (other than those contained in this deed);

Terms of Offer in relation to an offer to acquire an Option means the terms and conditions upon which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option;

Total Tangible Assets means Gross Asset Value less the value of those assets of the Fund (if any) which the Responsible Entity considers should properly be classified as intangible assets;

Trading Day has the meaning given to that term in the ASX Market Rules.

Trust means the trust constituted under this deed;

Unit means an undivided interest in the Fund as provided for in this deed;

Unitholder means a Person recorded in the Register as the holder of a Unit, including any persons jointly registered;

Unit Holding means the total number of Units held by a Unitholder; and

Units on Issue means the number of Units created under this deed and not cancelled.

VWAP means in respect of a Unit for a Trading Day, the volume weighted average of the Unit prices for that Trading Day for all sales of Units recorded on ASX for the day, but excluding sales that occur otherwise than in the ordinary course of trading on ASX, such as special crossings, crossings prior to the commencement of normal trading, crossings during the closing phase and the after hours adjust phase, and any overseas sales or sales pursuant to the exercise of options over Units, any overnight crossings and any other sales which the Responsible Entity reasonably considers may not be fairly reflective of natural supply and demand. However, if, on some or all of the Trading Days in the relevant period, Units have been quoted on ASX as cum any distribution or entitlement, but the Units to be issued will be issued ex such dividend other distribution or entitlement, then the VWAP on the Trading Days on which Units have been quoted cum distribution or entitlement shall be reduced by an amount equal to:

- (a) in the case of a distribution, the amount of that distribution;
- (b) in the case of an entitlement which is traded on ASX on any of those Trading Days, the average of the daily volume weighted average sale price for such entitlement sold on ASX during the relevant period on the Trading Days on which those entitlements were traded; or
- (c) in the case of an entitlement not traded on ASX during the relevant period, the value of the entitlement as reasonably determined by the Responsible Entity.

2010 Entitlement Offer means the renounceable entitlement offer to eligible Unitholders of 3 new Units in the Trust for every 1 Unit held, announced on 10 June 2010.

- (b) Unless otherwise specified in this deed, terms defined in the Corporations Act are used in this deed with the same defined meaning.

1.2 Interpretation

In this deed, unless the context otherwise requires:

- (a) a reference to the “Responsible Entity” means:
 - (1) Acumen Capital Securities Limited ACN 103 736 081 whilst it is named in the Commission’s record of registration for the Trust as the responsible entity of the Trust; and
 - (2) if Acumen Capital Securities Limited ACN 103 736 081 is replaced as the responsible entity of the Trust, then the company named in the Commission’s record of registration for the Trust as the responsible entity or temporary responsible entity of the Trust;
- (b) a reference to month means a calendar month;
- (c) headings and underlinings are for convenience only and do not affect the interpretation of this deed;
- (d) words importing the singular include the plural and vice versa;
- (e) words importing a gender include any gender;
- (f) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental or semi-governmental agency;
- (g) a reference to a subclause, clause or schedule is a reference to a subclause and clause of, and a schedule to, this deed and a reference to this deed includes any schedule;
- (h) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (i) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document;
- (j) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding Business Day;
- (k) a reference to cash includes cheques and bank cheques;
- (l) a reference to a body, other than a party to this deed, including a commission or an exchange, whether statutory or not, which ceases to exist or whose functions or powers are transferred to another body, is a reference to the body which replaces it or substantially succeeds to its powers and functions;
- (m) references to sums of money are to amounts in Australian dollars; and
- (n) a reference to the proper performance of a duty is a reference to the proper performance of the duty after all available appeals from each judgment in respect of the matter have been exhausted.

1.3 Market Price and DRP Market Price

[Clause heading amended by Supplemental Deed dated 19 May 2003]

- (a) The “Market Price” of a Unit on any Business Day is:
- (1) subject to paragraph (2) below, either:
 - (A) the average traded price (weighted by volume) for all sales of Units on ASX for the period of 10 Business Days immediately preceding (but not including) the relevant Business Day (whether or not a sale was recorded on any particular day); or
 - (B) the price obtained pursuant to a bookbuild arranged by a reputable merchant bank with experience in arranging bookbuilds in the Australian equity market, provided that the Auditor has provided written certification that the bookbuild was conducted in accordance with normal market practice for bookbuilds;
 - (2) if the Responsible Entity believes that the calculation in paragraph (1) does not provide a fair reflection of the market price of a Unit, then an amount as determined by an Independent Expert or reputable merchant bank appointed by the Responsible Entity in either case who has relevant market experience in determining market price in circumstances similar to those in which the determination of the market price of a Unit is being made to be the fair market price of the Unit, having regard to:
 - (A) the nature of the proposed offer of Units for which purpose the market price of a Unit is being calculated; and
 - (B) the circumstances in which the proposed offer of Units will be made.
- (b) The “Market Price” of an Option on any Business Day must be determined in the same manner as the Market Price for a Unit is determined.
- (c) The “DRP Market Price” of a Unit is the arithmetic average of the daily volume weighted average sale price (calculated to 4 decimal places) of Units traded on ASX during the Pricing Period excluding the following ASX transactions in relation to a Unit:
- (1) any transaction defined in the ASX Market Rules as “special”;
 - (2) crossings prior to the commencement of normal ASX trading;
 - (3) crossings during the ASX’s closing phase and the ASX’s after hours adjust phase;
 - (4) overnight crossings on the ASX;
 - (5) overseas trades on the ASX;

(6) ASX trades pursuant to the exercise of options over Units,

where “Pricing Period” means:

(7) subject to paragraph (8) below, 10 ASX Unit Trading Days commencing on the second ASX Unit Trading Day after the relevant Distribution Calculation Date;

(8) subject to paragraph (9), if the period of days determined under paragraph (7) above includes the Distribution Date, then the number of ASX Unit Trading Days commencing on the second ASX Unit Trading Day after the relevant Distribution Calculation Date, and ending on the last ASX Unit Trading Day before the Distribution Date;

(9) if the number of ASX Unit Trading Days calculated under paragraph (8) above is nil, then the last ASX Unit Trading Day before the relevant Distribution Calculation Date,

where “ASX Unit Trading Day” means a Business Day on which the Units were not subject to a trading halt granted by the ASX or otherwise suspended from trading.

[Clause 1.3(c) inserted by Supplemental Deed dated 19 May 2003 and amended by Second Supplemental Deed dated 22 April 2004]

1.4 General compliance provision

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

1.5 Inconsistency with the Listing Rules

- (a) Notwithstanding anything to the contrary in this clause 1.5, this clause 1.5 has effect subject to clause 1.4.
- (b) If the Trust is admitted to the Official List, the following clauses apply:
 - (1) notwithstanding anything contained in this deed, if the Listing Rules prohibit an act being done, the act must not be done;
 - (2) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;
 - (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);

- (4) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is deemed to contain that provision;
- (5) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is deemed not to contain that provision; and
- (6) 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.

1.6 Additional Listing Rule requirements

At all times that the Trust is admitted to the Official List:

- (a) the Responsible Entity must not remove or change the rights of a Holder to vote or receive distributions in respect of a Unit or Option except in any of the following cases:
 - (1) an Instalment which is due and payable on that Unit under clause 3.8 has not been paid;
 - (2) in the case of the voting right, an instrument appointing a proxy in respect of that Unit or Option has not been deposited in accordance with Schedule 1;
 - (3) in the case of the voting right, the Holder became the holder of that Unit or Option after the time determined under regulation 7.11.37 of the Corporations Regulations as the “specified time” for deciding who held the Unit or Option for the purpose of the meeting;
 - (4) the right is removed or changed under Australian legislation or under a provision in this deed that must be included to comply with Australian legislation;
 - (5) the right is removed or changed under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable; or
 - (6) the right is removed or changed under a court order;
- (b) a holder of a Unit or Option must not be divested of that Unit or Option except in any of the following cases:
 - (1) the divestment is under Australian legislation and the mechanism the Responsible Entity adopts for divesting the Unit or Option is set out in the legislation or is approved by ASX as appropriate and equitable;
 - (2) the divestment is under a provision in this deed that must be included to comply with Australian legislation;
 - (3) the divestment is under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable;

- (4) the divestment is under a court order; or
- (5) the divestment is under clause 3.9;
- (c) the Responsible Entity must not divest a Holder of Units or forfeit Units while those Units are in a “CHESS Holding” as that term is defined in the ASTC Settlement Rules. Without limitation to clause 1.5, at all times that the Trust is admitted to the Official List the Responsible Entity must comply with ASTC Settlement Rule 5.12.

[Clause amended by Second Supplemental Deed dated 22 April 2004]

2 The Trust

2.1 Trustee of Trust

The Responsible Entity is appointed, and agrees to act, as the trustee of the Trust in accordance with the terms and conditions set out in this deed.

2.2 Declaration of trust

The Responsible Entity acknowledges and declares that it holds the Fund on trust for the benefit of the Unit Holders on the terms and conditions set out in this deed.

2.3 Name of Trust

(a) Initial name

Subject to paragraph (b) below, the name of the Trust is “Acumen Capital Property Securities Fund”.

(b) Change of name

The Responsible Entity may change the name of the Trust.

3 Interest of Unitholder

3.1 Division into Units

- (a) The beneficial interest in the Fund is divided into Units. No Unit confers on a Unitholder an interest in a particular part of the Fund.
- (b) A Holder may not:
 - (1) interfere or seek to interfere with the rights, powers, authority or discretion of the Responsible Entity;
 - (2) claim or exercise any right in respect of any asset of the Fund or lodge any caveat or other notice affecting any asset of the Fund; or
 - (3) require that any asset of the Fund be transferred to a Holder.

- (c) Holders may not give any directions to the Responsible Entity (whether at a meeting convened pursuant to sections 252B, 252C and 252D of the Corporations Act or otherwise) if it would require the Responsible Entity to do, or omit doing, anything which may result in:
 - (1) the Trust ceasing to comply with the Listing Rules or the Responsible Entity acting inconsistently with clause 4.7; or
 - (2) the exercise of any discretion expressly conferred on the Responsible Entity by this deed or the determination of any matter which under this deed requires the agreement of the Responsible Entity.

3.2 Consolidation and division of Units

- (a) Subject to clause 3.2(b), the Responsible Entity may consolidate or split the Units. The Responsible Entity must in respect of any such consolidation or split:
 - (1) immediately amend the Register to record the consolidation or split;
 - (2) notify the Unitholder within 30 days after the consolidation or split; and
 - (3) ensure that each Unit is consolidated or split on the same basis as each other Unit.
- (b) Where any consolidation or splitting of Units under paragraph (a) would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may consolidate or split the Units using a formula which includes the ability of the Responsible Entity to round the number of Units downwards or upwards to the nearest whole number at the discretion of the Responsible Entity. Any excess Application Monies or other money or property which results from a rounding become an asset of the Fund.

3.3 Issue of Partly Paid Units

- (a) The Responsible Entity may offer any Units which are offered for subscription as Partly Paid Units, the Issue Price of which is payable on issue and by Instalments.
- (b) The Responsible Entity must set out the Terms of Issue of the Partly Paid Units in the document offering those Units for subscription, which must include the amount and time for payment of the Instalments.
- (c) The whole of the unpaid Issue Price of each Partly Paid Unit is payable immediately upon termination of the Trust.
- (d) A Holder of a Partly Paid Unit must pay the Instalments of the Issue Price in accordance with the Terms of Issue and in accordance with this deed.

3.4 Joint Holders

Where two or more persons are recorded in the Register as the Holders of a Unit or of an Option (“**joint holders**”) they are, for the purposes of the administration of the Trust and not otherwise, deemed to hold the Unit or Option as joint tenants, on the following conditions:

- (a) the Responsible Entity is not bound to record in the Register more than three persons as the joint holders of the Unit or Option;
- (b) the joint holders are jointly and severally liable in respect of all payments, including payment of Tax, which ought to be made in respect of the Unit or Option;
- (c) on the death of a joint holder, the survivor or survivors are the only person or persons whom the Responsible Entity will recognise as having any title to the Unit or Option, but the Responsible Entity may require any evidence of death which it thinks fit;
- (d) any one of the joint holders may give an effective receipt which will discharge the Responsible Entity in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the joint holders is entitled to delivery of any notices, cheques or other communications from the Responsible Entity, and any notice, cheque or other communication given to that person is deemed to be given to all the joint holders.

3.5 Classes of Units and Terms of Issue

- (a) The Responsible Entity may at any time issue Units in two or more classes.
- (b) The Responsible Entity may convert any class of a Unitholder’s Units from one class to another class or reclassify Units from one class to another.
- (c) The Responsible Entity must enter on the Register the class or Terms of Issue of Units held by a Unitholder.

3.6 Benefits and obligations of Unitholders and Optionholders

- (a) Except where expressly provided in this deed to the contrary, all benefits and obligations contained in this deed apply for the benefit of and bind each Unitholder to the extent provided in this deed.
- (b) Except where expressly provided in this deed to the contrary, all obligations in this deed bind each Optionholder to the extent provided in this deed. The benefits in this deed only apply for the benefit of Optionholders where expressly provided in this deed.
- (c) Where the interests of Optionholders and Unitholders conflict the Responsible Entity must prefer the interests of Unitholders.

3.7 No further liability

- (a) This clause 3.7 is subject to any separate agreement between a Unitholder and the Responsible Entity and to any call on Partly Paid Units which the Responsible Entity is entitled to make under clauses 3.3 and 3.8 to 3.15.
- (b) The liability of each Holder in its capacity as such is limited to the Holder's investment in the Trust.
- (c) A Holder is not required to indemnify the Responsible Entity or a creditor of the Responsible Entity against any liability of the Responsible Entity in respect of the Trust.
- (d) The recourse of the Responsible Entity and any creditor of the Responsible Entity is limited to the assets of the Fund.
- (e) Except as provided in clauses 3.9(a) and 3.13(i), nothing in or under this deed makes either the Responsible Entity the agent of a Holder, nor does it create any relationship other than that of beneficiary and Responsible Entity.

3.8 Failure to pay instalment on Partly Paid Unit

- (a) The Responsible Entity must serve each Holder of a Partly Paid Unit with a notice not later than 30 Business Days prior to the due date for payment of an Instalment. The omission to give such notice by the Responsible Entity or the non-receipt of such notice by the Holder of a Partly Paid Unit does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.
- (b) If a Unitholder does not pay an Instalment on the due date, the Responsible Entity must serve the Unitholder with a notice not later than 7 days after the due date containing:
 - (1) a demand for payment of all Instalments due and payable in respect of the Partly Paid Units and any interest payable;
 - (2) a statement that interest:
 - (A) runs from the due date of the Instalment until the date the Responsible Entity receives payment of the overdue amount in full; and
 - (B) is payable at a fair market rate determined by the Responsible Entity;
 - (3) a further due date for payment which may not be earlier than the expiration of 7 days after the date of service of the notice; and
 - (4) a warning that if payment in full is not received by the due date specified in the notice:
 - (A) the Partly Paid Unit is forfeited;
 - (B) the Responsible Entity may offer the Forfeited Unit for sale; and

- (C) all Costs and liabilities associated with the forfeiture and any proceedings that may be necessary to recover the amount due from the Unit Holder will lie with the Unit Holder.

The omission to give such notice by the Responsible Entity or the non- receipt of such notice by the Unitholder does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.

- (c) If payment in full is not received by the due date specified in the notice issued under clause 3.8(b), the Partly Paid Unit is forfeited and the Responsible Entity may offer that Partly Paid Unit for sale.

3.9 Sale of Forfeited Unit

[CO 98/52(1)(vi)]

- (a) Notwithstanding clause 3.7(e), if the Responsible Entity offers a Forfeited Unit for sale it does so as agent for the Holder of the Forfeited Unit.
- (b) Subject to clause 3.9(c) if the Responsible Entity sells the Forfeited Unit, it must sell it by public auction in a manner and at a price determined by the Responsible Entity.
- (c) The Responsible Entity must ensure that the auction is in accordance with section 254Q of the Corporations Act (other than subsections 254Q(1), (10) and (13)) as if the Forfeited Unit was a share, the Trust was the company and the Responsible Entity was the directors of the company.
- (d) The Responsible Entity is not liable to the Unitholder for any loss suffered by the Unitholder as a result of the sale.

3.10 Income and Capital of a Forfeited Unit Distribution of income and capital under clause 12:

- (a) to which the Holder of a Forfeited Unit is entitled; and
- (b) which have not been paid to the Holder prior to forfeiture, must be applied in accordance with clause 3.14 as if they formed part of the proceeds of sale of a Forfeited Unit.

3.11 Notice of sale of Forfeited Unit

At least 14 days, but no more than 21 days, before the date appointed for sale under clause 3.9(b), the Responsible Entity must give notice of the sale of a Forfeited Unit:

- (a) to all Unitholders in writing; and
- (b) by placing an advertisement in a daily newspaper circulating generally throughout Australia.

3.12 Cancellation of Forfeiture

The Responsible Entity must cancel the forfeiture of a Partly Paid Unit before a sale if the Holder of the Forfeited Unit pays the Responsible Entity the full amount of the Instalment due together with interest on that Instalment calculated under clause 3.8(b) and any other amount payable in respect of the forfeiture.

3.13 Consequences of sale and continuing liability

- (a) On completion of the sale of the Forfeited Unit, the Holder ceases to be the Holder of that Unit but remains liable to the Responsible Entity for the total amount set out in the notice served under clause 3.8(b).
- (b) The Unitholder's liability under this clause ceases as soon as the Responsible Entity receives:
 - (1) payment in full of the amount set out in the notice under clause 3.8(b) (excluding any amount paid by an underwriter pursuant to an underwriting agreement entered into under clause 5.2);
 - (2) the Costs and liabilities associated with the forfeiture; and
 - (3) the Costs and liabilities of all proceedings instituted against the Unitholder to recover the amount due.
- (c) A statement signed by a director or secretary of the Responsible Entity setting out:
 - (1) that a Partly Paid Unit has been forfeited; and
 - (2) the date of forfeiture,is conclusive evidence against any person claiming entitlement to the Forfeited Unit.
- (d) On completion of the sale the Responsible Entity must apply the consideration paid for a Forfeited Unit in accordance with clause 3.14.
- (e) The Responsible Entity is authorised to and must execute a transfer of a Forfeited Unit to the purchaser thereof.
- (f) If the Responsible Entity executes a transfer of a Forfeited Unit, the Responsible Entity must register the transferee as the Holder of the Forfeited Unit.
- (g) The transferee of the Forfeited Unit is not required to verify the application of the purchase money.
- (h) The title to a Forfeited Unit is not affected by an irregularity or invalidity in the proceedings relating to the sale or disposal of a Forfeited Unit.
- (i) The Responsible Entity is authorised to and must execute a transfer of a Forfeited Unit to the purchaser thereof.

3.14 Proceeds of sale of Forfeited Unit

- (a) If a Forfeited Unit is sold under clause 3.9, the Responsible Entity must apply the proceeds of the sale in the following order and manner:
 - (1) by paying any Costs and liabilities incurred by the Responsible Entity in relation to the sale or disposal of the Forfeited Unit including, but not limited to, commission, stamp duty, transaction duty, transfer fees and advertising and postal charges;
 - (2) by paying any Costs and liabilities incurred by the Responsible Entity in relation to the forfeiture or any proceedings brought against the Holder of the Forfeited Unit to recover unpaid Instalments;
 - (3) by holding as an asset of the Fund, the interest accrued in respect of the outstanding Instalments calculated under clause 3.8(b);
 - (4) by holding as an asset of the Fund, the balance of all Instalments due and payable in respect of the Forfeited Units; and
 - (5) by paying the balance to the Unitholder whose Units are forfeited.
- (b) If there is a sale of more than one Forfeited Unit, the Responsible Entity must pay the expenses listed in clause 3.14(a)(1) and (2) pro rata to the number of Forfeited Units being sold.
- (c) Joint Holders of Partly Paid Units are jointly and severally liable for all amounts due and payable on their Partly Paid Units.

3.15 Lien for Amounts Owing

The Responsible Entity has a first and paramount lien over Units for any amounts owing to the Responsible Entity in respect of Units registered in the Register in the name of a Unitholder, including any fees or unpaid calls which are payable to the Responsible Entity in respect of those Units and also for such amounts as the Responsible Entity may be called upon by law to pay and has paid in respect of the Units of such Unitholders.

The lien extends to distributions from time to time declared in respect of such Units but if the Responsible Entity registers any transfer of any Units upon which it has a lien, those Units are freed and discharged from the lien.

4 Issue of Units and of Options

4.1 Number of Units issued

- (a) If the Responsible Entity accepts an Application for Units in whole or in part, then, subject to paragraph (b) the number of Units issued is the number determined by the Responsible Entity by dividing the relevant Application Moneys by the Issue Price.
- (b) Where the calculation under paragraph (a) would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may

round the number of units issued downwards or upwards to the nearest whole number at the discretion of the Responsible Entity. Any excess application or other money or property which results from a rounding becomes an asset of the Fund.

- (c) If the Responsible Entity accepts an Application for Partly Paid Units in whole or in part, then the number of Units issued is the number determined by the Responsible Entity dividing the relevant Application Moneys by the amount of the Issue Price for a Unit which is to be paid on Application.
- (d) The number of Units issued upon the exercise of an Option is to be determined in accordance with the Terms of Issue and Terms of Offer.

4.2 Application for Units or for Options

A person who wishes to subscribe for Units or for Options must:

- (a) complete or make an Application in the form or manner determined by the Responsible Entity;
- (b) lodge or make the Application at the place or address and in the manner determined by the Responsible Entity; and
- (c) include with the Application the Application Moneys:
 - (1) in the form or manner specified by the Responsible Entity; or
 - (2) by the transfer of property to be vested in the Responsible Entity.

4.3 Payments to the Responsible Entity

[cross reference clause 11.4]

- (a) The Responsible Entity must hold the payment received or property to be transferred to the Responsible Entity on an Application in accordance with the Corporations Act until the Responsible Entity has accepted or rejected the Application.
- (b) If an applicant is to transfer property to the Responsible Entity, the Responsible Entity must not accept the Application unless:
 - (1) the Responsible Entity has received from the applicant an effective transfer of the title to the property in favour of the Responsible Entity; and
 - (2) the Responsible Entity has determined the value of the property in accordance with clause 11.4.
- (c) Unless the applicant has paid all amounts payable in respect of the issue of Units or the transfer of property (if any) to the Responsible Entity prior to the Responsible Entity accepting the Application, the Responsible Entity must deduct those amounts before determining the number of Units to be issued under clause 4.1.

- (d) If Units or Options are purported to be issued and:
- (1) the Responsible Entity has not received the Application Moneys in accordance with the Terms of Issue; or
 - (2) any payment for Units or for Options is not cleared or property is not effectively transferred to the Responsible Entity,

the Units or Options are void as from their date of issue, or such other date as the Responsible Entity determines if the Responsible Entity has not otherwise received payment of an amount equal to the Application Moneys for the Units or Options.

- (e) All income in respect of the payment or property received on an application for Units or Options (which has been accepted by the Responsible Entity) prior to the issue of those Units or Options forms part of the Fund.
- (f) Applications Moneys for Units or for Options issued pursuant to a PDS must be paid to the Responsible Entity, to be placed by the Responsible Entity in a special trust account until the earlier of:
- (1) the minimum subscription, if any (to be specified in the PDS) has been reached and the Responsible Entity decides to proceed to allotment of Units or Options; or
 - (2) the date by which the Application Moneys would need to be repaid under the Corporations Act.

Until the Responsible Entity decides to proceed to the allotment of Units or Options in accordance with this clause 4, it holds such Application Moneys in accordance with the Corporations Act and the Responsible Entity must comply with all obligations imposed by the Corporations Act in relation to the Application Moneys.

4.4 Allotment of Units or grant of Options

A Unit or an Option is regarded as issued to the person entitled to it if and when that person's name is recorded in the Register as the holder of that Unit or Option, and that person becomes a Unitholder or Optionholder. No rights whatsoever attach to a Unit until it is issued, or to an Option until it is granted.

When a Unit is issued to a Unitholder or an Option is granted to an Optionholder the cash or other property comprising the Application Monies in relation to that Unit or Option become part of the Fund.

4.5 Responsible Entity's discretion on Application

The Responsible Entity may in its absolute discretion accept or refuse to accept in whole or in part any Application or subscription for Units or for Options other than on the exercise of an Option. Subject to the Listing Rules, the Responsible Entity is not required to assign any reason or ground for such refusal.

4.6 Certificates

If it is not contrary to the Listing Rules, the Responsible Entity may determine:

- (a) not to issue a certificate for a Unit; and
- (b) to cancel a certificate for a Unit and not to issue a replacement certificate.

4.7 Foreign Holders

[LR7 7]

- (a) The Responsible Entity may determine that Holders whose addresses appearing in the Register are in any one or more countries outside Australia or New Zealand (“**Specific Foreign Holders**”) are not to be offered or issued:
 - (1) Units pursuant to a pro-rata issue of Units; or
 - (2) Options pursuant to a pro-rata issue of Options,
 if the Responsible Entity decides that it is unreasonable to make the offer in accordance with rule 7.7.1(a) of the Listing Rules.
- (b) If the Responsible Entity makes a determination under clause 4.7(a) above then:
 - (1) the rights that the Specific Foreign Holders would have been entitled to but for the fact they are Specific Foreign Holders (“**Foreign Rights**”) must be offered to a nominee approved by the Commission.
 - (2) the nominee must pay to each of the Specific Foreign Holders the amount calculated as follows:

$$AF = NP \times \frac{NF}{N}$$

N

where:

AF is the amount to be paid to that Specific Foreign Holder;

NP is the net proceeds of the sale of the Foreign Rights, being the amount (if any) remaining after deducting from the proceeds of the sale of the Foreign Rights the aggregate of:

- (1) the costs of the sale;
- (2) the amounts (if any) payable to the Responsible Entity by the nominee in respect of the Foreign Rights; and
- (3) any amounts the Responsible Entity would be required by law or otherwise entitled to deduct or withhold pursuant to this deed ;

N is the aggregate number of Foreign Rights; and

NF is the number of Foreign Rights to which that Specific Foreign Holder would otherwise have been entitled.

5 Power to issue Units and to grant Options

5.1 Powers Cumulative

- (a) The Responsible Entity may issue Units only in accordance with this clause 5 and subject to this deed.
- (b) Where the issue of Units under this clause would otherwise result in a Unitholder holding a fraction of one Unit, the Responsible Entity may round the number of units issued downwards or upwards to the nearest whole number at the discretion of the Responsible Entity. Any excess application or other money or property which results from a rounding becomes an asset of the Fund.
- (c) No subclause of this clause 5 (other than this clause 5.1) limits any other such subclause.
- (d) The Responsible Entity may issue a Unit specifying the Terms of Issue for that Unit, including:
 - (1) that the Unit has the entitlement to share in the Distributable Amount relating only to the period from the date of issue of the Unit onwards during a Distribution Period; or
 - (2) that the Unit has the entitlement to share in the Distributable Amount relating to the whole of the Distribution Period; or
 - (3) that the Unit has no entitlement to share in the Distributable Amount relating to the whole of the Distribution Period specified by the Responsible Entity in the Terms of Issue; or
 - (4) that the Unit has no entitlement to share in the Distributable Amount relating to the Distribution Periods specified by the Responsible Entity in the Terms of Issue.

5.2 Underwriting of Issue

- (a) The Responsible Entity may arrange for:
 - (1) an offer for sale, subscription or issue of Units or of Options; or
 - (2) the payment of Instalments in respect of Partly Paid Units; or
 - (3) the exercise of Options; or
 - (4) an issue of Units pursuant to an arrangement for distribution reinvestment established by the Responsible Entity under clause 12.6,

to be underwritten by an underwriter on terms determined by the Responsible Entity.

[Clause amended by Supplemental Deed dated 19 May 2003]

- (b) The underwriter may:
 - (1) be the Responsible Entity or a Related Body Corporate of the Responsible Entity; and
 - (2) take up any Units or any Options not subscribed for.
- (c) The Responsible Entity may issue Units and grant Options pursuant to this clause 5.2 at an Issue Price equal to the Issue Price at which the Units or the Options in relation to the underwritten issue or offer were, or would have been, issued to persons other than the underwriter or underwriters.

5.3 Grant of Options

The Responsible Entity may offer Options for subscription, and grant Options, in accordance with the Terms of Offer and Terms of Issue.

5.4 Issue of Units under Options

The Responsible Entity may issue a Unit or Units in accordance with the Terms of Offer and the Terms of Issue of an Option.

5.5 Initial issue of Units at price of \$1

[s 601GA(1)(a)]

Prior to the first time that the Trust is admitted to the Official List and the Units are Officially Quoted the Responsible Entity may:

- (a) issue Units at an Issue Price of \$1 each; and
- (b) grant Options at the consideration for the grant of the Option in accordance with the Terms of Offer and Terms of Issue, where the Units to be issued under those Options are to be issued at \$1 each, and issue Units under any such Options.

5.6 Issue of Units at Issue Price which is Market Price or Current Unit Value or DRP Market Price

[s.601GA(1)(a); Clause heading amended by Supplemental Deed dated 19 May 2003]

In addition to any other power that the Responsible Entity has to issue Units under this deed, the Responsible Entity may issue Units or grant Options at any time to any Person at an Issue Price as follows:

- (a) where the Trust has been admitted to the Official List and the Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily):
 - (1) Units at an Issue Price equal to the Market Price of a Unit on the Business Day prior to the day on which the offer is made to the Person or the Units are issued to the person; and
 - (2) Options at the consideration for the grant of the Option in accordance with the Terms of Offer and Terms of Issue, where the Units to be issued under those Options are to be issued at

Market Price of a Unit immediately before the date upon which the Option is issued, and issue Units under any such Options.

- (b) where Units have been suspended from Official Quotation (other than temporarily) or have otherwise ceased to be Officially Quoted or the Trust has been removed from the Official List, Units at an Issue Price equal to the Current Unit Value on the Business Day prior to the day the offer to issue the Units is made to the Person.
- (c) where Units are issued pursuant to an arrangement for distribution reinvestment established by the Responsible Entity under clause 12.6, Units at an Issue Price equal to the DRP Market Price.

[Clause 5.6(c) inserted by Supplemental Deed dated 19 May 2003]

5.7 Issue of Units at Issue Price determined by Responsible Entity - placements of Units without Unitholder approval

[s.601GA(1)(a); CO 98/52(1)(i)]

The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6, where:

- (a) the Trust has been admitted to the Official List, and the Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily);
- (b) the issue is not to the Responsible Entity or any person who is an Associate of the Responsible Entity;
- (c) the amount by which the aggregate of the Issue Price of those Units is less than the Market Price of a Unit does not exceed 10%; and
- (d) the issue is of Units that would not immediately after the issue (when aggregated with any other issue of Units pursuant to this clause 5.7 up to one year previously, other than an issue that was subsequently ratified by the Holders under clause 5.8 below, and other than an issue in accordance with clause 5.5, or clauses 5.9 to 5.12) comprise more than 10% (or such greater percentage as may be permitted from time to time by both the Corporations Act and the Listing Rules) of either all of the Units in the Trust or the Units on issue in the Trust in the same class as the Units comprised in the issue.

5.8 Issue of Units at Issue Price determined by Responsible Entity - placements of Units with Unitholder approval

[s.601GA(1)(a); CO 98/52(1)(i)]

The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6, where:

- (a) the Trust has been admitted to the Official List, and the Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily);

- (b) the issue is not to the Responsible Entity or any person who is an Associate of the Responsible Entity;
- (c) the Holders approve the issue;
- (d) if the interests to be issued are in a particular class, members in that class approve the issue;
- (e) unless the Responsible Entity reasonably considers that the issue will not adversely affect the interests of members in another class, members in that other class approve the issue;
- (f) any notice convening a Meeting to vote on the issue contains particulars of the use to be made of the money raised by the issue;
- (g) an approval for the purposes of paragraphs (c), (d) and (e) of this clause is given by special resolution of the Holders where Holders with at least 25% of the total value of all the Units of Holders entitled to vote on the question vote on the question at the Meeting; and
- (h) if, in making the calculations referred to in paragraph (g) of this clause, any vote of a person to whom the Units are to be issued or any vote of any associate of that person were not counted, the resolutions would be passed.

5.9 Issue of Units at Issue Price determined by Responsible Entity - rights issues of Units

[s.601GA(1)(a); CO 98/52(1)(iii)]

The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6 pursuant to offers made at substantially the same time to only and all the then Holders if:

- (a) all the Units offered are in the same class;
- (b) the Issue Price of all the Units offered is the same;
- (c) the Issue Price of those Units is not less than 50% of the Market Price of a Unit on the Business Day preceding the day on which the intention to make the offer or issue is announced on ASX; and
- (d) the amount of Units offered to each Holder is proportionate to the value of that Holder's interest in the Trust,

where, if the Responsible Entity reasonably considers under clause 4.7 that it would be in the best interests of Holders to exclude Foreign Holders and not unfair to those members, the Responsible Entity need not offer or issue the Units to the Foreign Holders if the Units are sold, taking reasonable steps to maximise the sale price (net of expenses of the sale) and the Foreign Holders are promptly paid the net sale price.

5.9A Issue of Units at Issue Price determined by Responsible Entity rights issues of Units

[s.601GA(1)(a); CO 98/52(1)(iii); ASIC instrument dated 21 April 2004]

- (a) The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6 pursuant to offers made at substantially the same time to only and all the then Unitholders if:
- (1) all the Units offered are in the same class;
 - (2) the Issue Price of all the Units offered is the same;
 - (3) the Issue Price of those Units is not less than 50% of the Market Price of a Unit on the Business Day preceding the day on which the intention to make the offer or issue is announced on ASX;
 - (4) the amount of Units offered to each Unitholder is proportionate to the value of that Unitholder's interest in the Trust; and
 - (5) a PDS for the offer of Units is given to each Unitholder, unless this clause 5.9A does not require Units to be offered to the Unitholder,

where, if the Responsible Entity reasonably considers that it would not be practical to make offers to certain Unitholders that are connected to a place outside this jurisdiction (“**foreign members**”), the Responsible Entity need not offer or issue the Units to the foreign members, provided that the Responsible Entity sends the foreign members notice in writing, at or before the time of the offer, that the offer is being made to other members of the Trust and the terms of the offer.

- (b) The Responsible Entity may issue Units at the Issue Price determined by the Responsible Entity in relation to an offer pursuant to clause 5.9A(a) above, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6, to:
- (1) a bona fide underwriter, or sub-underwriter, who is not an associate of the Responsible Entity, pursuant to an underwriting agreement, the terms of which have been disclosed in the PDS for the offer referred to in clause 5.9A(a) above;
 - (2) a person, who is not an associate of the Responsible Entity, nominated by a bona fide underwriter or sub-underwriter who is not an associate of the Responsible Entity, pursuant to an underwriting agreement, the terms of which have been disclosed in the PDS for the offer referred to in clause 5.9A(a); or
 - (3) a person to whom the PDS for the offer has been provided,

where the Units were first offered in accordance with clause 5.9A(a) above, but not acquired by the persons to whom they are offered.

[Clause 5.9A inserted by Second Supplemental Deed dated 22 April 2004]

5.10 Issue of Units at Issue Price determined by Responsible Entity - distribution reinvestment

[s.601GA(1)(a); CO 98/52(1)(v)]

The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6 pursuant to a distribution reinvestment arrangement referred to in clause 12.6 where:

- (a) the whole or part of a Unitholder's Distribution Entitlement is applied in payment for the subscription for Units;
- (b) each Unitholder may from time to time elect to participate in that arrangement as to the whole, or some proportion, of the Distribution Entitlement which is or would otherwise be, payable to that Unitholder;
- (c) all the Units issued under the arrangement are of the same class;
- (d) the Issue Price of each Unit issued pursuant to that arrangement at substantially the same time is the same; and
- (e) the Issue Price of those Units is not less than 95% of the DRP Market Price,

where, if the Responsible Entity reasonably considers that it would be in the best interests of Holders to exclude Foreign Unitholders and not unfair to those members, the Responsible Entity need not offer or issue the Units to the Foreign Unitholders if the Units are sold, taking reasonable steps to maximise the sale price (net of expenses of the sale) and the Foreign Unitholders are promptly paid the net sale price.

[Clause amended by Supplemental Deed dated 19 May 2003]

5.11 Issue of Units at Issue Price determined by Responsible Entity - issue of Units at an individually negotiated price

[s.601GA(1)(a); CO 98/52(1)(vii)]

The Responsible Entity may issue Units at a price individually negotiated and agreed between the Responsible Entity and a person:

- (a) where the new product disclosure provisions (as defined in section 1438 of the Corporations Act) do not apply to those interests at the time of the offer - who acquires their interests in response to an offer to which subsection 708(8) or subsection 708(11) of the Corporations Act applies ("**Sophisticated or Professional Investor**"); or
- (b) where those new product disclose provisions apply to those interests at the time of the offer - who is a wholesale client within the meaning of section 761G of the Corporations Act ("**Wholesale Client**"),

being a price that differs from the Issue Price calculated in accordance with clauses 5.2 and 5.6 only to the extent that the price is less than the Issue Price calculated in accordance with clauses 5.2 and 5.6 to the extent of lower fees that are payable to the Responsible Entity in relation to the acquisition (each a "Fee Arrangement") if:

- (c) the Responsible Entity ensures that if fees may be individually negotiated with certain Sophisticated or Professional Investors or Wholesale Clients, then a statement of that fact is disclosed to all Unitholders by no later than the date of the first communication the Responsible Entity makes to all Unitholders which is made after the date the Fee Arrangement is first offered; and
- (d) the Responsible Entity ensures that if fees may be individually negotiated with certain Sophisticated or Professional Investors or Wholesale Clients, a statement of that fact is disclosed in any disclosure document or Product Disclosure Statement (as applicable) used for an offer of interests in the scheme; and
- (e) the Fee Arrangement does not adversely affect the fees that are paid or to be paid by any other member of the scheme who is not party to the Fee Arrangement.

5.12 Issue of Units at Issue Price determined by Responsible Entity — rights issue of Units at price totalling no more than \$5,000

[s.601GA(1)(a); CO 98/52(1)(viii)]

The Responsible Entity may issue Units at an Issue Price determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6, where:

- (a) the Trust has been admitted to the Official List, and the Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily);
- (b) the offer for the issue of Units is made to each Unitholder;
- (c) each offer is made on the same terms and conditions and on a non renounceable basis;
- (d) the Issue Price is less than the Market Price during a specified period in the 30 days prior to either the date of the offer or the date of the issue;
- (e) no Unitholder may be issued with Units for Application Monies totalling more than \$5,000 in any consecutive 12 month period,

provided that an offer need not be made to any Unitholder whose address is in a place where the Responsible Entity reasonably considers that it is not lawful or not practical for the Responsible Entity to offer and issue Units to the person under the arrangement.

For the purposes of this clause:

- (1) if a trustee or nominee is expressly noted on the Register as holding interests on account of another person (Beneficiary), then:
 - (i) the Beneficiary is taken to be the Unitholder in relation to those Units; and
 - (ii) any issue of Units to the trustee or nominee is taken to be an issues to the Beneficiary;

- (2) if the Unit must, under the terms on which it is traded, only be transferred together with one or more other interests or other financial products (together a Stapled Security), then the \$5,000 limit in this clause applies to the Stapled Security as if its component interests and product constituted a single interest rather than to any of those components separately; and
- (3) a reference to an offer of the issue of Units includes a reference to inviting an application for the issue of the Unit.

5.13 Grant of Options and subsequent Issue of Units at Issue Price determined by Responsible Entity - rights issues of Options

[s.601GA(1)(a); CO 98/52(1)(iv)]

The Responsible Entity may:

- (1) grant Options at an Issue Price; and
- (2) issue Units upon exercise of those Options at an Issue Price, determined by the Responsible Entity, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.6, if the Options are granted pursuant to offers made at substantially the same time to only and all the then Holders in proportion to the value of their interests in the Trust if:
 - (b) all the Options offered are in the same class;
 - (c) the issue price and the exercise price of all the Options offered is the same;
 - (d) the means of calculating the exercise price is set out in the Terms of Issue of the Option; and
 - (e) the exercise price (being the Issue Price of Units upon the exercise of the Options) is not less than 50% of the Market Price of a Unit on the date of exercise of the Options,

where, if the Responsible Entity reasonably considers under clause 4.7 that it would be in the best interests of Holders to exclude Foreign Holders and not unfair to those members, the Responsible Entity need not offer or issue the Options to the Foreign Holders if the Options are sold, taking reasonable steps to maximise the sale price (net of expenses of the sale) and the Foreign Holders are promptly paid the net sale price.

5.14 Placements of Units at Market Price

[s.601GA(1)(a)]

While the Trust has been admitted to the Official List and Units are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), the Responsible Entity may issue Units at an issue price equal to the Market Price of a Unit as determined in accordance with clause 1.3(a)(1)(B) or clause 1.3(a)(2), if the issue is:

- (a) a placement to persons to whom disclosure need not be made pursuant to the provisions of the Corporations Act:

- (1) for the purposes of which the Market Price was initially calculated; or
- (2) announced at the same time as, or within 15 Business Days of the date as at which the Market Price is calculated in accordance with clause 1.3(a)(1)(B); or
- (b) made pursuant to a PDS lodged with ASIC pursuant to section 1015B of the Corporations Act within 15 Business Days of the date as at which the Market Price is calculated in accordance with clause 1.3(a)(1)(B).

5.15 Income Units - issue of Units on Conversion

If Units are to be issued pursuant to a Conversion the Units are to be issued at the VWAP calculated in respect of the period of 10 Business Days immediately preceding but not including the Realisation Date less a discount for the particular Income Units in respect of which the Conversion is being made ascertained as the greater of any of the following which is applicable to the circumstances of the Conversion:

- (a) during the first 30 months from the date on which the Income Units were issued, 0%;
- (b) during the next 6 months immediately following the end of the period described in (a), 2%;
- (c) after the end of the period described in (b), 3%;
- (d) if a takeover offer is made for the Fund at any time:
 - (i) if the Conversion is the result of a request by an Income Unit holder received by the responsible entity of the Income Fund after the takeover offer is made public, 0%; and
 - (ii) in any other case, 3%; and

5.16 Issue price for Units under the 2010 Entitlement Offer

Notwithstanding any other provision of this deed, the Responsible Entity may issue Units under the 2010 Entitlement Offer at an issue price of 5 cents per Unit.

6 Options

6.1 Terms and Subscription

- (a) This clause 6 applies to all Options.
- (b) The Terms of Offer and the Terms of Issue of any Options which may be granted must be notified to each person being offered Options at the time of the offer.
- (c) A person may subscribe for an Option in accordance with the Terms of Offer. Upon creation an Option binds the Responsible Entity.

6.2 Nominees

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

6.3 Exercise

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

6.4 Optionholder's Rights and Interest

- (a) An Option does not confer on the Optionholder any interest in the Fund. Optionholders have only those rights conferred on them by this deed, their Terms of Offer and Terms of Issue and the Listing Rules.
- (b) Optionholders are not entitled to any distribution of income or capital gains or any distribution on winding up or termination of the Trust.
- (c) Optionholders are entitled:
 - (1) to inspect any document which may be inspected by; and
 - (2) to be sent any document which is sent to,Unitholders in similar circumstances.
- (d) If Options have been issued which have not expired or been exercised or cancelled, then if a new responsible entity is appointed under this deed, it must execute any documents and do all things reasonably required by the outgoing Responsible Entity to ensure that it assumes the covenants and obligations of the outgoing Responsible Entity under those Options.

6.5 Redemption or Repurchase

- (a) The Responsible Entity may cancel or redeem or buy an Option or any of the rights of exercise of an Option in accordance with the Terms of Issue (provided the Terms of Issue have been approved by the ASX) whereupon the Responsible Entity must make any payment to an Optionholder required under the Terms of Issue. Options and rights may only be cancelled, redeemed or purchased under this clause 6.5(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Responsible Entity and the Responsible Entity may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).
- (b) Options and rights redeemed or purchased under 6.5(a) form part of the Fund, and the Responsible Entity is recognised as the Holder and may exercise, reissue, resell and otherwise deal with them as it determines.

The Responsible Entity retains title in law to each and every Option and right so purchased in its name until the Option or right is resold or lapses and such title in law will not merge in such choses as are constituted by the grant of such Options and rights.

7 Responsible Entity's Powers

7.1 General powers of Responsible Entity [s.601GA(1)(b)]

- (a) Subject to this deed, the Responsible Entity has all the powers that it is possible to confer on a trustee, and has all the powers that are incidental to ownership of the Fund as though the Responsible Entity were the absolute and beneficial owner of the Fund.
- (b) In the exercise of its powers the Responsible Entity may, without limitation, acquire or dispose of any real property or personal property, borrow or raise money, encumber any asset of the Fund, incur any liability, enter into joint venture arrangements or fetter any power.

7.2 Delegation by Responsible Entity

- (a) The Responsible Entity may appoint a person, including an Associate of the Responsible Entity, as its delegate, attorney or agent to exercise its powers and perform its obligations.
- (b) The Responsible Entity may appoint an agent, custodian or other person, including an Associate of the Responsible Entity (each of whom may, with the approval of the Responsible Entity, sub-delegate to any person any of its functions as it thinks fit), to acquire, hold title to, dispose of or otherwise deal with any asset of the Fund on behalf of the Responsible Entity and perform any action incidental or ancillary thereto or otherwise approved by the Responsible Entity.

8 Responsible Entity's responsibilities and liabilities

8.1 No limitation of other undertakings

This clause does not limit or affect any other indemnities given to the Responsible Entity in this deed or at law.

8.2 Limitation of liability of Responsible Entity

- (a) Except where the Corporations Act expressly provides otherwise:
 - (1) the Responsible Entity, and each director and officer of the Responsible Entity, are not personally liable to a Holder or any other person in connection with the office of the Responsible Entity or director or officer of the Responsible Entity; and
 - (2) the Responsible Entity will not be liable to any Holder to any greater extent than the extent to which it is entitled to be indemnified, and is in fact indemnified, out of the assets of the Fund actually vested in the Responsible Entity in respect of the Trust.

8.3 Circumstances where Responsible Entity is not liable

- (a) Except where the Corporations Act expressly provides otherwise, the Responsible Entity is not responsible for:
- (1) any Costs and liabilities incurred by any fraud, negligence, breach of duty or breach of trust or otherwise, by any agent, delegate, attorney or custodian and any of their agents or delegates;
 - (2) any Costs and liabilities incurred by relying on any notice, resolution, information, documents, forms or lists unless it reasonably believes such item not to be genuine or not to have been passed, executed or signed by the proper parties; or
 - (3) Costs and liabilities if a person fails to carry out an agreement with the Responsible Entity or an agent or delegate of the Responsible Entity.
- (b) The Responsible Entity will not be liable to anyone in respect of any failure to perform or do any act or thing which by reason of:
- (1) any provision of any present or future law or statute of the Commonwealth of Australia or any State or Territory of Australia; or
 - (2) of any decree, order or judgement of any competent court,

the Responsible Entity is prevented, forbidden or hindered from doing or performing.

8.4 Responsible Entity may rely on advice

The Responsible Entity may take and act upon:

- (a) the opinion or advice of counsel or solicitors instructed by the Responsible Entity in relation to the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust; and
- (b) the opinion, advice, statements or information from any bankers, accountants, auditors, valuers architects, engineers and other persons consulted by the Responsible Entity who are in each case believed by the Responsible Entity in good faith to be expert in relation to the matters upon which they are consulted,

and the Responsible Entity will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statements or information.

8.5 Interested dealings by Responsible Entity

The Responsible Entity, or an officer or employee or Associate of the Responsible Entity, may:

- (a) be a Holder;

- (b) act in any capacity including without limitation as a representative, delegate or agent of the Responsible Entity or any Holder;
- (c) have an interest in or enter into a contract or transaction with:
 - (1) the Responsible Entity or an Associate of the Responsible Entity;
 - (2) any Holder; or
 - (3) any other person, including one whose shares or other securities form an asset of the Fund; or
- (d) hold or deal in or have any other interest in an asset of the Fund, and may retain and is not required to account for any benefit derived by doing so.

9 Investment of the Fund

9.1 Investment policy

The general investment policy of the Trust is primarily investment in:

- (1) unlisted property trusts;
- (2) listed property trusts;
- (3) property related securities
- (4) direct property; and
- (5) Cash money on deposit with Australian ADIs, and Cash Management Trust Interests,

with a view to achieving income with security and capital appreciation over a term of years.

9.2 Investments

- (a) Subject to clause 9.2(b), the Responsible Entity has absolute and uncontrolled discretion as to the investment of any asset of the Fund, including without limitation any purchase, sale, transfer, exchange or alteration of any of the investments from time to time.
- (b) The Responsible Entity must only invest an asset of the Fund if, at the time of making that investment, the investment is an Authorised Investment.
- (c) If an investment was an Authorised Investment but has ceased to be an Authorised Investment then the Responsible Entity must, within a reasonable period of time, dispose of that investment.
- (d) If an investment in the Fund is redeemed or the capital paid thereon is wholly or partly repaid (whether by way of reduction of capital or otherwise) by the Person who issued or created that investment, then the Responsible Entity may:-

- (1) if an option is given to convert, convert that investment into some other investment pursuant to that option provided that such other investment is an Authorised Investment and the provisions of this deed are otherwise complied with; or
 - (2) accept repayment in Cash of the capital paid or advanced on that investment and any other moneys payable in connection with such redemption or repayment, and may reinvest all or any of the moneys becoming payable whether in respect of capital, premium, surplus or otherwise by reason of such redemption or repayment in Cash in the purchase of an Authorised Investments to be added to the Fund, provided that such reinvestment will be in accordance with the provisions of this Deed.
- (e) If any Securities are received by the Responsible Entity:
- (1) by way of bonus or in lieu of, or in satisfaction (in whole or in part) of, a dividend in respect of any investment forming part of the Fund, or
 - (2) from the amalgamation or reconstruction of any company,
- then Responsible Entity may either retain the Securities as part of the Fund, sell the Securities, or retain part of the Securities and sell the balance, and the net proceeds of any sale must be invested in an Authorised Investment.

9.3 Transactions costs associated with investing

The Responsible Entity may pay out of the Fund in accordance with clause 13.1 the costs of the purchase, sale, transfer, exchange or alteration of any of the investments comprising the Fund (including stamp duty or like impost, brokerage and commission).

10 Limitation on borrowings of the Trust

The Responsible Entity must ensure that the borrowings of the Trust do not exceed 60% per cent of the Total Tangible Assets of the Trust.

11 Valuation

11.1 Valuation of assets

- (a) The Responsible Entity may at any time cause the valuation of any asset of the Fund by an Independent Expert.
- (b) In determining whether a valuation accurately reflects the current value of an asset of the Fund, the Responsible Entity is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of assets of the Fund.
- (c) Subject to clause 11.3, each asset of the Fund must be valued at its Market Value unless the Responsible Entity determines that:
 - (1) there is no market in respect of the asset; or

- (2) the Market Value does not represent the fair value of the Asset,
 - (3) in which case the Responsible Entity must determine the method of valuation for the asset.
- (d) Subject to clause 11.3, where any asset of the Fund is to be valued, or the Net Asset Value of the Trust and the number of Units on Issue is to be determined, the valuation or determination is to be as at a time determined by the Responsible Entity.
- (e) Where the calculation of the Issue Price is to be made as at a particular date, the Responsible Entity need not cause a valuation of the Fund to be performed as at that date but may rely on the most recent valuations for the purposes of that calculation.

11.2 Currency Conversion

Where it is necessary for any purposes to convert one currency to another, the conversion must be made at a time and at such rates quoted by an Australian ADI or other financial institution nominated by the Responsible Entity.

11.3 Determining Current Unit Value for purposes of clause 5.6(b) or clause 17

[PS134.28, 134.29]

If the Responsible Entity is required to determine the Current Unit Value for the purposes of clause 5.6(b) or clause 17, then the value of assets of the Fund for the purposes of calculating that Current Unit Value must be its Market Value calculated in accordance with Item 2 of Schedule 2.

11.4 Valuation of Application Monies

[cross reference clause 4.3(b)]

Where the Application Monies are property other than Cash then:

- (1) the Responsible Entity must determine the value of the property to be transferred by an applicant to the Responsible Entity; and
- (2) the value of that property must be its Market Value.

12 Income and Distributions

12.1 Determination of income and reserves

The Responsible Entity is to determine, according to generally accepted accounting principles and practices which apply to trusts:

- (a) whether any receipts or outgoings of the Responsible Entity are on income account or capital account; and
- (b) the extent to which the Trust needs to make reserves or provisions.

12.2 Distribution of Distribution Entitlement

(a) Calculating the entitlement

After each Distribution Calculation Date the Responsible Entity must calculate for the relevant Distribution Period each Unitholder's Distribution Entitlement.

(b) Determining who has the entitlement

At the end of each Distribution Period each Unitholder at the end of the day on the Distribution Calculation Date is presently entitled to its Distribution Entitlement.

(c) Payment of entitlement to person entitled to it

Subject to clause 12.4, for each Distribution Period the Responsible Entity must pay to each Distribution Recipient its Distribution Entitlement on or before the Distribution Date.

12.3 Calculation of Distribution Entitlement

(a) Calculation of Distributable Amount

Subject to clause 12.8 below, the "Distributable Amount" for a Distribution Period is to be:

- (i) the amount determined by the Responsible Entity. The Responsible Entity may do this by way of a standing determination of principles for calculating the Distributable Amount and may change the principles from time to time prior to the end of the relevant Distribution Period; but
- (ii) if the Responsible Entity does not make a determination pursuant to clause 12.3(a)(i) before the end of the relevant Distribution Period, then the Distributable Amount for that Distribution Period is to be determined in accordance with the following formula:

$$DA = I + C$$

Where:

DA is the amount of the Distributable Amount

I is the Income of the Trust for the Distribution Period; and

C is any additional amount (including capital, previous reserves or previous provisions) that the Responsible Entity has determined during the Distribution Period is to be distributed.

(b) Calculation of Distribution Entitlement

The Distribution Entitlement of each Distribution Recipient is the total of the Unit Entitlement in relation to each Unit held by the Distribution

Recipient at the end of the day on the Distribution Calculation Date, as determined in accordance with clause 12.3(c) below.

(c) **Calculation of Unit Entitlement**

The Unit Entitlement in relation to a Unit is to be determined in accordance with the following formula:

$$UE = DA \times \frac{UD}{TUD}$$

where:

UE is the Unit Entitlement.

DA is the Distributable Amount.

UD is the Unit Days for that Unit for the Distribution Period.

TUD is the sum of the Unit Days for all Units for the Distribution Period.

(d) **Calculation of Unit Days**

For the purposes of paragraph (c) the Unit Days for a Unit for a Distribution Period is the number of days during the Distribution Period for which the Unit has an income entitlement according to its Terms of Issue, multiplied by the Paid-up Proportion for that Unit as calculated at the end of the day on the Distribution Calculation Date.

- (e) Notwithstanding that the Distributable Amount may be calculated in accordance with clause 12.3(a), the accounts of the Trust may be prepared in accordance with applicable accounting standards and generally accepted accounting principles. The preparation of the accounts in this manner is not to be regarded as a determination of the method for calculating the Distributable Amount pursuant to clause 12.3(a).

12.4 Retentions or deductions from Distribution Entitlement

- (a) The Responsible Entity must retain from each Unitholder's Distribution Entitlement all amounts which are necessary to avoid distributing a fraction of a cent. Any sum so retained will for all purposes be treated as Income for the next following Distribution Period.
- (b) The Responsible Entity may retain from the amounts to be distributed to a Unitholder an amount in or towards satisfaction of any amount:
- (1) payable by the Unitholder to the Responsible Entity under this deed;
 - (2) required to be deducted by law; or
 - (3) which the Responsible Entity has a right to retain under any agreement between the Unitholder and the Responsible Entity.

12.5 Composition of Distribution Entitlements

At the end of each Financial Year the Responsible Entity must notify each Distribution Recipient of the extent to which Distribution Entitlements throughout that Financial Year are composed of:

- (a) income, including the type of income; and
- (b) capital, including the type of capital.

12.6 Distribution Reinvestment Arrangements

The Responsible Entity may:

- (a) advise Unitholders from time to time in writing that Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may request that all or a proportion of specified Distribution Entitlements due to them be satisfied by the issue of further Units; or
- (b) require Distribution Entitlements to be reinvested in further Units during such period as the Responsible Entity defines in a notice given to Unitholders before the due date for payment of the first such Distribution Entitlement covered by the notice.

12.7 Discharge of Responsible Entity's obligation

Payments by the Responsible Entity of Distributable Amounts under clause 12.2, and reinvestment of Distribution Entitlements under clause 12.6(b) will be good and complete discharge to the Responsible Entity in respect of any liability to any person in respect of an entitlement to such Distributable Amount.

12.8 Change in taxation of Trust

Notwithstanding clauses 12.3 and 12.4, if in any Financial Year the Responsible Entity in its capacity as trustee of the Trust becomes taxable as if it were a company under the Tax Act the Responsible Entity has complete discretion as to how much, if any, of:

- (a) the Income for each Distribution Period during that Financial Year and
- (b) each subsequent Financial Year for which the Trust is taxed as if it were a company; or
- (c) in Distribution Periods subsequent to that Financial Year, the Income from previous Distribution Periods which has not previously been distributed,

is to form part of the Distributable Amount on the Distribution Date.

13 Responsible Entity's indemnity for costs, liabilities and expenses

13.1 Responsible Entity's Indemnity [s.601GA(2)]

Subject to clause 13.2 below, in addition to any other right of indemnity which the Responsible Entity may have under this deed or at law, the Responsible

Entity is indemnified and entitled to be reimbursed out of, or have paid from, the Fund for:

- (a) all Costs and liabilities incurred by the Responsible Entity in the performance of its duties or the exercise of its powers, the course of its office or in relation to the administration or management of the Trust; and
- (b) all Costs and liabilities necessarily incurred by the Responsible Entity in relation to its acting as Responsible Entity of the Trust; and
- (c) without limitation to paragraph (a) and (b) above, the amounts specified in Schedule 3.

13.2 Proper performance of duties [s.601GA(2)]

The rights of the Responsible Entity under clause 13.1 above to be indemnified out of the Fund for Costs, liabilities or expenses incurred in relation to the performance of its duties, are available only in relation to the proper performance of those duties.

14 Compliance Committee Member Indemnity and insurance

14.1 Persons to whom clauses 14.2 and 14.4 apply

Clauses 14.2 and 14.4 apply to each person who is or has been a member of the Compliance Committee (if any).

14.2 Indemnity in favour of member of Compliance Committee

The Responsible Entity must indemnify out of the Fund, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 14.2 applies for Costs and liabilities (other than Taxes) incurred by the person as a member of the Compliance Committee (in any) including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

14.3 Extent of indemnity

The indemnity in clause 14.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 14.2 applies even though that person may have ceased to be a member of the Compliance Committee (if any); and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

14.4 Insurance

The Responsible Entity may, to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

out of the Fund for any person to whom this clause 14.4 applies against any liability incurred by the person as a member of the Trust's Compliance Committee (if any) including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

14.5 Savings

Nothing in clauses 14.2 or 14.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the Responsible Entity to indemnify or provide insurance for any person to whom those clauses do not apply.

15 Register and Transfers

15.1 Recognition of Holder

Except as required by law, the Responsible Entity:

- (1) must treat the person entered on the Register as the Holder of a Unit or an Option as the absolute owner of that Unit or that Option (as the context required); and
- (2) need not recognise any claim or interest in any Unit or Option by any other person.

15.2 Transfer - general

- (a) Before the Trust is admitted to the Official List, or at any time after the Trust ceases to be admitted, all transfers of Units and of Options must be effected by a proper instrument of transfer and in a manner approved by the Responsible Entity. The Responsible Entity may decline to register a transfer of Units or Options under this clause 15.2(a) unless the instrument of transfer:
 - (1) is duly stamped; and
 - (2) is accompanied by such evidence as the Responsible Entity requires to prove the title of the transferor.
- (b) While the Trust is admitted to the Official List all transfers of Units or Options must be effected in accordance with the Listing Rules.

- (c) A transferor of a Unit or an Option remains the Holder until the transfer is registered and the name of the transferee is entered in the Register in respect of that Unit or that Option.

15.3 Transaction advice after transfer

If the Responsible Entity accepts a transfer under clause 15.2, the Responsible Entity may issue a transaction advice for:

- (a) the Units or Options which have been transferred; and
- (b) the balance of any Units or Options which were not transferred.

15.4 No General Restriction on Transfer whilst Trust admitted to Official List

[LR 8.10]

In relation to Units or to Options which are CHESSE Approved Securities:

- (a) subject to clause 15.4(b), (c) and (d) below, and to clauses 15.5(a), (b) and (c) below, the Responsible Entity must not prevent, delay or in any way interfere with the registration of a proper transfer;

[Clause amended by Second Supplemental Deed dated 22 April 2004]

- (b) the Responsible Entity may apply a holding lock to specified CHESSE Approved Securities where permitted to do so by the Listing Rules;
- (c) the Responsible Entity may refuse to register a transfer where permitted to do so by the Listing Rules; and
- (d) the Responsible Entity must refuse to register a transfer if required to do so by the Listing Rules.

15.5 Restricted Securities

Notwithstanding any other provisions of this deed:

- (a) restricted securities (as defined in the Listing Rules) cannot be disposed of during the escrow period referred to in the Listing Rules except as permitted by the Listing Rules or ASX;
- (b) subject to the ASTC Settlement Rules in respect of CHESSE Approved Securities, the Responsible Entity must refuse to acknowledge a disposal (including registering a transfer), of restricted securities during the escrow period except as permitted by the Listing Rules or ASX; and

[Clause amended by Second Supplemental Deed dated 22 April 2004]

- (c) in the event of a breach of the Listing Rules in relation to Units which are restricted securities, the Holder holding the Units in question ceases to be entitled to any distributions and to any voting rights in respect of those Units for so long as the breach subsists.

15.6 Death, legal disability

- (a) If a Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated then the survivor (in the case of joint Holders), legal personal representative or the person entitled to Units or Options as a result of bankruptcy or liquidation, will be recognised as having a claim to Units or Options registered in the Holder's name.
- (b) The Responsible Entity need not register any transfer or transmission pursuant to this clause unless the transferee provides an indemnity in favour of the Responsible Entity in a form determined by the Responsible Entity in respect of any consequence arising from the transfer or transmission.

15.7 Participation in Transfer Systems

The Responsible Entity may determine that Units or Options which are Officially Quoted will participate in the "Clearing House Electronic Sub-register System" or any other computerised or electronic system of transfer or registration.

The Responsible Entity may with the approval of the ASX, create rules to facilitate such participation which may be additional to or may override this clause 15.

16 Unmarketable parcels

16.1 Application of clause

[LR 15.13, 15.13A, 15.1313]

This clause applies if the Trust is admitted to the Official List.

16.2 Definitions

In this clause:

Unitholder means a Unitholder, or that Unitholder's legal personal representative; and

Purchaser means the Person whose offer to purchase Units is accepted by the Responsible Entity, whether or not the Person is a Unitholder.

16.3 Unitholder's Units less than Marketable Parcel

If at any time the number of Units registered in the name of a Unitholder, including Units to which the Unitholder is jointly entitled, is less than a Marketable Parcel, then the Responsible Entity may serve a notice in writing in accordance with this clause on all persons named in the Register as the holder of the Units the subject of that notice:

- (a) requiring that Unitholder to advise the Responsible Entity by a date being not less than forty-two (42) days after the date of service of that notice if that Unitholder elects that this clause not apply to the Units registered in that Unitholder's name; and
- (b) stating that unless the Unitholder advises the Responsible Entity by the date referred to in the notice that this clause is not to apply to the Units

registered in that Unitholder's name, those Units will be liable to be sold and the proceeds dealt with in accordance with clause 16.11.

16.4 Responsible Entity may sell Units

If a Unitholder does not advise the Responsible Entity by the date referred to in the Notice that this clause is not to apply to the Units registered in that Unitholder's name, then the Responsible Entity may resolve to sell those Units together with all rights attaching to those Units including all distributions declared but unpaid.

16.5 Procedures for sale

A Unit to be sold under this clause may be sold or otherwise disposed of on the terms, in the manner, and at the time, the Responsible Entity thinks fit, and for the purposes of that sale or disposal:

- (a) the Unitholder has appointed the Responsible Entity as the Unitholder's agent to sell the Units held by that Unitholder at a price determined by the Responsible Entity and to deal with the proceeds of the sale of those Units in accordance with this clause;
- (b) the Unitholder is deemed to have irrevocably appointed the Responsible Entity as that Unitholder's attorney in the name and on behalf of that Unitholder to do an act or execute an instrument to effect a transfer of the Units sold or otherwise disposed of.

16.6 Validity of sale

The transferee of a Unit sold under this clause is not bound to see to:

- (a) the regularity of proceedings; or
- (b) the application of the purchase money;

and after the transferee's name has been entered in the Register in respect of the Units:

- (a) the validity of the sale or other disposal may not be impeached by any person; and
- (b) the remedy of any person aggrieved by the sale or other disposal will be in damages only and against the Responsible Entity exclusively.

16.7 Costs of sale

All costs associated with the sale of a Unit under this clause will be paid out of the Fund.

16.8 Consideration

The Responsible Entity must receive any consideration given on any sale or disposal of Units under this clause and the Responsible Entity's receipt will be good discharge to the Purchaser.

16.9 Instrument of transfer

Where:

- (a) all the Units of each Unitholder to whom this clause applies are sold to one Purchaser at one time; or
- (b) all the Units of two or more Unitholders to whom this clause applies are sold to one Purchaser at one time,

the transfer may be effected by one instrument of transfer.

16.10 Title of transferee

The title of a transferee to Units sold under this clause is not affected by any irregularity or invalidity in connection with the sale or disposal of Units to the transferee.

16.11 Proceeds of sale

The Responsible Entity:

- (a) must pay the proceeds of sale under this clause into a bank account opened and maintained by the Responsible Entity generally for the purpose of receiving the proceeds of sale from all sales of Units made under this clause;
- (b) must hold the proceeds of sale on trust for the Unitholder whose Units are sold under this clause;
- (c) when the proceeds of sale of all Units are received, remit the proceeds of sale to the Unitholder whose Units were sold; and
- (d) in the case where a Unitholder's whereabouts are unknown, the proceeds of sale will be applied in accordance with the law dealing with unclaimed money.

16.12 Certificate is evidence

A certificate in writing under the hand of any two (2) Directors or any one (1) Director and a Secretary of the Responsible Entity that:

- (a) a notice required to be served by or on the Responsible Entity was or was not served, as the case may be; and
- (b) a resolution of the Responsible Entity required to be made was made,

is sufficient evidence of the facts stated in that certificate unless the contrary is proved as against all persons claiming to be entitled to Units the subject of that certificate and to the right and title of the Responsible Entity to dispose of the same.

16.13 Duration of clause

So long as it is a requirement of the Listing Rules, this clause ceases to have effect twelve (12) months after the date on which this clause was adopted or re-adopted by the Responsible Entity.

16.14 Effect of clause following announcement of takeover

This clause ceases to have effect following the announcement of a takeover offer or takeover announcement made under Chapter 6 of the Corporations Act but, notwithstanding clause 16.15 the procedure may be recommenced following the close of the offer period.

16.15 Frequency of invoking clause

This clause may be invoked only once in any twelve (12) months after the date on which this clause was adopted or re-adopted by the Responsible Entity.

16.16 Evidence of adoption or re-adoption

A statement in writing indicating the Responsible Entity has resolved to adopt or re-adopt this clause 16 signed by a Director or Secretary of the Responsible Entity will be sufficient evidence of that fact.

17 Buy back of Units [Part 5C.6]

17.1 Unitholders' rights to withdraw from Trust (s.601GA(4); s.601KA)

Whilst the Trust is a Liquid Scheme, a Unitholder may withdraw from the Trust in accordance with this clause.

Whilst the Trust is a not a Liquid Scheme, a Unitholder may withdraw from the Trust in accordance with:

- (1) Part 5C.6 of the Corporations Act; and
- (2) this clause to the extent that this clause is not inconsistent with Part 5C.6 of the Corporations Act.

17.2 Buy Back Offer Record Date and Offer Date

[Clause heading amended by Supplemental Deed dated 19 May 2003]

- (a) If the Responsible Entity wishes to make a buy back offer in accordance with this clause, then the Responsible Entity must set, subject to paragraph (b) below, a Buy Back Offer Record Date for that buy back offer.
- (b) The Responsible Entity must not set a Buy Back Offer Record Date which is in the period 42 days or less before the last day of each Distribution Period.

17.3 Responsible Entity may make buy back offer to all Unitholders

- (a) In accordance with section 601KA(1) of the Corporations Act, the Responsible Entity may, in the exercise of Responsible Entity's absolute discretion, make a written buy back offer on the Buy Back Offer Day to all Unitholders who on the Buy Back Offer Record Date are recorded in the Register as holding Units, giving those Unitholders an opportunity to withdraw wholly or partly from the Trust to the extent that particular assets are available and able to be converted to money in time to satisfy buy-back requests which those Unitholders may make in response to that buy back offer.

- (b) The Buy Back Offer Day must be no later than the third Business Day after the Buy Back Offer Record Date (not including the Buy Back Offer Record Date).

[Clause amended by Supplemental Deed dated 19 May 2003]

- (c) The buy back offer must be in writing and must contain all information required by Part 5C.6 of the Corporations Act, including the Buy Back Offer Period.

[Clause amended by Supplemental Deed dated 19 May 2003]

- (d) The Responsible Entity must make the buy back offer to the Unitholder by posting on the Buy Back Offer Day a written and dated offer to the address of the Unitholder shown in the Register as at the Buy Back Offer Record Date.

17.4 Request by Unitholder for buy back of Units

- (a) Following the receipt by a Unitholder of a buy back offer made by the Responsible Entity in accordance with clause 17.3, a Unitholder may during the Buy Back Offer Period request that the Responsible Entity buy back all of the Units specified in the buy back offer in accordance with the terms of the buy back offer.

The request to the Responsible Entity must:

- (1) be in a form or manner, and subject to such conditions, as are determined by the Responsible Entity when making the buy back offer; and
- (2) be lodged or made at the place or address and in the manner determined by the Responsible Entity when making the buy back offer by no later than the last day of the Buy Back Offer Period.

- (b) A Unitholder may:

- (1) request the buy-back of all of the Units specified in the buy back offer; and
- (2) request the buy back of its Units only in accordance with the terms of the buy back offer.

- (c) A Unitholder may not withdraw a buy-back request except with the consent of the Responsible Entity.

- (d) Except as provided in this clause, the Responsible Entity has no obligation to buy back any Units or cause any Units to be bought back.

17.5 Buy back of Units

- (a) If:

- (1) a Unitholder makes a buy-back request for Units which complies with clause 17.4; and
- (2) the Responsible Entity receives that buy back request by no later

than the last day of the Buy Back Offer Period; and

- (3) the Responsible Entity accepts that buy-back request; and
- (4) the Unitholder continues to hold during the Buy Back Period the number of Units specified in the buy back offer,

then the Responsible Entity must within the Buy Back Period buy back all of the Units held by the Unitholder specified in the buy back offer.

[Clause amended by Supplemental Deed dated 19 May 2003]

- (b) On a buy back of Units the amount to be paid to the Unitholder in respect of each Unit is the amount calculated as follows:

Buy Back Price x Paid-up Proportion of the Unit

- (c) On the buy back of Units, the Responsible Entity:
 - (1) must calculate the total amount payable to the Unitholder for the Units bought back in accordance with paragraph (b) above, less any amounts deducted in accordance with clause 17.6;
 - (2) must cancel the Units bought back;
 - (3) must immediately remove the name of the Unitholder from the Register in respect of the cancelled Units;
 - (4) must pay the total net amount payable to the Unitholder for the Units bought back to the Unitholder in accordance with clause 25.2;
 - (5) may deliver to the Unitholder a confirmation advice.
- (d) Unless Units are to be bought back in fractions, the number of Units bought back is to be rounded to the nearest whole number.
- (e) The Responsible Entity may determine whether any portion of the amount paid to a Unitholder for the Units bought back represents income or capital gains of the Trust. If the amount paid to a Unitholder on buy back Units represents income or capital gains of the Trust then the Responsible Entity must notify the Unitholder the extent to which that amount is composed of, and the types of, income and capital gain.

17.6 Deductions from amounts payable to Unitholder

On any buy back of Units, the Responsible Entity may, before paying the amount due to a Unitholder, deduct from any amount to be paid to that Unitholder any:

- (a) Tax payable by the Responsible Entity in respect of the buy back of Units; and
- (b) unpaid amounts due by the Unitholder to the Responsible Entity.

18 Remuneration of Responsible Entity

18.1 Management fee [s.601 GA(2)]

- (a) The Responsible Entity is entitled to receive out of the Fund a Management Fee calculated at the rate of 0.50% per annum (which includes GST) of:
- (i) the Gross Asset Value of the Fund; plus
 - (ii) while the ordinary units in the Income Fund are held by the Responsible Entity as an asset of the Fund, the difference between the value of the gross assets of the Income Fund and the value of the ordinary units in the Income Fund, in each case calculated in accordance with clause 11.
- (b) The Responsible Entity's Management Fee, which is payable in arrears, accrues daily, is calculated as at the end of each Quarter, and must be paid within 21 days after the end of each Quarter.

18.2 Performance Fee [s.601GA(2)]

(a) **Calculation Period**

The calculation period for the Performance Fee is:

- (1) for the first calculation period, from the Official Listing of the Trust until 31 December 2003, unless that period is extended by the Responsible Entity. The Responsible Entity will extend the calculation period by 6 months when, at the end of the calculation period, no Performance Fee is payable. The calculation period will continue to extend at each 6 month period until a performance fee is payable; and
- (2) subsequently, 6 months from the end of the previous calculation period. The Responsible Entity will extend the calculation period by 6 months when, at the end of the calculation period, no Performance Fee is payable. The calculation period will continue to extend at each 6 month period until a performance fee is payable.

[Clause amended by Supplemental Deed dated 19 May 2003]

(b) **General**

At the end of each calculation period the Responsible Entity will determine the Fund Return and the Benchmark Return.

If at the end of a calculation period the Fund Return is less than the Benchmark Return then no Performance Fee is payable to the Responsible Entity.

Otherwise the Responsible Entity is entitled to receive out of the Fund a performance fee inclusive of GST, which is to be determined in accordance with the following formula:

$$\text{Performance Fee} = 20 \% \times (\text{Fund Return} - \text{Benchmark Return}) \times \text{Average Market Capitalisation}$$

[Clause amended by Supplemental Deed dated 19 May 2003]

(c) **Defined Terms**

In this clause the following definitions apply:

Fund Return:

$$\text{Fund Return} = \frac{F_e - F_s}{F_s}$$

Where:

F_e = the level of the Fund accumulation index at the end of the calculation period

F_s = the level of the Fund accumulation index at the start of the calculation period

The Fund accumulation index is calculated on each Business Day as follows:

$$F_{i+1} = F_i \times \frac{(MP_{i+1} + DPU_{i+1})}{MP_i}$$

Where

i = a business day on which the Fund accumulation index is calculated, being the number of business days after F_s in a given calculation period

F = The Fund accumulation index ($F_0 = 1000$)

MP = the closing price of the Fund's units on the ASX

DPU = The Fund's distribution per unit, on any day when the Fund's units go "ex-distribution".

Benchmark Return:

$$\text{Benchmark Return} = \frac{B_e - B_s}{B_s}$$

Where:

B_e = the level of the Benchmark accumulation index, as determined by the ASX, at the end of the calculation period

B_s = the level of the Benchmark accumulation index, as determined by the ASX at the start of the calculation period

Average Market Capitalisation:

Average Market Capitalisation = the average Market Capitalisation during the calculation period (calculated daily on each Business Day).

(d) **Date for Payment**

The Responsible Entity's Performance Fee, which is payable in arrears, accrues daily, is calculated as at the end of each calculation period, and must be paid within 21 days after the end of each calculation period.

18.3 Waiver of remuneration

The Responsible Entity may waive the whole or any part of the remuneration to which it would otherwise be entitled under this clause.

18.4 Priority of Responsible Entity's remuneration

The remuneration of the Responsible Entity has priority over the payment of all other amounts payable from the Fund.

18.5 Proper performance of duties [s.601GA(2)]

The right of the Responsible Entity under this clause to be paid fees out of the Fund is available only in relation to the proper performance of its duties.

19 Goods and Services Tax

19.1 Definition and interpretation

In this clause 19 words used in this clause (other than the term "GST") which have a defined meaning in the GST Act have the same meaning as in that Act unless the context otherwise indicates.

19.2 Adjustment for GST

- (a) Unless expressly included, the consideration for any supply made by the Responsible Entity under or in connection with this deed does not include GST.
- (b) To the extent that any supply made by the Responsible Entity under or in connection with this deed is a taxable supply, the Responsible Entity is entitled to receive out of the Fund, in addition to the consideration provided under this deed for that supply (unless it expressly includes GST) an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of the supply.

19.3 Tax invoice

The Responsible Entity must issue a tax invoice to the Fund in respect of each taxable supply referred to in clause 19.2 no later than 7 days following receipt of the GST inclusive consideration for that supply.

19.4 Reimbursements

Where the Responsible Entity is entitled to be reimbursed or indemnified out of the Fund for a cost or expense pursuant to clause 13, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Responsible Entity.

20 Retirement or Removal of Responsible Entity

20.1 Retirement of Responsible Entity

- (a) Despite any other law, the Responsible Entity may only retire as responsible entity of the Trust in accordance with section 601FL of the Corporations Act.
- (b) On retirement or removal the Responsible Entity must give the new responsible entity all books, documents and records relating to the Trust.

20.2 Name of Trust to be changed

- (a) If Acumen Capital Securities Limited ACN 103 736 081 has retired or is removed as the Responsible Entity, then the new trustee of the Responsible Entity must promptly take whatever action may be necessary to remove any words or any other letters, words or expressions which might express or imply an association with Acumen Capital Securities Limited, or any of its Associates, from the title of the Trust and this deed and such letters, words or expressions must not be used in any connection with the Trust and this deed.
- (b) Clause 20.2(a) does not apply if the new trustee of the Trust obtains the consent of Acumen Capital Securities Limited not to take the action set out in that clause.

21 Alterations to Trust Deed

The Responsible Entity may by deed replace or amend this deed (including this clause) in accordance with section 601 GC of the Corporations Act.

22 Duration of Trust and termination of Trust

22.1 Duration of Trust

The duration of the Trust ends on the earlier of:

- (a) the date determined by the Responsible Entity as the date on which the Trust is to be terminated; and
- (b) the date on which the Trust is terminated under this deed or by law.

22.2 Perpetuity period and restriction on issue and buy back of Units

The perpetuity period for the purposes of section 101 of the Property Law Act 1969 (WA) is the period of 80 years from the day prior to the commencement of the Trust. Despite any other provisions in this constitution, no Units may be issued or redeemed after the 80th anniversary of the day preceding the day the Trust commenced, unless that issue or redemption would not offend the rule against perpetuities, or any other rule of law or equity. The specification of a perpetuity period in this clause 22.2 does not require that the Trust terminate on the expiration of that period.

22.3 Procedure on suspension or removal from Official List

If at any time after the first time that the Trust is admitted to the Official List and the Units are Officially Quoted either:

- (a) the Units are suspended from Official Quotation and not re-admitted for Official Quotation; or
- (b) the Trust is removed from the Official List,

for a continuous period of 60 days after the day of such suspension or removal, then the Responsible Entity must call a Meeting within 30 days after the expiration of that continuous 60 day period to consider a Holder's resolution that the Trust be wound up.

If the Holders pass a resolution at that Meeting that the Trust be wound up, then the Trust must be wound up in accordance with, and upon the terms and conditions of, that resolution.

22.4 Procedure on winding up of Trust [s.601GA(1)(d)]

- (a) In winding up the Trust the Responsible Entity must:
 - (1) realise the Fund;
 - (2) pay any amount due to it under clause 22.4(c);
 - (3) pay all Costs and liabilities of the Responsible Entity in its capacity as Responsible Entity of the Trust including, but not limited to, liabilities owed to any Unitholder who is a creditor of the Trust; and
 - (4) subject to any special rights or restrictions attached to any Unit or the direction in writing of all Unitholders, distribute the net proceeds of realisation among the Unitholders pro rata in accordance with the Paid-Up Proportion of Units held by Unitholders.
- (b) The Responsible Entity may distribute an asset of the Fund to a Unitholder in specie. The Responsible Entity must determine the value of the asset of the Fund to be distributed in specie. Any costs payable on an in specie distribution must be paid by the Unitholders before the distribution is made.
- (c) The Responsible Entity is entitled to:
 - (1) be paid from the proceeds of realisation of the Trust before any payment is made to the Unitholders all Costs and liabilities incurred or which it establishes will be incurred:
 - (A) by it before the winding up of the Trust which it has not recouped;
 - (B) by it in connection with the winding up of the Trust and the realisation of the Fund;

- (C) by or on behalf of any creditor of the Responsible Entity in relation to the Trust;
 - (D) by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Responsible Entity in connection with the winding up of the Trust;
- (2) an indemnity against the amounts referred to in clause 22.4(c)(1) which may be satisfied out of those proceeds before any distribution under clause 22.4(a)(4) is made; and
 - (3) following the termination of the Trust and until the winding up is completed, its remuneration provided for in clause 18.
- (d) The Responsible Entity may postpone the realisation of the Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
 - (e) The Responsible Entity may retain for as long as it thinks fit any part of the Fund which in its opinion, may be required to meet any actual or contingent liability of the Responsible Entity or any amounts payable actually or contingently to the Responsible Entity under this deed, including but not limited to under clause 22.4(c).
 - (f) The Responsible Entity must distribute among the Unitholders in accordance with clause 22.4 anything retained under clause 22.4(e) which is subsequently not required.

22.5 Audit of accounts of Trust [PS134.24(b)]

The Responsible Entity must ensure that the final accounts of the Trust following the winding-up are audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Responsible Entity.

23 Meetings

23.1 Meetings

- (a) The Responsible Entity may convene a Meeting at any time.
- (b) Part 2G.4 of the Corporations Act, the Listing Rules and the provisions of Schedule 1 apply to a Meeting.

23.2 Resolution by Postal Ballot

- (a) A resolution of Holders of the Trust may be passed by the Holders completing, signing and returning copies of a written resolution which has been sent by the Responsible Entity within a period specified by the Responsible Entity.
- (b) In respect of such a resolution a Holder has the number of votes determined in accordance with section 253C(2) of the Corporations Act. The value of a Holder's total interests must be determined at such time as the Responsible Entity specifies.

23.3 Passing of resolution

A resolution passed at a meeting of Holders held in accordance with this deed, the Corporations Act and the Listing Rules or by postal ballot under clause 23.2 is binding on all Holders.

24 Complaints [s.601GA(1)(c)]

24.1 Complaints handling

The Responsible Entity must establish and maintain a procedure for dealing with Complaints by Holders in relation to a Trust which is consistent with AS10002-2006 Australian Standard on Complaints Handling or such other standard which satisfy's the requirements (if any) of the Corporations Act or the Commission from time to time.

24.2 Holder Complaints

- (a) A Holder may by notice to the Responsible Entity lodge a Complaint in relation to the Trust.
- (b) The Responsible Entity must:
 - (1) record the Complaint and the date it was received in a register maintained for that purpose; and
 - (2) send the Holder an acknowledgment of receipt of the Complaint as soon as possible and in any event within 14 days from receipt.

24.3 Handling of Complaints

- (a) The Responsible Entity must use reasonable endeavours to deal with a Complaint by a Holder under clause 24.2 in accordance with this clause 24, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) Subject to clause 24.3(c), the Responsible Entity must use reasonable endeavours to deal with and resolve the Complaint within a reasonable time from the date of receipt of the Complaint.
- (c) The Responsible Entity must, as soon as practicable and in any event not more than 45 days after receipt of the Complaint, inform the Holder by notice in writing of:
 - (1) its decision in relation to the Complaint;
 - (2) the remedies available to the Holder in relation to the Complaint; and
 - (3) any avenues of appeal that may be available to the Holder if the Holder is dissatisfied with the decision.
- (d) The Responsible Entity 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.

- (e) The Responsible Entity 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.
- (f) The Responsible Entity may in its discretion give any of the following remedies to the Holder:
 - (1) information and explanation regarding the circumstances giving rise to the Complaint;
 - (2) an apology; or
 - (3) compensation for loss incurred by the Holder as a direct result of the breach (if any).

24.4 Assistance and Information

- (a) The Responsible Entity must provide a Holder with all reasonable assistance and information that the Holder may require for the purpose of making a Complaint and understanding the complaints handling procedures adopted by the Responsible Entity.
- (b) A Holder lodging a Complaint in relation to a Trust must provide the Responsible Entity with all information the Responsible Entity may reasonably require in order to properly deal with and resolve the Complaint.

25 General

25.1 Service of notices

- (a) Any application, notice or other communication to or by the Responsible Entity or a Holder:
 - (1) must be in legible writing and in English addressed:
 - (A) if to the Responsible Entity, to its registered office or to such other address as the Responsible Entity may prescribe from time to time;
 - (B) if to a Holder, to the Holder's address specified in the Register of Unitholders or Optionholders,or as specified to the sender by any party by notice and in the case of a Holder, with the Responsible Entity's prior consent;
 - (2) must be signed personally or, in the case of a corporation, by a duly authorised officer or in accordance with section 127 of the Corporations Act, or if the notice or communication is sent by electronic messaging system, be otherwise able to be verified in such manner as the Responsible Entity may prescribe from time to time;
 - (3) is regarded as being given by the sender and received by the addressee:

- (A) if by delivery in person, then when delivered to the addressee; or
- (B) if by prepaid post, then on the third Business Day after the day of postage to the addressee; or
- (C) if by facsimile transmission, when transmitted to the addressee but where the sender's machine indicates a malfunction in transmission or the addressee notifies the sender of an incomplete transmission within 3 hours after transmission is received, the facsimile transmission is regarded as not given or received;
- (D) if sent by electronic messaging system, when the electronic message is received by the addressee,

but if the delivery, receipt or transmission is on a day which is not a Business Day or is after 5.00pm (addressee's time) it is regarded as received at 9.00 am (addressee's time) on the following Business Day; and

- (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) A notice or other communication to joint Holders is validly given if it is given only to the joint Holder whose name appears first on the Register.

25.2 Method of payment or repayment by Responsible Entity to Holders

- (a) Subject to paragraph (b) below, the Responsible Entity will pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by electronic transfer to an account with an Australian ADI nominated by the Holder from time to time in accordance with paragraph (c) below.
- (b) The Responsible Entity may pay any money payable or repayable by the Responsible Entity to a Holder under this deed to the Holder by cheque if:
 - (1) the Holder is a Foreign Holder; and
 - (2) the Holder has failed to nominate an account with an Australian ADI in accordance with paragraph (c) below.
- (c) A Holder must nominate in writing (or in such other manner approved by the Responsible Entity) that money owing to it under this deed be paid by electronic transfer into a designated account with an Australian ADI.
- (d) If money is payable or repayable by the Responsible Entity to a Holder under this deed and either the Holder fails to nominate an account under paragraph (c) above, or the Responsible Entity cannot make an electronic transfer to an account nominated by a Holder under paragraph (c) above, then the amount of money will be reinvested by the Responsible Entity in Units issued to the Holder. The reinvestment is deemed to be made on

the day determined by the Responsible Entity and at an Issue Price equal to the DRP Market Price.

[Clause amended by Supplemental Deed dated 19 May 2003]

25.3 Binding conditions

[s.601GB]

The terms and conditions of this deed and any deed amending this deed are binding on the Responsible Entity, each relevant Holder and any other person claiming through any of them, as if each was a party to this deed and each deed amending this deed.

25.4 Governing law and jurisdiction

The rights, liabilities and obligations of the Responsible Entity and the Holders are governed by the law of Western Australia.

25.5 Severability

If any provision of this deed is held or found to be void, invalid or otherwise unenforceable so much hereof as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this deed will remain in full force and effect.

Schedule 1 - Meetings of Holders

(Clause 23)

1 Notice of meeting

If the Responsible Entity omits to give a Holder notice of a Meeting or if a Holder does not receive notice, the Meeting is still valid.

2 Who may attend and address meeting of Unitholders

The Responsible Entity, the directors of the Responsible Entity, the Auditor, the auditor of the Trust's Compliance Plan, and any person invited by any of them is entitled to attend and address a Meeting or an adjourned Meeting.

3 Quorum

- (a) No business may be transacted at any Meeting unless a quorum of Holders is present at the time when the meeting proceeds to business.
- (b) The quorum for any Meeting is 5 Holders present at the Meeting either in person or by attorney, representative or proxy.
- (c) A Holder is counted towards a quorum even though the Holder may not be entitled to vote on the resolution at the Meeting.
- (d) If a quorum is not present within half an hour from the time appointed for the Meeting, the Meeting must be adjourned as the chairman directs.
- (e) Other than for a Meeting to consider an extraordinary resolution, at an adjourned Meeting the Holders with voting rights who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.

4 Adjournments

The chairman may adjourn a Meeting for any reason to such time and place as the chairman thinks fit.

5 Proxies

- (a) Any person including a Holder may act as a proxy.
- (b) If the appointer of a proxy is an individual, the instrument of appointment must be in writing and signed by the appointer or the appointer's attorney authorised in writing.
- (c) The instrument appointing a proxy and the original or notarially certified copy of the power of attorney or authority under which it is signed must be deposited with the Responsible Entity at least 48 hours, or any shorter period determined by the Responsible Entity from time to time, before the time appointed for the Meeting at which the proxy proposes to vote.
- (d) If paragraph 5(c) is not complied with, the proxy is invalid.

- (e) The Responsible Entity is not obliged to enquire whether a proxy has been validly given.
- (f) A vote given under an instrument of proxy is valid even though the principal is insane at the time, has died or has revoked the proxy or the authority under which the proxy was executed.
- (g) Paragraph 5(f) does not apply if the Responsible Entity has notice in writing of the death, insanity or revocation before the Meeting at which the proxy is to be used.

6 Chairman

- (a) The Responsible Entity may elect a person to preside as chairman at a Meeting of Unitholders except for a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.
- (b) If the person elected by the Responsible Entity's does not appear within 30 minutes from the time appointed for the Meeting, the Holders present must elect one of their number to preside as chairman.
- (c) The Holders present must by resolution elect any person to preside as chairman of a Meeting convened for the purpose of passing a resolution to remove the Responsible Entity under the Corporations Act.

7 Voting

- (a) If a person present at a general Meeting is a member and also represents by proxy, attorney or representative 1 or more other members, on a show of hands the person is entitled to:
 - (1) if on a poll the person would have cast all votes in the same voting direction, one vote only ; or
 - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,

even though he or she is a member and also represents 1 or more other members
- (b) If a person present at a general Meeting represents by proxy, attorney or representative 2 or more members, on a show of hands the person is entitled to:
 - (1) if on a poll the person would have cast all votes in the same voting direction, one vote only ; or
 - (2) if on a poll the person would cast votes in different directions, one vote in each voting direction,

one vote only even though he or she represents 2 or more members.
- (c) A poll is to be conducted as directed by the chairman at the Meeting or any adjournment of the Meeting.

- (d) The demand for a poll may be withdrawn by the person who demanded it.
- (e) The demand for a poll does not discontinue the Meeting except to decide the question for which the poll is demanded.
- (f) The result of the poll is regarded as the resolution of the Meeting.
- (g) A poll may not be demanded on any resolution concerning:
 - (1) the election of the chairman of a Meeting; or
 - (2) the adjournment of a Meeting.
- (h) If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or Responsible Entity or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting as if the committee, Responsible Entity or other person were the Holder.

8 Joint Holders

Joint Holders are counted as a single Holder for the purposes of calculating the number of Holders who have:

- (a) requested a Meeting under section 252B(1) of the Corporations Act;
- (b) given the Responsible Entity notice of a special or extraordinary resolution they propose to move at a Meeting under section 252L(1) of the Corporations Act;
- (c) requested that a statement be distributed to members under section 252N of the Corporations Act; or
- (d) demanded a poll under section 253L of the Corporations Act.

9 Class Meetings

The provisions of Part 2G.4 of the Corporations Act, clause 23 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Unitholders of different classes of Units.

The provisions of Part 2G.4 of the Corporations Act, clause 23 of this deed and this Schedule 1 relating to Meetings apply so far as they can and with such changes as are necessary, to each separate Meeting of Optionholders of different classes of Options.

Schedule 2 - Market Value

(Clause 11)

Item 1 — General

Except for the purposes of calculating Current Unit Value for clause 5.6(b) or for clause 17, the market value of an asset of the Fund will be calculated by reference to the following:

	Asset Class	Market Value Valuation
1.	An interest in real estate.	<p>The cost of acquisition (which shall include all costs and liabilities relating thereto) until its first fair and reasonable value is determined by an Independent Expert.</p> <p>Following this the most recent value determined as the fair and reasonable value by an Independent Expert.</p>
2.	Securities in, or of, an entity where the Securities are Officially Quoted.	<p>The Security's last sale price on the ASX, or if the Responsible Entity believes that the last sale price would not provide a fair reflection of the market value of the asset, then the average sale price (weighted by reference to volume) at which the Security was sold on the ASX on the last 10 trading days before the day as at which the market value of the Security is being determined or, if the Responsible Entity believes that the average weighted sale price of the Security would not provide a fair reflection of the market value of the asset, then the mid-point of the bid and offer prices on the ASX on the date of valuation, or if that ASX was not then open for business then on the nearest earlier date on which it was open, or if the Responsible Entity is of the opinion that the last sale price does not truly reflect market value, then the value determined as the fair and reasonable value by an Independent Expert who is to take into account the Officially Quoted last sale price, the last seller's offer and the last buyer's bid at the close of trading for the same Security and any other relevant factors.</p>
3.	Interests in a Managed Investment Scheme where the interests are not Officially Quoted.	<p>The cost of acquisition (which shall include all costs and liabilities relating thereto) until the underlying assets in the Managed Investment Scheme are first valued, then its market value quoted by the responsible entity of the Managed Investment scheme on the relevant date or the nearest earlier date or, if the Responsible Entity believes that the purchase price would not provide a fair reflection of the market value of the Interest in the Managed Investment Scheme, then its market value quoted by the responsible entity</p>

Asset Class	Market Value Valuation
	of the scheme on the relevant date or the nearest earlier date or, the value determined as the fair and reasonable value by an Independent Expert.
4. Any asset of the Fund other than the assets specified in paragraphs (1) to (3) above.	Valuation method determined by the Responsible Entity which may be by reference to the most recent value determined by an Independent Expert.

Item 1 - clause 5.6(b) and clause 17

[PS134.28, 134.29]

For the purposes of calculating Current Unit Value for clause 5.6(b) or for clause 17, the market value of an asset of the Fund will be calculated by reference to the following:

Asset Class	Market Value Valuation
1. An interest in real estate.	<p>The cost of acquisition (which shall include all costs and liabilities relating thereto) until its first fair and reasonable value is determined by an Independent Expert.</p> <p>Following this the most recent value determined as the fair and reasonable value by an Independent Expert.</p>
2. Securities in, or of, an entity where the Securities are Officially Quoted.	<p>The Security's last sale price on the ASX, or if an Independent Expert believes that the last sale price would not provide a fair reflection of the market value of the asset, then the average sale price (weighted by reference to volume) at which the Security was sold on the ASX on the last 10 trading days before the day as at which the market value of the Security is being determined or, if an Independent Expert believes that the average weighted sale price of the Security would not provide a fair reflection of the market value of the asset, then the mid-point of the bid and, offer prices on the ASX on the date of valuation, or if that ASX was not then open for business then on the nearest earlier date on which it was open, or if an Independent Expert is of the opinion that the last sale price does not truly reflect market value, then the value determined as the fair and reasonable value by the Independent Expert who is to take into account the Officially Quoted last sale price, the last seller's offer and the last buyer's bid at the close of trading for the same. Security; and any other relevant factors.</p>
3. Interests in a Managed Investment Scheme where the interests are not Officially Quoted.	<p>The cost of acquisition (which shall include all costs and liabilities relating thereto) until the underlying assets in the Managed Investment Scheme are first valued, then its market value quoted by the responsible entity of the Managed Investment Scheme on the relevant date or the nearest earlier date or, if an Independent Expert believes that the purchase price would not provide a fair reflection of the market value of the Interest in the Managed Investment Scheme, then its market value quoted by the responsible entity of the Managed Investment Scheme on the relevant date or the nearest earlier date or, the value determined as the fair and reasonable value</p>

Asset Class	Market Value Valuation
	by the Independent Expert.
4. Any asset of the Fund other than the assets specified in paragraphs (1) to (3) above.	Most recent value determined by an Independent Expert.

Schedule 3 - Costs and expenses

(Clause 13)

1. All costs (including, without limitation, travel expenses and accommodation) connection with:
 - (a) the preparation, approval, registration, execution, stamping, interpretation and enforcement of this deed and any amending deeds and the Trust;
 - (b) the underwriting of any issues of Units or any grant of Options, including fees payable to any underwriter or sub-underwriter, and brokerage or commission payable to any person for arranging or procuring a person to subscribe for Units;

[Clause amended by Supplemental Deed dated 19 May 2003]

 - (c) the preparation, registration, printing, promotion and distribution of any PDS or marketing material issued by the Trustee in respect of the Trust and the preparation, registration, printing, promotion and distribution of any document required by law the Listing Rules or this deed to be prepared in respect of the Trust;
 - (d) the investigation, negotiation, acquisition, development, registration, custody, holding, management, supervision, repair, maintenance, valuation, insurance, sale of or other dealing with an Asset (or attempting or proposing to do so) and the receipt, collection or distribution of income or other Assets;
 - (e) raising money or otherwise obtaining financial accommodation, including but not limited to, interest on borrowings and discounts and fees in respect of bill facilities and any Taxes payable in respect of such raising of money or obtaining financial accommodation;
 - (f) convening and holding Meetings and carrying out the directions of the Meetings;
 - (g) the retirement or removal of the Trustee and the appointment of another (including a temporary responsible entity) in its place;
 - (h) the establishment and maintenance of accounts (including bank accounts in respect of the Trust) and the Register and registry services;
 - (i) calculations and determinations under this deed;
 - (j) the establishment and administration of the Trust including:
 - (1) computer operation and development and data processing;
 - (2) computer experts' fees and expenses;
 - (3) office expenses including the cost of postage, transaction advices, accounts, distribution statements, notices, reports and other documents sent to a Unitholder or an Optionholder under this deed;

- (4) holding Meetings of the directors of the Trustee, without regard to where any director may reside; and
 - (5) holding Meetings of the members of the Trust's Compliance Committee, without regard to where any member may reside;
 - (k) any custodian, actuary, adviser, expert, agent, delegate, lawyer (on a full indemnity basis), contractor, valuer, accountant or auditor (including the auditor of the Trust's Compliance Plan, including any who is an associate of the Trustee;
 - (l) fees, remuneration and expenses of members of the Trust's Compliance Committee in their capacity as such;
- [Clause amended by Supplemental Deed dated 19 May 2003]
- (m) the indemnity in favour of a member of the Compliance Committee referred to in clause 14.2;
 - (n) any insurance purchased or maintained or premium for insurance paid or agreed to be paid as contemplated by clause 14.4;
 - (o) all Taxes;
 - (p) all fees payable to the Commission, ASX, or other regulatory authority in respect of the Trust, Units or Options and other expenses incurred by the Trustee or Manager in respect of the admission of the Trust to the Official List of ASX or in respect of the Official Quotation of any Units or Options;
 - (q) in anticipation of any action, suit or proceeding relating to the interpretation and construction of this deed or any provision of this deed or against the Trustee;
 - (r) preparation and lodgement of tax returns;
 - (s) termination of the Trust;
 - (t) the assigning and maintaining of a credit rating to the Trust;
 - (u) communications with Holders;
 - (v) costs of responding to enquiries in respect of holdings of Units or of Options, preparing and printing accounts, causing the preparation and distribution of accounts, distribution statements, reports, confirmations and cheques in respect of the Trust;
 - (w) the establishment of the Trust, the admission of the Trust to the Official List of the ASX or in respect of the Official Quotation of any Units or Options;
 - (x) maintaining the Trust on the Official List of ASX or any ability to trade Units or Options or in connection with or arising out of any removal of the Trust from the Official list or suspension of any Units or Options from trading by ASX;

- (y) the services of asset managers, property managers, project managers and collection agents appointed in relation to Assets, despite such asset managers, property managers project managers and collection agents may be the Trustee or a Related Body Corporate of the Trustee; and
 - (z) rates, development, insurance and redevelopment costs, insurance broking and quantity surveyor's fees, subdivision and building costs, normal building operating expenses not paid by tenants and costs of leasing any Asset.
2. All like amounts or amounts incidental thereto.