

Consolidated Constitution

Fat Prophets Global Property Fund

One Managed Investment Funds Limited
ACN 117 400 987
(Trustee)

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This document records the deed poll is declared by the Trustee on 23 June 2017 to be the constitution of the Fat Prophets Global Property Fund as amended by the amending deed poll dated 4 July 2017

1 Definitions and interpretation

1.1 Definitions

In this Constitution, unless the context otherwise requires:

Accrued Income Entitlement in relation to a Unit means the Trustee's estimate of the appropriate share of the Distributable Income of the Trust attributable to that Unit accrued from the commencement of the Distribution Period to the date for redemption of the Unit.

Adviser includes any adviser, consultant or expert including any architect, project manager, barrister, solicitor, underwriter, accountant, auditor, valuer, banker, information technology or systems adviser, real estate agent, investment manager, broker, administrator or property manager, environmental auditor and/or assessor, and any other person appointed by the Trustee to provide advice in relation to the Trust.

AMIT has the meaning given in section 995-1 of the Tax Act.

AMIT Election has the meaning given in clause 18.1.

AMIT Regime means the laws related to the taxation of AMITs in the Tax Act and related legislation, as were implemented by the Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016 (Cth) and related Acts (being the Income Tax Rates Amendment (Managed Investment Trusts) Act 2016 (Cth), Medicare Levy Amendment (Attribution Managed Investment Trusts) Act 2016 (Cth) and the Income Tax (Attribution Managed Investment Trusts— Offsets) Act 2016 (Cth)), as amended from time to time.

AMMA Statement has the meaning given in section 995-1 of the Tax Act.

Application Price means the application or issue price for a Unit.

ASIC means the Australian Securities and Investments Commission or any Government Agency which replaces it or performs its functions.

ASIC Relief means a declaration made under, modification of or exemption from the provisions of the Corporations Act issued by ASIC.

Assets means all the property, rights and income of the Trust, but not:

- (a) application money or property in respect of which Units have not been issued;
- (b) proceeds of redemption which have not been paid; or
- (c) any Distributable Income to which a Unitholder is presently entitled, but which has not been paid.

ASX means ASX Limited (ACN 008 624 691) or the market operated by it as the context requires.

ASX Market Rules means:

- (a) the Market Integrity Rules; and
- (b) the Operating Rules.

ASX Settlement means ASX Settlement Pty Ltd (ACN 008 504 532).

Auditor means the auditor from time to time appointed by the Trustee to audit the Trust.

Bid Issue Price means, in relation to a Unit:

- (a) the price determined in accordance with paragraph (a) or (b) of the definition of Market Price; or
- (b) if the Trustee determines that the price determined under paragraph (a) or (b) of the definition of Market Price, does not give rise to a fair reflection of the market value of the Unit, the price determined under paragraph (c) of the definition of Market Price.

Business Day means a day other than a Saturday or Sunday on which banks are open for general banking business in Sydney but if the Units are Officially Quoted has the meaning given to that term in the Listing Rules.

Cash means currency and includes cheques.

Commencement Date means the date on which the Trust was established.

Commitment means a commitment, in a form and terms satisfactory to the Trustee, that the Trustee will receive the application money or property within a time specified by the Trustee.

Compliance Committee means a compliance committee established by the Trustee in connection with the Trust.

Compliance Committee Member means a member of the Compliance Committee.

Consolidated Group's Assets means the consolidated assets of the Trust and the Trust's Controlled Entities, with the effects of all transactions between the Trust and the Trust's Controlled Entities being eliminated in full.

Constitution means this deed poll.

Control has the meaning given under the Corporations Act and Controlled is to be construed accordingly.

Controlled Entity means an entity, including a body corporate, trust or partnership, Controlled by the Trust.

Corporations Act means the *Corporations Act 2001* (Cth).

CS Facility has the same meaning as clearing and settlement facility in the Corporations Act.

CS Facility Operator means the operator of the CS Facility.

Determined Member Component has the meaning given in section 995-1 of the Tax Act.

Determined Trust Component has the meaning given in section 995-1 of the Tax Act.

Distributable Income means the amount determined in accordance with clause 14.

Distribution Account means an account designated with that name in accordance with clause 14.10(d).

Distribution Calculation Date means:

- (a) each 30 June or 31 December falling on or before the Termination Commencement Date;
- (b) each 30 June falling after the Termination Commencement Date; and / or
- (c) such other days as the Trustee designates from time to time.

Distribution Period means:

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- (a) for the last distribution, the period beginning on the day after the last preceding Distribution Calculation Date and ending on the date on which the final distribution is made to Unitholders; and
- (b) in all other cases in each year during the continuance of the Trust, each of the periods beginning on the day after the preceding Distribution Calculation Date and ending on the next occurring Distribution Calculation Date.

Eligible Person means any person:

- (a) other than a U.S. Person; or
- (b) other than a person that the Trustee has determined is not eligible to hold Units from time to time.

Eligible Person Statement means a statement in writing, in the form determined by the Trustee from time to time, in relation to whether a person is an Eligible Person.

Escrow Period has the same meaning as in the Listing Rules.

Expenses includes any costs, liabilities, expenses, commissions, brokerage, fees, Taxes and duties.

Financial Instrument means any other interest, rights or instruments relating to the Trust (including derivatives, debentures, convertible notes or other instruments of debt, equity, quasi-debt, quasi-equity or hybrid nature).

Financial Instrument Holder means a person Registered as the holder of a Financial Instrument (including persons Registered jointly).

Financial Statements has the meaning given to that expression in section 9 of the Corporations Act.

Financial Year means:

- (a) for the first financial year, the period on and from the Commencement Date and including the next 30 June;
- (b) for the last financial year, the period on and from 1 July immediately before the date of final distribution to and including the date of final distribution on termination of the Trust; and
- (c) in all other circumstances, the 12 month period ending on 30 June in each year.

First Issue Date means the date the first Unit is issued under this Constitution.

Foreign Holder means a Holder whose address on the Register is outside of Australia and New Zealand and who the Trustee is entitled to exclude and excludes from the offer in accordance with ASIC Relief.

Fully Paid Unit means a Unit on which the Application Price has been fully paid.

Government Agency means, whether foreign or domestic:

- (a) a government, whether federal, state, territorial or local or a department, office or minister of a government acting in that capacity; or
- (b) a commission, delegate, instrumentality, agency, board, or other government, semi-government, judicial, administrative, monetary or fiscal body, department, tribunal, entity or authority, whether statutory or not, and includes any self-regulatory organisation established under statute or any stock exchange.

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Gross Asset Value means the aggregate value of the Consolidated Group's Assets determined in accordance with clauses 12.2(a) to 12.2(d) and generally accepted accounting principles.

GST means a goods and services tax, value added tax, consumption tax or a similar tax or a tax on services only, including without limitation, GST as defined in section 195-1 of the GST Act.

GST Act means the *A New Tax System (Goods and Services) Tax Act 1999* (Cth).

GST Group has the meaning given in the GST Act.

Holder means a Unitholder, an Option Holder or a Financial Instrument Holder, or any of them, as the case requires.

Income Distribution means in respect of a Unitholder and a Distribution Period, the amount calculated in respect of the Unitholder under clause 14.5.

Input Tax Credit has the meaning given in the GST Act.

Investment Management Agreement means an investment management agreement between the Trustee and an Investment Manager (and others as applicable) relating to the management services to be provided by the Investment Manager to the Trust and the Trust's Controlled Entities.

Investment Manager means Fat Prophets Funds Management Pty Limited (ACN615 545 536) or any other investment manager subsequently engaged by the Trustee to provide management services to the Trust and the Trust's Controlled Entities.

IPO means the proposed initial public offering of Units in the Trust by the Trustee and the concurrent Listing on the ASX.

Liabilities means the liabilities of the Trust including any provision which the Trustee decides should be taken into account in accordance with generally accepted accounting principles applicable in Australia in determining the liabilities of the Trust, but excluding any liabilities:

- (a) to applicants for Units in respect of application money or property in respect of which Units have not yet been issued; or
- (b) to Unitholders, arising by virtue of the right of Unitholders to request redemption of their Units or to participate in the distribution of the Assets on termination of the Trust.

Liquid has the same meaning as in the Corporations Act.

Listed means:

- (a) in the case of the Trust, the trust being listed on the ASX; and
- (b) in the case of Units or Options or Financial Instruments, those financial products or any of them being Officially Quoted;

and **Listing** has a corresponding meaning.

Listing Date means the date on which the Trust is first Listed.

Listing Rules means the listing rules of the ASX and any other rules of the ASX which are applied while the Trust is admitted to the official list of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

Market Integrity Rules means the ASIC Market Integrity Rules (ASX Market) 2010, as amended or replaced from time to time, except to the extent of any exemption or modification granted by ASIC and available to the Trust or the Trustee.

Market Price on a particular day means, in relation to Units only:

- (a) the VWAP for all Units traded on ASX for each of the Trading Days (as determined by the Trustee) immediately before the relevant day (i.e. excluding the relevant day and whether or not a sale was recorded on any particular day during that period);
- (b) the price obtained pursuant to a bookbuild arranged by a reputable investment 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 standards; or
- (c) if:
- (i) in the case of paragraph (a) of this definition, Units have not been Officially Quoted for a least 10 consecutive Trading Days before the relevant day; or
 - (ii) in the case of paragraph (a) or (b) of this definition, in the Trustee's opinion, a determination under paragraph (a) or (b) of this definition (as relevant) would not provide a fair reflection of the market value of the Unit having regard to the nature of the proposed offer of Units and the circumstances in which the proposed offer is made,

the price per Unit determined by an adviser who:

- (iii) is independent of the Trustee; and
- (iv) has relevant market experience in determining the issue price of securities 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:

- (v) the nature of the proposed offer of Units for which purpose the Market Price of a Unit is being calculated;
- (vi) the circumstances in which the proposed offer of Units will be made;
- (vii) the interests of investors generally, including balancing the dilutionary effect of any such issue against the desirability of a successful capital raising; and
- (viii) values that are consistent with ordinary commercial practice for valuing that asset type and are reasonably current.

In circumstances where the Adviser determines the issue price of an Option or Financial Instrument, the Adviser must, if relevant, also determine the amount of the issue price of a Unit in the Trust on exercise, exchange or conversion of the Option or Financial Instrument.

Member means a person who holds an interest in the scheme and includes a Unitholder.

Member Component has the meaning given in section 995-1 of the Tax Act.

Minimum Holding means the amount from time to time determined by the Trustee pursuant to clause 9.6 to be the minimum holding for Units.

Net Asset Value means:

- (a) the Gross Asset Value of the Consolidated Group's Assets; less
- (b) the aggregate of the Liabilities of the Trust and the liabilities of the Trust's Controlled Entities (determined on the same basis as the Liabilities of the Trust) with the effects of all transactions between the Trust and the Trust's Controlled Entities being eliminated in full.

Officially Quoted means quotation on the official list of the ASX, including when quotation is suspended.

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Operating Rules means the ASX Operating Rules, including the Listing Rules, the ASX Clear Operating Rules, the ASX Settlement Operating Rules and any other rules of the ASX which apply while the Trust is admitted to the official list of the ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by the ASX.

Option means an option granted by the Trustee in respect of an unissued Unit.

Option Holder means a person registered as the holder of an Option (including persons Registered jointly).

Ordinary Resolution means a Resolution where the required majority is a simple majority.

Product Disclosure Statement has the meaning given to it in the Corporations Act.

Proper ASTC Transfer is a proper ASTC transfer as defined in the Corporations Regulations.

Property includes any rights to property of any description and any income of such property.

Realisation Transaction means a transaction which enables all Unitholders to realise all or a substantial portion of their investment in the Trust, including:

- (a) a sell down of a substantial portion of the Units where all Unitholders have the opportunity to participate in the sell down;
- (b) a sale of substantial Assets where all Unitholders have an opportunity to have their Units redeemed or transferred; or
- (c) any other arrangement which has substantially the same economic effect as a transaction referred to in paragraph (a) or (b) of this definition.

Redemption Price means the redemption price of a Unit calculated in accordance with this Constitution.

Redemption Request means a written request to the Trustee to redeem Units.

Register means the register of Unitholders kept by or on behalf of the Trustee under the Corporations Act, the register of Option Holders or the register of Financial Instrument Holders, as the case requires.

Registered means recorded in the Register.

Registered Scheme means a trust that is registered with ASIC as a managed investment scheme under Chapter 5C of the Corporations Act.

Registration means recording in the Register.

Regulatory Required Part has the meaning given in clause 26.3(a)(ii). Regulatory Required Provisions has the meaning given in clause 26.3(a)(i). Regulatory Requirement has the meaning given in clause 26.3(a)(ii).

Relevant Security means a Unit, an Option or a Financial Instrument as appropriate.

Relevant Security Holder means a Unitholder, an Option Holder or the person Registered in the Register as the holder of a Financial Instrument as appropriate.

Representative Member has the meaning given in the GST Act.

Resolution means:

- (a) a resolution passed at a meeting of Unitholders of the Trust:
 - (i) on a show of hands, by the required majority of Unitholders present in person or by proxy, attorney or representative and voting on the show of hands; or

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- (ii) on a poll, by the required majority of votes cast by Unitholders present in person or by proxy, attorney or representative and voting on the poll; or
- (b) where the law allows, a resolution in writing signed by Unitholders holding the required majority of the Units in the Trust.

Except where this Constitution or any applicable law provides otherwise, the 'required majority' is a 'simple majority'.

Where the context requires, the reference to **Unitholders** may be extended to mean or include Option Holders and Financial Instrument Holders.

Restricted Securities has the same meaning as in Listing Rule 19.12 of the Listing Rules, which includes:

- (a) securities issued in the circumstances set out in Appendix 9B of the Listing Rules; and
- (b) securities that, in the ASX's opinion, should be treated as restricted securities.

Restriction Agreement means a restriction agreement within the meaning and for the purposes of Listing Rule 9.1.4 and as set out in Appendix 9A of the Listing Rules, which an entity which issues Restricted Securities, or has Restricted Securities on issue, must enter into with the holder of the Restricted Securities.

Retail Client has the same meaning given in the Corporations Act.

Tax means all kinds of taxes, duties, imposts, deductions, withholding taxes and charges imposed by a government including GST or any amount recovered from the Trustee by way of reimbursement of GST or any amount included either expressly or impliedly in an amount paid or payable by the Trustee on account of GST, together with interest and penalties.

Tax Act means the Income Tax Assessment Act 1936 (Cth) or the *Income Tax Assessment Act 1997* (Cth) or both, as appropriate or equivalent enacted legislation from time to time.

Termination Commencement Date means the date the termination or winding-up of the Trust commences under clause 20.

Trading Day means a day that is a trading day for the purposes of the ASX Market Rules.

Transaction Costs means:

- (a) when calculating the Application Price of a Unit, the Trustee's reasonable estimate of the average amount necessary to avoid an adverse impact on other Unitholders because of the acquisition of Units; and
- (b) when calculating the Redemption Price of a Unit, the Trustee's reasonable estimate of the average amount necessary to avoid an adverse impact on other Unitholders because of the redemption of Units,

provided that, subject to the Corporations Act, the Trustee may in connection with any particular application or request for redemption of Units deem these costs to be a lesser sum or zero.

Trust means the trust governed by this Constitution.

Trust Component has the meaning given in section 995-1 of the Tax Act.

Trustee means:

- (a) until the Trust is registered with ASIC as a managed investment scheme, the body corporate named at the beginning of this Constitution as the trustee of the Trust or if another body corporate holds office as trustee, that body corporate; and

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- (b) from the time the Trust is registered with ASIC as a managed investment scheme, the company which is registered with ASIC as the responsible entity for the Trust under the Corporations Act.

Trustee Group means any entity which Controls the Trustee, and any other entity which is Controlled by the entity which Controls the Trustee.

Unit means an undivided share in the beneficial interest in the Trust as provided in this Constitution.

Unitholder means any person Registered as the holder of a Unit that has not been redeemed (including persons jointly Registered) or otherwise stated to be a Unitholder in accordance with clause 9.6(a) or any other provision of this Constitution.

User Pays Fees means any cost incurred in relation to:

- (a) an entitlement to a payment or a payment to or from the Trust in respect of a Unitholder; or
- (b) any act or omission requested by a Unitholder,

which the Trustee considers should be borne by that Unitholder.

Valuation Time means a time determined by the Trustee at which the Trustee calculates Net Asset Value.

VWAP in respect of a Unit for a Trading Day, means the volume weighted average of the Unit prices recorded on ASX for that Trading Day. The Trustee may include, or may substitute, in VWAP calculations trading on another financial market on which trading in Units is permitted. The Trustee may exclude sales that occur otherwise than in the ordinary course of trading on ASX or another financial market (such as special crossings, crossings prior to the commencement of normal trading, crossings during the closing phase and the after-hours adjust phase, overseas sales, sales pursuant to the exercise of options over Units, and overnight crossings) and any other sales which the Trustee reasonable consider may not be fairly reflective of natural supply and demand.

1.2 Interpretation

In this Constitution unless the context otherwise requires, a reference to:

- (a) terms defined in the Corporations Act are used with their defined meaning;
- (b) the word "law" includes common law, principles of equity and legislation and a reference to legislation includes regulations as modified by applicable instruments under them and any variation or replacement of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example" or "such as" or similar expressions;
- (e) amend includes vary, delete or replace;
- (f) person includes a firm, a body corporate, an unincorporated association and an authority;
- (g) the cover page, contents, headings, footnotes and finding lists are for convenience only and do not affect interpretation;
- (h) a reference to a year (other than a Financial Year), quarter or month means a calendar year, calendar half-year, calendar quarter or calendar month respectively;
- (i) a reference to a monetary amount is a reference to the currency of Australia unless otherwise specified;

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- (j) a reference to a document (including this constitution) includes any variation or replacement of it; and
- (k) the word “present” in the context of a person being present at a meeting includes participating using technology approved by the Trustee for the purposes of the meeting.
- (l) every provision in this Constitution is expressed to apply:
 - (i) while the Trust is Listed, subject to the Operating Rules; and
 - (ii) while the Trust is a Registered Scheme, subject to the Corporations Act.

1.3 Other restrictions and obligations excluded

To the maximum extent permitted by law, all restrictions on the exercise of the Trustee's powers or obligations which might otherwise be implied or imposed by law are expressly excluded, including any restriction or obligation of the Trustee in its capacity as responsible entity of the Trust arising under any legislation other than the Corporations Act.

1.4 Listing Rules

While the Units are Officially Quoted, the following applies:

- (a) notwithstanding anything contained in this Constitution, if the Listing Rules prohibit an act being done, the act shall not be done;
- (b) nothing contained in this Constitution prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
- (e) if the Listing Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
- (f) if any provision of this Constitution is or becomes inconsistent with the Listing Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.

1.5 In accordance with ASIC Class Order 98/1808 or its equivalent and for so long as it applies to the Trust, a change in the text of this Constitution because of the operation of clause 1.3 is not a modification of, or the repeal or replacement of the Constitution for the purposes of sections 601GC(1) and (2) of the Corporations Act. Clause 26.1(a) does not apply to changes in the text of this Constitution because of the operation of clause 1.3.

1.6 Despite any other provision of this Constitution, a provision of this Constitution which is expressed to apply subject to the Operating Rules or the Listing Rules is only so subject while the Trust is Listed.

1.7 Corporations Act

Despite any other provision of this Constitution, a provision of this Constitution which is expressed to apply subject to the Corporations Act is only so subject while the Trust is a Registered Scheme.

1.8 Schedules

Schedule 1 to this Constitution is an operative part of it.

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2 Name of Trust

- 2.1 The Trust is called the "Fat Prophets Global Property Fund" such other name as the Trustee determines from time to time.
- 2.2 If a person resigns or is removed as the Trustee, the new Trustee must change the name of the Trust to a name without any association with the old Trustee or its related bodies corporate or their businesses.

3 Constitution legally binding

This Constitution binds the Trustee and each present and future Holder and any person claiming through any of them as if each of them had been a party to this Constitution.

4 Assets

4.1 Assets held for Unitholders

The Trustee holds the Assets on trust for the Unitholders.

4.2 Holding of Assets

- (a) Subject to clause 4.2(b), all Assets must be held by the Trustee.
- (b) If required by law or if the Trustee thinks it necessary or desirable, all Assets (or any Asset) may be held by a custodian appointed by the Trustee.

4.3 Identification

Any Assets held by the Trustee must be clearly identified as property of the Trust and held separately from the assets of the Trustee and any other managed investment scheme if and to the extent that the Corporations Act so requires. Subject to the law, the Trustee may have Assets held by a custodian.

5 Units, Options and Financial Instruments

5.1 Assets divided into Units

The beneficial interest in the Asset is divided into Units.

5.2 Nature of Unitholder's interest in Assets

- (a) Each Fully Paid Unit confers on a Unitholder an equal undivided interest in the Assets.
- (b) A Unit confers on a Unitholder an interest in the Assets as a whole subject to the Liabilities. It does not confer on a Unitholder an interest in any particular Asset.

5.3 Rights attached to Units

A Unitholder holds a Unit subject to the rights, restrictions and obligations attaching to that Unit.

5.4 Options

- (a) The Trustee may create and issue Options on such terms and conditions as the Trustee determines provided that the Trustee may not attach rights, obligations or restrictions to Options to the extent that section 601GA of the Corporations Act requires those matters to be set out in this constitution. Options may be issued with Units or separately.

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- (b) Subject to this Constitution, the Corporations Act (and the conditions of any applicable ASIC Relief) and, if relevant, the Operating Rules, the Trustee may determine that Options will be issued:
- (i) for either:
 - (A) no consideration; or
 - (B) for consideration, which must be an issue price determined in accordance with clause 8;
 - (ii) on the basis that the issue price for a Unit to be issued on exercise of the Option is the Market Price or such other price determined by the Trustee, provided that the Trustee complies with the Listing Rules applicable to the issue and any applicable ASIC Relief; and
 - (iii) conferring on the holder of the Options such other entitlements (other than to income or capital) under this Constitution as the Trustee determines, and otherwise on terms and conditions and with such entitlements as determined by the Trustee. The terms of issue of the Option may allow the Trustee to buy back the Option.
- (c) An Option does not confer any interest in, or any rights to participate in, the income or capital of the Trust.
- (d) Subject to the Operating Rules and the Corporations Act (and the conditions of any applicable ASIC Relief), if the Trustee is making an offer of Options to Unitholders which is otherwise in proportion to their existing holdings of Units, the Trustee is not required to offer Options under this clause to any Foreign Holder who the Trustee is entitled to exclude from the offer in accordance with any ASIC Relief.

5.5 Exercise of Options

On exercise of an Option, the holder of the Option is entitled to subscribe for and be allotted such number of Units as the terms and conditions of issue of the Option contemplate.

5.6 Financial Instruments

Subject to the Corporations Act and Operating Rules:

- (a) the Trustee may, in addition to Units and Options, issue Financial Instruments; and
- (b) Financial Instruments may be issued:
 - (i) for either:
 - (A) no consideration; or
 - (B) for consideration, which may be an issue price determined in accordance with clause 8; or
 - (ii) on such terms (including with preferred, deferred or other special rights, obligations or restrictions, with regard to distributions, voting, return of capital, payment of calls, redemption, conversions or otherwise) as the Trustee determines which are in accordance with the terms of this Constitution.

5.7 Rights attaching to Options and Financial Instruments

- (a) The Holder of an Option holds the Option subject to the terms and conditions attaching to that Option.
- (b) Subject to the terms of the Option or Financial Instrument and the Corporations Act, a Holder who is not a Unitholder is entitled to attend any meeting of Unitholders, but is

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not entitled unless specified in the terms of issue to receive notice of or speak or vote at such a meeting.

- (c) Subject to the terms of the Option or Financial Instrument and the Corporations Act, a Holder who is not a Unitholder is not entitled to any rights of a Unitholder.

5.8 **No fractions of Units**

Fractions of a Unit may not be issued by the Trustee. Where any calculation performed under this Constitution or the terms of a withdrawal offer results in the issue or redemption of a fraction of one Unit, the number of Units to be issued or redeemed may be rounded down or up respectively by the Trustee to the nearest whole Unit.

5.9 **Rounding**

Any excess application or other money or property which results from rounding under any provision of this Constitution becomes an Asset of the Trust.

5.10 **Consolidation and division of Units and Options**

Subject to the Operating Rules and the Corporations Act, Units and Options may be consolidated or divided as determined by the Trustee.

6 Transfer, Transmission and Joint Holders

6.1 **Transfer of Relevant Securities**

Relevant Securities may be transferred subject to their terms and this clause 6.

6.2 **Transfer if not Officially Quoted**

If Relevant Securities are not Officially Quoted, transfers must be:

- (a) in a form approved by the Trustee;
- (b) accompanied by any evidence the Trustee reasonably requires to show the right of the transferor to make the transfer; and
- (c) if the Trustee requires, be presented for Registration duly stamped.

If Relevant Securities are not Officially Quoted, the Trustee may refuse to record any transfer in the Register without giving any reason for the refusal.

6.3 **Transfer if Officially Quoted**

Subject to this constitution and the Listing Rules, if a Relevant Security is Officially Quoted, it is transferable:

- (a) as provided by the Operating Rules if applicable; or
- (b) by any other method of transfer which is required or permitted by the Corporations Act, ASX or ASIC.

If a duly completed instrument or transfer:

- (c) is used to transfer a Relevant Security in accordance with paragraph (b); and
- (d) is left for registration with the registrar, duly stamped if required and accompanied by any information that the Trustee properly requires to show the right of the transferor to make the transfer,

the Trustee must, subject to the Trustee's powers, register the transferee as the Relevant Security Holder.

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6.4 **When transfer is effective**

Except as provided by any applicable Operating Rules, a transfer is not effective until Registered.

6.5 **Trustee may request holding lock or refuse to register transfer**

If the Relevant Securities are Officially Quoted, and if permitted to do so by the Listing Rules, the Trustee may:

- (a) request the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Trustee from being registered on the CS Facility's sub-register or registered on an issuer-sponsored sub register, as the case may be; or
- (b) refuse to Register a transfer of other Relevant Securities to which paragraph (a) does not apply.

6.6 **Trustee must request holding lock or refuse to register transfer**

The Trustee must:

- (a) request the CS Facility Operator or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Relevant Securities from being Registered; or
- (b) refuse to register any transfer of Relevant Securities to which paragraph (a) does not apply,

if the Corporations Act or Listing Rules require the Trustee to do so or the transfer is in breach of clause 6.8.

6.7 **Notice of holding locks and refusal to register transfer**

If, in the exercise of its rights under clauses 6.5 or 6.6, the Trustee requests the application of a holding lock to prevent a transfer of Relevant Securities or refuses to Register a transfer of Relevant Securities, it must, within two months after the date on which the transfer was lodged with it, give written notice of the request or refusal to:

- (a) the holder of the Relevant Securities;
- (b) the purported transferee; and
- (c) the broker lodging the transfer, if any.

Failure to give notice does not, however, invalidate the decision of the Trustee.

6.8 **Restricted Securities**

If the Listing Rules require, Restricted Securities cannot be disposed of during the Escrow Period and the Trustee must not register a transfer of Restricted Securities during the Escrow Period except as permitted by the Listing Rules or ASX. During a breach of a restriction agreement or the Listing Rules relating to Units which are Restricted Securities, the Member who holds those Restricted Securities is not entitled to any distribution from the Trust, nor any voting rights, in respect of those Restricted Securities.

6.9 **Joint tenancy**

Persons Registered jointly as the holder of a Unit or Option or Financial Instrument hold as joint tenants and not as tenants in common unless the Trustee otherwise agrees.

6.10 **Death or legal disability of Holder**

If a Holder dies or becomes subject to a legal disability such as bankruptcy or insanity, only the survivor (where the deceased was a joint holder) or the legal personal representative (in

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any other case) will be recognised as having any claim to the Units, Options or Financial Instruments Registered in the Holder's name.

7 Classes of Units

The Trustee may not issue different classes of Units except Units which may temporarily be of a different class due to different income entitlements in accordance with clause 8.6.

8 Application Price for Units, Options and Financial Instruments

8.1 Issue of Units and Options while Units are Officially Quoted

- (a) Subject to clause 8.2, and while Units are Officially Quoted, the Application Price for any Unit or Option (as applicable) will be its Market Price. However, the Trustee may determine a different Application Price in the following circumstances to the extent permitted by, and in accordance with, the Listing Rules, the Operating Rules and the Corporations Act (as modified by any applicable ASIC Relief):
- (i) pro rata offers (including a rights issue) for Units or Options: where the Trustee makes the offer to those persons who were Unitholders on a date as determined by the Trustee provided that:
 - (A) subject to clause 8.1(a)(i)(B), all Unitholders are offered the Units or Option (as applicable) in proportion to the value of each Unitholder's interest in the Trust, at the relevant date; but
 - (B) the Trustee may exclude a Unitholder from the pro rata offer if to do so would not be in contravention of paragraph 601FC(1)(d) of the Corporations Act, as modified by ASIC Relief;
 - (ii) distribution reinvestment plan for Units: offers to issue Units under a plan for reinvestment of distributions in accordance with clause 14.10(a) where:
 - (A) the Trustee may issue Units on the basis that the application price for each additional Unit issued or transferred upon reinvestment is the price determined by the Trustee (and if the Trustee has not determined the application price by the date at which units are to be issued upon reinvestment, the price will be the average of the VWAP for Units for each of the 10 Trading Days from and including the third Trading Day after the Record Date for the relevant Distribution Period); and
 - (B) if the amount to be reinvested in additional Units results in a fraction of a Unit, the number of Units to be issued will be rounded down to the nearest whole Unit and any remaining amount becomes an Asset;
 - (iii) unit purchase plan: an offer to issue Units to Unitholders under a unit purchase plan where the Application Price is:
 - (A) the Market Price of Units on the day the Units are offered; or
 - (B) at a price and on terms determined by the Trustee, provided that the Trustee complies with the Listing Rules applicable to the issue and the conditions and restrictions of any applicable ASIC Relief;
 - (iv) placement of Units: a non-proportionate issue of Units where the Application Price is:
 - (A) Market Price of Units on the day the Units are offered; or

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- (B) at a price and on terms determined by the Trustee, provided that the Trustee complies with the Listing Rules applicable to the issue and the conditions and restrictions of any applicable ASIC Relief;
- (v) takeover offer: an issue of Units as consideration for a takeover offer in accordance with clauses 8.3(a) to 8.3(c); and
- (vi) exercise of Options: an issue of a Unit upon the exercise of an Option where the Application Price is determined in accordance with clause 5.4(b)(ii).

8.2 Issue of Units while Units are not Officially Quoted

- (a) Subject to clause 8.4, while Units are not Officially Quoted, the Application Price for a Unit issued in respect of an application shall be calculated as:

$$A = (B + C)/D$$

where:

- A** is the Application Price for a unit issue in respect of an application while Units are not Officially Quoted;
 - B** is the Net Asset Value;
 - C** is the amount of Transaction Costs; and
 - D** is the number of Units on issue.
- (b) Each of the variables in clause 8.2(a) must be determined as at the next Valuation Time after:
 - (i) the Trustee receives the application for Units; and
 - (ii) the Trustee as the case requires:
 - (A) receives the application money;
 - (B) has vested in it the property against which Units are to be issued; or
 - (C) receives a Commitment, whichever happens later.

8.3 Issue of Units, Options and Financial Instruments as consideration for a takeover offer

- (a) The Trustee may issue Units credited as full consideration, or part of the consideration, to acquire financial products of a target entity under a takeover offer made in accordance with Chapter 6 of the Corporations Act, or any other offer to acquire financial products of a target entity.
- (b) Subject to clause 8.3(c), the Corporations Act, any ASIC Relief and the Listing Rules, the Application Price of a Unit which is, or forms part of, the consideration to be offered in accordance with clause 8.3(a) is the Bid Issue Price on the day before the offer.
- (c) The Trustee may amend this Constitution to provide a specific issue price of the Units offered in accordance with clause 8.3(a).

8.4 Issues of Units, Options and Financial Instruments generally

In addition to any other power the Trustee has to issue Units, Options and Financial Instruments under this Constitution, the Trustee may issue Units, Options and Financial Instruments at a price determined by the Trustee to the extent permitted by, and in accordance with, the Listing Rules, the Operating Rules and the Corporations Act (as modified by any applicable ASIC Relief).

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8.5 Rounding

The Application Price may be rounded as the Trustee determines, provided that the amount of the rounding is no more than one cent.

8.6 Income Entitlement of Units

Except as otherwise expressly provided in this Constitution, the Trustee may in its discretion issue Units on terms that such Units:

- (a) participate fully in the Distributable Income of the Trust in respect of the Distribution Period in which they are issued;
- (b) do not entitle the holder of such Units to participate in the Distributable Income in respect of the Distribution Period in which such Units are issued; or
- (c) entitle the holder of such Units to receive an Income Distribution which is determined on the basis of the number of days that a Unitholder has held newly issued Units during that Distribution Period.

9 Application procedure

9.1 Application form

An applicant for Units must complete a form approved by the Trustee and provide the information requested in that form, if the Trustee so requires. The form may be transmitted electronically if approved by the Trustee.

9.2 Payment

- (a) Payment in a form acceptable to the Trustee, or a transfer of property of a kind acceptable to the Trustee and able to be vested in the Trustee or a custodian appointed by it (accompanied by a recent valuation of the property, if the Trustee requires), must:
 - (i) accompany the application;
 - (ii) be received by or made available to the Trustee or the custodian within such period before or after the Trustee receives the application form as the Trustee determines from time to time; or
 - (iii) comprise a reinvestment of a distribution in accordance with this Constitution.
- (b) If the Trustee accepts a transfer of property other than Cash, any costs associated with the valuation or transfer of the property must be paid by the Unitholder either directly or by deducting them from the market value of the property before the number of Units to be issued is calculated, as the Trustee decides.

9.3 Trustee may reject

The Trustee may reject an application in whole or in part without giving any reason for the rejection.

9.4 Eligible Person

- (a) Subject to the Listing Rules, no application will be Accepted from and no Units will be issued to any person other than an Eligible Person, unless otherwise determined by the Trustee.
- (b) Subject to the Listing Rules, the Trustee may determine that it will not permit a person:
 - (i) to become a Unitholder; or

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- (ii) to acquire or be issued with further Units,

unless the Trustee has received an Eligible Person Statement (or such other document as the Trustee may require) from that person.

9.5 **Minimum amounts**

Subject to the Corporations Act and the Listing Rules, the Trustee may set a minimum application amount and a minimum holding for the Trust and alter or waive those amounts at any time.

9.6 **Issue Date**

- (a) Units are taken to be issued when the Trustee effects the Registration of the Units against the name of the applicant.
- (b) The Trustee may only effect the Registration of Units against the name of an applicant if the Trustee:
 - (i) accepts the application under the terms of issue; and
 - (ii) as the case requires:
 - (A) receives the application money; or
 - (B) has vested in it the property against which Units are to be issued; or
 - (C) receives a Commitment.
- (c) Subject to the Corporations Act, the Trustee may hold applications and application moneys without accepting them for such period as it determines.
- (d) Without limiting clause 9.6(c), the Trustee is authorised to hold application moneys for the term of any offer period.
- (e) Units which are issued on a reinvestment of distribution in accordance with this Constitution are taken to be issued on the day the distribution is paid or applied in payment for the Units.

9.7 **Uncleared funds**

Units issued against application money paid other than in cleared funds, or in consideration of a transfer of property or Commitment, are void if the funds are not subsequently cleared or received or the property does not vest in the Trustee within one month of receipt of the application.

9.8 **Register**

Subject to the Corporations Act, a single register in which details of the holders of Units are recorded may be kept. Subject to the Corporations Act, the Trustee may also keep a register of Option Holders and Financial Instrument Holders.

9.9 **Holding statements**

Subject to the Corporations Act, while the Trust is admitted to an uncertificated trading system, a holding statement in accordance with the requirements of the Operating Rules may be issued to evidence the Holding of Units.

9.10 **Options and Financial Instruments**

This clause 9, other than clause 9.4, as it applies to Minimum Holdings, applies subject to necessary modification, to applications for Options and Financial Instruments.

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10 Redemption Price of Units

10.1 Redemption Price

- (a) Subject to clauses 10.1(d), a Unit must only be redeemed at a Redemption Price calculated as:

$$A = (B - C)/D$$

where:

- A** is the Redemption Price for Fully Paid Units;
- B** is the Net Asset Value;
- C** is the amount of Transaction Costs; and
- D** is the number of Units in issue;
- (b) Each of the variables in clause 10.1(a) must be determined:
- (i) while the Trust is a Registered Scheme and is Liquid or while the Trust is not a Registered Scheme, as at the Valuation Time immediately before the Units are to be redeemed; or
- (ii) while the Trust is not Liquid, at the time the withdrawal offer closes;
- (c) The Redemption Price may be rounded as the Trustee determines. The amount of the rounding must not be more than one cent.
- (d) Immediately prior to the redemption of the Unit the Trustee is to distribute to the Unitholder the Accrued Income Entitlement in respect of the Unit. The Accrued Income Entitlement is a reduction to the amount of the Redemption Price payable at that time.

11 Redemption procedures

11.1 Buy-back of Units

While the Units are Officially Quoted, the Trustee may, subject to and in accordance with the Corporations Act (including any ASIC Relief) and any requirements under the Operating Rules, purchase Units and cause the Units to be cancelled.

11.2 Request for redemption

- (a) While Units are not Officially Quoted, a Member may make a Redemption Request in respect of some or all of their Units by giving the Trustee notice in writing of the Redemption Request, specifying the number or value of Units to be redeemed and sufficient details to identify the Member, or in any other manner approved by the Trustee and, while the Trust is Liquid, the Trustee may give effect to that Redemption Request at the time and in the manner set out in this clause 11.
- (b) Subject to the Corporations Act and the Operating Rules, a Redemption Request for Units may not be revoked without the consent of the Trustee.

11.3 While the Trust is Liquid - Trustee may redeem

- (a) Subject to the Corporations Act and the Operating Rules, while the Trust is Liquid, the Trustee may decide to satisfy a Redemption Request either in relation to all or some of the Units which are the subject of the request. The Trustee will give notice of a decision to reject a Redemption Request.

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- (b) While the Trust is Liquid, if the Trustee decides to satisfy a Redemption Request in respect of a Unit it must pay the Redemption Price, calculated in accordance with this Constitution, from the Assets. The payment must be made within 21 days of the Trustee's decision.
- (c) The Trustee is not obliged to pay any part of the Redemption Price out of its own funds.
- (d) While the Trust is Liquid, if compliance with a Redemption Request would result in the Member Holding Units with an aggregate Redemption Price which is less than the then current Minimum Holding, the Trustee may treat the Redemption Request as including the balance of the Member's holding.
- (e) While the Trust is Liquid, if the Trustee increases the Minimum Holding, the Trustee may after giving 30 days' notice to any Member who holds Units with an aggregate Redemption Price less than the then current Minimum Holding, redeem that Member's holding without the need for a Redemption Request.

11.4 While Trust is not Liquid

- (a) While the Trust is not Liquid, a Member may withdraw from the Trust in accordance with the terms of any current withdrawal offer made by the Trustee, which is:
 - (i) in accordance with the provisions of the Corporations Act (including any ASIC Relief); and
 - (ii) if Units are Officially Quoted, in accordance with the Operating Rules.
- (b) If, whilst the Trust is not Liquid, there is no withdrawal offer currently open for acceptance by Member, a Member has no right to withdraw from the Trust.
- (c) The Trustee is not at any time obliged to make a withdrawal offer.
- (d) If the Trustee receives a Redemption Request before it makes a withdrawal offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.

11.5 Liquid or not Liquid

The Trustee will determine whether or not the Trust is Liquid in its absolute discretion.

11.6 Trustee not obliged to pay out of its own funds

The Trustee is not obliged to pay any part of the Redemption Price out of its own funds.

11.7 Transfer of Assets

- (a) The Trustee may transfer Assets to a Member rather than pay Cash in satisfaction of all or part of a Redemption Request or pursuant to a withdrawal offer (if applicable). These assets, together with any Cash paid, must be of equal value to the total amount due to the Member pursuant to the Redemption Request or withdrawal offer (based on a valuation in accordance with clauses 12.2(a) to 12.2(c) done within one month before the date of the proposed transfer). If the Trustee requires, the costs involved in transfer of these assets must be paid by the Member or deducted from the amount due to the Member.
- (b) Clause 11.7(a) applies whether or not the Trust is Liquid.

11.8 Redemption date

Units are taken to be redeemed when the Trustee cancels the relevant Units against the name of the Member in the Register.

11.9 Small Holdings

- (a) Subject to clauses 11.9(b) to 11.9(f) and the Corporations Act (as modified by any applicable ASIC Relief), while the Trust is Listed, the Trustee may in its discretion from time to time sell or redeem any Units held by a Unitholder which comprise less than a marketable parcel as provided in the Operating Rules without request by the Unitholder.
- (b) The Trustee may only sell or redeem Units pursuant to clauses 11.7(a), 11.7(b) and 11.9(a) to 11.9(d) on one occasion in any 12 month period. The Trustee must notify the Unitholder of its intention to sell or redeem Units under clauses 11.9(b) to 11.9(f).
- (c) The Trustee will not sell or redeem the relevant Units:
 - (i) before the expiry of six weeks from the date of the notice given under clauses 11.9(b) to 11.9(f); or
 - (ii) if, within the six weeks allowed under clause 11.9(c)(i), the Unitholder advises the Trustee that the Unitholder wishes to retain the Units.
- (d) The Trustee's power to sell or redeem the Units lapses following the announcement of a Proportional Takeover Bid for all Units in the Trust but the procedure may be started again after the close of the offers made under the bid.
- (e) The Trustee or the purchaser of the Units must pay the costs of the sale as the Trustee decides. The proceeds of the sale or redemption will not be sent until the Trustee has received the certificate (if any) relating to the Units, or is satisfied that it has been lost or destroyed. In accordance with clause 13.6, the Trustee is authorised to make deductions from payments as a result of the sale.
- (f) The Trustee is entitled to execute on behalf of a Unitholder any transfer of Units under this clause 11.

11.10 Compulsory redemption

Without limiting any other provision of this clause 11, but subject to the Listing Rules, the Operating Rules and the Corporations Act (as modified by any applicable ASIC Relief), the Trustee may redeem all or some of the Units held by a Member, without the need for a Redemption Request, in any of the following circumstances:

- (a) where the Trustee at any time redeems the same proportion of all Member's Units at the same time, or substantially the same time, in which case the Trustee may redeem some but not all of a Member's Units;
- (b) where this Constitution allows it (such as under clauses 11.9(a) to 11.9(f));
- (c) where the Trustee considers it to be in the best interests of Member as a whole to do so;
- (d) where the Member has breached its obligations to the Trustee;
- (e) to satisfy any amount of money due by the Member to the Trustee (in its capacity as trustee of the Trust);
- (f) to satisfy any amount of money the Trustee (in its capacity as trustee of the Trust) owes someone else in relation to the Member;
- (g) where the Trustee suspects that the law prohibits the person from legally being a Member;
- (h) where the Trustee has reasonable grounds to suspect that the Member does not meet, or is likely not to meet, any criteria for being a Member as determined from time to time by the Trustee; or

- (i) the terms of issue contemplate the Trustee redeeming all or some of the Units held by a Member.

11.11 Cooling Off

Nothing in this clause 11 prevents the Trustee from complying with any requirement to return application money to a Member in accordance with Part 7.9 of the Corporations Act or with any similar requirement that applies to the Trustee.

12 Valuation of Assets and Financial Statements

12.1 Trustee may value

- (a) The Trustee may cause an Asset or a Consolidated Group's Asset to be valued at any time, and must do so as and when required by the Corporations Act.
- (b) The Trustee may determine Net Asset Value at any time.

12.2 Valuation methods

- (a) The Trustee may determine valuation methods and policies for each category of Asset and change them from time to time. While the Trust is a Registered Scheme, the Trustee's policy for the valuation of Assets must be based on the range of ordinary commercial practice by valuing the relevant type of asset and, where used to calculate the Application Price or Redemption Price of a Unit, the value must be reasonably current.
- (b) Unless the Trustee determines otherwise, the value of an Asset for the purpose of calculating Net Asset Value will be its market value, determined in accordance with the valuation methods and policies determined under clause 12.2(a).
- (c) Subject to clauses 12.2(a) and 12.2(b), where the Trustee values an Asset at other than its market value, or where there is no market value, the valuation methods and policies applied by the Trustee must be capable of resulting in a calculation of the Application Price or Redemption Price that is independently verifiable.
- (d) The Trustee must determine the value of the Consolidated Group's Assets in accordance with clauses 12.2(a) to 12.2(c).

12.3 Preparation of Financial Statements

- (a) The Trustee must prepare Financial Statements as and when required by the Corporations Act.
- (b) The preparation of the Financial Statements of the Trust in accordance with clause 12.3(a) is not to be regarded as a determination of the method for calculating the Distributable Income of the Trust pursuant to clause 14.1(a).

13 Payments

13.1 Trustee to determine payment method

Money payable by the Trustee to a Member may be paid in any manner the Trustee determines such as by cheque or electronic means.

13.2 Payment by cheque

Cheques issued by the Trustee that are not presented within six months may be cancelled. Where a cheque which is cancelled was drawn in favour of a Relevant Security Holder, the money is to be held by the Trustee for the Relevant Security Holder or paid by the Trustee in accordance with the legislation relating to unclaimed moneys.

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13.3 Payment by electronic transfer

Where the Trustee attempts to make a payment by electronic transfer of funds to a Relevant Security Holder and the transfer is unsuccessful on three occasions, the money may be held by the Trustee for the Relevant Security Holder or paid by the Trustee in accordance with the legislation relating to unclaimed moneys.

13.4 Rounding of amounts to be paid

Only whole cents are to be paid, rounded as the Trustee determines.

13.5 Payments to joint Members

A payment to any one of joint Members will discharge the Trustee in respect of the payment.

13.6 Deductions from payments

The Trustee may deduct from any amount to be paid to a person who is a Member, or received from a person who is a Member:

- (a) any amount of Tax (or an estimate of it); or
- (b) any other amount, which the Trustee is required or authorised to deduct in respect of that payment or receipt or which the Trustee considers should be deducted or owed by the Member to the Trustee or any other person.

14 Income and Distributions

14.1 Determination of Distributable Income

- (a) The Trustee must determine the Distributable Income of the Trust for each Distribution Period.
- (b) Unless the Trustee determines otherwise prior to the end of the Financial Year, Distributable Income is an amount equal to the greater of:
 - (i) the amount calculated in accordance with generally accepted accounting principles as the income of the Trust for the Financial Year excluding any notional amounts and non-cash amounts such as unrealised asset revaluation amounts;
 - (ii) the amount equal to the net income of the Trust (as defined in section 95 of the *Income Tax Assessment Act 1936* (Cth)) for the Distribution Period excluding any notional amounts and non-cash amounts such as franking credits; and
 - (iii) the amount of \$1.
- (c) Unless expressly determined otherwise by the Trustee before the end of a Financial Year, the Distributable Income for that Financial Year shall not in any event be less than the amount that the Trustee must distribute if it is not to be assessable (or liable to pay more Tax than the minimum amount of Tax properly assessable) on any portion of the net income of the Trust (as defined in section 95 of the *Income Tax Assessment Act 1936* (Cth)).

14.2 Classification of income components

The Trustee may decide the classification of any item as being on income or capital account and the extent to which reserves or provisions need to be made.

14.3 Separate accounts

The Trustee may keep separate accounts of different categories or sources of income, deductions or credits for tax purposes.

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14.4 Present entitlement

Subject to the restrictions attaching to any particular Unit, a person who, at any time during a Financial Year, is or has been a Unitholder, is presently entitled to the Distributable Income for that Financial Year (on the last day of that Financial Year), in the proportion that the sum of the Income Distributions and Accrued Income Entitlements of the Unitholder in respect of that Financial Year bears to the sum of the Income Distributions and Accrued Income Entitlements in respect of that Financial Year of all persons who are or have been Unitholders at any time during that Financial Year.

14.5 Income Distributions

The Income Distribution for a Unitholder for a Distribution Period is an amount calculated by the Trustee as follows:

- (a) subject to clause 14.5(b), the Income Distribution of the Unitholder is:
- (i) in respect of a Distribution Period ending on a Distribution Calculation Date other than the last day of the Financial Year in any year, an amount calculated as follows:

$$A = (B \times D)/C$$

where:

- A** is the Income Distribution of the Unitholder for the Distribution Period;
- B** is the aggregate of the number of Fully Paid Units held by the Unitholder at the end of the Distribution Period;
- C** is the aggregate of the number of Fully Paid Units in issue at the end of the Distribution Period.
- D** is an estimate of the Distributable Income for the Distribution Period calculated as if the Distribution Period were a year of income less any Accrued Income Entitlements for that Distribution Period;

- (ii) in respect of a Distribution Period ending on the last day of the Financial Year in any year, an amount calculated as follows:

$$A = (B \times D)/C$$

where:

- A** is the Income Distribution of the Unitholder for the Distribution Period;
- B** is the aggregate of number of Fully Paid Units held by the Unitholder at the end of the Distribution Period;
- C** is the aggregate of the number of Fully Paid Units in issue at the end of the Distribution Period.
- D** is the amount (if any) by which the Distributable Income for the Financial Year exceeds the aggregate of:

- (a) the estimates of variable **D** in clause 14.5(a)(i) and Accrued Income Entitlements in respect of the previous Distribution Periods of the Financial Year; and

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(b) any Accrued Income Entitlements for that Distribution Period;

(b) for the purposes of determining the Income Distribution of a Unitholder for a Distribution Period in which clause 8.6(c) applies to any Units, the Trustee may make a determination of entitlement to Income Distribution having regard to the number of days the Units are held in the distribution period and utilising the methodology and formulae set out in clause 14.5(a)(i).

14.6 Satisfaction of present entitlement

Income Distributions for a Distribution Period must be paid to a Unitholder within three months after the Distribution Calculation Date.

14.7 Entitlement to capital

(a) The Trustee may distribute any amount of capital (not included in Distributable Income) to Unitholders of the Trust by the payment of Cash or the issue of Units of an amount determined in accordance with the following formula (rounded down to the nearest whole cent or as the Trustee otherwise determines):

$$A = (B \times D) / C$$

where:

A is the amount of the distribution to which the Unitholder is entitled;

B is the aggregate of the number of Fully Paid Units held by the Unitholder at the time determined by the Trustee relevant to the return of capital (relevant day);

C is the aggregate of the number of Fully Paid Units in issue; and

D is the amount of Cash or the value of Assets (determined by the Trustee) to be distributed.

(b) The Trustee must determine in writing prior to the end of the Financial Year whether all or part of a distribution of capital under clause 14.7(a) will be comprised of amounts from one or more particular categories or sources of net income or net gains included in the distribution of capital. The Trustee must advise each Unitholder of the extent to which the distribution of capital comprises amounts from a particular category or source.

(c) If the Trustee makes a determination under clause 14.7(b), then it must record in the accounts and records of the Trust no later than 2 months after the end of the Financial Year:

(i) the details of any net capital gain that was wholly or partly included in a distribution of capital paid, including the details of each capital gain that has been taken into account in the calculation of that net capital gain; and

(ii) the proportion of that net capital gain that was included in the distribution of capital paid.

(d) For the avoidance of doubt a determination by the Trustee under clause 14.7(b) provides the recipient Unitholder with a specific entitlement to their proportionate share of each capital gain recorded under clause 14.7(c) in respect of that distribution of capital.

14.8 Distribution by transfer of Assets

(a) The Trustee may effect a distribution to Unitholders by transferring Assets to all Unitholders rather than paying in Cash or issuing additional Units.

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- (b) The Trustee must effect the distribution to all Unitholders in the same way.
- (c) If the property to be transferred to each Unitholder are a financial product issued by an entity they must be of the same type, have the same rights and, if relevant, be fully paid.
- (d) The property transferred may comprise solely a beneficial interest in tangible or intangible property.
- (e) In each case, where property other than Cash are to be transferred to Unitholders (or a nominee on behalf of a Unitholder), each Unitholder authorises the Trustee to act as their agent to:
 - (i) acquire the property on behalf of the Unitholder; and
 - (ii) where the property comprise an interest in a financial product issued by an entity, to agree to the Unitholder becoming a holder of that interest or a member of the relevant entity.
- (f) The property transferred, together with any Cash paid, must be of equal value to the total amount due to the Unitholder pursuant to the distribution (based on a valuation done within one month before the date of the proposed transfer). If the Trustee requires, the costs involved in transfer of any property must be paid by the Unitholder or deducted from the distribution due to the Unitholder.

14.9 Trust taxed as Company

If in any Financial Year:

- (a) the Trustee as trustee of the Trust; or
- (b) the Trust;

becomes taxable as if it were a company under the Tax Act, the Trustee has an absolute discretion as to the level of distribution to be made in that or in any subsequent Financial Year.

14.10 Reinvestment

- (a) The Trustee may decide whether to permit or require the Unitholders to reinvest some or all of any distribution to acquire Units. The offer to permit reinvestment must be made in the same terms to all Unitholders. Any Units acquired by Unitholders through reinvestment of distributions will be issued at the Application Price calculated in accordance with clause 8.
- (b) If the Trustee decides to permit or require reinvestment, it must notify Unitholders of the procedure for reinvestment and any change in the procedure.
- (c) If reinvestment applies, while the Units in the Trust are Listed, the Application Price for each additional Unit upon reinvestment of a distribution will be calculated in accordance with clause 8 on a date to be determined by the Trustee.
- (d) If the amount to be reinvested in additional Units results in a fraction of a Unit, the money representing the fraction will be held for future reinvestment in the Trust at the next time that reinvestment is to occur. The Trustee must credit that money to an account to be designated as the 'Distribution Account'.
- (e) Whenever, under this Constitution or by law, money is held on behalf of a Unitholder for future reinvestment, the money so held may, in the discretion of the Trustee be aggregated and, on each occasion on which the aggregated amount reaches the Application Price of a Unit, be applied in the subscription for a new Unit for issue to the Unitholder
- (f) Units issued under clauses 14.10(d) and 14.10(e) inclusive are to participate fully for income in respect of the Distribution Period in which they are issued.

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14.11 Position on transfer of Units

Income in the Distribution Account when a transfer or transmission of Units is Registered remains credited to the transferor.

14.12 Liability

The Trustee does not incur any liability and is not obliged to account to anyone (including any Unitholder or former Unitholder) nor is it liable for any loss or damage as a result of the exercise of any discretion or power under this clause 14 or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of such discretion or power notwithstanding any error or miscalculation in any provision made for Tax.

14.13 Rounding

If the Unitholder's entitlement to a distribution includes a fraction of a cent the entitlement is to be rounded down to the nearest cent below the amount of the Unitholder's entitlement.

15 AMIT taxation regime

15.1 Election

- (a) If the Trust qualifies as an AMIT during the Financial Year, the Trustee may make an election for the Trust to be taxed under the AMIT Regime by the Trustee:
 - (i) providing a notice in writing to Unitholders that the Trust will be taxed as an AMIT; and
 - (ii) preparing the tax returns of the Trust on the basis that the Trust is an AMIT (**AMIT Election**).
- (b) If the Trustee makes an election under clause 15.1(a)(ii) and the Trust is an AMIT during the Financial Year, this clause 15 will apply to the Trust.
- (c) For the avoidance of doubt, nothing in this clause 15 imposes an obligation on the Trustee to:
 - (i) facilitate an election for the Trust to be taxed under the AMIT Regime;
 - (ii) make any amendments to this Constitution; or
 - (iii) make the AMIT Election.

15.2 Trustee powers

The Trustee has all of the powers and rights which are necessary and desirable to ensure compliance with and the effective operation of the Trust as an AMIT for the purposes of the AMIT Regime, including any steps necessary to determine each Unitholder's Determined Member Component or to amend each Unitholder's Determined Member Component.

15.3 Identifying the Trust Components

The Trustee must identify the Trust Components of the Trust, in a document that meets the requirements of subsection 276-255(2) of the Tax Act. Each Trust Component will have an identified character for tax purposes, as contemplated in the AMIT Regime.

15.4 Attribution of Determined Trust Components to Unitholders

- (a) The Trustee must attribute a portion of each Determined Trust Component to the Units held by each Unitholder on a fair and reasonable basis, in accordance with the Constitution and the Constituent Documents and without regard to a Unitholder's tax characteristics. Without limiting the foregoing, the Trustee:

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- (i) will attribute a portion of each Determined Trust Component to the Units held by each Unitholder in a manner which the Trustee reasonably considers is consistent with the Unitholders rights and entitlements to income or capital as determined in accordance with the Constitution and the Constituent Documents;
 - (ii) may attribute amounts to a Unitholder or Unitholders to reflect the fact that the Trustee has directed an amount from the sale of an asset to a particular Unitholder or Unitholders to fund a redemption of Units; and
 - (iii) may attribute amounts to the Units held by a Unitholder relating to an under or over (as defined in the Tax Act) in relation to a period where the Unitholder did not hold Units.
- (b) A Member Component must be calculated for each particular character that is identified in respect of the Determined Trust Component.
 - (c) If the Trustee, for whatever reason, does not make a determination to allocate the Determined Trust Components to the Unitholders in accordance with clauses 15.4(a) and 15.4(b), then the Trustee is deemed to have determined to have attributed the Determined Trust Components proportionately to each Unitholder's holding of Units as held at the end of the Financial Year.

15.5 AMMA Statements

- (a) The Trustee must issue an AMMA Statement to each Unitholder in respect of the Financial Year. The AMMA Statement will set out the Unitholder's Member Component in respect of each Determined Trust Component as well as all of the other information required under the AMIT Regime to be included in the statement. The AMMA Statement must be given to each Unitholder no later than three months after the end of the Financial Year to which the AMMA Statement relates.
- (b) The Trustee may re-issue revised AMMA Statements to a Unitholder in respect of a Financial Year which effectively replaces the previous AMMA Statement(s) issued in respect of that Financial Year. A revised AMMA Statement must be issued by the Trustee no later than four years after the end of the Financial Year to which the AMMA Statement relates.

16 Powers of the Trustee

16.1 General powers

Subject to this Constitution, the Trustee has all the powers of a natural person in respect of the Trust as though it were the absolute owner of the Assets.

16.2 Specific powers

Without limiting the effect of clause 16.1, the Trustee in its capacity as trustee of the Trust has power to:

- (a) invest in, dispose of or otherwise deal with property and rights in its absolute discretion, including the power to invest in a Controlled Entity and derivatives;
- (b) borrow or raise money whether or not on security of the Assets;
- (c) incur all types of obligations and liabilities including guarantees;
- (d) enter into an arrangement with a person to underwrite the subscription or purchase of Units, Options Financial Instruments on such terms as the Trustee determines; and
- (e) apply for quotation of any Units, Options or Financial Instruments on any exchange where similar instruments are listed and traded.

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16.3 Power of delegation

- (a) The Trustee may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Trustee's power, including the power to appoint in turn its own agent or delegate.
- (b) The Trustee may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Trustee thinks fit.
- (c) Subject to the Corporations Act, the agent or delegate may be an associate of the Trustee.

16.4 Investment Manager

Without limiting the effect of clauses 16.1 to 16.3(c), the Trustee in its capacity as trustee of the Trust has power to enter into Investment Management Agreement.

16.5 Exercise of discretion

The Trustee may in its absolute discretion decide how and when to exercise its powers.

16.6 Listing of the Trust

The Trustee may apply for the Trust to be Listed and Units, Options or Financial Instruments to be Officially Quoted, at any time and for this purpose the Trustee is authorised on its own behalf and on behalf of each Holder to do all things necessary to effect a Listing.

17 Change of Trustee

17.1 Voluntary retirement

The Trustee may retire in the way and at the time the Corporations Act contemplates.

17.2 Compulsory retirement

- (a) The Trustee must retire when required by the Corporations Act.
- (b) Unitholders have no right to remove the Trustee other than any right granted by the Corporations Act.

17.3 Replacement Trustee

Any proposed replacement Trustee must execute a deed by which it agrees to be bound by this Constitution.

17.4 Release

When the Trustee changes, the outgoing Trustee is released from all obligations in relation to the Trust arising after the time it retires or is removed except those which the Corporations Act continues to impose.

18 Communications

18.1 Communications to a Unitholder

Subject to the Corporations Act, communications between the Trustee and Unitholders must be in writing which includes any electronic means (including sending an electronic link to a document to a Unitholder) and fax and must be sent to the Unitholder at the Unitholder's physical or electronic address.

18.2 Communications to joint Unitholders

For joint Unitholders, the physical or electronic address is that of the Unitholder first named in the Register.

18.3 Receipt of communications to a Unitholder

- (a) Without limiting any other means by which a Trustee may be able to prove that a notice has been received by a Unitholder, communications to a Unitholder will be considered to have been received:
- (i) if sent by hand, when left at the address of the recipient;
 - (ii) if sent by pre-paid post, three days (if posted within Australia to an address in Australia) or seven days (if posted from one country to another) after the date of posting;
 - (iii) if sent by facsimile, on receipt by the sender of an acknowledgement or transmission report generated by the sender's machine indicating that the whole facsimile was sent to the recipient's facsimile number; or
 - (iv) if sent by electronic means, on the date and time at which it enters the addressee's information system as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purposes of this clause,

but if a notice is served by hand, received by the recipient's facsimile or received by the recipient's information system via electronic means on a day that is not a Business Day, or after 5.00pm (recipient's local time) on a Business Day, the notice will be considered to have been received by the recipient at 9.00am (recipient's local time) on the next Business Day.

- (b) Proof of actual receipt of a notice under clause 18.3(a) is not required.

18.4 Communications to the Trustee

- (a) Communications to the Trustee must be sent to the Trustee at the last advised physical or (if the Trustee allows) electronic address.
- (b) The notice is effective only at the time of actual receipt.
- (c) Communications to the Trustee must carry the actual, facsimile or electronic signature of the Unitholder or someone authorised by the Unitholder, unless the Trustee waives this requirement.

19 Meetings of Unitholders

19.1 Convening of meetings

The Trustee may at any time convene a meeting of Unitholders and must do so if the Corporations Act or the Operating Rules require.

19.2 Trustee may determine

Subject to the specific provisions of this Constitution relating to meetings of Unitholders and to the Corporations Act and the Operating Rules, the Trustee may determine the time and place at which a meeting of Unitholders will be convened and the manner in which the meeting will be conducted.

19.3 Notice of meeting

Notice of a meeting of Unitholders must be given in accordance with the Corporations Act. If a Unitholder does not receive a notice of a meeting or a cancellation or postponement of a

meeting (including if the notice was accidentally omitted to be given to them), the meeting is not invalidated.

19.4 Calculation of period of notice

In computing the period of notice under clause 19.3, both the day on which the notice is given or taken to be given and the day of the meeting convened by it are to be disregarded.

19.5 Quorum

The quorum for a meeting of Unitholders is at least two Unitholders present in person or by proxy, attorney or representative who are entitled to vote unless the Trust has only one Unitholder who may vote on a Resolution, in which case that one Unitholder constitutes a quorum. If an individual is attending a meeting both as a Unitholder and as a proxy, attorney or representative, the Trustee may, in determining whether a quorum is present, count the individual in respect of each such capacity.

19.6 No quorum

If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:

- (a) if convened on the requisition of Unitholders - dissolved; or
- (b) otherwise - adjourned to the same day in the next week and same time and place, or to such other day, time and place as the Trustee decides by notice to the Unitholders and others entitled to notice of the meeting.

At any adjourned meeting, those Unitholders present in person or by proxy, attorney or representative constitute a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

19.7 Chair

- (a) Subject to the Corporations Act the Trustee may appoint a person to chair a meeting of Unitholders.
- (b) The chair of a meeting of Unitholders:
 - (i) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
 - (ii) may require the adoption of any procedure which is in the chair's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
 - (iii) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chair considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chair under this clause 19.7(b) is final.

19.8 Postponement or cancellation

The chair has power to cancel a meeting or postpone a meeting for any reason to such place and time as the chair thinks fit, subject to the Corporations Act and the Operating Rules.

19.9 Proxies and voting

- (a) The provisions of the Corporations Act governing proxies and voting for meetings of Unitholders of a Registered Scheme apply to the Trust. A proxy is entitled to speak and vote for a Unitholder (to the extent allowed by the appointment) even if the Unitholder is present at the meeting, but only so long as the Unitholder does not speak or vote.

- (b) Subject to the Corporations Act, an appointment of proxy is valid even if it contains only some of the information required by the proxy form.

19.10 **Adjournment of meeting**

- (a) The chair of a meeting of Unitholders may at any time during the meeting adjourn the meeting or any business, motion, question, Resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place. In exercising this discretion, the chair may, but need not, seek the approval of the Unitholders present. Unless required by the chair, no vote may be taken or demanded by the Unitholders present in respect of any adjournment.
- (b) Only unfinished business is to be transacted at a meeting resumed after an adjournment.

19.11 **Notice of adjourned meeting**

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

19.12 **Questions decided by majority**

Subject to the requirements of the Corporations Act, a Resolution is taken to be carried if a simple majority of the votes cast on the Resolution are in favour of it.

19.13 **Meetings by technology**

A meeting of Unitholders or any class of Unitholders may be held by means of such telephone, electronic or other communication facilities as permit all persons in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting.

19.14 **Meetings of Option Holders and/or Financial Instrument Holders**

If any meeting of Option Holders and/or Financial Instrument Holders is required to be held, the foregoing provisions of this clause 19 will apply with any necessary amendments.

20 **Term of the Trust**

20.1 **Establishing the Trust**

The Trust is established when Units are first issued.

20.2 **Termination**

The Trust terminates on the earliest of:

- (a) **(rule against remoteness)** the day before 80 years after the Trust is established;
- (b) **(by the Trustee)** the date specified by the Trustee as the date of termination of the Trust in a notice given to Unitholders; and
- (c) **(another provision of this document or law)** the date on which the Trust terminates in accordance with another provision of this document or an order of a court or by law.

20.3 **Restriction on Issue and Redemption of Units**

Despite any other provision in this Constitution, no Units may be issued or redeemed after the 80th anniversary of the day preceding the Commencement date unless that issue or redemption would not offend the rule against perpetuities, or any other rule of law or equity.

21 Rights and liabilities of Trustee

21.1 Capabilities

Subject to the Corporations Act, nothing in this Constitution restricts the Trustee (or its associates) from:

- (a) dealing with itself (as trustee of the Trust or in another capacity), any of its Controlled Entities, any member of the Trustee Group, an associate or with any Holder;
- (b) being interested in any contract or transaction with itself (as Trustee of the Trust or in another capacity), any of its Controlled Entities, any member of the Trustee Group, an associate or with any Holder;
- (c) acting in the same or a similar capacity in relation to any other managed investment scheme, company or other entity; or
- (d) dealing with any other entity in which the Trustee holds an investment on behalf of the Trust or dealing with any Units, Options or Financial Instruments,

and in each case the Trustee or any associate may retain all profits or benefits derived from that activity.

21.2 Trustee may rely

The Trustee may take and may act upon:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Trustee, in relation to the interpretation of this Constitution or any other document (whether statutory or otherwise) or generally in connection with the Trust;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and other persons consulted by the Trustee who are in each case believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted;
- (c) a document which the Trustee believes in good faith to be the original or a copy of an appointment by a Holder of a person to act as their agent for any purpose connected with the Trust; and
- (d) any other document provided to the Trustee in connection with the Trust upon which it is reasonable for the Trustee to rely,

and, to the extent legally permitted (and in no way limiting or precluding the Corporations Act in particular) the Trustee will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statement, information or document. The Trustee can also rely on signatures without enquiry if it has no reason to doubt authenticity or genuineness.

22 Limitation of liability and indemnity in favour of Trustee

22.1 Limitation on Trustee's liability

- (a) Subject to the Corporations Act, whilst the Trustee acts in good faith and in the proper performance of its duties, the Trustee is not liable in contract, tort or otherwise to Holders for any loss suffered in any way relating to the Trust.
- (b) Subject to the Corporations Act, the liability of the Trustee to any person other than a Holder in respect of the Trust (including in respect of any contracts entered into as Trustee of the Trust or in relation to any Assets) is limited to the amount the Trustee actually receives under its right to be indemnified from the Assets.

22.2 Indemnity in favour of Trustee

- (a) The Trustee is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing any of its duties in relation to the Trust. This right of indemnity is not lost by reason of a separate incident that was itself a breach of trust.
- (b) To the extent permitted by the Corporations Act, the indemnity under clause 22.2(a) includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Trustee.
- (c) The indemnity under clause 22.2(a):
 - (i) is in addition to any indemnity allowed by law; and
 - (ii) continues to apply after the Trustee retires or is removed from the office it holds in relation to the Trust.

23 Liability of Unitholders

23.1 Recourse of the Trustee

In the absence of separate agreement with a Unitholder or creditor, the recourse of the Trustee and any creditor of the Trust against a Unitholder in connection with the Trust is limited to the Assets.

23.2 Liability limited

Subject to clause 23.3(a), the liability of a Unitholder is limited to the amount, if any, which remains unpaid in relation to the Unitholder's subscription for their Units.

23.3 Indemnity for Tax or User Pays Fees

- (a) The Trustee is entitled to be indemnified by a Unitholder or former Unitholder to the extent that the Trustee incurs any liability for Tax or User Pays Fees as a result of the Unitholder's action or inaction, or as a result of an act or omission requested by the Unitholder or former Unitholder.
- (b) The Trustee is also entitled to be indemnified by a Unitholder or former Unitholder for any Tax payable by the Trustee and any related costs as a result of the operation of the AMIT Regime to the extent that the Tax reasonably relates to the Units held by the Unitholder.
- (c) The Trustee may satisfy the amount indemnified under clause 23.3(a) by way of reduction of payments otherwise due from the Trustee to the Unitholder or former Unitholder or by way of redemption of a number of Units held by the Unitholder as results in a satisfaction of the amount indemnified.

23.4 Joint Unitholders

Joint Unitholders and former joint Unitholders are jointly and severally liable in respect of all payments including payments of Tax and User Pays Fees to which clause 23.3(a) applies. Amounts so payable are payable on demand.

23.5 No indemnity

A Unitholder need not indemnify the Trustee if there is a deficiency in the Assets or meet the claim of any creditor of the Trustee in respect of the Trust.

23.6 Restrictions on Unitholders

Except as otherwise set out in this Constitution, a Holder:

- (a) must not interfere with any rights or powers of the Trustee under this Constitution;

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- (b) must not exercise a right in respect of an Asset or lodge a caveat or other notice affecting an Asset or otherwise claim any interest in an Asset; and
- (c) may not require an Asset to be transferred to the Holder.

24 Fees and Expenses

24.1 Fees

Subject to the Corporations Act, the Trustee is entitled to receive out of the Assets of the Trust and retain for its own use and benefit the fees set out the Schedule.

24.2 Adjustment of fees on proportionate basis

Where a fee is payable in respect of a period and the fee commences or ceases to be payable during the period, the fee must be adjusted on a proportionate basis.

24.3 Waiver or postponement of fees

The Trustee may waive or postpone the receipt of any fee (or any part of a fee) or charge a lesser fee than it would otherwise have been entitled to receive under this Constitution. Where the Trustee postpones any fee or any part of a fee the Trustee can charge interest.

24.4 GST

- (a) The fees payable to the Trustee under this Constitution do not include any amount referable to GST.
- (b) If the Trustee is or becomes liable to pay GST in respect of any supply under or in connection with this Constitution, then, in addition to any fee or other consideration payable to the Trustee in respect of the supply, the Trustee is entitled to be paid an additional amount on account of GST. The additional amount is to be equal to the amount of GST arising on the relevant taxable supply determined at the then prevailing rate, and the Trustee will be entitled to be reimbursed or indemnified for such an amount out of the Assets.

24.5 Differential fee arrangements

Subject to the Corporations Act and any ASIC Relief, the Trustee may agree with any Unitholder fee arrangements in respect of that Unitholder which are different to those provided for under this Constitution.

24.6 Availability of fees and indemnity

The Trustee will only be entitled to the fees set out in this clause 24 or the payment or reimbursement of Expenses incurred under this clause 24 or the Schedule in relation to the performance of its duties under this Constitution where it has properly performed those duties.

24.7 Liability net of GST

Where a party is entitled to be indemnified or reimbursed for any cost, expense or other liability that it has incurred, the amount of the indemnity or reimbursement shall not include the amount of any Input Tax Credit to which that party is entitled in relation to the relevant cost, expense or other liability. Any reference to a party's liability to pay GST or an entitlement to an Input Tax Credit includes a liability or entitlement of the Representative Member of that party's GST Group.

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25 Procedure on termination

25.1 Realisation of Assets

- (a) The Trustee must realise the Assets following the Termination Commencement Date.
- (b) The realisation of the Assets must be completed within 180 days of the Termination Commencement Date if practicable, and in any event, as soon as possible after that date.
- (c) The Trustee may postpone the sale of any Asset if the Trustee considers it would be in the best interests of Unitholders to do so.

25.2 Audit of termination of winding-up of the Trust

The Trustee must arrange for an independent audit of the final accounts of the Trust by a registered company auditor after winding-up.

25.3 Distribution following termination

- (a) The net proceeds of realisation, after making allowance for all Liabilities of the Trust (actual and anticipated), and meeting the Expenses (including anticipated Expenses) of the termination and Accrued Income Entitlements must be distributed, subject to the rights, obligations and restrictions attaching to any particular Units, to Unitholders in accordance with the following formula:

$$A = [(B \times C)/D]$$

where:

- A** is the amount to be distributed to the Unitholder (subject to the rights, obligations and restrictions attaching to any particular Units);
 - B** is the amount remaining in the Trust after deduction of the Liabilities, Expenses and Accrued Income Entitlements referred to in this clause 25.3(a). This amount can not be less than zero;
 - C** is the aggregate of the number of Units held by the Unitholder as at termination
 - D** is the aggregate of the total number of Units in issue as at termination.
- (b) The Trustee may distribute proceeds of realisation to Unitholders in instalments, with each such instalment to be calculated in accordance with clause 25.3(a).

25.4 Provisions of this Constitution continue to apply

- (a) Subject to the Corporations Act, the provisions of this Constitution continue to apply from the Termination Commencement Date until the date of final distribution under clause 25.3(a), but during that period the Trustee may not accept any applications for Units from a person who is not an existing Unitholder.
- (b) The Trust terminates on the date of final distribution under clauses 25.3(a) and 25.3(b).

26 Amendments to this Constitution

26.1 Trustee may amend

- (a) Subject to the Corporations Act, this Constitution may be amended:

- (i) by Resolution; or
 - (ii) by the Trustee in its absolute discretion by executing a deed.
- (b) If the Constitution is amended by Resolution, the Trustee must give effect to the amendments by executing a supplemental deed poll and complying with any requirements of the Corporations Act that apply.

26.2 Operation of the Trust as an AMIT

Without limiting this clause 26:

- (a) the Trustee may amend this Constitution as the Trustee considers necessary or desirable to facilitate compliance with and the effective operation of the Trust as an AMIT for the purposes of the AMIT Regime, including in relation to amendments to the AMIT Regime or the interpretation or administration of the AMIT Regime; and
- (b) the Trustee is authorised to take any action under this clause 26.2 without seeking approval from Unitholders (subject to the Corporations Act as modified by any applicable ASIC Relief) .

26.3 Corporations Act and ASIC Relief

- (a) If:
 - (i) the Corporations Act or ASIC Class Order [CO 13/655] (or any other ASIC Relief on which the Trustee has determined it wishes to rely or which is expressly applicable to the Trust and the Trustee) requires that this Constitution contain certain provisions or can only be relied upon if this Constitution contains certain provisions (Regulatory Required Provisions); or
 - (ii) if any part of this Constitution (**Regulatory Required Part**) is included to comply with the requirements of the Corporations Act, Listing Rules, ASIC or ASX (**Regulatory Requirement**), and that Regulatory Requirement ceases or changes,
 - (iii) then, to the extent the Corporations Act allows, this Constitution is taken to be amended so that the Regulatory Required Provisions are included as separate provisions, or the Regulatory Required Part is deleted or amended to reflect the amended Regulatory Requirement. The Regulatory Required Provisions prevail over any other provisions of this Constitution to the extent of any inconsistency.
- (b) The Unitholders:
 - (i) authorise the Trustee to make the amendments referred to in clause 26.3(a) in a deed and, if required, to lodge it with ASIC; and
 - (ii) agree that, subject to the Corporations Act, their rights under this Constitution do not include or extend to a right not to have this Constitution amended to comply with a Regulatory Requirement or to include Required Provisions.
- (c) Clause 26.1(a) does not apply to provisions deemed by clause 26.3(a) to be incorporated in the Constitution.

27 Compliance Committee

If any Compliance Committee Member incurs a liability in that capacity in good faith, the Compliance Committee Member is entitled to be reimbursed by the Trustee in respect of that liability to the extent permitted by the Corporations Act.

28 Complaints

While the Trust is a Registered Scheme, if a Member submits to the Trustee a complaint in relation to the Trust or its operations, the Trustee:

- (a) must, if the Member is a Retail Client, comply with the requirements of section 912A(2) of the Corporations Act applicable to the complaint; and
- (b) in respect of a complaint from a Member who is not a Retail Client:
 - (i) must, if the complaint is in writing, acknowledge in writing receipt of the complaint as soon as possible;
 - (ii) must ensure that the complaint receives proper consideration resulting in a determination by a person or body designated by the Trustee as appropriate to handle complaints;
 - (iii) 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;
 - (iv) may in its discretion give any of the following remedies to the complainant:
 - (A) information and explanation regarding the circumstances giving rise to the complaint;
 - (B) an apology; or
 - (C) compensation for loss incurred by the Member as a direct result of the breach (if any); and
 - (v) must respond to complaint promptly in accordance with the urgency of the complaint and in any event not more than 45 days after receipt by the Trustee of the complaint:
 - (A) the determination in relation to the complaint;
 - (B) any remedies available to the Member; and
 - (C) information regarding any further avenue for complaint.

29 Accounts, Audit and Reports

28.1. Accounts – Registered Scheme

If the Trust is a Registered Scheme, the Trustee must comply with the requirements of Chapter 2M of the Corporations Act, insofar as they are relevant to the Trust.

28.2. Accounts – Not a Registered Scheme

While the Trust is not a Registered Scheme, the Trustee:

- (a) must arrange the preparation and maintenance of such accounts and reports as the Trustee, reasonably exercising its discretion, considers appropriate having regard to the nature of the Trust and its Assets, with a view to ensuring that the financial position of the Trust at any time is accurately recorded; and
- (b) will determine at its discretion whether or not to have the Trust's accounts audited (but will arrange for such an audit if so directed by all Unitholders).

30 Miscellaneous

30.1 Severance

If all or part of any provision contained in this Constitution is void or invalid or would otherwise result in all or part of this Constitution being void or invalid for any reason, then such part is to be severed from this Constitution without affecting the validity or operation of any other provision of this Constitution.

30.2 Governing law

This Constitution is governed by the law of New South Wales. The Trustee and Holders submit to the non-exclusive jurisdiction of the courts of that jurisdiction.

30.3 Other obligations excluded

Except as required by the Corporations Act, all obligations of the Trustee which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including any obligation of the Trustee in its capacity as Trustee of the Trust arising under any statute

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Schedule 1

Trustee fees

1 Fees payable to Trustee

The Trustee is entitled to be paid the fees set out in this schedule in accordance with clause 24 and this schedule.

1.2 Establishment fee

The Trustee is entitled to an establishment fee of \$10,000 for its work establishing the Trust. This fee is payable on 15 September 2017 or the date which is one month after the First Issue Date (whichever is the earlier) and is payable out of the Assets of the Trust.

1.3 Trustee fee

- (a) The Trustee is entitled to a trustee fee of up to 0.06 per cent per annum of the Gross Value of the Consolidated Group's Assets, subject to a minimum monthly fee of
- (i) \$5,000 for the period from the First Issue Date to the first anniversary of that date; and
 - (ii) subsequently, \$6,250 Indexed on 1 July each year commencing on 1 July 2018.
- (b) This fee is accrued daily and is payable monthly in arrears out of the Assets from the First Issue Date to the date of the final distribution following a winding up of the Trust in accordance with this Constitution.
- (c) For the avoidance of doubt, the amount of the trustee fee payable under this clause 1.3 is subject to any relevant disclosure to Unitholders in the Product Disclosure Statement.

1.4 Custody fee

- (a) If the Trustee performs the custodial function for the Trust for any Assets, then it will be entitled to a custody fee of up to 0.04 per cent per annum of the Gross Value of the Consolidated Group's Assets, subject to a minimum monthly fee of \$3,000 Indexed on 1 July each year commencing on 1 July 2018.
- (b) This fee is accrued daily and is payable monthly in arrears out of the Assets from the First Issue Date to the date of the final distribution following a winding up of the Trust in accordance with this Constitution.
- (c) For the avoidance of doubt, the amount of the custody fee payable under this clause 1.4 is subject to any relevant disclosure to Unitholders in the Product Disclosure Statement.

1.5 Fee on retirement or removal

If One Managed Investment Funds Limited retires or is removed as the trustee of the Trust, then the following applies:

- (a) In consideration for work done in establishing the Trust and facilitating the orderly replacement of One Managed Investment Funds Limited as trustee of the Trust, One Managed Investment Funds Limited is entitled to a retirement fee.
- (b) The retirement fee is only payable if One Managed Investment Funds Limited retires or is removed as the trustee of the Trust before the fourth anniversary of the First Issue Date and provided that One Managed Investment Funds Limited does not retire or is not removed because of its negligence in the management of the Trust or for a

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material fiduciary breach. In this clause 1.5(b) a “material fiduciary breach” is a breach by One Managed Investment Funds Limited of a duty to Unitholders which has or could have a materially adverse effect on the rights or interests of Members.

- (c) The amount of the retirement fee referred to in clause 1.5(a) is the total amount of the trustee fee payable under clause 1.3 and (if applicable) the total amount of the custody fee payable under clause 1.4 that One Managed Investment Funds Limited would have received if it had been the trustee of the Trust until the fourth anniversary of the First Issue Date, with such amount being determined on the basis that any future trustee fee and (if applicable) any future custody fee payable to One Managed Investment Funds Limited at the time of calculation of the retirement or removal fee are determined on the basis of the Gross Value of the Consolidated Group's Assets.
- (d) The fee in clause 1.5(a) becomes due and payable on the day (as applicable) that the Unitholders resolve to replace the Trustee with a new trustee.
- (e) Any trustee of the Trust that succeeds One Managed Investment Funds Limited is not entitled to any benefit under this clause at any time.

1.6 Definitions

In this schedule 1, the following capitalised terms have the following meanings:

Indexed	Means adjusted on 1 July, by the aggregate percentage change in the Index Number for the previous four quarters most recently published prior to 1 July in the relevant year, adjusted for monthly basis. However, if the Index Number is negative, then the aggregate percentage change in the Index Number will be zero.
Index Number	Means— <ul style="list-style-type: none"> (a) the Consumer Price Index (All Groups) for the city of Sydney, published from time to time in the Australian Statistician's Summary of Australian Statistics. If the Australian Statistician updates the reference base of the Consumer Price Index (All Groups) for the city of Sydney, a conversion shall be made to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by the Australian Statistician, or (b) if the Consumer Price Index (All Groups) is discontinued or suspended, then a replacement index determined by the Trustee which reflects fluctuations in the cost of living in the city of Sydney.

1.7 Fees and costs

- (a) All costs, charges and expenses properly incurred in connection with the establishment, administration, management and winding up of the Trust by the Trustee, or the holding of any Assets (including by any sub-custodian) or the performance of its duties under this Constitution, will be paid out of the Assets. If the Trustee pays such costs, charges and expenses, then the Trustee will, in addition to the remuneration payable to it, be indemnified and will be entitled to be reimbursed out of the Assets in respect of such costs, charges and expenses, together with any GST payable in respect of those costs, charges and expenses.
- (b) Without limiting clause 1.7(a), this includes costs, charges and expenses connected with the following:
 - (i) The acquisition, custody (including any sub-custodian), management, maintenance, improvement, transfer, financing, holding of, disposal of or dealing with the Assets or Liabilities.

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- (ii) The proposed acquisition, custody (including any sub-custodian), management, maintenance, improvement, transfer, financing, holding of, disposal of or dealing with the Assets or Liabilities.
- (iii) Costs of raising funds either in the form of debt or equity, including commission, brokerage, underwriting fees and expenses.
- (iv) The appointment of any consultant, agent, broker, underwriter or delegate by the Trustee, including a custodian or registry provider.
- (v) The administration or management of the Trust or its Assets and Liabilities including any amount payable under the Investment Management Agreement to the Investment Manager for example;
- (A) management fees, performance fees or termination fees; or
- (B) expenses incurred by the Investment Manager which the Investment Management Agreement provides are recoverable from the Assets
- (vi) Bank charges on the operation of bank accounts.
- (vii) Borrowing money, raising finance or granting security over the Assets.
- (viii) Tax payable by or on account of the Unitholders or Trustee in respect of the Trust, but not Tax of the Trustee on income it earns as trustee of the Trust or in any other capacity.
- (ix) Fees and charges of any regulatory or statutory authority.
- (x) Convening and holding meetings of Unitholders.
- (xi) Printing and postage of cheques, making electronic payments, accounts, distribution statements, notices and other documents posted to some or all Unitholders in accordance with the provisions of this Constitution, including all stationery related to these matters.
- (xii) Preparation and distribution of any report or document required by the Act to be prepared in respect of the Trust, or prepared by the Trustee in good faith in respect of the Trust.
- (xiii) Keeping and maintaining of the accounting records and registers of the Trust.
- (xiv) Retirement and the appointment of a substitute trustee to the extent not recovered under paragraph 1.5 above.
- (xv) The initiation, conduct and settlement of any court proceedings—
- (A) to enforce any provisions of this Constitution, or
- (B) in relation to the Trust or any of its Assets or Liabilities.
- (xvi) Preparation and lodgement of returns under the Act, Tax Act or any other laws for the Trust, including the auditing of accounts or the compliance plan (if required).
- (xvii) Acquiring, establishing, maintaining and developing computer software systems required for the administration of the Trust.
- (xviii) Reasonable travelling and accommodation expenses of the Trustee.
- (xix) Preparation, execution and stamping of this Constitution, any related compliance plan or any supplemental deeds or plans.
- (xx) Conversions, rearrangements or reorganisations which are associated with complying with any new law or ASIC policy.

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- (xxi) The establishment, management and maintenance of any—
 - (A) listing on any exchange or secondary market of the Trust or any Units, and
 - (B) any rating of the Trust or any Units.
- (xxii) The performance of the functions and duties of the Trustee under the Constitution.
- (xxiii) Costs, charges and expenses related to—
 - (A) any compliance committee to the extent it reasonably relates to the Trust, Constitution or the compliance plan for the Trust, including the appropriate portion of the compliance committee's remuneration, independent legal, accounting or other professional advice required by that committee, and fees paid in respect of insurance premiums (and excess) for those members
 - (B) if there is no compliance committee and the Trust is a Registered Scheme, any costs and expenses of the board of the Trustee associated with carrying out the functions which would otherwise be carried out by a compliance committee, including (if relevant) any fees paid to, or insurance premiums in respect of, external directors appointed to satisfy the requirements of the Act, and
 - (C) any variation of the Trustee's Australian financial services licence to the extent it reasonably relates to the Trust.
- (xxiv) Establishing the Trust and including the preparation, due diligence, registration, promotion and distribution of Disclosure Documents and the preparation, registration, distribution, due diligence and promotion of the Trust to the extent not recovered under paragraph 1.5 above.
- (xxv) Complying with any laws or rules in relation to the prevention or detection of money laundering activities or terrorism financing activities.
- (c) No person will be ineligible or disqualified for payment under this clause because they are related to, or are Associates of, the Trustee or the directors of the Trustee.
- (d) The Trustee may pay its reimbursement out of the Assets in priority to any claim by Unitholders.

1.8 Performance of duties

- (a) Despite anything else in this Constitution, while the Trust is a Registered Scheme (and in accordance with subsection 601GA(2) of the Act), the rights of the Trustee to be paid fees out of the Assets or to be indemnified out of the Assets for liabilities or expenses incurred in relation to the performance of its duties under this Constitution or the Act are available only in relation to the proper performance of those duties.
- (b) The lack of entitlement to any payment pursuant to clause 1.8(a) only applies to that part of the payment which relates to the specific lack of proper performance on a given matter. Nothing in this clause 1.8 means the Trustee is not entitled to be paid fees and costs for work performed properly and in accordance with its duties.

Schedule 2

Legal Compliance List – Corporations Act

1 Legal Compliance List – Corporations Act

Part 5C.3 of the Corporations Act requires the constitution of a registered managed investment scheme to make adequate provision for certain matters listed in section 601GA and section 601GB,

This list is included to assist ASIC in identifying the provisions in this Constitution which satisfy the requirements of the Corporations Act for constitutions of registered managed investment schemes.

Section	Constitution to specify	Clause
601GA(1)(a)	Consideration that is to be paid to acquire an interest in the Constitution of the Fat Prophets Global Property Fund.	Clauses 8 and 9
601GA(1)(b)	Powers of the Trustee in relation to making investments of, or otherwise dealing with, the Fat Prophets Global Property Fund.	Clause 16
601GA(1)(c)	The method by which complaints made by Members in relation to the Fat Prophets Global Property Fund is to be dealt with.	Clause 28
601GA(1)(d)	Winding up the Fat Prophets Global Property Fund.	Clause 25
601GA(2)	(a) the Trustee's rights to fees; and (b) the Trustee's right to indemnification for liabilities and expenses.	Clause 24 Clause 24 and schedule 1
601GA(3)	Powers to borrow or raise money for the purposes of the Fat Prophets Global Property Fund.	Clause 16.2(b)
601GA(4)	The rights of Members to withdraw from the Trust.	Clauses 10 and 11
601GB	Legally enforceable between Unitholders and the Trustee.	Clause 3

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Schedule 3

Legal Compliance List – ASX Listing Rules

1 Legal Compliance List – ASX Listing Rules

This list is included to assist ASX in identifying the provisions in this Constitution which satisfy the requirements of the Listing Rules for constitutions of registered managed investment schemes.

Listing Rule	Constitution to specify	Clause
1.1, Condition 2	For the Trustee to be admitted to the official list as an ASX listing, the Trustee must have a constitution which is consistent with the Listing Rules or which includes the provisions in Appendix 15A or Appendix 15B	Clause 1.4
1.1, Condition 5	For the Trustee to be admitted to the official list as an ASX listing, if the Trustee is the trustee of a managed investment scheme, the scheme must be a registered managed investment scheme unless exempted by ASIC.	Clauses 1.2(l), 10.1(b) and 11.1(a)
15.12.1	Restricted Securities cannot be disposed of during the Escrow Period except as permitted by the Listing Rules or ASX.	Clause 6.8
15.12.2	The Trustee will 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.	Clause 6.8
15.12.3	During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder of the Restricted Securities is not entitled to any dividend or distribution, or voting rights, in respect of the Restricted Securities.	Clause 6.8
15.13	The Constitution of the Trustee must not permit it to sell securities of a holder who has less than a marketable parcel of those securities unless the Constitution provides for both of the matters in rule 15.13 or 15.13A	Clause 11.9
15.14	If the Trust has provisions in the Constitution relating to the acquisition of units above a limit or substantial holdings must not have sanctions or penalties in the Constitution which entitle the Trustee or any other party to enforce the provisions.	Not Applicable

Executed as a deed poll on 23 June 2017

**Recording of execution of original
Executed by One Managed Investment
Funds Limited (ACN 117 400 987)** in
accordance with section 127 of the
Corporations Act 2001 (Cth):

Frank Tearle

Director

Sarah Wiesener

~~*Director~~ Company Secretary

Frank Tearle

Name of Director
BLOCK LETTERS

Sarah Wiesener

Name of ~~*Director~~ Company Secretary
BLOCK LETTERS
*please strike out as appropriate

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