



DATED

1 November 2020

**MSQUARED CONTRIBUTORY MORTGAGE INCOME
FUND (Fund)**

DEED POLL

Msquared Contributory Mortgage Income Fund
Constitution

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DETAILS

Date

1 November 2020

Parties

Name **Msquared Capital Pty Ltd ACN 622 507 297**
Short form name **Trustee**

Recitals:

- A. The Msquared Contributory Mortgage Income Fund is governed by a trust deed dated 10 May 2018, as amended from time to time (**Constitution**).
- B. Msquared Capital Pty Ltd (**Trustee**) has been appointed as trustee of the Fund to replace the previous trustee of the Fund, One AR Pty Ltd ACN 602 601 776 (**Retiring Trustee**) on and from 1 November 2020 (**Effective Date**).
- C. In accordance with the terms of the deed of retirement and appointment of trustee between the Trustee and the Retiring Trustee dated 26 October 2020 (**Deed of Retirement**), by this deed poll, the Trustee covenants to be bound by the terms and conditions of the Constitution as trustee as though it had been originally named as a party to it on and from the Effective Date.

OPERATIVE PROVISIONS

The Trustee declares:

1 OPERATIVE PROVISIONS

The Trustee covenants:

- (a) to be bound by the terms and conditions of the Constitution as trustee as though it had been originally named as a party to it on and from the Effective Date;
- (b) to hold the Fund's funds constituted by the Trust Deed on and from the Effective Date;
- (c) to perform all the powers, duties and obligations conferred on it as trustee of the Fund under the Trust Deed on and from the Effective Date.

2 CONSTITUTION

The Constitution is annexed as Schedule 1 to this Deed Poll. On and from the Effective Date, it will be read by replacing the name of the Retiring Trustee (each time appearing) with the name of the Trustee.

3 AMENDMENTS

- (a) The Constitution is amended by deleting the text in clause 30.2(a) and replacing it with the following:
 - (i) The address for the Trustee will be the following address or the address most recently notified in writing to Unitholders: Address: Suite 1702, Level 17, 101 Grafton Street, Bondi Junction 2022, Email: info@msqcapital.com.au.
- (b) Other than the amendments set out in clause 3(a) above applicable to clause 30.2(a) of the Constitution, the remaining provisions of the Constitution in Schedule 1 remain in full force, operation and effect.

4 GOVERNING LAW

This Deed Poll is governed by the laws in force in New South Wales. Each person affected by it irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts of appeal from them.

EXECUTED as a Deed Poll

Executed by **Msquared Capital Pty Ltd ACN 622 507 297** in accordance with section 127 of the *Corporations Act 2001* (Cth):



Signature of director



Name of director (print)



Signature of director/company secretary
(Please delete as applicable)



Name of director/company secretary (print)

SCHEDULE 1

Constitution

ONE AR PTY LTD

Msquared Contributory Mortgage Income Fund

Constitution

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|----------------------------------|-------------------|
| Office of State Revenue (NSW) | |
| Client No: | 1411509 |
| Date: | \$ 500 |
| Trans No: | 937 3843 3798 001 |
| Asst details _____ | |

| | |
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| Date | This Constitution is a deed poll made on the date noted on page 57 of this document. |
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| Trustee | One AR Pty Ltd ACN 602 601 776 of Level 11, 20 Hunter Street, Sydney, New South Wales |
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| Introduction | <p>A. This Constitution establishes the Trust for the benefit of all Unitholders. Those Unitholders are bound by this Constitution.</p> <p>B. If the Trust is a Registered Scheme, then the Trustee will be the responsible entity.</p> <p>C. The terms of this Constitution follow.</p> |
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| Schedules | <p>The following Schedules form part of this Constitution:</p> <p>A. Schedule 1—Dictionary.</p> <p>B. Schedule 2—Rules for interpretation.</p> |
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TERMS

1. Constitution of the Trust

1.1 *Constitution binding on the parties*

This Constitution operates as a deed and is binding on—

- (a) all Unitholders (as they are constituted from time-to-time), and
- (b) the Trustee.

1.2 *Confirmation of appointment*

The appointment of the Trustee as trustee of the Trust is hereby confirmed and the Trustee agrees to manage the Trust upon and subject to the terms contained in this Constitution.

1.3 *Benefits and obligations*

This Constitution is made with the intention that the benefits and obligations may enure not only to the Trustee but also to the extent provided to every Unitholder. Subject to any special rights or obligations conferred upon Units pursuant to their Terms of Issue, the Units will be held upon and subject to the provisions contained in this Constitution.

2. Trust

2.1 *Name of the Trust*

- (a) The Trust will be known as the Msquared Contributory Mortgage Income Fund. However, the Trustee may designate another name at any time in its complete discretion.
- (b) If One AR Pty Ltd retires or is removed, then its successor as Trustee must, unless otherwise approved by One AR Pty Ltd, change the name of the Trust to a name that does not imply an association with One AR Pty Ltd or its business.

2.2 *Declaration of trust*

- (a) The Trustee holds the Assets on trust for the Unitholders on the terms contained in this Constitution.
- (b) The Trust commences on the date the Initial Units are first issued in accordance with clause 3.1.

2.3 Term of the Trust

The Trust will end on the earlier of—

- (a) the date specified by the Trustee as the date of termination of the Trust in a notice given to Unitholders, and
- (b) the date on which the Trust terminates in accordance with another provision of this Constitution, in accordance with the Act or in accordance with the law.

2.4 No merger

For the avoidance of any doubt, if the Trustee (in its capacity as trustee of any other trust or trusts) is, or becomes, a Unitholder, or the sole Unitholder, then the estates or interests held by the Trustee in the Assets will not merge and the trust created under this Constitution will not cease to exist. The Trustee may be the trustee of the Trust and also at the same time a Unitholder, or the sole Unitholder, of the Trust, in a different capacity.

2.5 Relationship of agency or partnership excluded

Any relationship of agency, or of a partnership, between the Trustee in that capacity and any Unitholder is expressly excluded.

3. Creation and issue of Units

3.1 Initial Units

- (a) The first Units issued by the Trustee will be Initial Units.
- (b) The rights, obligations and restrictions attaching to Initial Units are as set out in this Constitution, except that the following special terms prevail over other provisions of this Constitution in the case of any inconsistency and to the extent provided in clause 28.4:
 - (i) The Application Price of a single Initial Unit will be \$1.00.
 - (ii) Holders of Initial Units will not have an interest or be entitled to a share in any Distributable Amount.
 - (iii) The Withdrawal Price for a Unitholder's Initial Units will be the price paid by the Unitholder to acquire the Initial Units.
 - (iv) Holders of Initial Units are not entitled to receive notices of and attend general meetings of holders of Cash Units or other Classes of Units. Additionally, Initial Units will have no voting rights.
 - (v) On winding up of the Trust, a holder of Initial Units is only entitled to payment of the price paid by the Unitholder to acquire the Initial Units.

3.2 Division of beneficial interest

The beneficial interest in the Assets as a whole will be divided into Units.

3.3 Interest in Assets

Unless the Terms of Issue of a Class otherwise provide, every Unit confers an equal and undivided interest in the Assets as a whole, subject to the Liabilities, but no Unit confers an interest in a particular part of the Trust or in any particular Asset.

3.4 Consolidation, division and issue of Units

- (a) The Trustee may, at any time, determine to consolidate, divide or issue Units and create and issue Units of different Classes.
- (b) The Trustee may make the issue of Units in different Classes subject to the rights, obligations and restrictions specified in their Terms of Issue. For example, the Terms of Issue may—
 - (i) eliminate, reduce or enhance any of the rights or obligations which would otherwise be carried by such Units, or
 - (ii) provide for conversion of Units from one Class to another Class and, if the Trustee so determines, change the number of Units on such a conversion.
- (c) The rights of Unitholders are subject to the rights, obligations and restrictions established by the Terms of Issue of the Class.

3.5 Fractions of Units

- (a) Fractions of a Unit may be issued by the Trustee.
- (b) Subject to the Terms of Issue, if fractions of a Unit are issued, then the provisions in this Constitution which relate to Units and Unitholders apply in the proportion which the fraction bears to the Unit.

3.6 Application Price of a Unit

- (a) Subject to the Terms of Issue, the Application Price for a single Unit in a Class will be determined as follows:
 - (i) If the Trust is not a Registered Scheme, then at a price determined by the Trustee in its absolute discretion, (including, without limitation, at a price calculated in accordance with the formula in clause 3.6(b)).
 - (ii) If the Trust is a Registered Scheme, then in accordance with clause 3.6(b), subject to the Trustee determining another Unit price in accordance with the remainder of this clause 3.6, or in accordance with clause 3.7.

- (b) Subject to the other provisions of this clause 3.6 and clause 3.7, the Application Price of a single Unit in a Class is the price calculated as follows:

| |
|----------------------------------------------------------------------------------------------------------------------------------------------------|
| $\frac{\text{Net Class Value} + \text{Total Unpaid Amount} - \text{Accrued Distribution} + \text{Transaction Costs}}{\text{Class Units in Issue}}$ |
|----------------------------------------------------------------------------------------------------------------------------------------------------|

- (c) However, if and whilst the Trust is taxed on a similar basis to a company, then the Accrued Distribution will not be deducted from the Net Class Value when applying the formula in clause 3.6(b) and therefore the words “—Accrued Distribution” in this formula will be deemed not to apply.
- (d) Notwithstanding any other provision of this Constitution, the Trustee may set the Application Price for Units at an Application Price different from that determined in accordance with clause 3.6(b), in relation to some Units, a Class or all Units, to the extent it is permitted to do so under the terms of any ASIC Relief (and subject to the terms of that ASIC Relief). In particular the Trustee may (subject to the terms of the ASIC Relief) exercise discretion in determining—
- (i) any matter affecting the value of any factor included in the calculation of the Application Price, and
 - (ii) any matter which is an aspect of the method of calculating the Application Price.
- (e) For the purpose of clause 3.6(b), “Net Class Value”, “Total Unpaid Amount”, “Transaction Costs” and “Units in Issue” are each that proportion of those variables that the Trustee determines is properly Referable to the Class to which the Unit being priced belongs.

3.7 Application Price on exercise of Option

Subject to the Act and the conditions of any ASIC Relief, the exercise price for Units to be issued in a Class on the exercise of an Option will be the Application Price for Units in that Class determined on the Business Day immediately preceding the date the Options are offered.

3.8 Time to calculate Application Price

Subject to clauses 3.6 and 3.7, the time at which the Trustee must calculate the Application Price for Units in a Class is the next Relevant Valuation Time after the later of the following to occur:

- (a) The time the Trustee receives the relevant application for Units in the relevant Class.
- (b) The time the Trustee receives the relevant Application Money or the property against which Units in the relevant Class are to be issued.

3.9 Time to calculate Application Price—fixed capital raisings

The Trustee may calculate the Application Price for Units in a Class at any Relevant Valuation Time the Trustee determines in the case of offers made for a predetermined fixed number of Units in a Class or for the purpose of raising a predetermined fixed amount of money for a Class.

3.10 Units issued against uncleared funds

- (a) For the purposes of this clause 3, the Trustee may (but is not obliged to) treat receipt of a cheque or other promise or direction to pay as a receipt of Application Money.
- (b) Units issued against Application Money provided other than in cleared funds, or in consideration of a transfer of property, are (at the election of the Trustee) void if the funds are not subsequently cleared, or the property does not vest in the Trustee, within 10 Business Days after the receipt of the relevant application for Units (or such longer period as the Trustee determines).

3.11 Net Class Value

- (a) The Trustee may determine the Net Class Value for a Class at a Valuation Time in accordance with clause 10. Nothing in this clause 3 requires the Trustee to determine the Net Class Value more often than at a Valuation Time.
- (b) The Trustee may in its discretion postpone, delay or change any Valuation Time (including any Relevant Valuation Time).

3.12 Satisfaction of Application Money

The payment of Application Money for Units may be satisfied in such a manner as the Trustee determines, including by payment of cash or by transfer to the Trustee of investments acceptable to the Trustee, or by a combination of these methods.

3.13 Perpetuity period and restriction on issue and redemption of Units

The perpetuity period for the Trust expires on the Vesting Day. Despite any other provision of this Constitution, no Units may be issued or redeemed after the day immediately prior to the last day of the perpetuity period, if that issue or redemption would cause a contravention of the rule against perpetuities or remoteness of vesting or any other rule of law or equity. The specification of a perpetuity period in this clause does not require that the Trust terminate on expiration of that period.

3.14 Referability

- (a) A Class will be Referable to a particular Class Asset (or Class Assets) where the Trustee has identified the particular Asset as an appropriate investment opportunity for the Trust and has issued a Disclosure Document outlining that returns on a Class will be calculated with reference

to the particular Asset. Assets Referable to a particular Class are referred to as Class Assets in this Constitution.

- (b) Clause 3.14(a) does not confer on the Unitholder a beneficial interest in a particular Asset. The outcome of clause 3.14(a) is to assist in a calculation of the Application Price and the Withdrawal Price for each Class and the quantum of income and capital distributions that can be distributed to Unitholders.
- (c) More than one Unitholder may hold a Class that is Referable to a Class Asset (or Class Assets).

3.15 Default

Unless an Asset is made Referable to another Class pursuant to clause 3.14, the Asset will be Referable to the Class known as Cash Units.

4. Application for Units

4.1 Form of application

An application for Units must be in any form the Trustee may for the time being require or approve.

4.2 Application payment

- (a) Each Applicant must, at the time of making an application for Units or at such later time as the Trustee allows, pay to the Trustee (or its agent) their Investment Amount.
- (b) If the application for Units arises as part of a reinvestment under clause 17, then the Investment Amount is deemed to be paid to and received by the Trustee on the day the distribution is applied in payment for the Units.

4.3 Holding Application Money

All Application Money must be held by the Trustee (or its agent) on trust for the Applicants.

4.4 Interest on Application Money

Unless the Trustee decides otherwise, interest earned on Application Money for Units in a particular Class will be retained by the Trustee and will not form part of the Class Assets, and for the avoidance of doubt, any interest earned on Application Money is not available to a particular Applicant nor is it attributable to a particular Applicant.

4.5 Trustee may refuse application

- (a) The Trustee may, in its absolute discretion, accept or refuse any application for Units in whole or in part, and it is not bound to give any reasons for such refusal.

- (b) If any application for Units is refused, then—
- (i) the Trustee must refund to the Applicant any money paid by the relevant Applicant, and
 - (ii) unless the Trustee determines otherwise, no interest shall be paid to the Applicant and any interest earned on the Applicant's Application Money may be retained by the Trustee or form part of the Assets at the Trustee's election

4.6 Investment of the Application Money

The Application Money may, pending its application in accordance with the terms of this Constitution, be invested by the Trustee in investments authorised by the law relating to the investment of trust funds.

4.7 Minimum application

The Trustee may set minimum application amounts or minimum Unit holdings for the Trust (including in respect of a Class), and alter those amounts at any time.

4.8 Date Units issued

- (a) Units in a Class are taken to be issued on the date the Trustee accepts the relevant application for Units in that Class and the Investment Amount required to be paid by the Applicant for the Units in that Class has been paid in accordance with clause 4.2.
- (b) However, Units issued on a reinvestment pursuant to clause 17 are taken to be issued under an application which is deemed to have been received on the day the distribution is applied in payment for the Units.

4.9 Number of Units issued

- (a) Except in relation to Partly Paid Units, the number of Units in a Class issued to an Applicant is calculated as follows:

| |
|----------------------------------------------------------------------------------------------------------------------|
| $\frac{\text{Application Money received for Units in that Class}}{\text{Application Price of a Unit in that Class}}$ |
|----------------------------------------------------------------------------------------------------------------------|

- (b) In relation to Partly Paid Units, the number of Partly Paid Units issued will be determined in accordance with the formula in clause 4.9(a) assuming the Application Price per Unit for Units in that Class was due and paid in full on the date of issue.
- (c) At the Trustee's discretion, it may also regard as Application Money any input tax credit (or part of it) received by the Trust in respect of the application.

4.10 Unit certificates

The Trustee is not required to issue or provide certificates for Unit holdings.

4.11 Unitholder identification requirements

- (a) Without affecting clause 4.1, the Trustee may require any Applicant to provide to the Trustee evidence of the identity, residency and nationality of that Applicant (or of any person or entity with an interest in the Applicant), in such form as required by the Trustee in its absolute discretion.
- (b) Without affecting clause 4.8, the Trustee may delay the acceptance or processing of any application for Units or it may refuse any application for Units, in its absolute discretion, if the Applicant fails or refuses to provide the evidence required by the Trustee under clause 4.11(a), or the evidence provided is not satisfactory to the Trustee.
- (c) The Trustee may in its absolute discretion cancel the Units which were issued, in which case the issue of Units will be deemed to be void, if, after Units have been issued to a Unitholder, it comes to the Trustee's attention that the Unitholder (or any person or entity with an interest in the Unitholder)—
 - (i) is a different person or entity from the person or entity originally represented to the Trustee, or
 - (ii) there is a defect or omission in the information provided under clause 4.11(a).
- (d) Nothing in this clause 4.11 is intended to, nor should it be taken to, impose any additional or greater obligations on the Trustee than any obligations already imposed on the Trustee pursuant to any law relating to the control or identification of money laundering or terrorism financing. This clause 4.11 is intended to give the Trustee the power to require information from Applicants and the power to cancel Units issued, but (subject to the law) it does not oblige the Trustee to do so.

5. Partly Paid Units**5.1 Payment of Application Price by instalments**

The Application Price for Units in a Class may be payable by instalments as set out in this clause 5.

5.2 Determination of amount and timing of instalments

The Trustee may determine at any time that Units in a Class that are to be offered for sale or subscription are to be offered on terms that the Application Price is payable by instalments of such amounts and at such times as the Trustee determines or, if the Trustee so determines, by a single instalment payable at such time as the Trustee determines.

5.3 Variation or waiver of terms and conditions

Subject to any applicable statutory duty requiring the Trustee to treat Unitholders of the same Class equally and those of different Classes fairly, where Units are

offered for sale or subscription on terms and conditions determined and set out in accordance with clause 5.2, those terms and conditions may be varied or compliance therewith waived only with the consent of the Trustee. The Trustee may not waive an instalment which is due and payable.

5.4 Notice of instalments

The Trustee must give Unitholders at least one Business Days' notice of the time and date each instalment is due to be paid (the first notice). The omission to give the first notice or the non-receipt of the first notice by the Unitholder does not affect the obligation of the Unitholder to pay the instalment.

5.5 Interest on instalments and costs

If a Unitholder does not pay an instalment on a Partly Paid Unit by the due time and date—

- (a) then interest is payable by the Unitholder on the amount due, calculated in accordance with clause 31.6(a), and
- (b) the Trustee may charge the Unitholder any costs it or the Trust incurs as a result of the failure to pay an instalment.

5.6 Failure to pay instalments

- (a) If a Unitholder does not pay any instalment due on a Partly Paid Unit on or by the day specified for payment, then the Trustee may serve a notice on the Unitholder (the second notice).
- (b) If a notice is served pursuant to clause 5.6(a), then it must contain the following:
 - (i) The total amount due to be paid at the date of the notice, including the unpaid instalment, any interest owing at that date and any costs the Trustee is seeking to recover.
 - (ii) The time and day by which payment must be made. This date must not be less than three business days from the date of the notice.
 - (iii) If payment of the amount set out in the notice is not made by the due date specified in the notice, then the Partly Paid Units in respect of which the notice has been issued are liable to be forfeited. The Trustee may also specify that interest will continue to accrue and further costs are likely to be incurred.
- (c) Failure by the Trustee to comply with clause 5.6(b) or non-receipt of the second notice does not affect the obligation of the Unitholder to pay the instalment plus interest and costs.

5.7 Consequences of non-compliance

If the requirements of any notice issued under clause 5.6 are not complied with, then—

- (a) the Trustee may determine in its absolute discretion, that any Partly Paid Unit in respect of which the notice has been given may at any time after the date specified in the notice for payment of the amount required by the notice (and before payment of the instalment and any interest and expenses owing), be forfeited, and
- (b) subject to the Act and this Constitution, all voting rights, entitlements to the distribution of income and other rights in connection with any Partly Paid Unit in respect of which the notice has been given are suspended until reinstated by the Trustee.

5.8 Disposal of forfeited Units

- (a) Subject to the Act, a forfeited Unit may be sold or otherwise disposed of as a Fully Paid Unit, either—
 - (i) at a price that is no less than a price calculated in accordance with clause 3.6, or
 - (ii) in accordance with any applicable ASIC Relief in relation to the sale of forfeited Units, if the Trustee complies with the conditions of the relief.
- (b) The Trustee is not liable to a Unitholder for any loss suffered by the Unitholder as a result of the sale.
- (c) At any time before a sale or disposition the forfeiture may be cancelled upon such terms as the Trustee thinks fit.

5.9 Holder of forfeited Units

The holder of Partly Paid Units which have been forfeited ceases to be a Unitholder in respect of the forfeited Units but remains liable to pay to the Trustee all money which at the date of forfeiture was payable by the former Unitholder to the Trustee in respect of the forfeited Units (including interest owing under clause 5.5 and expenses) but the former Unitholder's liability ceases if and when the Trustee receives payment in full of all such money.

5.10 Evidence of forfeiture

A statement signed by an Authorised Representative of the Trustee that a Partly Paid Unit has been duly forfeited on a date stated therein is conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the forfeited Units.

5.11 Consideration for forfeited Units

Where a Partly Paid Unit is forfeited pursuant to this clause the following applies:

- (a) The Trustee may receive the consideration, if any, given for a forfeited Unit on the sale or disposal.
- (b) The Trustee must—
 - (i) execute a transfer of such Unit in favour of the person to whom the Unit is sold or disposed of (and the former Unitholder grants the Trustee an irrevocable power of attorney to execute that transfer and do all things reasonably required to give effect to the transaction), and
 - (ii) register that person as the holder of that Unit.
- (c) The person who becomes the registered holder is not obliged to ensure that any part of the money which the person has paid for the Unit is paid to the former holder of the Unit. Further, that person's title to that Unit is not affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of that Unit.

5.12 Deductions from consideration for forfeited Units

Where forfeited Units are sold or disposed of for cash, the Trustee must deduct from the amount of the consideration the amount of the instalment owing at the date of forfeiture (including any interest payable and any expenses incurred on the sale or disposal of the Unit and any expenses associated with the forfeiture or any proceedings brought against the Unitholder to recover the instalment or part thereof owing). The Trustee may retain in the Class Assets of the Class in which the Unit was forfeited the amounts so deducted, but the balance remaining must be paid to the Unitholder whose Units were forfeited.

5.13 Joint holders

Joint holders of Partly Paid Units are jointly and severally liable to pay all amounts due and payable on the Partly Paid Units held by them.

5.14 Rights and obligations attaching to a Partly Paid Unit are proportionate

Subject to the Act and the provisions of this Constitution, the rights and obligations attaching to a Partly Paid Unit will be in proportion to the extent to which that Unit is paid up.

5.15 Termination of a Class or winding up of the Trust

Despite anything in this Constitution or in any offer of Partly Paid Units, the whole of the Unpaid Amount is payable immediately—

- (a) upon termination of the Class to which the Partly Paid Unit belongs, or
- (b) upon commencement of the winding up of the Trust.

6. Withdrawal Price for Units

6.1 Withdrawal price

- (a) If the Trust is not a Registered Scheme, then subject to the Terms of Issue a Unit in a Class may be redeemed at a Withdrawal Price determined by the Trustee in its absolute discretion (including, without limitation, at a Withdrawal Price calculated in accordance with the formula in clause 6.1(b)).
- (b) If the Trust is a Registered Scheme, then subject to the Terms of Issue a Unit in a Class may only be redeemed at a Withdrawal Price calculated as follows:

| |
|----------------------------------------------------------------------------------------------------------------------------------------------------|
| $\frac{\text{Net Class Value} + \text{Total Unpaid Amount} - \text{Accrued Distribution} - \text{Transaction Costs}}{\text{Class Units in Issue}}$ |
|----------------------------------------------------------------------------------------------------------------------------------------------------|

- (c) However, if and whilst the Trust is taxed on a similar basis to a company, then the Accrued Distribution will not be deducted from the Net Class Value when applying the formula in clause 6.1(b) and therefore the portion “ – Accrued Distribution” in this formula will be deemed not to apply.
- (d) For the purposes of the calculation in clause 6.1(b):
 - (i) The Trustee may (subject to the terms of any exemption or relief provided by ASIC) exercise discretion in determining—
 - A. any matter affecting the value of any factor included in the calculation of the Withdrawal Price, and
 - B. any matter which is an aspect of the method of calculating the Withdrawal Price.
 - (ii) “Net Class Value”, “Accrued Distribution”, “Transaction Costs” and “Class Units in Issue” are each that proportion of those variables that the Trustee determines is properly Referable to the Class to which the Unit being priced belongs.

6.2 Time to calculate Withdrawal Price

The Withdrawal Price must be calculated—

- (a) while the Trust is Liquid, at the next Relevant Valuation Time after the withdrawal request is accepted or approved by the Trustee, or
- (b) while the Trust is not Liquid, at the time the withdrawal offer closes or at such other time specified by the Trustee is the withdrawal offer.

7. Withdrawal procedures

7.1 *Right to withdraw*

- (a) Where the Trust is not a Registered Scheme, a Unitholder has no right to withdraw from the Trust other than as determined by the Trustee in its absolute discretion.
- (b) Where the Trust is a Registered Scheme, a Unitholder's right to withdraw is governed by the remainder of this clause 7, the terms of which have effect on and from such registration (except as expressly provided).

7.2 *Application of withdrawal provisions*

- (a) Clauses 7.3 to 7.6 apply whether or not the Trust is Liquid.
- (b) Clauses 7.4 to 7.6 apply whether or not the Trust is a Registered Scheme.
- (c) Clauses 7.11 and 7.12 apply while the Trust is Liquid.
- (d) Clause 7.13 applies while the Trust is not Liquid.

7.3 *Requests for withdrawal*

A Unitholder may make a request for the withdrawal of some or all of their Units—

- (a) if the Trust is Liquid, by providing notice to the Trustee in writing and the Trustee may give effect to that request in its sole discretion and at the time and in the manner set out in this clause 7 (subject to clauses 7.11 and 7.12), or
- (b) if the Trust is not Liquid, in response to a withdrawal offer made by the Trustee and in accordance with the Act.

7.4 *Compulsory withdrawal*

The Trustee may redeem the Units of any Unitholder without the need for a withdrawal request in any of the following circumstances:

- (a) The Trust is not a Registered Scheme.
- (b) The redemption is permitted under the Terms of Issue which apply to those Units.
- (c) The Trust has failed or is likely to fail to meet any criteria which must be met so as to ensure the Trustee or the Unitholders (considered as a whole) are not subject to adverse Tax consequences as determined from time-to-time by the Trustee.
- (d) The redemption is required by operation of—
 - (i) legislation where the mechanism for redemption is contained in that legislation

- (ii) a provision in this Constitution which has been included in mandatory compliance with Australian legislation
 - (iii) the order of a court of competent jurisdiction, or
 - (iv) a lien, the exercise of which results in a redemption.
- (e) The Unitholder holds less than any minimum Unit holding amount set by the Trustee.
 - (f) In the opinion of the Trustee, the continued holding of Units by a Unitholder would be contrary to an applicable law.
 - (g) The Trustee determines, in its absolute discretion, the continued holding of Units by a Unitholder would be to the material disadvantage of the Trust, Unitholders of a Class or to the interests of Unitholders as a whole.

7.5 Money owed

If a Unitholder owes any money to the Trust or the Trustee (including any Unpaid Amount of any Partly Paid Units held by the Unitholder), then the Trustee may deduct the money owing from the proceeds of a withdrawal which are otherwise due to the Unitholder.

7.6 Transfer of Class Assets to satisfy withdrawal or distribution

The Trustee may, at its discretion, transfer Class Assets to a Unitholder, rather than pay cash, in satisfaction of all or part of a withdrawal request, pursuant to a withdrawal offer or in payment of a distribution. These Class Assets together with any cash paid must be of equal value to the total amount due to the Unitholder pursuant to the redemption request, withdrawal offer or distribution (based on a valuation prepared in accordance with clause 10). If the Trustee requires, then the costs involved in the transfer of these Class Assets must be paid by the Unitholder or deducted from the amount due to the Unitholder.

7.7 Minimum application amount

The Trustee need not give effect to withdrawal requests (whether or not made in response to a withdrawal offer) in respect of Units having an aggregate Withdrawal Price of less than the minimum application amount or such other amount of the Class as determined by the Trustee from time to time. However, the withdrawal request can be less if it relates to the remaining balance of the Unitholder's holding in the Class.

7.8 Minimum unitholding

If complying with a withdrawal request (whether or not made in response to a withdrawal offer) would result in the Unitholder holding Units in a Class with an aggregate Withdrawal Price of less than the current minimum holding amount set by the Trustee for that Class, then the Trustee may treat the withdrawal request as relating to the remaining balance of the Unitholder's holding in the Class.

7.9 Withdrawal request cannot be withdrawn

A withdrawal request (whether or not made in response to a withdrawal offer) cannot be withdrawn by a Unitholder, unless the Trustee otherwise agrees.

7.10 Satisfaction of withdrawal by sale of Units

The Trustee may, at its discretion, purchase or arrange for another person to purchase all or some of the Units the subject of a withdrawal request (whether or not made in response to a withdrawal offer) at a price per Unit no less than the Withdrawal Price which would otherwise have been paid under clause 6.1. In such case, the withdrawal request is deemed satisfied upon—

- (a) the transfer of the Units the subject of the withdrawal request being recorded in the Register, and
- (b) if the transfer is for less than all of the Units the subject of the withdrawal request, then upon payment of the Withdrawal Price in respect of the remaining Units.

7.11 Suspension of withdrawals

- (a) The Trustee need not give effect to a withdrawal request or it may suspend withdrawals for a period of time—
 - (i) where the withdrawal request is received between the date the Trust is terminated and the date the Trust is wound up
 - (ii) if it is not in the best interests of Unitholders for withdrawals to be made
 - (iii) in relation to withdrawals from a particular Class, if it is not in the best interests of Unitholders in the Class for withdrawals to be made
 - (iv) if it would prejudice the Trust's ability to obtain or maintain concessional treatment under stamp duty legislation or would prejudice the Trust's or the Trustee's compliance with any applicable law, or the taxation or stamp duty status of the Trust
 - (v) it is, for any reason, impracticable for it to calculate the Class Asset Value, the Application Price or the Withdrawal Price, including because of closure of a securities or other exchange or trading restrictions on a securities or other exchange, or because of the existence of an emergency or other similar state affairs or because of an event outside of the reasonable control of the Trustee, or because of the requirements of any law
 - (vi) there would be insufficient cash retained in the Class Assets after complying with a withdrawal request to meet other Class Liabilities and in the Trustee's opinion it is not in the interests of Unitholders for any Class Assets to be sold in order to satisfy a withdrawal request

- (vii) if it is not able to realise the relevant Class Assets at an appropriate price or on adequate terms or otherwise due to one or more circumstances outside of the control of the Trustee needed to satisfy the withdrawal requests within the time required
 - (viii) the Trustee reasonably estimates that it must sell 5 percent or more (by value) of all Class Assets to meet current unsatisfied withdrawal requests relating to that Class, or
 - (ix) there have been, or the Trustee anticipates there will be, withdrawal requests for that Class which involve realising a significant amount of the Class Assets and the Trustee considers that if those withdrawal requests are all satisfied immediately, then Unitholders in that Class who continue to hold Units may bear stamp duty or a disproportionate burden of capital gains tax or other expenses, or the meeting of those withdrawal requests would otherwise be to the disadvantage of existing Unitholders in that Class, including (but not limited to) a material diminution in the value of the Class Assets.
- (b) In cases where withdrawals are suspended for a period of time the Trustee may extend the period for so long as the circumstances which caused the suspension continue to apply.

7.12 Provisions which apply when the Trust is Liquid

- (a) The Trustee must determine whether it will give effect to a withdrawal request within 365 days of receipt of the request. If the Trustee gives effect to a withdrawal request, then the Trustee must satisfy the withdrawal request within 21 days from the date on which it determines to give effect to the request—
- (i) by making the requisite payment from the Class Assets of the relevant Class or by transferring Class Assets of the relevant Class in accordance with clause 7.6
 - (ii) subject to the Act, by purchasing the number (or value) of Units referred to in the withdrawal request, or
 - (iii) partially in the manner described in clause 7.12(a)(i) and partially in the manner described in clause 7.12(a)(ii).
- (b) The Trustee need not give effect to withdrawal requests in respect of Units having an aggregate Withdrawal Price of less than the minimum application amount or such other amount of the Class as determined by the Trustee from time to time. However, the withdrawal request can be less if it relates to the remaining balance of the Unitholder's holding in the Class.
- (c) The Trustee is not obliged to pay any part of the Withdrawal Price out of its own funds.

- (d) If complying with a withdrawal request would result in the Unitholder holding Units in a Class with an aggregate Withdrawal Price of less than the current minimum holding amount set by the Trustee for that Class, then the Trustee may treat the withdrawal request as relating to the remaining balance of the Unitholder's holding in the Class.
- (e) The Trustee may redeem some or all of the Units which are the subject of the request.
- (f) The Trustee may specify a limit on the level of Class Assets that will be made available to meet withdrawal requests for a Class received during a particular period or prior to a nominated date or time. If the proceeds required to meet withdrawal requests for a Class exceed the amount available to meet those requests for that Class, then the requests will be processed on a pro rata basis in accordance with the formula set out in section 601KD of the Act (as if the Trust was not Liquid). The Trustee may, but is not obliged to, process any remaining portion of the withdrawal requests during or after the next relevant period or after the next relevant nominated date or time (as may be applicable).

7.13 Provisions which apply when the Trust is not Liquid

- (a) When the Trust is not Liquid, a Unitholder has no ability to withdraw from the Trust unless there is a withdrawal offer, which complies with the Act, currently open for acceptance by Unitholders. The Trustee may make separate withdrawal offers in respect of different Classes or a withdrawal offer only in respect of a particular Class.
- (b) Subject to the Act, the Trustee may determine the terms of a withdrawal offer in its absolute discretion.
- (c) The withdrawal offer may be made by giving a copy to all Unitholders to whom the withdrawal offer is available.
- (d) The Trustee is not at any time obliged to make a withdrawal offer.
- (e) The Trustee is not obliged to pay any part of the Withdrawal Price out of its own funds.
- (f) The Trustee will not accept any withdrawal requests received before it makes a withdrawal offer under this clause 7.13. The Trustee will notify any Unitholders that submit withdrawal requests before the Trustee makes a withdrawal offer that the withdrawal request is not accepted and that the Unitholder will need to respond to a withdrawal offer when one is made.
- (g) Subject to the Act, the Trustee may cancel any withdrawal offer it has made at any time before the withdrawal offer closes by giving notice of the cancellation to all Unitholders to whom the withdrawal offer was made. The withdrawal offer will be automatically cancelled as at the time of the Trustee's decision. Any withdrawal request made in response to a withdrawal offer cancelled by the Trustee which has not been satisfied at

the time of the Trustee's decision to cancel the withdrawal offer will be taken to be withdrawn at that time.

8. Register

8.1 *Trustee must maintain the Register*

The Trustee must keep and maintain or cause to be kept and maintained an up-to-date Register. The Register will be in a form and contain particulars as determined by the Trustee, however following registration of the Trust as a managed investment scheme, the Register must be kept as required by the Act or any declaration, exemption or ruling granted under the Act. The Register may include other particulars, as the Trustee may from time-to-time consider appropriate.

8.2 *Removing information from the Register*

Information relating to a Unitholder (or any part of it) may be removed from the Register at any time after the first day of the Financial Year occurring seven years after the Financial Year in which the Unitholder ceased to be the holder of Units.

8.3 *Register is evidence of who are Unitholders*

Except in the case of manifest error, the Trustee may treat a registered Unitholder as the legal owner of Units registered in the Unitholder's name on the Register. The Trustee is not required to recognise any beneficial interest held in any Unit.

8.4 *Change of details*

A Unitholder must notify the Trustee of any change of name or address as soon as reasonably practicable after the change occurs. The Trustee must update the Register accordingly.

8.5 *Limit to number of registered holders*

In no case will the Trustee be required to register more than two persons as holders of any one Unit.

8.6 *Use of information*

If a Unitholder inspects or is given a copy of the Register, then they will be taken to have agreed not to use any information obtained from the Register (or part thereof) for any purpose or disclose any such information to any person, in each case except to the extent that the information consists of particulars of the unitholding of that Unitholder. A Unitholder's obligation under this clause survives the transfer of all or any part of their Units.

9. Interests of Unitholders

9.1 Joint holders

Where more than one person is registered as the holder of any Unit, then these Unitholders hold them as joint tenants. Joint holders of Units shall be liable jointly and severally in respect of all amounts payable (including Tax) in respect of the Unit.

9.2 Restrictions on Unitholders

A Unitholder has no right or entitlement to, and must not—

- (a) interfere with any rights, powers, authorities or discretions of the Trustee under this Constitution
- (b) exercise a right, power or privilege in respect of the Assets or lodge a caveat or other notice affecting or encumbering the Assets or otherwise claim any interest in the Assets
- (c) require any Assets to be transferred to that Unitholder, or
- (d) give any directions to the Trustee if it would require the Trustee to do or omit to do anything which may result in the exercise of any discretion expressly conferred on the Trustee by this Constitution or the determination of any matter which requires the approval of the Trustee under this Constitution.

10. Valuation of Assets

10.1 Periodic valuations

The Trustee may cause an Asset to be valued at any time, however (if applicable) the Trustee must do so as and when required by the Act (as varied by any exemption or relief granted by ASIC).

10.2 Net Class Value

The Trustee may determine the Net Class Value at any time, including more than once on each day.

10.3 Valuation methodology

The Trustee may determine, in its discretion, valuation methods and policies for each category of Assets and change them from time to time (subject, where the Trust is a Registered Scheme, to complying with the conditions of any applicable exemption or relief granted by ASIC which allows the Trustee to exercise such a discretion). Unless the Trustee determines otherwise, the value of an Asset for the purpose of calculating the Net Class Value will be its market value determined in accordance with ordinary commercial practices for valuing assets of that kind. All valuations used must be reasonably current.

10.4 Trustee not an expert

The Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in valuation.

11. Trustee's powers and duties

11.1 General powers

Subject to this Constitution, the Trustee has all the powers in respect of the Trust that it is possible under the law to confer on a trustee and as though it were the absolute owner of the Assets acting in its personal capacity.

11.2 Specific powers

Without limiting clause 11.1, the Trustee's powers include the power to do the following:

- (a) Acquire and invest in any property (whether real or personal) or assets, located in any jurisdiction (which for the avoidance of doubt includes the acquisition of any contractual or other rights and the provision of debt with or without security).
- (b) Dispose of or otherwise deal with the Assets.
- (c) Manage and administer the Assets.
- (d) Do everything which, in the Trustee's reasonable opinion, is necessary or expedient to enable the exercise of a right as lender in relation to any Mortgage.
- (e) Complete any mortgage document and any other security document on behalf of a Borrower in connection with a Mortgage.
- (f) Purchase or otherwise acquire any loan from any person including a loan which is in default or otherwise in arrears.
- (g) Sell or otherwise dispose of any loan to any person, including a loan which is in default or otherwise in arrears.
- (h) Exercise, enforce, dispose or otherwise deal with any property or right.
- (i) Execute any mortgage and all other documents required to be given in respect of any Mortgage.
- (j) Do everything which, in the Trustee's opinion, is necessary or expedient to enable the exercise of any right as lender in relation to any loan made from the Assets, including exercising a power of sale pursuant any Mortgage or the enactment of a State or Territory or the Commonwealth of Australia, to execute any contract for sale of real property offered as security, transfer, lease or easement document required to register any dealings and

complete the sale of such real property offered as security under a Mortgage and the subject of the exercise of any power of sale.

- (k) Do everything which, in the Trustee's opinion, is necessary or expedient, to enable a Mortgage (and any security held on behalf of the Trust) to be discharged at the end of the term of the Trust.
- (l) Borrow or raise money (including but not limited to the issue of unsecured notes and other debt products, which may under their terms of issue be convertible or partially convertible to Units on such terms as the Trustee determines), grant security, enter into ISDA master agreements and derivative transactions (including but not limited to interest rate swaps, caps and collars, forward rate agreements and foreign exchange contracts) and incur all other types of obligations and liabilities. Such other obligations may include but are not limited to—
 - (i) giving a guarantee and giving an indemnity for the payment of money or the performance of any agreement, contract, obligation or undertaking by any person or body corporate (including the Trustee in its personal capacity or as trustee or responsible entity of any other trust), and
 - (ii) securing the liability arising from any such guarantee or indemnity by charging or mortgaging the whole or any part of the Assets.
- (m) Authorise any person to act as its agent or delegate 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. If the Trustee does appoint an agent or delegate, then—
 - (i) it may do so on terms the Trustee thinks fit, and
 - (ii) the agent or delegate may be an Associate of the Trustee.
- (n) Act as underwriter for the offer of any Securities or other interests in the Trust.
- (o) Carry on anywhere in the world and either alone or in partnership any trade or business whatsoever and to discontinue the same from time to time.
- (p) Hold, use, purchase, construct, demolish, maintain, repair, renovate, reconstruct, develop, improve, sell, transfer, convey, surrender, let, lease, exchange, take and grant options or rights in, alienate, mortgage, charge, pledge, reconvey, release, or discharge or otherwise deal with any real or personal property.
- (q) Delegate (in writing) the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustee and execute any powers of attorney or other instruments necessary to effectuate such purpose.

- (r) Subject to its obligations at law, waive or excuse on any terms as it thinks fit any breach by any such agent or other person of their obligations to the Trustee in connection with the Trust.
- (s) Enter into any option agreement relating to any lending or financing facility, agreement or transaction.
- (t) Exercise or concur in exercising all the foregoing powers and discretions contained in this Constitution or otherwise by law conferred notwithstanding that the Trustee or any person being a director or shareholder of the Trustee has or may have a direct or personal interest in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole trustee of the Trust.

11.3 Discretion to exercise powers

Subject to the law, the Trustee may determine whether to exercise and, if so, the manner, mode and time of exercise of its duties, powers and discretions in its absolute discretion.

11.4 Interested dealings by Trustee

- (a) Subject to the Act, the Trustee may—
 - (i) be interested in any contract or transaction with itself (as trustee of the Trust or in another capacity) or a Unitholder, including any contract or transaction involving the sale of property by the Trust or the purchase of property by the Trust
 - (ii) act in the same or similar capacity in relation to any other managed investment scheme
 - (iii) hold Units in, or other securities issued by, the Trust in any capacity
 - (iv) hold or deal in or have any other interest in an Asset, or
 - (v) act in any capacity as a representative, delegate or agent of a Unitholder.
- (b) For the purposes of this clause 11.4, the Trustee includes an officer, employee, shareholder or Associate of the Trustee.
- (c) Where the Trustee acts in accordance with clause 11.4(a)—
 - (i) it may retain and need not account for any benefit derived by it, and
 - (ii) it will not be in breach of any fiduciary obligations owed to the Unitholders provided it has acted in good faith.

- (d) Subject to the Act, where the Trustee acquires Units (on its own account or in some other capacity)—
 - (i) the Trustee may be registered as a Unitholder in respect of the Units
 - (ii) the Units acquired by the Trustee are not cancelled or redeemed by reason of their acquisition by the Trustee or the registration of the Trustee as a Unitholder in respect of them and the Trustee may dispose of the Units to other Members or to third parties, and
 - (iii) Units held by the Trustee confer on the Trustee all of the benefits and rights of any other Unitholder under this Constitution and the law.

11.5 Retirement benefit

- (a) The Trustee is entitled, subject to any approval required by law, to agree with an incoming trustee to be remunerated by, or to receive a benefit from, the incoming trustee in relation to—
 - (i) entering into an agreement to submit a proposal for its retirement to a meeting of Unitholders and nominating to the Unitholders the incoming trustee as its replacement, or
 - (ii) its retirement as Trustee.
- (b) The Trustee is not required to account to Unitholders for such remuneration or benefit.

11.6 Investment powers

To the full extent that they may be excluded by this Constitution, the duties imposed by subsections 14A(1) and (2) of the Trustee Act 1925 (NSW) or corresponding legislation of any other State or Territory do not apply to the exercise by the Trustee of its investment powers.

11.7 Exercise of discretion

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

12. Reorganisation Proposals

12.1 Power to enter into Reorganisation Proposals

- (a) Without limiting clause 11, the Trustee may enter into any of the following which is approved by Ordinary Resolution—
 - (i) a Realisation Transaction
 - (ii) a Consolidation or Division Proposal

- (iii) a Stapling Proposal
 - (iv) a Top Hat Proposal
 - (v) an Exchange Proposal, or
 - (vi) any other Reorganisation Proposal
- (b) It is a term of issue of each Unit that the Unit may be subject to a Reorganisation Proposal as provided in this clause 12.1. Each Unitholder by subscribing for or taking a transfer of, or otherwise acquiring a Unit is taken to have consented to these Reorganisation Proposals.

12.2 Partly Paid Units

If any Unit is a Partly Paid Unit at the time of a Reorganisation Proposal, the unpaid amount of the Application Price and any instalment payable will be amended in the same ratio.

12.3 Power to give effect to Reorganisation Proposals

If a Reorganisation Proposal is approved by an Ordinary Resolution in accordance with clause 12.1, then the Trustee has power to do all things which it considers necessary, desirable or reasonably incidental to give effect to the Reorganisation Proposal.

12.4 Specific Powers

Without limiting clause 12.3, to give effect to a Reorganisation Proposal which has been approved by an Ordinary Resolution in accordance with clause 12.1, the Trustee has power to—

- (a) make distributions and other payments out of the Assets and (subject to the Act) to redeem Units, and to apply the payment or redemption proceeds on behalf of Unitholders
- (b) apply for or purchase fully paid securities on behalf of the Unitholder and to consent on behalf of Unitholders to become a unitholder of a company or other body
- (c) issue Units
- (d) transfer Assets, and
- (e) execute all documents and do all things which it considers are necessary, desirable or reasonably incidental to give effect to the relevant proposal.

12.5 Appointment of Trustee as agent and attorney

Without limiting clause 12.3, to give effect to a Reorganisation Proposal which has been approved by an Ordinary Resolution in accordance with clause 12.1, the Trustee is irrevocably appointed the agent and attorney of each Unitholder to—

- (a) apply any proceeds referred to in clause 12.4(a) on behalf of the Unitholder
- (b) execute any withdrawal request on behalf of the Unitholder, or any application for, or transfer of, any securities in favour of the Unitholder
- (c) execute a transfer of Assets to a Unitholder, and
- (d) execute all documents and do all things (including giving all consents) which the Trustee reasonably considers are necessary or desirable to give effect to the relevant transaction or proposal.

The Trustee is authorised to execute these documents and to do these things without needing further authority or approval from Unitholders.

12.6 Liability of Trustee

The Trustee has no liability of any nature whatsoever beyond the Assets to Unitholders arising, directly or indirectly, from the Trustee doing or refraining from doing any act (including the execution of a document or acting as the agent of any Unitholder) pursuant to or in connection with the implementation of any Reorganisation Proposal.

13. Financial reports and tax returns

13.1 Accounts, audit and other reports

While the Trust is a Registered Scheme, the Trustee must comply with the requirements of Chapter 2M of the Act, to the extent applicable to the Trust.

13.2 Tax returns

- (a) The Trustee will lodge for each Financial Year such tax returns on behalf of the Trust as may be required by the Tax Act.
- (b) The Trustee will for each Financial Year forward to each Unitholder a statement of the necessary details to assist the Unitholder in completing the relevant part of the Unitholder's tax return for the Financial Year. The Trustee will do this as soon as practicable after the end of the Financial Year, but by no later than four months after the last day of the Financial Year.

13.3 *Electronic annual financial report to Unitholders*

While the Trust is a Registered Scheme, each Unitholder agrees and nominates pursuant to the Act to receive notification and access by electronic means of and to financial reports prepared for the Trust.

14. Fees and expenses

14.1 *Trustee fee*

- (a) The Trustee is entitled to a trustee fee of up to 2 percent per annum of the gross value of the Assets (including the gross value of the assets of any Sub Entities, adjusted, if relevant, based on the proportional direct or indirect ownership of the Trust in the Sub Entity), subject to a minimum fee of—
 - (i) \$3,500 per month until 1 June 2018, and
 - (ii) \$5,500 per month thereafter.
- (b) the minimum fee in clause 14.1(a) is subject to an annual increase on 1 July each year from the commencement of the Trust by the greater of—
 - (i) the relevant fee after being Indexed, or
 - (ii) the relevant fee multiplied by 3 percent.
- (c) This fee is accrued daily and is payable monthly in arrears out of the Assets from the date the first Unit in the Trust is issued pursuant to the Trust's first Disclosure Document to the date of the final distribution following a winding up of the Trust in accordance with this Constitution. The value of the Assets will be determined as at the most recent Valuation Time.
- (d) For the avoidance of doubt, the amount of the trustee fee payable under this clause 14.1 is subject to any relevant disclosure to Unitholders in a Disclosure Document, but the fee payable will not exceed the fee prescribed in clause 14.1(a).

14.2 *Custody fee*

- (a) If the Trustee performs the custodial function for the Trust, then it will be entitled to a custody fee of up to 1 percent per annum of the gross value of the Assets (including the gross value of the assets of any Sub Entities, adjusted, if relevant, based on the proportional direct or indirect ownership of the Trust in the Sub Entity), subject to a minimum fee of \$1,500 per month.
- (b) The minimum fee in clause 14.2(a) is subject to an annual increase on 1 July each year from the commencement of the Trust by the greater of—
 - (i) the relevant fee after being Indexed, or

- (ii) the relevant fee multiplied by 3 percent.
- (c) This fee is accrued daily and is payable monthly in arrears out of the Assets from the date the first Unit in the Trust is issued pursuant to the Trust's first Disclosure Document to the date of the final distribution following a winding up of the Trust in accordance with this Constitution. The value of the Assets will be determined as at the most recent Valuation Time.
- (d) For the avoidance of doubt, the amount of the custody fee payable under this clause 14.2 is subject to any relevant disclosure to Unitholders in a Disclosure Document, but the fee payable will not exceed the fee prescribed in clause 14.2(a).

14.3 Fee on retirement or removal

If One AR Pty Ltd 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 AR Pty Ltd as trustee of the Trust, One AR Pty Ltd is entitled to a retirement or removal fee.
- (b) The retirement or removal fee is only payable in the following circumstances:
 - (i) If One AR Pty Ltd is removed as the trustee of the Trust before the fourth anniversary of the date the first Unit in the Trust is issued pursuant to the Trust's first Disclosure Document and provided that One AR Pty Ltd is not removed because of its gross negligence in the management of the Trust or for a material fiduciary breach. In this clause 14.3(b) a "material fiduciary breach" is a breach by One AR Pty Ltd of a fiduciary duty to Unitholders which causes them substantial loss.
 - (ii) If One AR Pty Ltd retires as the trustee of Trust before the fourth anniversary of the date the first Unit in the Trust is issued pursuant to the Trust's first Disclosure Document, following a request by the Investment Manager under the terms of the Investment Management Agreement.
- (c) The amount of the retirement or removal fee referred to in clause 14.3(a) is the total amount of the trustee fee payable under clause 14.1 and (if applicable) the custody fee payable under clause 14.2 that One AR Pty Ltd would have received if it had been the trustee of the Trust until the fourth anniversary of the date the first Unit in the Trust is issued pursuant to the Trust's first Disclosure Document, with such amount being determined on the basis that any future trustee fee and (if applicable) custody fee payable to One AR Pty Ltd at the time of calculation of the retirement or removal fee are determined on the basis of the gross value of the Assets as at the time of calculation of the retirement or removal fee..

- (d) The fee in clause 14.3(a) becomes due and payable on the day (as applicable)—
 - (i) a meeting of Unitholders is called, requisitioned or convened to—
 - A. propose removing One AR Pty Ltd as trustee of the Trust (and regardless of whether the resolution is contained in the notice or document which is issued, or in any supplementary or subsequent notice or document), or
 - B. propose modifying, repealing or replacing this Constitution by modifying, repealing or replacing this clause 14.3 or any part of this clause 14.3 (and regardless of whether the resolution is contained in the notice or document which is issued, or in any supplementary or subsequent notice or document), or
 - (ii) the Investment Manager requests that One AR Pty Ltd retires as trustee of the Trust under the terms of the Investment Management Agreement.
- (e) Any trustee of the Trust that succeeds One AR Pty Ltd is not entitled to any benefit under this clause at any time.
- (f) For the avoidance of doubt, the amount of the retirement or removal fee payable under this clause 14.3 is subject to any relevant disclosure to Unitholders in a Disclosure Document, but the fee payable will not exceed the fee prescribed in clause 14.3(c).

14.4 Waiver and deferral of fees and expenses

The Trustee may at any time and for any time—

- (a) accept lower fees and expenses than it is entitled to receive under this Constitution
- (b) defer payment of any fees and expenses it is entitled to receive under this Constitution, or
- (c) waive entirely its entitlement to receive any fees and expenses under this Constitution.

14.5 Fees can be applied to acquire Units

Subject to the Act, where an amount of money is payable from Class Assets to the Trustee by way of any fee or in reimbursement of any cost, charge or expense, then the Trustee may, in its own capacity, elect to apply that amount to subscribe for Units in that Class, at an Application Price calculated in accordance with the provisions of clause 3.

14.6 Other fees or different fees

While the Trust is not a Registered Scheme—

- (a) the Trustee will be paid such other fees as may be disclosed by it in a Disclosure Document, and
- (b) the Trustee may charge fees which differ (in terms of their type, amount, method of payment or frequency of payment, or in any other manner) from the other fees provided for in this clause 14, provided they are disclosed in a Disclosure Document.

14.7 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 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 14.7(a), this includes costs, charges and expenses connected with the following:
 - (i) The acquisition, custody, management, maintenance, improvement, transfer, financing, disposal of or dealing with the Assets or Liabilities.
 - (ii) The proposed acquisition, custody, management, maintenance, improvement, transfer, financing, 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 professional adviser, consultant, agent, broker, underwriter or delegate by the Trustee, including a custodian or investment manager.
 - (v) The administration or management of the Trust or its Assets and Liabilities.
 - (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.
- (xv) The initiation, conduct and settlement of any court proceedings (including through alternative dispute resolution)—
 - 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, leasing, licensing 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.
- (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, a Class 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.

(xxv) Complying with any laws or rules in relation to the prevention or detection of money laundering activities or terrorism financing activities.

(xxvi) Complying with any laws (including laws of a foreign jurisdiction) relating to tax administration or tax information collection (including the Foreign Account Tax Compliance Act).

(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.

14.8 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 14.8(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 14.8 means

the Trustee is not entitled to be paid fees and costs for work performed properly and in accordance with its duties.

14.9 Goods and Services Tax

If any supply made by the Trustee under this Constitution or any variation to it is a taxable supply for the purposes of the GST Act, then the following will apply:

- (a) In addition to any amount or consideration expressed as payable to the Trustee elsewhere in this Constitution, but subject to issuing a valid tax invoice, the Trustee will be entitled to recover from the party to whom the supply has been made an additional amount on account of GST. This additional amount must be equal to the amount of the Trustee's GST remittance liability in respect of each supply and will be recoverable at the same time as the amount of consideration is payable for each supply.
- (b) The Trustee and the Unitholders acknowledge and agree each supply made by the Trustee under this Constitution is made—
 - (i) on a progressive or periodic basis
 - (ii) such that the consideration is to be provided on a progressive or periodic basis, and
 - (iii) such that each progressive or periodic component of the supply is to be treated as a separate supply.
- (c) If the Trustee is not entitled to an input tax credit in respect of the amount of any GST charged or recovered from the Trustee by any person, or payable by the Trustee by way of reimbursement of GST referable directly or indirectly to any supply made under or in connection with this Constitution, then the Trustee is entitled to recover from the Assets by way of reimbursement an additional amount equivalent to the amount of such input tax credit.

14.10 Fees or amounts payable by Trust or Sub Entities

Notwithstanding any other provision of this Constitution, fees payable under this Constitution, and costs, charges and expenses payable or to be reimbursed under this Constitution, may be charged to or reimbursed from the Trust or to or from any Sub Entity, as determined by the Trustee. In addition, services to be provided may be provided by an Associate of the Trustee who may charge the fees set out directly to the Trust or to any Sub Entity as determined by the Trustee.

15. Distributions from the Trust

15.1 Trustee will collect in all money

- (a) The Trustee must collect or cause to be collected all amounts generated from the Assets and pay these into an account in the name of the Trustee (or if a custodian is appointed into an account in the name of the custodian)

on behalf of the Trust. The Trustee will make all payments relating to the Trust from this account.

- (b) Where there is more than one Class on issue, subject to the Act, the Trustee must allocate any cost, expense, Liability, fees and Taxes (Cost) to Classes as follows:
 - (i) Where a Cost is attributable to a Class, to that Class.
 - (ii) Where a Cost is attributable to more than one Class, between the Classes on a basis which the Trustee considers to be fair having regard to the interests of all Unitholders and the relevant Class Assets.
 - (iii) Where a Cost is not attributable to any Class, between all Classes on a pro rata basis, provided the Trustee considers such allocation to be fair having regard to the interests of all Unitholders and the relevant Class Assets.

15.2 Situation if Trust taxed as a company

If the Trustee considers the Trust is to be subject to tax on a similar basis as a company in respect of a Financial Year, then this clause 15.2 applies in respect of that Financial Year and the following applies:

- (a) As soon as practicable after the end of each Distribution Period in the Financial Year, the Trustee must determine—
 - (i) if there is to be any Dividend Amount for each Class for the Distribution Period, and
 - (ii) if so, then the amount of the Dividend Amount for each Class and the amount of any franking credits (if any) to be attached to the Dividend Amount for each Class.
- (b) The Trustee may determine the extent to which the Dividend Amount for a Class (if any) comprises profits, retained profits, capital, returned capital or income of a particular character.
- (c) Subject to any Terms of Issue conferred on a particular class of Units, at the end of the Distribution Period, a Unitholder is entitled to a Dividend Entitlement, calculated as follows:

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

Where:

A = The aggregate of the Paid-up Amount of each relevant Unit holding of the Unitholder as at the end of the Distribution Period.

B = The Total Paid-up Amount at the end of the Distribution Period.

C = The Dividend Amount (if any) for the Distribution Period.

- (d) Dividend Entitlements (if any) must be paid to Unitholders within three months after the Distribution Calculation Date.

15.3 *Situation if Trust not taxed similar to a company*

Clauses 15.4 to 15.11 apply if clause 15.2 does not apply.

15.4 *Calculation of Distributable Amount*

The Distributable Amount of the Trust for a Distribution Period will be the amount determined, by the Trustee, pursuant to the definition in Schedule 1. If for a period ending on the last day of a Financial Year the Trustee has not made a determination for the purpose of this clause 15.4 before the end of that Financial Year, then the Distributable Amount of the Trust will be the amount mentioned in sub-paragraph (a) of that definition.

15.5 *Persons who will receive Distributable Amount*

The Trustee must pay Distribution Entitlements to all Unitholders and all persons who were Unitholders in the Class at any time during the Distribution Period to which the distribution relates on the last day of that Distribution Period.

15.6 *Unitholders presently entitled to Distributable Amount*

Any person who is a Unitholder or was a Unitholder at any time during the Financial Year will, on the last day of the Financial Year, be presently entitled (within the meaning of the Tax Act) to all of the Distributable Amount payable to them in respect of the relevant Financial Year in the proportion that the Distributable Amount payable to them in respect of the Financial Year bears to the sum of the Distributable Amount payable to all persons who have been Unitholders at any time during the Financial Year.

15.7 *Special distribution amounts*

- (a) The Trustee may, at any time, determine to advance, pay or apply an amount of Income or capital of the Trust in circumstances where the amount is not to be treated as a Distributable Amount (in this clause "Special Distribution Amount").
- (b) Where the Trustee determines under clause 15.7(a) that there is a Special Distribution Amount at a particular time, then this Constitution is to be applied in a manner as though the Special Distribution Amount at that particular time were a Distributable Amount for a Distribution Period.

15.8 *Classes*

- (a) The quantum of the Distributable Amount allocated to a Class is to be based on the Class Assets Referable to the Class and any other provisions and requirements of this clause 15.

- (b) If there is more than one Class—
 - (i) the Trustee may determine that any part of the capital, Distributable Amount or Dividend Amount is properly referable to a Class (Class Capital or Income)
 - (ii) subject to the Trustee's obligations under the Act, the decision of the Trustee with respect to the allocation of capital, Distribution Amount or Dividend Amount among the relevant Class shall be final and binding on all Unitholders, and
 - (iii) the provisions of this clause 15.8 will apply with any necessary modifications to each Class and the Class Capital or Income allocated to a Class.
- (c) In calculating the Class Capital or Income the Trustee must take into account any fees charged by the Trustee in respect of the Class.

15.9 Nature of receipts and nature of distributions to Unitholders

The Trustee may determine whether, and the extent to which, any receipt or amount (or any part thereof) is capital or Income. If any question arises as to whether (or as to the extent to which) distributions to those entitled to receive them are of capital or Income or whether a particular expense is chargeable against capital or Income or whether reserves or provisions need to be made, then the question will be resolved by the Trustee.

15.10 Other distributions

The Trustee may at any time determine that capital or Income be distributed to the Unitholders. The distribution may be by way of cash or additional Units.

15.11 Preparation of accounts

Notwithstanding that the Distributable Amount of the Trust may be calculated in accordance with clause 15.4, the accounts of the Trust may be prepared in accordance with applicable Accounting Standards and generally accepted accounting principles. The preparation of the accounts in this manner is not to be regarded as a determination of the method for calculating the Distributable Amount pursuant to clause 15.4. Without limiting clauses 15.9 or 15.10, 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.

15.12 Rights in respect of Partly Paid Units

- (a) The rights of a Unitholder to receive distributions in respect of Partly Paid Units they hold are as determined by the Trustee and provided in the Terms of Issue of the relevant Units. The Trustee may determine any one of the following applies:
 - (i) A Unit which is a Partly Paid Unit for any part of a Distribution Period participates in the Distributable Amount for that Distribution Period, subject to the Terms of Issue of the Unit according to—

- A. the proportion or different proportions of the Application Price paid upon the Unit, and
- B. the length of time during the Distribution Period for which the proportion or different proportions of the Application Price were paid up.

For the purposes of these calculations, if an instalment of the Application Price of a Partly Paid Unit is paid into the Class Assets, then that Unit may be eligible for increased participation in the Distributable Amount at a date determined by the Trustee, but at the latest from the first day of the month immediately following the date set for payment of the instalment.

- (ii) A Unit which is a Partly Paid Unit participates in the Distributable Amount as if it were fully paid.
 - (iii) A Unit which is a Partly Paid Unit participates in the Distributable Amount as the terms of its issue provide.
- (b) However, if the Trustee does not make such a determination, then clause 15.12(a)(i) will apply.

15.13 Initial distribution entitlements

For the removal of doubt and despite anything in this clause 15, the Trustee may in its discretion issue Units on terms that such Units—

- (a) participate fully for the Distributable Amount or Dividend Amount in respect of the Distribution Period in which they are issued
- (b) do not entitle the Unitholder to participate in the Distributable Amount or Dividend Amount in respect of the Distribution Period in which they are issued
- (c) participate for the Distributable Amount or Dividend Amount in respect of the Distribution Period in which they are issued on a pro rata basis in accordance with the number of days the Units were held, or
- (d) receive a fixed distribution rate entitlement, out of the Distributable Amount, either for the full Distribution Period in which they are issued or on a pro rata basis in accordance with the number of days the Units were held.

15.14 Unitholder's rights

For the removal of doubt and despite anything in this clause 15.14, the rights of a Unitholder under this clause 15.14 are subject to the rights, obligations and restrictions attaching to the Units which they hold. For example, the Trustee may issue a class of Units having rights to receive a distribution in preference to other classes of Units.

16. Payment by Cash Units

16.1 *Payments of Distribution Entitlement*

- (a) Following the end of a Distribution Period, the Trustee is required to pay a Unitholder, or a person who was a Unitholder during the Distribution Period's (Past Unitholder), Distribution Entitlement as determined under the provisions of clause 15.
- (b) A payment of the Distributable Entitlement to Unitholders and Past Unitholders holding a relevant Class of Units must be based on the same proportions as used in determining each Unitholder's Distribution Entitlement under clause 15.5 to which the payment relates.

16.2 *Issue of Cash Units*

At the time there is to be a payment of a Distributable Entitlement to a Unitholder or Past Unitholder of a particular Class, the Trustee may issue such number of Cash Units to each of the Unitholders and Past Unitholders of that Class, calculated in accordance with the following formula:

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

Where:

- A = the total amount of the Distributable Entitlement that has to be paid to the Unitholder or Past Unitholder under clause 16.1 at a particular time, and
- B = the Application Price for Cash Units on the day the Distributable Entitlement is to be paid to the Unitholder or Past Unitholder.

16.3 *Variables*

Each of the variables in clause 16.2 must be calculated as at the first Valuation Time after the later of the following to occur:

- (a) The Trustee receives or is taken to receive an application for Units.
- (b) The Trustee receives or is taken to receive the Application Money for those Units, or the property against which the Units are to be issued is vested in the Trustee.

16.4 *Offset of obligations*

The obligation for the Unitholder to make a payment in accordance with clause 4.2 (for the subscription of Cash Units) will be offset against the obligation of the Trustee to make a payment to the Unitholder under clause 16.1 and will constitute a payment and full discharge of such obligations by both parties

17. Distribution reinvestment

17.1 Reinvestment

The Trustee may permit Unitholders to reinvest some or all of the Distributable Amount payable to them by acquiring Units in the same Class as the Units to which the Distributable Amount relates and the amount of the Distributable Amount payable to them must be applied on behalf of the Unitholder to acquire those additional Units.

17.2 Compulsory reinvestment

The Trustee may require Unitholders, or Unitholders of a particular Class or Classes, to reinvest some or all of the Distributable Amount payable to them and, if so, those Unitholders are deemed, for the purposes of any relevant ASIC relief or exemption, to have elected to reinvest some or all of the Distributable Amount payable to them.

17.3 Notice to Unitholders

If the Trustee permits reinvestment of distributions for a Class, then it must notify Unitholders in that Class of that fact, together with the terms on which the reinvestment may be made. This notification may be made by giving a notice to Unitholders or by publication of the fact and terms (for example, in a national newspaper or on the World Wide Web). The Trustee may amend the terms of reinvestment or suspend reinvestments at its discretion. For the avoidance of doubt, any amendment or suspension may also be communicated by giving a notice to Unitholders or by publishing it (for example, in a national newspaper or on the World Wide Web).

18. Deductions from Distributions

18.1 Deduction of Taxes

The Trustee may deduct from any amount to be paid to a person who is or has been a Unitholder, or received from a person who is or has been a Unitholder, any of the following which the Trustee is required or authorised to deduct in respect of that payment or receipt by law or by this Constitution or which the Trustee considers should be deducted—

- (a) any amount of Tax (or an estimate of it), and
- (b) any other amount owed by the Unitholder to the Trustee or any other person.

18.2 Indemnity

The Trustee is indemnified from the Assets in respect of any Tax paid by the Trustee from its own funds in order to pay Tax on behalf of any Unitholders. This indemnity applies even though the Tax may not have been paid in respect of each Unitholder, but only one or more Unitholders.

19. Transfer of Unitholder's Units

19.1 *Right to transfer Units*

A Unitholder may transfer its Units in the Trust only in accordance with this clause 19.

19.2 *Form of transfer*

Any transfer must be—

- (a) made by way of a form approved by the Trustee
- (b) delivered to the Trustee or as it directs
- (c) executed by the transferor and transferee, and
- (d) be stamped (if applicable).

19.3 *Trustee's discretion to enter transfer*

The Trustee may refuse to enter a transfer in the Register.

19.4 *Transfer effective when registered*

The transferor Unitholder remains the owner of the Unitholder's Units until the name of the transferee is entered in the Register.

19.5 *Suspension prior to end of year*

The Trustee may decline to register any transfer of a Unitholder's Units during the 14 days immediately preceding 1 July in any Financial Year.

19.6 *Listing on a secondary market or exchange*

The Trustee may list the Units on a secondary market or an exchange designed to facilitate the trading of Units. If the Trustee does this, then any costs associated with the listing may be paid out of the Assets.

20. Transmission of Unitholder's Units

20.1 *Death or legal disability—sole Unitholder*

Upon the death, bankruptcy, mental incapacity or other legal disability of a sole Unitholder, the Legal Personal Representative will be the only person recognised by the Trustee as having any title to or interest in the relevant Unitholder's Units.

20.2 *Death or legal disability—joint Unitholder*

Upon the death, bankruptcy, mental incapacity or other legal disability of any one of the joint holders of Units, the survivor or survivors will be the only persons recognised by the Trustee as having any title to or interest in the relevant Unitholder's Units.

21. Winding up of the Trust

21.1 *Events which cause a winding up*

The Trustee must wind up the Trust or cause the Trust to be wound up in any one of the following circumstances:

- (a) The Trust comes to the end of its term as set out in this Constitution.
- (b) If the Trust is a Registered Scheme, then where—
 - (i) a court orders the Trust be wound up pursuant to section 601ND of the Act
 - (ii) the Trust's purpose has been accomplished or cannot be accomplished and the Trustee uses the mechanism provided for in section 601NC of the Act, or
 - (iii) any of the circumstances set out in section 601NE of the Act apply such that the Trustee is required to wind up the Trust.

21.2 *Termination of a Class*

- (a) The Trustee may terminate and wind up a Class if the Trustee issues a notice to Unitholders in the Class notifying Unitholders in that Class of the date of termination.
- (b) The provisions of clauses 21.3 to 21.5 apply to the winding up of a Class with such modification as necessary, as determined by the Trustee, to reflect their application to a Class rather than the Trust.

21.3 *Process of winding up*

- (a) Unless otherwise required by the Act, the Trustee is responsible for the winding up of the Trust.
- (b) Subject to clause 21.3(e), the Trustee must convert the Assets to money, deduct all proper costs and then (subject to the Terms of Issue conferred on one or more Classes) divide the balance amongst the Unitholders in accordance with the following formula:

$$\frac{(A + B) \times C}{D} - E$$

Where—

A = the amount remaining in the Trust after deduction of the costs referred to in this clause 21.3(b)

B = the aggregate of the amounts remaining unpaid on all Partly Paid Units in issue (if any)

- C = the aggregate of the number of Units held by the Unitholder as at the commencement of winding up, including both Fully Paid Units and Partly Paid Units
- D = the aggregate of the total number of Units in issue as at the commencement of winding up, including both Fully Paid Units and Partly Paid Units, and
- E = the aggregate of the amounts remaining unpaid on all Partly Paid Units held by the Unitholder (if any) as at the commencement of winding up.
- (c) If the calculation of the entitlement to distribution of capital in respect of a particular Unitholder in accordance with the formula in this clause 21.3(b) results in a negative dollar amount, then that Unitholder must pay to the Trustee within 30 days of the date of a written request to do so that dollar amount, and the amount so required to be paid will become an Asset available for distribution on the winding up of the Trust.
- (d) The Trustee may make interim distributions of Income or capital during the winding up process as it sees fit, including making distributions to the holders of Classes in preference to the holders of other Classes, as required by the Terms of Issue of each Class.
- (e) The Trustee must proceed with the winding up efficiently, diligently and without undue delay. However, if it is in the interests of Unitholders to do so, then the Trustee may postpone any part of the winding up for such time as it thinks desirable.
- (f) Despite clause 21.3(b), the Trustee may, at its discretion instead of or in addition to converting Assets to money, distribute Assets in specie in satisfaction of a whole or part of the beneficial interest of each Unitholder in the Trust.

21.4 Trustee may withhold proceeds of realisation

The Trustee may retain money from the proceeds of realisation of the Assets—

- (a) to meet future payment obligations which the Trustee reasonably believes will fall due after a distribution is made to Unitholders pursuant to this Constitution, and
- (b) to pay its own remuneration and expenses for work to be done following the realisation of the Assets.

21.5 Auditor's certificate

Where the Trust is a Registered Scheme, once the Trustee believes the winding up is complete, the Trustee must engage an Auditor to conduct an independent audit of the final accounts of the Trust. The Trustee must send a copy of any report made by the Auditor to the Unitholders within 30 days after the Trustee receives the report from the Auditor.

22. Unvested interests

- (a) To the extent that any interest or interests in any or all of the Assets or other property or rights which form part of the Trust have not vested at the end of the Perpetuity Period, then that interest or those interests will, at the end of the Perpetuity Period, vest in the Unitholders in proportion to their Unit holdings in the Trust.
- (b) Nothing in this clause 22 is to be taken to affect whether or not any interests in the Assets or any other property or rights which form part of the Trust have vested or may vest prior to the end of the Perpetuity Period.

23. Indemnity and liability

23.1 *Liability of the Trustee*

Except to the extent the Act imposes liability—

- (a) the Trustee is not liable for any loss suffered by Unitholders in respect of the Trust, whether in contract, tort or otherwise, and
- (b) the Trustee is not liable to any person who is not a Unitholder (including in relation to any contracts or other arrangements entered into in respect of the Trust) to any extent beyond the Assets.

23.2 *Indemnity from the Trust*

- (a) In addition to any indemnity allowed by law, the Trustee has a right of indemnity out of the Assets in respect of—
 - (i) any liability incurred by the Trustee in the performance of its duties in respect of the Trust
 - (ii) all fees payable to and costs recoverable by the Trustee under this Constitution, and
 - (iii) any Taxes, or liabilities for the payment of any Taxes, imposed upon the Trustee in relation to the Trust.
- (b) However, this indemnity does not apply with respect to a liability to the extent that, in respect of that liability, the Trustee has acted negligently, fraudulently or with wilful default.

23.3 *Payment of taxes*

- (a) Subject to the Act, the Trustee is not liable to account to any Unitholder for any payments made by the Trustee (or at its direction) in good faith to any duly authorised fiscal authority of the Commonwealth or any State or Territory, or any foreign government or authority, for Tax or other charges.
- (b) The Trustee is not obliged (or liable) to account to, or pay to, or allocate to, any Unitholder any amount in relation to any Tax-related benefit or credit

attributable to (or alleged to be attributable to) the Unitholder, or earned or accrued or made available because of the Unitholder.

23.4 *Reliance on others*

The Trustee may take and may act upon the following, and if the Trustee does so, then it will not be liable for anything done, suffered or admitted by and in good faith and reliance upon anything listed below:

- (a) 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 or generally in conjunction with the Trust.
- (b) Advice, opinions, statements or information from any bankers, accountants, auditors, valuers or 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) Any document which the Trustee believes in good faith to be the original or a copy of an appointment by a Unitholder of a person to act as their agent for any purpose connected with the Trust.
- (d) Any document provided to the Trustee in connection with the Trust upon which it is reasonable for the Trustee to rely.

23.5 *Trustee not liable for good faith error*

If for any reason beyond the control of the Trustee it becomes impossible or impractical to carry out the provisions of this Constitution, then subject to the Act, the Trustee is not under any liability for anything done by it in good faith.

23.6 *Limitation of liability of Unitholders*

The liability of Unitholders is limited to their Units and the Assets. Neither the Trustee, nor any creditor or agent of the Trustee, has any claim of any nature against any Unitholder for any liabilities incurred with those parties in the management of the Trust, except as provided for in this Constitution or where there is a separate agreement with a Unitholder.

23.7 *Indemnity unaffected by unrelated breach of trust*

The Trustee may exercise any of its rights of indemnification or reimbursement out of the Assets to satisfy a liability to any creditor of the Trustee (as trustee of the Trust) notwithstanding that the Trust may have suffered a loss or may have diminished in value as a consequence of any unrelated act, omission or breach of trust by the Trustee or by any delegate or agent appointed by the Trustee.

24. Meetings of Unitholders

24.1 Trustee calling or postponing a Unitholders' Meeting

The Trustee may call a meeting of the Unitholders at any time, and must do so if required by the Act. The Trustee may also, in its discretion and at any time, postpone any meeting of Unitholders, at any time prior to the commencement of the meeting.

24.2 Unitholders calling a Unitholders' meeting

- (a) While the Trust is not a Registered Scheme—
 - (i) the Trustee must call and arrange to hold a meeting of Unitholders to consider and vote on a proposed resolution on the request of Unitholders with at least 15 percent of the votes that may be cast on the resolution, and
 - (ii) sections 252B(2), 252B(3), 252B(6), 252B(7) and 252B(8) of the Act apply to the calling of a meeting referred to in clause 24.2(a)(i) as if the Trust were a Registered Scheme.
- (b) While the Trust is a Registered Scheme, the provisions of the Act apply to determine the circumstances, if any, in which a meeting must be convened on the request of Unitholders.

24.3 Notice

- (a) While the Trust is not a Registered Scheme, at least 10 days' notice of a meeting must be given to Unitholders, or such shorter notice as they agree.
- (b) While the Trust is a Registered Scheme, the requirements for notices of meetings are governed by the Act.

24.4 Trustee may determine

Subject to this clause 24 and the Act (if the Act applies), 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.

24.5 Quorum

- (a) The quorum for a meeting is two Unitholders present in person or by proxy. However, if there is only one Unitholder in the Trust who may vote, then that one Unitholder constitutes a quorum. If one or more Unitholders is excluded from voting on any resolution proposed at the meeting then they may still be counted towards the quorum.
- (b) In determining whether a quorum is present, each individual attending as a proxy or body corporate representative is to be counted separately. However, if a Unitholder has appointed more than one proxy or representative, then these proxies or representatives only count as one

person. If an individual is attending both as a Unitholder and as a proxy or body corporate representative they will only be counted as one individual.

- (c) If a meeting of Unitholders does not have a quorum present within 30 minutes after the scheduled time for the start of the meeting, then—
 - (i) if the meeting was convened on the requisition of Unitholders, it is dissolved, or
 - (ii) if the meeting was convened by the Trustee, it is adjourned to the date, time and place the Trustee specifies. If the Trustee does not specify one or more of those things, then the meeting is adjourned to—
 - A. if the date is not specified—the same day in the next week
 - B. if the time is not specified—the same time, and
 - C. if the place is not specified—the same place.
- (d) If the meeting is adjourned pursuant to clause 24.5(c)(ii), then the Unitholders present in person or by proxy constitute a quorum.

24.6 Chairing meetings of Unitholders

- (a) The Trustee may appoint a person to chair a meeting unless the Act otherwise requires.
- (b) The decision of the chairperson on any matter relating to the conduct of the meeting is final.

24.7 Proxies

- (a) The Trustee may determine whether an appointment of a proxy remains valid even if the content of the appointment does not meet the requirements of the Act.
- (b) For an appointment of a proxy for a meeting of Unitholders to be effective, the appointment must be received by the Trustee at least 48 hours before the meeting, unless a shorter time is agreed to by the Trustee.

24.8 Adjournment

The chairperson has power to adjourn a meeting for any reason to such place and time as the chairperson thinks fit.

24.9 Demand for a poll

A poll may be demanded by the chairperson of a meeting or by Unitholders present in person or by proxy holding 5 percent of the Units, and only in respect of—

- (a) the election of a chairperson of a meeting, or
- (b) the adjournment of a meeting.

24.10 Voting

- (a) On a show of hands at a meeting of Unitholders of a Class, each Unitholder has one vote.
- (b) On a poll at a meeting of Unitholders of a Class, each Unitholder has one vote for each dollar of their Paid-Up Amount of that Class.

24.11 Resolutions binding

A resolution binds all Unitholders, whether or not they were present at the meeting.

24.12 Objection at meeting

No objection may be made to any vote cast unless the objection is made at the meeting.

24.13 Non-receipt

If a Unitholder does not receive a notice (including if notice was accidentally omitted to be given to them) the meeting is not invalidated.

24.14 Option Holders and classes

The provisions of this clause 24 relating to meetings of Unitholders also apply to meetings of Option Holders or of holders of a class with any necessary modifications.

24.15 Voting when unregistered

Notwithstanding any other provision in this Constitution, while the Trust is not a Registered Scheme, any decision or matter which may otherwise be required to be decided at a meeting of Unitholders or any resolution which would otherwise be required to be passed at a meeting of Unitholders, may be decided or passed by means of the required number of Unitholders signing a document recording the making of the decision or passing of the resolution.

24.16 Other decisions

Subject to the Act (but without affecting clause 24.15), if there is a decision to be made by Unitholders which is not under the Act required to be made by the passing of a resolution at a meeting of Unitholders, then that decision may be made by means of the required number of Unitholders signing a document recording the making of the decision.

25. Retirement or removal of Trustee

25.1 Situation if Trust is a Registered Scheme

If the Trust is a Registered Scheme, then clauses 25.2 and 25.3 do not apply and instead the provisions of the Act regulating the retirement or removal of the Trustee will apply.

25.2 Retirement of the Trustee

If the Trustee wishes to retire as trustee of the Trust, then it may do so and appoint a replacement trustee.

25.3 Removal of the Trustee by Unitholders

If the Unitholders want to remove the Trustee, then they must call a Unitholders' meeting in accordance with clause 24.2 to consider and vote on—

- (a) an Extraordinary Resolution that the current Trustee should be removed, and
- (b) an Extraordinary Resolution choosing a replacement trustee.

26. Complaints handling**26.1 Complaints handling while the Trust is a Registered Scheme**

This clause 26 applies only while the Trust is a Registered Scheme.

26.2 Complaints handling officer

- (a) The Trustee must appoint a person to fulfil the role of complaints handling officer.
- (b) If there is a vacancy in the role of complaints handling officer at any time then the secretary of the Trustee is deemed to be the complaints handling officer until a further appointment is made.
- (c) The complaints handling officer does not need to be a director or secretary of the Trustee.

26.3 A Unitholder may make a complaint

- (a) Any Unitholder may make a complaint about any aspect of the Trust, or the complaints handling process itself, by contacting the Trustee. For the purposes of this clause 26, a complaint is any expression of dissatisfaction made to the Trustee, related to the Trust, or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected.
- (b) The complaint must specify—
 - (i) the name and contact details of the Complainant making the complaint, and
 - (ii) the details of the complaint in as much detail as is reasonably required to allow the Trustee to deal with the complaint in accordance with this clause 26.

- (c) If the complaint does not meet the requirement in clause 26.3(b)(ii), then the Trustee must make reasonable inquiries to try and ascertain the required detail.
- (d) The Trustee must provide reasonable assistance to any Unitholder—
 - (i) who has either attempted to make a complaint but has not done so in a manner which allows the Trustee to handle the complaint, or
 - (ii) who the Trustee reasonably believes wants to make a complaint, but for some reason is unable to do so (e.g. because of a physical disability).

26.4 Acknowledgment of a complaint

- (a) If any Unitholder makes a complaint, then the Trustee must acknowledge the complaint immediately, or if this is not possible, then as soon as practicable, after receiving the complaint.
- (b) If possible, the Trustee will attempt to respond fully to or resolve the complaint as part of the first response.
- (c) The following information must be provided when acknowledging a complaint:
 - (i) The procedure used by the Trustee upon receiving a complaint.
 - (ii) The name, title and contact details of the present complaints handling officer.
 - (iii) If the complaint is not fully dealt with, then an estimate of the time the Trustee believes it will take for the Trustee to respond to the complaint.

26.5 Consideration of complaints

- (a) The Trustee must treat all complaints seriously and deal with them in a timely manner, having regard to the nature and urgency of the complaint.
- (b) If the complaint is not able to be resolved as part of the first response, then the Trustee (through the complaints handling officer or their appointee) must keep the Complainant informed of the progress of their complaint.

26.6 Resolving a complaint

- (a) The Trustee must act reasonably in attempting to resolve a complaint; however, nothing in this clause 26 compels the Trustee to resolve a complaint in favour of the Complainant.
- (b) The Trustee must provide a "final response" to a complaint within 45 days from the date of receipt of the complaint. However, the Trustee will endeavour to provide a final response to complaints in less than 45 days wherever possible.

- (c) A "final response" to a Complainant must be in writing (unless the complaint is resolved by the end of the next Business Day after receipt of the complaint), and include the following:
 - (i) A statement of acceptance of the complaint.
 - (ii) The outcome of the complaint, including setting out clear and concise reasons for any decision made and references to any applicable provisions in legislation, codes, standards or procedures.
 - (iii) An offer of redress (if appropriate).
 - (iv) The Complainant's right to take their complaint to the external complaints resolution body of which the Trustee is a member, and its contact details.
- (d) If a "final response" cannot be provided to the Complainant within 45 days, then the Trustee must—
 - (i) inform the Complainant of the status of the complaint and the reasons for delay, and
 - (ii) inform the Complainant of the avenues open to the Complainant if the Complainant is not satisfied with the response of the Trustee.

26.7 Further avenues open to Unitholders

If a complaint cannot be resolved to the satisfaction of a Complainant, then the Complainant may—

- (a) if the Complainant is a "retail client" (as that term is defined in the Act), lodge a complaint with an external complaints resolution body of which the Trustee is a member, or
- (b) take whatever other action is open to the Complainant under the general law, including—
 - (i) requesting an apology from the Trustee, or
 - (ii) seeking compensation for loss incurred by the Complainant as a direct result of the breach (if any).

26.8 Recording complaints

- (a) The Trustee must make a record of complaints.
- (b) However, if a complaint is resolved by the end of the next Business day from when the complaint was received, then the Trustee is not required to apply the full dispute resolution process in terms of capturing and recording details of the complaint.

26.9 Disclosure of existence of complaints handling procedure

The Trustee must disclose the existence of the complaints handling procedure in all Disclosure Documents prepared by the Trustee.

27. Changing this Constitution**27.1 Power to amend**

- (a) While the Trust is not a Registered Scheme, the Trustee may amend this Constitution at its absolute discretion on such terms as it sees fit.
- (b) While the Trust is a Registered Scheme, then the Constitution may be modified, or repealed and replaced with a new constitution—
 - (i) by Special Resolution of the Unitholders, or
 - (ii) by the Trustee if the Trustee reasonably considers the change will not adversely affect Unitholders' rights.

27.2 Lodgement of amendment

If the Trust is a Registered Scheme, then the Trustee must lodge with ASIC a copy of the modification or the new constitution. The modification, or repeal and replacement, cannot take effect until the copy has been lodged.

28. Statutory requirements**28.1 The Act and ASIC Relief**

- (a) If—
 - (i) the Act requires that this Constitution contain certain provisions, or if any ASIC Relief on which the Trustee has determined it wishes to rely or which is expressly applicable to the Trust requires or allows provisions to a certain effect to be contained in this Constitution in order for the ASIC Relief to apply ("Required Provisions"), or
 - (ii) any part of this Constitution (a "Required Part") is included to comply with the requirements of the Act or ASIC ("Regulatory Requirement") and that Regulatory Requirement ceases or changes,

then, to the extent the Act allows, this Constitution is automatically amended so that the Required Provisions are included, or the Required Part is deleted or amended to reflect the altered Regulatory Requirement and the 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 this clause 28.1 in a deed made for that purpose and, if required, to lodge it with ASIC, and
 - (ii) agree that, subject to the Act, their rights under this Constitution do not include or extend to any right that would be adversely affected by the operation of this clause 28.1.
- (c) Where this clause 28.1 operates to automatically amend this Constitution to incorporate a provision, it is deemed to be incorporated as a separate and distinct provision.

28.2 Application of Act

In this Constitution, except as otherwise provided in a particular clause or by law, a requirement of the Act only applies while the Trust is a Registered Scheme.

28.3 ASIC Class Orders

- (a) In accordance with any relevant ASIC Relief from subsections 601GC(1) and 601GC(2) of the Act, and for so long as it applies to the Trust, a change in the text of this Constitution because of the operation of clause 28.1 that is covered by such ASIC Relief is not a modification of, or the repeal and replacement of, the Constitution for the purposes of subsections 601GC(1) and 601GC(2) of the Act.
- (b) Changes in the text of the Constitution to which this clause 28.3 applies are made pursuant to the power in clause 27 but in respect of such changes, the requirements of clause 27 are to be read subject to this clause 28.3.

28.4 Paramountcy of provisions

Subject to the Act, the following provisions prevail over other provisions of this Constitution in the following order to the extent of any inconsistency—

- (a) first, clauses 23, 14.7, 28.1 and provisions taken to be included and amended under them
- (b) then, this clause 28.4, and
- (c) then, the Reorganisation Proposals in clauses 12.1 to 12.6.

29. Compliance plan and compliance committee

29.1 Compliance plan

- (a) While the Trust is a Registered Scheme, the Trustee must have a compliance plan for the Trust which is lodged with ASIC.

- (b) The compliance plan will deal with the measures the Trustee will adopt to comply with the Act and this Constitution.
- (c) Subject to the Act and the approval of ASIC (if required), the compliance plan may be amended by the Trustee from time to time as it sees fit.

29.2 Compliance committee

- (a) This clause 29.2 applies if a compliance committee is appointed in respect of the Trust.
- (b) If any compliance committee member incurs a liability in that capacity in good faith, then the compliance committee member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Act.

30. Notices

30.1 Form of notice

Any notice, document or other communication required to be given to the Trustee or Unitholders is deemed to have been duly given if given in writing by letter, fax, electronic mail or other method as the Trustee determines.

30.2 Address for service

- (a) The address for the Trustee will be the address set out below or the address most recently given to the Unitholders:

Trustee : One AR Pty Ltd

Address : Level 11, 20 Hunter Street, SYDNEY NSW 2000

Facsimile : 02 8580 5700

- (b) The addresses for Unitholders will be as they appear in the Register.

30.3 Deemed date of receipt

- (a) A notice given to the Trustee is effective when it is received.
- (b) A notice, cheque or other communication sent by post is taken to be received by Unitholders on the Business Day after it is posted. Subject to the Act, the Trustee may determine the time in which other forms of communication may be taken to be received. For any communications sent to Unitholders, proof of receipt is not required.

30.4 Notice to joint Unitholders

In the case of joint Unitholders, the physical or electronic address of the Unitholder means the physical or electronic address of the Unitholder first named in the Register.

31. General provisions

31.1 Payments

Any money payable by the Trustee to an Applicant or Unitholder under the provisions of this Constitution may be paid by—

- (a) cheque and sent by post to the address shown in the Register, or
- (b) electronic funds transfer facility provided by a financial institution nominated by the Applicant or Unitholder in writing to the Trustee.

31.2 Discharge of Trustee

The Trustee will receive a good discharge on—

- (a) payment of every cheque if duly presented and paid, or
- (b) in the case of money credited to any account with a financial institution, the receipt by the financial institution of the amount paid.

31.3 Retention of documents

Application forms and instruments of transfer and transmission must be retained by the Trustee either in their original form, electronically or like process and be available for inspection by or on behalf of the Auditor or the auditor of the compliance plan (if one has been appointed) at any time during normal business hours. However, on the expiration of seven years from the date of each document in question, or the date upon which the Unitholder's Unit holding terminates, whichever is the later, the document may, in the absolute discretion of the Trustee, be destroyed.

31.4 Relationship between Trustee and Unitholders

Each and every Unitholder and the Trustee agree—

- (a) their rights, duties and obligations and liabilities in relation to both the Trust and this Constitution are in every case several and not joint or joint and several
- (b) their respective relationships are ones of parties to the Constitution only and limited to carrying out the Trust and nothing in the Constitution constitutes any of them as a partner of the other
- (c) no Unitholder has authority to act for, or to create or assume any responsibility or obligation on behalf of another Unitholder, and
- (d) except as otherwise specifically provided in this Constitution, no Unitholder may act as agent or have authority to act on behalf of another Unitholder.

31.5 Rounding

- (a) If 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, then that fraction may be rounded down or up to such number of decimal places as the Trustee determines.
- (b) If there is any excess application or other money or property which results from rounding, then it becomes an Asset.
- (c) The Application Price or Withdrawal Price of a Unit may be rounded as the Trustee determines. The amount of rounding must not be more than one percent of the Application Price or Withdrawal Price.

31.6 Interest payable

- (a) The Trustee may charge interest on any amount of money owed to the Trust or to the Trustee on its own account by any Unitholder. Interest is calculated daily on the amount outstanding from the date on which the payment was due to be made to the date it is actually paid to the Trustee, and interest is payable monthly. The rate of interest will be the BBSW plus 500 basis points. The Trustee may waive payment of that interest in whole or in part.
- (b) Any interest received forms part of the Assets, except where the money is owed to the Trustee on its own account, in which case the interest may be paid to the Trustee.

31.7 Non-payment of money

If a Unitholder does not pay an amount of money owing to the Trustee or the Trust under this Constitution, then the Trustee is entitled to be indemnified out of the Assets. In addition, the Trustee may do either of the following (subject to the application of clause 5 in relation to any failure to pay an instalment or instalments with respect to Partly Paid Units):

- (a) The Trustee may deduct money from distributions which would otherwise be paid to the Unitholder who owes the Trustee money until such time as interest and the amount which the Trustee is entitled to be paid has been paid to the Trustee.
- (b) Send a notice to the relevant Unitholder demanding the amount for which the Trustee is entitled to be indemnified (plus interest if applicable) to be paid on or before a specified date (not earlier than seven days after the date of service of the notice). The notice must specify that in the event of the payment not being made, the Unitholder's Units will be liable to be sold or redeemed to recover the unpaid amount.

31.8 Sale or redemption of Unitholder's Units to pay debt owing by Unitholder

- (a) For notices sent under clause 31.7(b), if the money is not paid within the specified time, then subject to the Act the Trustee may do either of the following:
 - (i) Sell (as agent for the Unitholder) the Units held by the relevant Unitholder at whatever price the Trustee determines and the Trustee is authorised by the relevant Unitholder to take steps and sign documents in the name of that Unitholder as may be necessary for the sale and transfer of the Units belonging to the relevant Unitholder, and to account to the Unitholder for proceeds after deducting all reasonable expenses in relation to the sale.
 - (ii) Redeem the Unitholder's Units.
- (b) The proceeds of the sale or redemption of the Units will be applied (as agent for the Unitholder) first on account of the amounts in respect of which the notice was sent under clause 31.7(b) and secondly in payment of the balance (if any) remaining to the relevant Unitholder.

31.9 Trustee may require information from Unitholders

- (a) Any Unitholder who is asked by the Trustee to supply certain information in respect of their Units must do so within 14 days of service of a notice from the Trustee.
- (b) If any particular information given to the Trustee under clause 31.9(a) ceases to be correct for any reason, then it is the duty of the Unitholder who gave that information to give notice to the Trustee of the fact that such particular information is no longer correct and to give the updated and corrected information.
- (c) If any Unitholder fails to provide information required by clauses 31.9(a) or 31.9(b), then the Trustee will be entitled to make such assumptions as it thinks fit as to the information sought and the relevant Unitholder will have no claim against the Trustee or the Trust for any loss suffered as a result of the assumption being incorrect.
- (d) Any Unitholder who supplies incorrect information under clauses 31.9(a) or 31.9(b) indemnifies the Trustee for any expense, liability, loss or damage incurred due to the incorrect information.

31.10 Duties or like imposts payable by Unitholder

- (a) Without limiting the other provisions of this Constitution, where any duty or stamp duty is payable on or in relation to any issue, redemption or transfer of Units, then the Unitholder acquiring the Units, or the Unitholder whose Units are redeemed (as the case may be), must pay the duty and indemnifies the Trustee in relation to the amount of the duty and in relation to any associated statutory penalties or interest.

- (b) Clauses 31.6, 31.7 and 31.8 apply in relation to any amounts payable by a Unitholder under clause 31.10(a).

31.11 *Applicable law*

This Constitution is governed by and to be interpreted in accordance with the laws of New South Wales. The parties to this Constitution agree to submit to the non-exclusive jurisdiction of the courts of New South Wales.

Execution

This Constitution is made this 10 day of May 2018.

Signed by One AR Pty Ltd
ACN 602 601 776 in accordance with
section 127 of the Corporations Act
2001 (Cth) by

Secretary/Director


JUSTIN KURT EPSTEIN

Name (please print)

Director-


FRANK JOHN TEARLE

Name (please print)

Schedule 1—Dictionary

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| Accrued Distribution | For a Distribution Period, the amount the Trustee calculates as the Distributable Amount for the Trust from the beginning of the current Distribution Period to the day on which the calculation is made. |
| Accounting Standards | Has the meaning given to that term in section 9 of the Act. |
| Act | The Corporations Act 2001 (Cth) for the time being in force, together with the regulations. |
| Applicant | A person who has applied to become a Unitholder in the Trust by making an application but who is not yet a Unitholder. |
| Application Money | Any form of valuable consideration received by the Trustee for a Unit, but excluding any amount the Trustee and the Applicant agree is to be paid by the Trustee on behalf of the Applicant on account of commissions, service fees or other fees associated with the acquisition of Units. |
| Application Price | The price at which Units are issued, as determined in accordance with this Constitution. |
| ASIC | The Australian Securities and Investments Commission. |
| ASIC Relief | An exemption or declaration granted by ASIC which gives relief from certain requirements of the Act. |
| Assets | <p>This includes all property, rights and income of the Trust and any provisions the Trustee considers should be taken into account in determining Assets, but excludes—</p> <ul style="list-style-type: none"> (a) Application Money or property paid in respect of which Units have not been issued (b) proceeds from withdrawals which have not yet been paid, and (c) any Distributable Amount awaiting payment to Unitholders. |
| Associate | An associate as defined in any of the sections in Division 2 of Part 1.2 of the Act. |
| Auditor | An individual, firm or company appointed by the Trustee as auditor of the Trust. However, the auditor appointed must be qualified and registered under the Act to act as auditor of a company or Registered Scheme. |

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| Authorised Representative | <p>In respect of each party, a solicitor of that party or a person nominated by Notice to the other party as an authorised representative, and in respect of a party which is a corporation—</p> <p>(a) a company secretary or director, or any officer of the corporation whose title or office includes the words “manager” or “director”, or</p> <p>(b) a person acting with the title or in the office of manager or director.</p> |
| BBSW | For a Distribution Period, means the average mid-rate for bills of a term of 90 days which average mid-rate is displayed on Reuters page BBSW (or any page which replaces that page) on the first Business Day of the Distribution Period. The BBSW is expressed in basis points. |
| Borrower | A person who the Trustee approves to borrow funds from the Trust. |
| Business Day | Any day other than a Saturday, Sunday or public holiday in Sydney, New South Wales. |
| Cash Units | The class of Units known as Cash Units. |
| Class | A class of Unit in the Trust. |
| Class Assets | For a Class, means any Assets Referable to that Class. |
| Class Liabilities | For a Class, means, as at a particular day, the total of the expenses and other liabilities of the Trust relating to that Class and includes accrued but unpaid Trustee entitlements in connection with that Class. To the extent the Accounting Standards require any amounts representing Unitholders' funds to be classified as a liability, then for the purposes of calculating Net Class Value, the Unitholders' funds for the relevant Class are not to be treated as a liability. |
| Class Units in Issue | For a Class, means the number of Units that have been issued in that Class less the number that have been redeemed in that Class. |
| Class Value | For a Class, means the value (determined in accordance with clause 10) of the Class Assets. |
| Complainant | A Unitholder who has complained to the Trustee pursuant to clause 25. |
| Constitution | This document (including its schedules) as it may from time to time be amended and in force. |
| Disclosure Document | A document by which Units are offered for subscription, and it includes any supplementary or replacement document issued in |

respect of the disclosure document.

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| Distributable Amount | <p>Unless the Trustee determines otherwise, Distributable Amount means—</p> <ul style="list-style-type: none"> (a) the Net Income of the Trust, reduced by any amount which would be included in the assessable income of the Trust in accordance with Division 207 of the Tax Act and reduced by any amount which would be included in the assessable income of any sub trust in accordance with Division 207 of the Tax Act to the extent that that amount would subsequently be included in the assessable income of the Trust under section 97 of the Tax Act, plus (b) any further amounts determined by the Trustee from time to time to be distributed to Unitholders, which are not included in the Net Income of the Trust but are included in the other Income of the Trust, plus (c) any amount of capital of the Trust, determined by the Trustee from time to time to be distributed to Unitholders. |
| Distribution Calculation Date | The last day of each Financial Year and such other days as designated by the Trustee. |
| Distribution Entitlement | <ul style="list-style-type: none"> (a) In respect of a Unit in a Class for each day during the Distribution Period, means the amount “DE” calculated by the following formula: $DE = \frac{DA}{TUD}$ <p>Where—</p> <p>DA = The Distributable Amount allocated to that Class (as determined by the Trustee pursuant to clause 15.8) for the Distribution Period, and</p> <p>TUD = the sum of the number of Units on issue in the relevant Class each day during the Distribution Period for which the calculation is being made.</p> (b) In respect of a Unitholder or any person who was a Unitholder during the Distribution Period, is the sum of the Distribution Entitlement for each Unit in a Class held by the relevant person on each day during the Distribution Period. |
| Distribution Period | <ul style="list-style-type: none"> (a) For the first distribution period of a Class, the period from the commencement of the Class to the next Distribution Calculation Date. (b) For the last distribution period of a Class, the period from the day after the preceding Distribution Calculation Date to |

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| | the date of distribution on winding up of the Trust of a Class. |
| | (c) In all other circumstances, the period from the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date. |
| Dividend Amount | The amount, if any, determined by the Trustee in accordance with clause 15.1(b). |
| Dividend Entitlement | Amounts determined under clause 15.2(c). |
| Exchange Proposal | A proposal whereby a written offer to transfer or redeem some or all of their Units is made to Unitholders or to specific Unitholders in consideration of any or all of— <ul style="list-style-type: none"> (a) the issue or transfer of units in another, or interests of whatever nature in or in relation to another entity (b) a cash payment, and (c) a transfer of Assets. |
| Extraordinary Resolution | A resolution of which notice has been given in accordance with this Constitution (and if the Trust is a Registered Scheme, then the Act) and that has been passed by at least 50 percent of the total votes that may be cast by Unitholders entitled to vote on the resolution (including Unitholders who are not present in person or by proxy). |
| Financial Year | The period of 12 months ending on 30 June in each year during the continuance of the Trust. The term also includes the period commencing on the date the Trust is established and expiring on the next 30 June and any period between 1 July last occurring before the Trust is wound up and the date the Trust is wound up. |
| Fully Paid Unit | A Unit on which the Application Price has been paid (or deemed to have been paid if the context requires) in full |
| GST | A tax, impost or duty on goods, services or other things imposed by any fiscal, national, state, territory or local authority or entity and whether presently imposed or novel, together with interest or penalties either before or after the date of this Constitution. |
| GST Act | A New Tax System (Goods & Services Tax) Act 1999. |
| Income | Means— <ul style="list-style-type: none"> (a) all receipts or amounts which are, or would be recognised as, income by the application of generally accepted accounting principles, and (b) any other receipts or amounts which the Trustee determines to be income (whether or not those receipts or |

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| | amounts are, or would be recognised as, income by the application of generally accepted accounting principles). |
| 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. 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. |
| Initial Units | Units in the Trust issued pursuant to clause 3.1. |
| Investment Amount | The total amount paid or provided by or on behalf of an Applicant to the Trustee as part of the Applicant's application to become a Unitholder in the Trust (prior to the deduction of any amount the Trustee and Applicant agree is to be paid by the Trustee on behalf of the Applicant on account of commissions, service fees or other fees associated with the acquisition of Unit). |
| Investment Management Agreement | The investment management agreement between the Trustee and the Investment Manager. |
| Investment Manager | The investment manager of the Trust appointed under the Investment Management Agreement. |
| Legal Personal Representative | An executor or administrator of the estate of a deceased Applicant or Unitholder, or the trustee of the estate of an Applicant or Unitholder who is bankrupt or under a legal disability or who is mentally incapacitated, or a person who holds a suitable power of attorney granted by an Applicant or Unitholder. |
| Liabilities | All liabilities of the Trust, including any provisions the Trustee considers should be taken into account in determining liabilities. To the extent the Accounting Standards require any amounts representing Unitholders' funds to be classified as a liability, then for the purposes of calculating Net Class Value for the Trust, the Unitholders' funds are not to be treated as a liability. |

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| Liquid | Has the same meaning as in section 601KA of the Act. |
| Mortgage | <p>Means—</p> <ul style="list-style-type: none"> (a) any instrument registered or registrable as a legal mortgage in respect of land and improvements, securing a secondary obligation of any person to pay any sum or sums (b) any security (whether by way of mortgage or otherwise) over real property that secures repayment of a loan, financial liability or any other obligation (c) the purchase of any mortgage security complying with the requirements of paragraph (a) or (b) of this definition where a valuation of the mortgage security and where the right, title and interest of the mortgagee in the loan, the security and any insurance contracts or policies relating to the secured property are assigned or transferred by the mortgagee to the Trustee, and <p>any instrument or documents of title held under a mortgage that comes within the meaning of a mortgage asset under ASIC policy, class order relief, the Act or the Trustee's Australian financial services licence.</p> |
| Net Class Value | For a Class, means the Class Value, less the Class Liabilities in respect of each Class. However, for the purpose of calculating the Application Price or Withdrawal Price a Class, the Trustee may adopt as the Net Class Value figure an amount which is either lower than the current Net Class Value (a discount to Net Class Value) or higher than the current Net Class Value (a premium to Net Class Value), provided that in doing so and in deciding the discount to Net Class Value or premium to Net Class Value, the Trustee (where the Trust is a Registered Scheme) complies with the conditions of any applicable ASIC Relief which allows the Trustee to exercise such a discretion. |
| Net Income | The net income determined in accordance with the Tax Act as calculated each Financial Year, or where the Distribution Period does not end on the last day of a Financial Year, as calculated under the Tax Act as if the Distribution Period were a year of income. |
| One AR Pty Ltd | One AR Pty Ltd ACN 602 601 776 or any other company which replaces One AR Pty Ltd as trustee of the Trust and which is a related body corporate of One AR Pty Ltd. |
| Option | An option to subscribe for a Unit. |
| Option Holder | A person registered as the holder of an Option (including persons jointly registered). |

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| Ordinary Resolution | Means a resolution that has been passed by more than 50 percent of the votes cast by Unitholders entitled to vote on the resolution. |
| Paid-up Amount | <p>In relation to a Unit means the number obtained by applying the following formula:</p> $\text{Paid-up Amount} = \frac{\text{PA}}{\text{AP}}$ <p>Where—</p> <p>(a) PA means the amount to which the Unit has been paid (excluding any amount paid in advance of a call or any other amount credited in respect of the Unit) as at the date of calculation, and</p> <p>(b) AP means the Application Price of the Unit.</p> |
| Partly Paid Unit | A Unit on which the Application Price has not been paid in full. |
| Perpetuity Period | The period specified in clause 3.13. |
| Realisation Transaction | <p>A transaction which enables all Unitholders to realise all or a substantial portion of their investment in the Trust, include:</p> <p>(a) an initial public offer</p> <p>(b) a sell down of a substantial portion of the units where all Unitholders have the opportunity to participate in the sell down</p> <p>(c) a sale of substantial Assets where all Unitholders have an opportunity to have their Units redeemed or transferred, or</p> <p>(d) an other arrangement which has substantially the same economic effect as a transaction referred to paragraph (a), (b) or (c).</p> |
| Referable | Has the meaning given to it in clause 3.14. |
| Register | The register of Unitholders required to be kept according to clause 7.13(g). |
| Registered Scheme | A managed investment scheme registered under the Act. |
| Relevant Valuation Time | The Valuation Time, determined by the Trustee, which is applicable to the calculation of the Application Price for an offer or issue of Units (even if the offer or issue occurs during a period when the Application Price is fixed), or the Withdrawal Price for a redemption of Units. |

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| Reorganisation Proposal | Means— <ul style="list-style-type: none"> (a) any Realisation Transaction (b) a Consolidation or Division Proposal (c) a Stapling Proposal (d) A Top Hat Proposal (e) an Exchange Proposal, or (f) any other proposal to reorganise or restructure the capital of the Trust in any way. |
| Special Resolution | A resolution of which notice has been given in accordance with this Constitution (and if the Trust is a Registered Scheme, then the Act) and that has been passed by at least 75 percent of the votes cast by Unitholders entitled to vote on the resolution. |
| Stapling Proposal | A proposal to cause the stapling of Units to any other financial products, with the effect of linking together all of the rights and obligations which attach to the Units and the other financial products. |
| Sub Entity | A trust, company or other entity which was established by or is managed or controlled by the Trustee or by an Associate or related body corporate of the Trustee and in which the Trust has a direct or indirect interest. |
| Tax | <p>This term includes, but is not limited to—</p> <ul style="list-style-type: none"> (a) stamp duty, excise and penalties relating to these amounts which are imposed on the Trustee in respect of any Assets or Liabilities or the Trust itself (b) taxes, excises and duties and penalties relating to these items imposed as a result of any payment made to or by the Trustee under this Constitution (c) taxes imposed or assessed upon— <ul style="list-style-type: none"> (i) any Application Money or property (ii) the Assets, any Dividend Amount, distributions of Income to Unitholders, capital gains, profits or any other amounts in respect of the Assets or the Trust itself, or (iii) the Trustee in respect of its capacity as trustee of the Trust (d) imposts, financial institutions duties, debits tax, withholding tax, land tax or other property taxes charged by any proper |

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| | authority in any jurisdiction in Australia in respect of any matter in relation to the Trust, and |
| | (e) every kind of tax, excise, duty, rate, levy, deduction and charge including any GST. |
| Tax Act | The Income Tax Assessment Act 1936 (Cth), Income Tax Assessment Act 1997 (Cth), Income Tax (Transitional Provisions) Assessment Act 1007 (Cth), or all as appropriate. |
| Terms of Issue | The terms on which a Class is issued under this Constitution, as determined by the Trustee from time-to-time. |
| Top Hat Proposal | A Proposal that each Unitholder should exchange their Units for an equivalent value of units in the Top Trust. |
| Top Trust | A trust of which the Trustee is also the responsible entity or trustee, and of which the only assets will, following the implementation of the Top Hat Proposal, be all of the Units on issue at that time. |
| Total Paid-up Amount | The aggregate Paid-up Amount of all Units on issue in the Trust. |
| Total Unpaid Amount | The total Unpaid Amount of all Class Units in Issue (if any). |
| Transaction Costs | <p>(a) When calculating the Application Price of a Unit, an estimate by the Trustee of—</p> <ul style="list-style-type: none"> (i) the total transaction costs the Trust would incur to acquire afresh the Assets (ii) if appropriate, the total transaction costs the Trust will incur to acquire proposed Assets, or (iii) if appropriate, having regard to the actual transaction costs which would be incurred because of the issue of Units (including in relation to Units issued by way of distribution reinvestment), a portion of the total transaction costs, which may be zero. <p>If the Trustee makes no estimate, then the Transaction Costs are zero.</p> <p>(b) When calculating the Withdrawal Price of a Unit, an estimate by the Trustee of—</p> <ul style="list-style-type: none"> (i) the total transaction costs the Trust would incur to sell the Assets, or (ii) if appropriate, having regard to the actual transaction costs which would be incurred because of the withdrawal, a portion of the total transaction costs, |

which may be zero.

If the Trustee makes no estimate, then the Transaction Costs are zero.

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| Trust | The trust constituted by this Constitution. |
| Trustee | Includes the Trustee for the time being and any other trustee appointed on the retirement or removal of the Trustee. |
| Unit | An undivided interest in the Trust as provided in this document. |
| Unitholder | A person who holds one or more Units or who otherwise holds an "interest" (within the meaning of the Act) in the Trust. |
| Units in Issue | The number of Units that have been issued less the number that have been redeemed. |
| Unpaid Amount | <p>The amount unpaid on a Partly Paid Unit, calculated in accordance with the following formula:</p> $\text{Unpaid Amount} = \text{AP} - \text{PA}$ <p>Where—</p> <ul style="list-style-type: none"> (a) AP means the Application Price of the Partly Paid Unit, and (b) PA means the amount the Unitholder has paid in relation to the Partly Paid Unit. |
| Valuation Time | The time at which the Trustee calculates the Net Class Value. |
| Vesting Day | <p>The day which is the later of—</p> <ul style="list-style-type: none"> (a) the day immediately prior to the 80th anniversary of the date of commencement of the Trust, or (b) any later day permitted by law which does not contravene the rule against perpetuities or remoteness of vesting or any legislation relating to or affecting the operation of that rule. |
| Withdrawal Price | The price at which a Unit is redeemed and calculated in accordance with clause 6.1. |
| World Wide Web | The collection of stored data (comprising documents containing text, visual images, audio clips and other information media) that is accessed through the Internet. |

Schedule 2—Rules for interpretation

In this Constitution unless the context indicates a contrary intention—

- (a) words denoting any gender include both genders
- (b) the singular number includes the plural and vice versa
- (c) references to any legislation includes any legislation which amends or replaces that legislation and any subordinate legislation
- (d) a person includes their executors, administrators, successors, substitutes (*for example, persons taking by novation*) and assigns
- (e) a person includes companies and corporations and vice versa
- (f) except in the dictionary, headings do not affect the interpretation of this Constitution
- (g) general words must not be given a restrictive meaning, by reason of the fact they are followed by particular examples intended to be embraced by the general words (in this regard, the word “including” is not a word of limitation)
- (h) words in italics provide an explanation or example of the intended operation of the particular clause in question and may be used to resolve any dispute about that clause
- (i) amounts of money are expressed in Australian dollars unless otherwise expressly stated
- (j) a reference to a document includes any variation or replacement of it
- (k) a reference to any thing includes the whole or each part of it
- (l) words defined in the Act have the same meaning when used in this Constitution except where the context otherwise requires
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, then the obligation must be performed or the event must occur on or by the next Business Day
- (n) where time is to be calculated by reference to a day or event, then that day or event is excluded, and
- (o) the defined terms in Schedule 1 have the meaning given to them in that schedule except where the context otherwise requires.