

Australian Ethical High Conviction Fund

Constitution

Australian Ethical Investment Ltd ACN
003 188 930 (Responsible Entity)

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Constitution of the Australian Ethical High Conviction Fund

Responsible Entity	Name	Australian Ethical Investment Ltd
	ACN	003 188 930
	Address	Level 8, 130 Pitt St, Sydney NSW 2000
Fund	Name	Australian Ethical High Conviction Fund
	ARSN	

Terms

This deed poll is declared by the Responsible Entity to be the constitution of the Australian Ethical High Conviction Fund.

1. Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these terms have the following meanings:

Adviser	any provider of professional, specialist or technical advice or services including accounting, actuarial, architecture, broker, computing, construction, engineering, insurance, investment management, legal, quantity, taxation or valuation advice or services.
Affiliate	in relation to a person: <ul style="list-style-type: none"> (a) an "associate" of the person within the meaning of section 11 of the Corporations Act; or (b) a "related party" of the person within the meaning of section 228 of the Corporations Act (as modified by section 601LA of the Corporations Act).
Agent	a person appointed by the Responsible Entity to act as its delegate, sub-delegate, agent, sub-agent, attorney, sub-attorney, custodian or nominee or any other person to hold title to any Asset, perform any act for, or on behalf of, or exercise any Power and, in the case of a joint appointment, means a person so appointed jointly and severally.
AMIT	an attribution managed investment trust as defined in the Tax Act.
AMIT Income Year	means an Income Year in which the Fund is an AMIT.
Applicant	a person who has an interest in the Fund pursuant to clause 6.2(d).
Application	an application for Units.
Application Account	an account in which money is held for an Application in accordance with section 1017E of the Corporations Act.

Application Date	<p>subject to clause 18.6, the Pricing Day applicable to an Application being:</p> <ul style="list-style-type: none"> (a) If the Application is accepted by the Responsible Entity on a Pricing Day on or before the Prescribed Application Time, that Pricing Day; or (b) if the Application is accepted by the Responsible Entity on a Pricing Day after the Prescribed Application Time, the next Pricing Day; or (c) if the Application is accepted by the Responsible Entity on a day that is not a Pricing Day, the next Pricing Day.
Application Price	<p>the price at which a Unit the subject of an Application is issued, being an amount calculated in accordance with clause 7.1.</p>
Approved Market	<p>a financial market of:</p> <ul style="list-style-type: none"> (a) a market operator who is licensed under the Corporations Act to operate the market; or (b) a member of the World Federation of Exchanges or Federation of European Securities Exchanges, <p>and includes the AQUA Market.</p>
AQUA Market	<p>means the sub-market of the ASX permitting the trading of managed funds including actively managed funds.</p>
AQUA Product	<p>has the meaning given in the ASX Operating Rules.</p>
AQUA Rules	<p>means:</p> <ul style="list-style-type: none"> (a) Schedules 10 and 10A of the ASX Operating Rules and related procedures; and (b) such other rules that govern the quotation or transfer of AQUA Products, <p>as amended from time to time and to the extent of any waivers or exemptions approved by the ASX.</p>
ASIC	<p>the Australian Securities and Investments Commission (or its successor body having regulatory authority over the Fund).</p>
ASIC Instrument	<p>means:</p> <ul style="list-style-type: none"> (a) an exemption or modification granted by ASIC in accordance with Part 5C.11 of the Corporations Act; or (b) any other instrument issued by ASIC which applies or relates to the Responsible Entity or the Fund.

Assets	all of the Property of the Responsible Entity as the responsible entity of the Fund, including proceeds intended to be used for paying the Withdrawal Price in respect of any Units and any unpaid distributions.
ASX	ASX Limited ACN 008 624 691.
ASX Listing Rules	the listing rules of the ASX and any other applicable rules of the ASX as modified to the extent of any waiver by ASX.
ASX Operating Rules	means the operating rules of the ASX, as amended from time to time.
ASX Quoted	admitted to quotation on the AQUA Market including, if quotation is suspended for a continuous period not exceeding 60 days, the period of suspension.
Auditor	the auditor of the Fund.
Business Day	a day, other than a Saturday or Sunday, a bank holiday or public holiday in Sydney or such other days as determined by the Responsible Entity.
Chi-X	Chi-X Australia Pty Ltd ACN 129 584 667.
Class Rights	in respect of a class of Units, the rights attaching to that class of Units in accordance with clause 6.2(e)6.2(d).
Clearing and Settlement Rules	the rules of a CS Facility regulating the settlement, clearing and registration of uncertificated securities (whether in respect to the Fund or generally).
Compliance Plan	the compliance plan for the Fund required under the Corporations Act.
Compliance Provision	has the meaning given in clause 4.2(a)(ii).
Constitution	this deed poll, which is the constitution of the Fund.
Corporations Act	the <i>Corporations Act 2001</i> (Cth) and regulations made under it, as modified in their application to the Fund by any declaration, modification or exemption granted by ASIC.
Cost	any cost, charge, disbursement, expense, outgoing, fee, Tax or commission.
CS Facility	has the same meaning as clearing and settlement facility in the Corporations Act.
CS Facility Operator	the operator of a CS Facility.
Distributable Income	in respect of a Distribution Period, means: <ul style="list-style-type: none"> (a) where the Fund is not an AMIT, the net income of the Fund for the Distribution Period calculated under section 95 of the Tax Act, less amounts attributable to franking credits, foreign tax credits and other notional and deemed amounts unless the Responsible Entity in its discretion before the end of the Distribution Period

determines or specifies another amount to be the Distributable Income;

- (b) where the Fund is an AMIT, the net income of the Fund for the Distribution Period calculated as if section 95 of the Tax Act applied to the Fund, adjusted to take account of Prior Year Adjustment Amounts, less amounts attributable to franking credits, foreign tax credits, and other notional and deemed amounts, unless the Responsible Entity in its discretion before the end of the Distribution Period determines or specifies another amount to be the Distributable Income.

Distribution Period	unless clause 14.2(b) applies, a period, determined by the Responsible Entity, in respect of which income of the Fund is to be distributed to Unitholders in accordance with this Constitution.
Distribution Period End Date	in respect of a Distribution Period, the last day of the Distribution Period.
Entry Fee	the entry fee payable to the Responsible Entity equal to a maximum 5% of the Application Price for Units issued by the Responsible Entity.
Exit Fee	the exit fee payable to the Responsible Entity of 5% of the Withdrawal Price proceeds of redemption of the Unit.
Financial Year	means: <ul style="list-style-type: none"> (a) for the first financial year, the period on and from the date defined in clause 5.1 to and including the next 30 June; (b) for the last financial year, the period on and from 1 July immediately before the date of final distribution to and including the date of final distribution on termination of the Fund; and (c) in all other circumstances, the 12 month period ending on 30 June in each year.
Fund	the Australian Ethical High Conviction Fund constituted under this Constitution.
Gross Asset Value	the total gross value of the Assets determined in accordance with this Constitution and, for the avoidance of doubt, disregarding all Liabilities.
GST	has the same meaning as in the GST Law and includes any other Commonwealth, State or Territory goods and services tax, or any Commonwealth, State or Territory tax applying to a transaction in a way similar to GST.
GST Act	the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
GST Law	has the same meaning as in the GST Act.
Holding Lock	a facility that prevents securities from being deducted from, or entered into, a holding pursuant to a transfer or conversion.

Income Entitlement	in respect of a Unitholder, or former Unitholder, for a Distribution Period, their pro-rated share of the Distributable Income for the Distribution Period calculated in accordance with clause 14 or clause 16, as applicable.
Income Year	has the same meaning as in the Tax Act.
Joint Unitholders	has the meaning given in clause 3.5(d).
Liabilities	all liabilities of the Fund, including liabilities accrued and unpaid and provisions which the Responsible Entity reasonably believes, in accordance with generally accepted accounting principles and applicable accounting standards, should be made when determining the liabilities of the Fund including all Costs and Losses incurred, suffered or sustained by the Responsible Entity in respect of which the Responsible Entity has a right to be indemnified out of the Assets, but excluding all liabilities of the Responsible Entity to any Unitholder (other than an unpaid distribution amount) and all amounts representing the value of the rights of a Unitholder (other than an unpaid distribution amount) payable in respect of any redemption of Units not then requested and accepted by the Responsible Entity and regardless of whether the Units are characterised as equity or debt in the accounts of the Fund.
Liquid	has the same meaning as in section 601KA(4) of the Corporations Act.
Loss	includes any loss, damage, cost, claim, liability, charge, penalty, outlay, demand and expense incurred, suffered or sustained by the Responsible Entity howsoever arising and to whomever and regardless of whether it is actual or contingent, past, present or future and ascertained or unascertained (including unascertainable).
Management Fee	the management fee payable to the Responsible Entity under, and in accordance with, clause 23.2(a).
Market Disturbance	<p>means any:</p> <ul style="list-style-type: none"> (a) disruption to, or disturbance in, the market or potential market for Units or Assets or to capital markets (or a part of them) more generally; (b) emergency (including an emergency caused by a mechanical, computer or electronic malfunction) exists as a result of which it is not reasonably practicable for the Responsible Entity to acquire or dispose of the Assets or to determine fairly the Application Price or the Withdrawal Price; (c) general or specific state of affairs, <p>which, in the opinion of the Responsible Entity, makes it difficult or impracticable for the Responsible Entity, or to cause a person appointed by the Responsible Entity, to determine fairly the Application Price or Withdrawal Price or to buy or sell Assets, for example because of an inability to or a restriction on the ability to, value Assets, including by reason of:</p>

- (d) a suspension in the trading of Units or Quoted securities more generally;
- (e) a moratorium imposed by law on the trading of Units or Quoted securities more generally;
- (f) a change in the business rules of or settlement regime; or
- (g) abnormal trading conditions,

considered by the Responsible Entity to be potentially adverse to the value of Assets of the Fund or which would affect or defer calculation of the Net Asset Value.

Market Operator	the operator of an Approved Market including ASX and Chi-X.
Market Rules	the market rules of an Approved Market on which the Fund is Quoted and includes, whilst the Fund is ASX Quoted, the AQUA Rules.
Net Asset Value	the value of the Assets less the Liabilities excluding application money in respect of Applications that have not been accepted by the Responsible Entity.
Performance Fee Period	a Financial Year or such other period determined by the Responsible Entity and of which 30 days' written notice is provided to Unitholders.
Power	any and all powers, rights, discretions and authorities of the Responsible Entity.
Prescribed Application Time	the time on a Pricing Day prescribed by the Responsible Entity for the purposes of this definition, failing which it means 3.00 pm in Sydney.
Prescribed Withdrawal Time	the time on a Pricing Day prescribed by the Responsible Entity for the purposes of this definition, failing which it means 3.00 pm in Sydney.
Pricing Day	one or more days of the week prescribed by the Responsible Entity as a day on which the Net Asset Value is to be determined for the purposes of calculating the Application Price and the Withdrawal Price, failing which it means each Business Day.
Prior Year Adjustment Amounts	in relation to an AMIT Income Year, an under, over, rounding adjustment deficit, rounding adjustment surplus, trust component deficit or carry-forward trust component deficit as those terms are defined in the Tax Act, or any other adjustment required under Division 276 of the Tax Act.
Property	property, assets, interests and rights of any kind including real, personal, moveable and immoveable property of any nature, wherever situated, including income, capital, financial products, insurance policies, currency, cash, bank accounts and choses in action.
Quoted	admitted to quotation on an Approved Market including, if quotation is suspended for a continuous period not exceeding 60 days, the period of suspension, and for the avoidance of doubt, includes ASX Quoted.

Register	the register of Unitholders established under clause 3.5(a) that is maintained by, or on behalf of, the Responsible Entity.
Registered	recorded in the Register as a Unitholder.
Registered Scheme	a managed investment scheme registered with ASIC under Chapter 5C of the Corporations Act.
Registrar	the person appointed by the Responsible Entity, if any, to maintain the Register.
Related Body Corporate	has the same meaning as in the Corporations Act.
Required Majority	except where this Constitution or any applicable law provides otherwise, a simple majority.
Required Provision	has the meaning given in clause 4.2(a)(ii).
Responsible Entity	the person entered on the ASIC register as the responsible entity of the Fund.
Retail Clients	has the same meaning as in section 761G of the Corporations Act.
Tax	every kind of tax, duty, levy, impost, rate, charge and deduction imposed by any fiscal, national, state or local authority, entity or governmental or quasi-governmental body at any time applying and any interest, penalties or fines imposed in connection with them.
Tax Act	the <i>Income Tax Assessment Act 1936</i> (Cth) or the <i>Income Tax Assessment Act 1997</i> (Cth).
Termination Date	the date the Fund terminates and the winding up of the Fund commences as provided for in clause 5.2.
Trading Day	in relation to an Approved Market on which the Fund is Quoted, a day on which the Approved Market is open for public trading.
Transaction Costs	<p>when calculating, as at any date:</p> <p>(a) the Application Price, the amount (which may be calculated as a percentage of the value of the Assets) calculated and fixed by the Responsible Entity to represent the Responsible Entity's estimate of the total Costs that would be incurred to buy all of the Assets on that date (excluding the purchase price of the Assets); and</p> <p>(b) the Withdrawal Price, the amount (which may be calculated as a percentage of the value of the Assets) calculated and fixed by the Responsible Entity to represent the Responsible Entity's estimate of the total Costs that would be incurred to sell all of the Assets on that date,</p> <p>and, subject to the Corporations Act, the Responsible Entity may in connection with an application or request for redemption of Units deem these costs to be a lesser sum or zero.</p>

Unit	an undivided beneficial interest in the Assets (subject to the Liabilities) as provided for in this Constitution.
Unitholder	a person whose name is recorded in the Register as the holder of a Unit or if required by the Corporations Act, a person holding an interest in the Fund and determined under the Corporations Act to be a member of the Fund.
Valuation Date	any day as at which the Responsible Entity calculates the Net Asset Value of the Fund, or causes it to be calculated, in accordance with clause 13.
Wholesale Clients	has the same meaning as in section 761G of the Corporations Act.
Withdrawal Date	subject to clauses 12.8 and 18.6, the Pricing Day applicable to Units the subject of a withdrawal request being: <ul style="list-style-type: none"> (a) while the Fund is Liquid or not a Registered Scheme: <ul style="list-style-type: none"> (i) if the withdrawal request is accepted by the Responsible Entity on a Pricing Day on or before the Prescribed Withdrawal Time, that Pricing Day; or (ii) if the withdrawal request is accepted by the Responsible Entity on a Pricing Day after the Prescribed Withdrawal Time, the next Pricing Day; or (iii) if the withdrawal request is accepted by the Responsible Entity on a day that is not a Pricing Day, the next Pricing Day; or (b) while the Fund is not Liquid, at the last Pricing Day before the withdrawal offer is made by the Responsible Entity.
Withdrawal Price	the price at which a Unit the subject of a withdrawal request is to be redeemed, being the amount calculated in accordance with clause 11.1.

1.2 Interpretation

Unless the contrary intention appears, in this Constitution:

- (a) terms defined in the Corporations Act are used as defined;
- (b) a reference to a statute, regulation or other law, an agreement or an instrument includes a reference to them as amended, supplemented, re-enacted, rewritten or replaced;
- (c) the singular includes the plural and vice-versa;
- (d) "person" includes a firm, body corporate, an unincorporated association or an authority;
- (e) "determine", "prescribe" or "specify" and any variations or other grammatical forms of them means as determined, prescribed or specified from time to time;
- (f) if a word or phrase is defined, another part of speech or grammatical form of the word or phrase has the corresponding meaning;

- (g) a reference to a time of day is a reference to Sydney time;
- (h) a reference to dollars or \$ is a reference to the currency of Australia;
- (i) if the Responsible Entity has the Power to determine, prescribe or specify a matter it may do so, without limitation, by:
 - (i) giving notice to Unitholders including by disclosure on or through a website; or
 - (ii) determining, prescribing or specifying the matter in an offer document for Units;
- (j) when preceding a list of items, "include" and any variation of it does not exclude a reference to other items, whether of the same class or genus or not;
- (k) words defined in the GST Law have the same meaning in clauses concerning GST;
- (l) if a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable and input tax credits to which the representative member is entitled; and
- (m) headings have been inserted only for convenience and do not affect any interpretation of this Constitution.

1.3 This Constitution is governed by the law of New South Wales.

1.4 This deed poll is the constitution of the Fund for the purposes of the Corporations Act at any time that the Fund is a registered managed investment scheme under the Corporations Act.

1.5 If it is necessary for the calculation or ascertainment of any amount under this Constitution to determine the value of Australian currency in, or the Australian equivalent of, the currency of another country, the Responsible Entity may adopt or use a rate of exchange quoted by a bank, a relevant market data provider or information vendor or any equivalent service or any other electronic index information provider (**Information Provider**) that it considers appropriate. If the nominated Information Provider is closed for business as at the date of calculation, on the nearest preceding day of which the nominated Information Provider was open for business.

1.6 For any Distributable Income for a Distribution Period that is not a Financial Year, any amount or item to be calculated in respect of that Distribution Period is to be calculated as if the Distribution Period were a Financial Year.

2. **Rights and obligations of Unitholders**

2.1 Enforceability

This Constitution:

- (a) is executed as a deed poll and for the benefit of the Unitholders; and
- (b) is legally enforceable as between the Unitholders and the Responsible Entity.

2.2 Benefit and burden of Constitution

- (a) Each Unitholder has the benefit of, and is entitled to enforce, this Constitution even though the Unitholder is not a party to, or may not be a Unitholder at the time of execution and delivery of, this Constitution.
- (b) Each Unitholder (and all persons claiming through a Unitholder) will be bound by this Constitution as if they were a party to this Constitution.

2.3 No interference by Unitholders

No Unitholder is entitled to:

- (a) interfere with the Powers of the Responsible Entity or its dealings with the Fund, the Assets or any part of them;
- (b) exercise any Powers in respect of any Asset;
- (c) interfere in any way with the Assets or the Trust Fund; or
- (d) lodge a caveat in respect of any Asset.

3. The Fund

3.1 Name of the Fund

The Fund formed under this Constitution is called the Australian Ethical High Conviction Fund or such other name as the Responsible Entity determines.

3.2 Appointment of the Responsible Entity

Australian Ethical Investment Ltd ACN 003 188 930 is appointed, and agrees to act, as the trustee and responsible entity of the Fund.

3.3 Declaration

- (a) The Responsible Entity declares that it will hold the Assets, subject to the Liabilities, upon trust for the Unitholders on, and subject to, the provisions of this Constitution.
- (b) The Assets vest in the Responsible Entity (or its custodian) during the continuance of the Fund.

3.4 Assets

- (a) All accretions to the Assets and all Property into which those Assets may be converted are to be included in the Fund.
- (b) The Assets are not available to meet any liabilities of the Responsible Entity (including as trustee of other funds) other than the Fund.
- (c) Subject to clause 3.4(d), the Responsible Entity must on an accounting basis keep the Assets separate and apart from the Property of other funds of the Responsible Entity.
- (d) The Responsible Entity may, to the extent permitted by the Corporations Act or an ASIC Instrument, maintain or cause to be maintained a single bank account in which

the Cash of different funds may be deposited as long as the Responsible Entity (or its agent) maintains adequate records to enable the Property of a fund within that bank account to be readily identified. Nothing contained in this Constitution shall in any way prejudice or limit the rights of the Responsible Entity to invest in joint interests or in Property for and on behalf of two or more funds.

- (e) To the extent permitted by the Corporations Act or an ASIC Instrument, nothing in this Constitution shall require the Responsible Entity to physically to segregate the Assets, provided that the Responsible Entity segregates them in its books.

3.5 Register

- (a) The Responsible Entity must keep and maintain, or cause to be kept and maintained, the Register in accordance with the Corporations Act and Market Rules (while the Fund is Quoted).
- (b) Each Unitholder must promptly notify the Responsible Entity of any change of the Unitholder's name or address and supply such supporting documentation as the Responsible Entity may require and the Responsible Entity must alter, or must cause to be altered, the Register accordingly.
- (c) Whilst the Units are approved for a CS Facility and Quoted, the operation of clauses 3.5(a) and 3.5(b) is subject to clauses 4.6 to 4.7.
- (d) When two or more persons are registered as the holders of a Unit (**Joint Unitholders**):
 - (i) any one of the Joint Unitholders may give effectual receipts for any distribution; and
 - (ii) only the person whose name stands first in the Register as one of the Joint Unitholders is entitled to delivery of any certificate or confirmation that may be issued relating to the Unit or to receive notices, cheques or other communications from the Responsible Entity and any certificate, confirmation, notice, cheque or other communication given to that person is deemed to be given to all the Joint Unitholders.

4. Compliance

4.1 Subject to the law including the Corporations Act

A provision of this Constitution which is inconsistent with a provision of the law, including the Corporations Act, does not operate to the extent of the inconsistency.

4.2 Regulatory requirements

- (a) If:
 - (i) the Corporations Act or any relief from the provisions of the Corporations Act granted by an ASIC Instrument requires that this Constitution contain certain provisions whether as an absolute requirement or in order to gain the benefit of a concession, exemption or the relief (**Required Provision**); or
 - (ii) any part of this Constitution is included to comply with the requirements of the Corporations Act, Market Rules, a Market Operator or ASIC (**Compliance Provision**) and that Compliance Provision ceases or changes,

then, unless the Responsible Entity determines otherwise in writing:

- (iii) subject to clause 4.2(b), the Required Provisions are deemed to be incorporated into this Constitution at all times at which they are required to be included and prevail over any other provisions of this Constitution to the extent of any inconsistency; and
 - (iv) this Constitution is taken to be amended so that this Constitution reflects the amended Compliance Provision.
- (b) If the relief granted by ASIC is by class order (rather than specifically in relation to the Fund) then the ASIC Instrument (and the provisions it requires) will only be taken to be incorporated if the Responsible Entity declares in writing that this is the case.

4.3 While the Fund is ASX Quoted

- (a) While the Fund is ASX Quoted, the Responsible Entity must comply with the AQUA Rules in relation to the issue and despatch of holding statements, the transfer and transmission of Units and the establishment and maintenance of a Register.
- (b) While the Fund is ASX Quoted:
 - (i) notwithstanding anything contained in this Constitution, if the AQUA Rules prohibit an act being done, the act shall not be done;
 - (ii) nothing contained in this Constitution prevents an act being done that the AQUA Rules require to be done;
 - (iii) if the AQUA Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (iv) if the AQUA Rules require this Constitution to contain a provision and it does not contain such a provision, this Constitution is deemed to contain that provision;
 - (v) if the AQUA Rules require this Constitution not to contain a provision and it contains such a provision, this Constitution is deemed not to contain that provision; and
 - (vi) if any provision of this Constitution is or becomes inconsistent with the AQUA Rules, this Constitution is deemed not to contain that provision to the extent of the inconsistency.
- (c) While the Fund is ASX Quoted, if at any time the Fund ceases to be in compliance with clause 4.3(b), the Responsible Entity must promptly take action to rectify the non-compliance.
- (d) In accordance with ASIC Corporations (Chapter 5C - Miscellaneous Provisions) Instrument 2017/125 or its equivalent and for so long as it applies to the Fund, a change in the text of this Constitution because of the operation of clause 4.3(b) is not a modification of, or the repeal or replacement of the Constitution for the purposes of sections 601GC(1) and (2) of the Corporations Act.

4.4 Participation in a CS Facility

- (a) While the Fund is Quoted, the Responsible Entity may at any time resolve that the Fund will participate in a CS Facility.
- (b) Clauses 4.5 to 4.7 will apply if the Fund is granted participation in a CS Facility.

4.5 Compliance with the Clearing and Settlement Rules

The Fund must comply with the Clearing and Settlement Rules of a CS Facility under which any of its Units are approved, including requirements regarding the maintenance of registers, the issuing of holding statements and transfers of Units.

4.6 Registers

If Units are approved for a CS Facility, in addition to the CS Facility's sub-register, the Responsible Entity must provide for an issuer sponsored sub-register, or a certificated sub-register, or both.

4.7 No interference with proper transfer

The Responsible Entity must not in any way prevent, delay or interfere with the generation of a proper transfer in accordance with the Clearing and Settlement Rules of a CS Facility under which Units are approved, or the registration of a paper-based transfer in registrable form (which satisfies the requirement of clause 10.3(b)), except as permitted by clause 10.6(a) and the Market Rules (while the Fund is Quoted), or the Clearing and Settlement Rules of the CS Facility.

5. Commencement, duration and winding-up

5.1 Commencement of Fund

The Fund commences on the date when, following execution of this Constitution by the Responsible Entity, a person (other than the Responsible Entity) pays \$10 to the Responsible Entity (or a custodian appointed by the Responsible Entity) to establish the Fund. On the payment of that amount, that person's name will be entered on the Register and 10 Units will automatically be issued to that person.

5.2 Termination and winding up of Fund

- (a) The Fund will terminate on the earliest to occur of the following:
 - (i) two days before the 80th anniversary of the date of this Constitution;
 - (ii) the date on which an event occurs which under the Corporations Act or this Constitution obliges or permits the Responsible Entity to wind up the Fund; or
 - (iii) a date determined by the Responsible Entity, being a date of which at least one month's prior written notice has been given to the Unitholders.
- (b) Subject to the Corporations Act and the Market Rules (while the Fund is Quoted), the Responsible Entity must give each Unitholder written notice of the termination and of its intention to wind up the Fund.

- (c) On and from termination of the Fund under clause 5.2(a), the Responsible Entity must not accept any Applications.

5.3 Procedures on termination

- (a) The Fund must be wound up in accordance with the Corporations Act and the Market Rules (while the Fund is Quoted).
- (b) Subject to clauses 5.2(b) and 5.3(c), the Responsible Entity must realise the Assets:
 - (i) if practicable and in the best interests of the Unitholders, within 180 days of the termination of the Fund; or
 - (ii) otherwise, as soon as reasonably practicable after the termination.
- (c) The Responsible Entity has the Power to postpone the realisation of Assets to maximise the net proceeds of the realisation of those Assets attributable to Unitholders provided the Responsible Entity considers that the postponement is not inconsistent with its duties under the Corporations Act.
- (d) Despite termination, this Constitution continues with full force and effect and the Responsible Entity retains all its Powers under this Constitution including any entitlement to remuneration, indemnification and reimbursement and any right of recovery. The Responsible Entity may retain any Assets for the purpose of discharging Liabilities. Any Assets retained under this clause that are ultimately not required will remain subject to the Fund for conversion and distribution in accordance with this Constitution.

5.4 Distribution following termination

Subject to any Class Rights and Unitholders' Income Entitlements (as set out in this Constitution), the net proceeds of realisation are to be distributed pro rata by the Responsible Entity to Unitholders according to the number of Units held following discharge of all outstanding Liabilities, including those associated with the termination. Proceeds of realisation may be distributed in instalments.

5.5 Audit of final accounts

If the Corporations Act or ASIC policy so requires, the Responsible Entity must arrange for an independent audit of the final accounts of the Fund by a registered company auditor or an audit firm.

5.6 Liquidator appointed

If the Fund is to be wound up because its Liabilities exceed its Assets or there is expected to be insufficient cash for the Responsible Entity to meet Liabilities from the Assets as and when they fall due, the Responsible Entity may appoint an appropriately qualified liquidator to carry out the winding up, and delegate to the liquidator the Powers of the Responsible Entity under this Constitution to facilitate the winding up.

5.7 Rights and obligations of the Responsible Entity on termination

- (a) Subject to clause 5.5, on final distribution of the net proceeds of realisation in accordance with clause 5.4, the Responsible Entity is, subject to the Corporations Act, discharged from all duties and obligations imposed by, or arising under, this Constitution and by law.

- (b) The Responsible Entity is entitled to be indemnified out of the Assets in respect of all Costs incurred in connection with termination and wind up of the Fund.

6. Interests of Unitholders

6.1 Application of clause 6

This clause 6 applies subject to when the Fund is, or is seeking to qualify as, an AMIT, in which case clause 16 applies to the extent of any inconsistency with this clause 6.

6.2 Units and Classes of Units

- (a) The beneficial interest of the Fund is divided into Units.
- (b) A Unit does not confer any interest in any particular part of the Fund or any Asset but only an equal undivided interest in the Fund and the Assets as a whole, subject to any Class Rights and the Liabilities.
- (c) The rights of a Unitholder under this deed are limited to the right to require the due administration of the Fund in accordance with this Constitution.
- (d) If Units are taken to be issued under clause 9.1 and the issue has not yet been recorded in the Register, the Applicant to whom the Units are taken to have been issued has an interest of the kind referred to in clause 6.2(a) based on the net amount of application money that Applicant has contributed to acquire the Units, divided by the relevant Application Price, whether or not the Application Price has been ascertained at that time.
- (e) The Responsible Entity may issue classes of Units and, other than in respect of the matters required by section 601GA of the Corporations Act which are set out in this Constitution, determine the rights, liabilities, obligations and restrictions which attach to each class. A Unitholder holds a Unit subject to this Constitution and the rights, liabilities, obligations and restrictions attaching to that Unit.

6.3 Fractions of Units and rounding

- (a) Subject to the Market Rules (while the Fund is Quoted), The Responsible Entity may:
 - (i) create and issue fractions of Units or part of a Unit; and
 - (ii) may consolidate or divide Units,
 provided that the proportions of unitholdings in each class of Units are maintained.
- (b) If any calculation performed under this Constitution, or the terms of a withdrawal offer, results in the issue, redemption or holding of a fraction or part of one Unit, the number of Units to be issued, redeemed or held may be rounded up or down to the nearest number of whole Units as the Responsible Entity determines. Any excess subscription for other money or property which results from rounding any provision of this Constitution forms part of the Assets.
- (c) If any fractions of Units are on issue, the Responsible Entity may, in its discretion, cancel the fractions of Units on issue in respect of a class of Units or a particular fraction of a Unit on issue and any money or property attributable to the cancelled fractions of Units will form part of the Assets.

6.4 Mortgage of Units

On the request of a Unitholder, the Responsible Entity may record in the Register a mortgage or other security interest (collectively mortgage) over the Unitholder's Units. Withdrawal proceeds, capital distributions and distributions on termination of the Fund may be paid to the mortgagee. Any transfer of or other dealing in relation to Units is subject to any mortgage and the consent of the mortgagee. The Responsible Entity, however, is not taken to have notice of the terms of any mortgage and has no liability under any circumstances to any mortgagee of Units.

6.5 Powers of the Responsible Entity

- (a) Subject to the Corporations Act and Market Rules, the Responsible Entity may hold Units and trade them as the Responsible Entity determines.
- (b) The Responsible Entity may, in accordance with the Corporations Act and the Market Rules, buy back Units in a particular class on any terms and conditions determined by the Responsible Entity. The consideration paid for a buy back of Units in a particular class may include specific Property, including financial products of the Fund or of any other corporation, trust or entity.
- (c) Subject to this Constitution and the Corporations Act, the Responsible Entity may determine (in such manner as it determines, for example by disclosure in any product disclosure statement) that any Unit or class of Units is to be partly paid.
- (d) The Responsible Entity may:
 - (i) determine that a Liability is properly attributable to a class of Units; and
 - (ii) subject to the Corporations Act, allocate the Liabilities of the Fund (excluding Liabilities that are properly attributable to a class of Units) among the classes of Units on issue in such shares and proportions as the Responsible Entity determines in accordance with the Application Price and Withdrawal Price.

7. Application price

7.1 Application Price

A Unit must only be issued at an Application Price calculated as follows:

- (a) subject to clause 7.1(b):
 - (i) if the Fund has one class of Units on issue, the amount calculated as at the close of business on the Application Date using the following formula:

$$\text{Application Price} = \frac{\text{Net Asset Value} + \text{Transaction Costs}}{\text{Number of Units on issue}}$$

- (ii) if the Fund has more than one class of Units on issue, the amount calculated as at the close of business on the Application Date using the following formula:

$$\text{Application Price} = \frac{(A - B) + \text{Transaction Costs}}{N}$$

if:

- A The value of the Assets attributable to the class of Units to which the Application relates.
- B The Liabilities attributable to the class of Units to which the Application relates but excluding application payments in respect of Applications that have not been accepted by the Responsible Entity.
- N Number of Units on issue attributable to that class of Units.

For the purpose of this definition the Assets attributable to a class of Units, Liabilities attributable to a class of Units (subject to the definition of B above and clause 6.5(d)) and Transaction Costs will be determined on a proportionate basis based on the number of Units on issue in that class to the total number of Units on issue in the Fund.

- (b) if the Fund has one or more classes of Units on issue and subject to the terms of the Corporations Act as modified by any applicable ASIC Instrument (including ASIC Instrument 13/655) and the Market Rules (while the Fund is Quoted), such other price as the Responsible Entity determines in its discretion in accordance with the conditions and restrictions of any applicable ASIC Instrument.

8. Application for Units

8.1 Application procedure

Except as otherwise provided in this Constitution and subject to the Corporations Act (including any ASIC relief) and the relevant procedures set out in the Market Rules (if the Fund is Quoted), a person intending to apply for Units must (other than in relation to reinvestment of distributions in accordance with clause 14.7):

- (a) apply in a form and manner approved by the Responsible Entity; and
- (b) give consideration to the Responsible Entity (or a custodian appointed by it) in relation to an Application within a time specified by the Responsible Entity, including by payment of application money, or transfer of property of a kind acceptable to the Responsible Entity and able to be vested in the Responsible Entity (or a custodian appointed by it).

8.2 Minimum amounts

Subject to the Market Rules (while the Fund is Quoted), the Responsible Entity may prescribe a minimum level (by number or value):

- (a) of Units or Units in a class to be applied for or of the application amount; and
- (b) of additional investments which may be made in the Fund,

provided that the Responsible Entity may waive the minimum level in respect of an Application, in its absolute discretion.

8.3 Discretion of the Responsible Entity

- (a) The Responsible Entity may determine to accept or reject all, or part of, an Application and the associated application payment, and the Responsible Entity need not provide any reasons for its determination.
- (b) Subject to the Corporations Act and this Constitution, upon the issue of the Units that are the subject of an Application, the application payments are vested in the Responsible Entity (or a custodian appointed by it) and become the property of the Fund.

9. Issue of Units

9.1 Issue of Units

- (a) Subject to clause 9.1(b) and 9.1(c) and the Clearing and Settlement Rules of a CS Facility and the Market Rules (while the Fund is Quoted), Units the subject of an Application are taken to be issued at the time which is the earlier of:
 - (i) the time the issue of Units is recorded in the Register; and
 - (ii) the later of the time which is:
 - (A) 9:00am on the Business Day immediately following the Application Date of the Units; and
 - (B) the time the Responsible Entity or its agent receives the application money (even if paid into the Application Account or received in a form of cheque) or the property against which Units are to be issued is vested in the Responsible Entity (or a custodian appointed by it).
- (b) Units which are to be issued on a reinvestment of distributions under clause 14.7(a) are taken to be issued at the time which is 9:00am on the Business Day immediately following the Application Date of the Units.
- (c) If an application payment is not cleared or effectively vested in the Responsible Entity (or a custodian appointed by it), the Units issued in respect of that application payment may be cancelled by the Responsible Entity and deemed not to have been issued and the Responsible Entity may make any consequential or necessary entries in, or changes to, the records of the Fund.
- (d) The Responsible Entity alone may determine the holder of a Unit. A Unitholder is deemed to be a holder of a Unit when the Unitholder's name is entered in the Register as the holder of that Unit. Subject to clause 6.2(d) from the time when a Unit is taken to be issued under clause 9.1(a)(ii) or 9.1(b) until the time the Unitholder's name is entered in the Register as the holder of that Unit, no rights attach to the Unit.

9.2 Number of Units issued

The number of Units issued at any time in respect of an Application will be calculated by dividing the application payment less any associated fees, by the applicable Application Price.

9.3 No Unit certificates

No certificates for Units will be issued unless the Responsible Entity determines otherwise. The entry of a Unitholder's name in the Register is prima facie evidence of ownership.

9.4 Transmission on death or legal disability

If a Unitholder dies or becomes subject to a legal disability, only the survivor (in the case if the deceased was a joint tenant either in their own right or as a co-trustee) or the legal personal representative (in any other case) of the Unitholder will be recognised as having any claim to the Units registered in the Unitholder's name.

9.5 Return of Units

Upon a Unitholder exercising his or her right to return Units in accordance with the Corporations Act, the Responsible Entity must pay to the Unitholder the amount required under the Corporations Act in respect of the return of those Units.

9.6 Application procedures

- (a) For the purpose of an Application for Units the Responsible Entity may establish and notify to Unitholders procedures as to the basis upon which the Responsible Entity will accept any such Application for Units and as to the time or intervals on which such Application for Units shall be processed and the date on which the Application Price shall be determined.
- (b) Subject to law, the Responsible Entity shall not be liable for any loss howsoever arising by reason of the Responsible Entity either accepting or failing to accept an Application for Units or by reason of any delay in accepting such Application for Units and the Unitholder agrees to bear all costs and expenses incurred by the Responsible Entity in accepting an Application for Units as the Responsible Entity determines and notifies to Unitholders.

9.7 Prescribed Application Time

Any Application received after the Prescribed Application Time will be deemed to have been received on the next Business Day, or while the Fund is Quoted, the next Trading Day.

9.8 Application payments

- (a) Application payments may be in cash or in any other form as determined by the Responsible Entity in its absolute discretion.
- (b) If an application payment is paid by cheque, that cheque shall be made payable to the Responsible Entity. Units issued against consideration paid other than in cleared funds or a commitment to provide consideration (including but not limited to cheques and commitments to pay as part of a trade on an Approved Market) are void if the funds are not subsequently cleared or the consideration is not provided or transferred at or within the time specified by the Responsible Entity.
- (c) The Responsible Entity shall establish and maintain in its name an Application Account for the Fund and shall keep a record of the debits from and credits to the Application Account in respect of the Fund.
- (d) Subject to clause 9.8(b), the Responsible Entity shall pay any money received for an Application into the Application Account no later than the next Business Day. The

Responsible Entity may apply any money held in the Application Account for the purposes of payment for an Application. Application money is otherwise held on trust for the benefit of the Applicant.

- (e) Subject to the Corporations Act, clause 9.8(c) does not apply in the event that Units are issued at the same time as or immediately following the receipt of the relevant application payment.
- (f) Any interest earned on the application payment held in an Application Account shall be applied as follows:
 - (i) If the Valuation Date of the Fund is the last Business Day of each calendar month only, then any interest earned shall, after the deduction of any amount required to meet charges, taxes or other payments referred to in clause 9.8(c), be treated as application payment in respect of the relevant Application for Units. Such interest is to the account of the Applicant.
 - (ii) If the Valuation Date of the Fund is more frequent than the last Business Day of each calendar month, then any interest earned shall form part of the Assets.

9.9 Issuing via on-market acquisition

- (a) While the Fund is Quoted and subject to the Market Rules:
 - (i) the Responsible Entity may offer and/or agree to sell Units on-market and issue Units to itself for the purposes of fulfilling the sale of such Units;
 - (ii) if the Responsible Entity sells Units on-market as specified in clause 9.9(a)(i), the Responsible Entity will honour any contract to buy Units it enters into in accordance with any applicable settlement procedures under the Clearing and Settlement Rules and Market Rules;
 - (iii) subject to the Corporations Act and Market Rules, the price at which the Responsible Entity offers and agrees to sell Units on-market in accordance with clause 9.9(a)(i) is at the discretion of the Responsible Entity;
 - (iv) any offers for the sale of Units that the Responsible Entity places on-market will be subject to:
 - (A) the Market Rules; and
 - (B) interventions by the Market Operator, including, for example, suspensions and trading halts.
- (b) Where the Responsible Entity offers and/or agrees to sell Units on-market pursuant to clause 9.9(a)(i), it has the right to issue to itself, and vest title in, the corresponding number of Units and take any other action necessary to issue to itself, and vest title in, such Units.
- (c) Without limiting clause 9.9(b), Units that the Responsible Entity has sold on market in excess of Units acquired on market by the Responsible Entity (on a particular Trading Day), will be issued by the Responsible Entity to itself as soon as reasonably practicable for the purposes of enabling the Responsible Entity to fulfil its obligations under settlement of the sale of those Units.

10. Transfer of Units

10.1 Transfer of Units

Units may be transferred subject to this Constitution, any Class Rights, and the operation of the Clearing and Settlement Rules of a CS Facility and the Market Rules (while the Fund is Quoted).

10.2 Transfer if not Quoted

- (a) If Units are not Quoted, a transfer of Units must be:
 - (i) in the form prescribed by the Responsible Entity;
 - (ii) accompanied by any evidence the Responsible Entity reasonable requires to show the right of the transferor to make the transfer; and
 - (iii) if the Responsible Entity requires, be presented for registration duly stamped.
- (b) The Responsible Entity may refuse to record a transfer of Units in accordance with clause 10.2(a) in the Register without giving any reason for the refusal.

10.3 Transfer if Quoted

- (a) If the Fund is Quoted and subject to this Constitution and the Market Rules, a Unitholder may transfer Units:
 - (i) as provided by the Clearing and Settlement Rules of a CS Facility if applicable; or
 - (ii) by any other method of transfer which is required or permitted by the Corporations Act, the Approved Market or ASIC.
- (b) If a duly completed instrument of transfer:
 - (i) is used to transfer Units in accordance with clause 10.3(a)(ii); and
 - (ii) is left for registration with the Registrar, duly stamped if required and accompanied by any information that the Responsible Entity properly requires to show the right of the transferor to make the transfer,

the Responsible Entity must, subject to the Responsible Entity's Powers and to the extent permitted by the Corporations Act and the Market Rules, register the transfer in the Register.

10.4 When transfer is effective

Except as provided by any applicable Clearing and Settlement Rules or the Market Rules, a transfer of Units takes effect only when recorded in the Register. The Responsible Entity is not obliged to register a transfer where the transferee does not meet the Responsible Entity's criteria for a Unitholder, the transfer is not duly stamped (where required), or any amount payable by the transferee to the Responsible Entity in respect of any of the transferor's Units remains unpaid.

10.5 Costs

Unless the transferor and transferee agree otherwise, the transferee shall bear all costs, taxes, stamp duty (including any fines or penalties) and other charges in relation to the transfer and shall indemnify the Responsible Entity on demand for such costs, taxes and stamp duty.

10.6 Holding Locks or refusal to register transfer

- (a) While the Fund is Quoted and subject to the Market Rules, the Responsible Entity may request a Holding Lock be applied to any Units, or refuse to register a transfer of Units, if:
- (i) the Responsible Entity has a lien on the Units the subject of the transfer;
 - (ii) the Responsible Entity is served with a court order that restricts a Unitholder's capacity to transfer the Unit;
 - (iii) registration of the transfer may break an Australian law and the Market Operator has agreed in writing to the application of a Holding Lock (which must not breach the Clearing and Settlement Rules of the CS Facility) or that the Responsible Entity may refuse to register a transfer;
 - (iv) if the transfer is paper-based, either a law related to stamp duty prohibits the Responsible Entity from registering it or the Responsible Entity is otherwise allowed to refuse to register it under the Market Rules;
 - (v) the transfer does not comply with the terms of any employee incentive scheme of the Responsible Entity;
 - (vi) while the Fund is ASX Quoted, if the transfer is paper-based, registration of the transfer will create a new holding which at the time the transfer is lodged is less than a "marketable parcel" as defined in the ASX Listing Rules;
 - (vii) the relevant Unitholder has agreed in writing to the application of a Holding Lock (which must not breach the Clearing and Settlement Rules of the CS Facility) or that the Responsible Entity may refuse to register a transfer; or
 - (viii) it is otherwise permitted under the Market Rules, and the Responsible Entity must do so if the Market Rules require.

11. Withdrawal Price

11.1 Withdrawal Price

A Unit must only be redeemed at a Withdrawal Price calculated as follows:

- (a) if the Fund has one class of Units on issue, subject to clause 11.1(c), the amount calculated as at the close of business on the Withdrawal Date using the following formula:

$$\text{Withdrawal Price} = \frac{\text{Net Asset Value} - \text{Transaction Costs}}{\text{Number of Units on issue}}$$

- (b) if the Fund has more than one class of Units on issue, subject to clause 11.1(c), the amount calculated as at the close of business on the Withdrawal Date using the following formula:

$$\text{Withdrawal Price} = \frac{(A - B) - \text{Transaction Costs}}{N}$$

if:

- A The value of the Assets attributable to the class of Units to which the withdrawal request relates.
- B The Liabilities attributable to the class of Units to which the withdrawal request relates but excluding application payments in respect of Applications that have not been accepted by the Responsible Entity.
- N Number of Units on issue attributable to that class of Units.

For the purpose of this definition the Assets attributable to a class of Units, Liabilities attributable to a class of Units (subject to the definition of B above and clause 6.5(d)) and Transaction Costs will be determined on a proportionate basis based on the number of Units on issue in that class to the total number of Units on issue in the Fund.

- (c) If the Fund has one or more classes of Units on issue and subject to the terms of the Corporations Act as modified by any applicable ASIC Instrument (including ASIC Instrument 13/655) and the Market Rules (while the Fund is Quoted), such other price as the Responsible Entity determines in its discretion in accordance with the conditions and restrictions of any applicable ASIC Instrument.

12. Withdrawal Procedures

12.1 Application

While the Fund is Liquid or not a Registered Scheme, clauses 12.2 to 12.7 (inclusive) apply. While the Fund is not Liquid, clauses 12.8 to 12.11 (inclusive) apply. The remaining clauses in this clause 12 apply in either cases to the extent permitted by the Corporations Act.

12.2 Request for redemption

Subject to clauses 12.7, 12.19, 18.6 and the Market Rules (while the Fund is Quoted), a Unitholder may request that the Responsible Entity redeem Units of the Unitholder by giving the Responsible Entity a withdrawal form, which will be made available on request from the Responsible Entity. The Responsible Entity may require a Unitholder who holds their Units on a CS Facility's sub-register to have their Units the subject of the withdrawal on an issuer sponsored sub-register and to provide such information as the Responsible Entity determines prior to processing the withdrawal.

12.3 Redemption procedure

Subject to clauses 12.6(a), 12.7, 12.14, 12.19 and 18.6, the Responsible Entity must:

- (a) redeem Units the subject of the withdrawal request and in any way contemplated by Clearing and Settlement Rules of the CS Facility; and
- (b) pay to the relevant Unitholder, out of the Assets, the Withdrawal Price (less the Exit Fee) for each Unit that is redeemed within a reasonable time (subject to Clearing and Settlement Rules of the CS Facility), but no later than 21 days after the Withdrawal Date.

12.4 Minimum holding

- (a) The Responsible Entity may, in its absolute discretion, specify a minimum Unit holding and Unit holding of a class (by number or value).
- (b) If, as a result of the redemption of Units the subject of a withdrawal request, a Unitholder's Unit holding or Unit holding of a class would fall below the minimum holding, the Responsible Entity may treat the withdrawal request as applying to the Unitholder's entire Unit holding.
- (c) If a Unitholder's Unit holding or Unit holding of a class falls below the minimum Unit holding or Unit holding of a class (as applicable) at any time, the Responsible Entity may cause the redemption of the Unitholder's entire Unit holding or Unit holding of a class as if the Unitholder had given a withdrawal request in respect of the entire Unit holding or Unit holding of a class (as applicable).

12.5 Request may not be withdrawn

A Unitholder may not withdraw a withdrawal request unless the Responsible Entity agrees.

12.6 Responsible Entity may redeem

- (a) Upon receipt of a withdrawal request from a Unitholder and to the extent permitted by the Market Rules (while the Fund is Quoted):
 - (i) the Responsible Entity may, at its absolute discretion, deny the withdrawal request or decide to redeem some or all of the Units the subject of the withdrawal request (and notify the Unitholder accordingly); or
 - (ii) the Responsible Entity may, at its absolute discretion, determine what portion of the Withdrawal Price to be paid to that Unitholder represents a share of Income Entitlement and of the realised capital gains of the Fund for the Distribution Period during which the Unit is redeemed; or
 - (iii) to the extent permitted by the Corporations Act, purchase or arrange for another person to purchase the number (or value) of Units held by the Unitholder to which the withdrawal request relates.
- (b) If the Responsible Entity makes a determination under clause 12.6(a)(ii), the Responsible Entity must notify the Unitholder of the composition of the Withdrawal Price so determined.

12.7 Separate withdrawal requests

Despite anything expressed or implied to the contrary in this Constitution, if:

- (a) in respect of any single Business Day a Unitholder requests the withdrawal of a number of Units that represents more than 5% of the number of Units in issue, the Responsible Entity may determine that the withdrawal request must be treated as 5 separate withdrawal requests, each for one-fifth of the total number of Units in the original withdrawal request, and that one of each of the separate withdrawal requests is deemed to be received by the Responsible Entity on each of the 5 successive Business Days commencing with the Business Day on which the Responsible Entity received the original withdrawal request.

- (b) In respect of any period of 5 consecutive Business Days Unitholders, including any Unitholder mentioned in clause 12.7(a), request the withdrawal of a number of Units that in aggregate represent more than 10% of the number of Units in issue, the Responsible Entity may in its discretion:
- (i) determine that each withdrawal request made in that period (each an **original withdrawal request**) be deemed to be 5 separate withdrawal requests (each a **deemed withdrawal request**) each for a one-fifth portion of the total number of Units in the relevant original withdrawal request; and
 - (ii) one of each of the deemed withdrawal requests must be deemed to be received by the Responsible Entity on each of the following days:
 - (A) the Business Day on which the aggregate representing more than 10% of the number of Units in issue was reached;
 - (B) the fifth Business Day after the Business Day referred to in paragraph (A) above;
 - (C) the fifth Business Day after the Business Day referred to in paragraph (B) above;
 - (D) the fifth Business Day after the Business Day referred to in paragraph (C) above;
 - (E) the fifth Business Day after the Business Day referred to in paragraph (D) above.

12.8 While Fund is not Liquid

If the Fund is not Liquid, the Unitholder may withdraw from the Fund in accordance with the terms of any current withdrawal offer made by the Responsible Entity in accordance with the provisions of the Corporations Act regulating offers of that kind. If there is no withdrawal offer currently open for acceptance by Unitholders, a Unitholder has no right to redeem Units.

12.9 Cancellation of withdrawal offer

The Responsible Entity may cancel a withdrawal offer at any time by giving notice that the offer is cancelled to all Unitholders. The cancellation of a withdrawal offer by the Responsible Entity does not affect the rights of Unitholders whose acceptance of the offer has been received by the Responsible Entity after the time the Responsible Entity made the offer but before the time the Responsible Entity cancelled the offer to withdraw from the Fund in accordance with the terms of the withdrawal offer.

12.10 Time to satisfy

The Responsible Entity must satisfy withdrawal requests that are to be satisfied under clause 12.8 within 21 days after the offer closes, and not any time before, or such other period as required by the Corporations Act.

12.11 Responsible Entity not obliged

- (a) The Responsible Entity is not at any time obliged to make a withdrawal offer. Subject to the Corporations Act and any ASIC Instrument, the Responsible Entity may, in its discretion, determine to allow and/or accept withdrawal requests from certain types of Unitholders or Unitholders of certain classes of Units.

- (b) Unless the Responsible Entity determines otherwise, the Units first issued to a Unitholder are Units to be first redeemed for that Unitholder.

12.12 Payment from the Assets

The Responsible Entity may, with the consent of a Unitholder, transfer Assets to that Unitholder in lieu of cash in satisfaction of its obligations under this clause 12. The Assets being transferred must be valued in accordance with clause 13 as at the relevant Pricing Day and such value must equal the total of the Withdrawal Price (less the Exit Fee) of the Units being redeemed and any Costs associated with the transfer (which must be paid for out of, or deducted from, the Assets being transferred).

12.13 Redemption date

- (a) Subject to the Clearing and Settlement Rules of a CS Facility and the Market Rules (while the Fund is Quoted) Units are taken to be redeemed as at 9:00am on the Business Day immediately following the Withdrawal Date applicable to the Units and from that time payment of the Withdrawal Price (less the Exit Fee), the former holder of the redeemed Units ceases to be a Unitholder in respect of those Units and is a creditor of the Fund in respect of those redemption proceeds.
- (b) If Units are redeemed at the time referred to in clause 12.13(a), the Responsible Entity must as soon as reasonably practicable arrange for the redemption of the Units to be recorded in the Register.

12.14 Sums owed to the Responsible Entity

The Responsible Entity may deduct from the proceeds of redemption or money paid pursuant to a withdrawal offer any money due to it by the Unitholder or former Unitholder whose Units have been redeemed.

12.15 Redemption not after termination

On the earlier of:

- (a) the termination of the Fund;
- (b) the receipt by Unitholders of a notice of termination sent by the Responsible Entity; or
- (c) the passing of a resolution (in accordance with the Corporations Act) to terminate the Fund at a meeting of Unitholders,

the Responsible Entity may suspend the redemption of any Units.

12.16 Cooling off rights

The Responsible Entity need not redeem a Unit during the period the Unitholder has a right to return the Unit in accordance with section 1019B of the Corporations Act.

12.17 Off market redemption facility

Subject to the Corporations Act, while the Fund is Quoted, the Responsible Entity shall operate daily off-market redemption and withdrawal facilities if required by the Market Rules.

12.18 Order of redemption

Subject to the Corporations Act, Units withdrawn under this clause 12 shall be withdrawn in the order in which they were issued, or in such other order as determined by the Responsible Entity.

12.19 When Units cannot be redeemed

Subject to any cooling off rights under the Corporations Act, any other provision of this Constitution and the Market Rules (while the Fund is Quoted), the Responsible Entity at any time may suspend the withdrawal or issue of Units, including if:

- (a) it is impracticable for the Responsible Entity to calculate the Net Asset Value, for example because of an inability to value Assets, of closure of, or trading restrictions or suspensions on any stock, commodities, futures or securities exchanges or over-the-counter market on which any significant portion of the investments of the Fund is listed, quoted, traded or dealt, an emergency or other state of affairs;
- (b) if withdrawal would cause the Responsible Entity to breach any law, regulation or obligation under which the Responsible Entity operates;
- (c) quotation of Units on an Approved Market is suspended, halted or revoked;
- (d) the approval of the Responsible Entity as a product issuer in relation to the Units on an Approved Market is suspended or revoked;
- (e) the Fund's investments are suspended, delayed or there is a restriction on the withdrawal, issue or payment of withdrawal proceeds (as applicable), or the issuer of the investment is unable to provide a withdrawal price;
- (f) the realisation of Assets cannot be effected at prices which would be obtained if Assets were realised in an orderly fashion over a reasonable period in a stable market;
- (g) the Responsible Entity reasonably estimates that it must sell 5% or more (by value) of all Assets to meet current unmet withdrawal requests;
- (h) there have been, or the Responsible Entity anticipates that there will be, withdrawal requests that involve realising a significant amount of the Assets and the Responsible Entity considers that if those withdrawal requests are all met immediately, Unitholders who continue to hold Units may bear a disproportionate burden of capital gains tax or other expenses, or the meeting of those withdrawal requests would otherwise be to the existing Unitholders' disadvantage including a material diminution in the value of the Assets or departure from the investment strategy of the Fund;
- (i) the Responsible Entity reasonably considers that it is in the interests of the Unitholders;
- (j) it is allowed by any form of ASIC relief; or
- (k) it is otherwise legally permitted.

12.20 On market withdrawals

- (a) While the Fund is Quoted and subject to the Market Rules:

- (i) Members have the right to withdraw their Units where they contract to sell their Units on-market to the Responsible Entity;
- (ii) if the Responsible Entity acquires Units on-market to facilitate a Member's withdrawal as specified in clause 12.20(a)(i), the Responsible Entity will honour any contract to buy Units it enters into in accordance with any applicable settlement procedures under the Clearing and Settlement Rules, and Market Rules;
- (iii) subject to the Corporations Act, the price at which the Responsible Entity transacts on-market will be based on the Responsible Entity's assessment of market conditions at the time it transacts;
- (iv) any bids for the Units that the Responsible Entity places on-market will be subject to:
 - (A) the Market Rules; and
 - (B) interventions by the Market Operator, including, for example, suspensions and trading halts.
- (b) Any Units that the Responsible Entity has acquired on-market in excess of Units sold on-market by the Responsible Entity (on a particular Trading Day) will be cancelled by the Responsible Entity as soon as reasonably practicable upon or before settlement of those Units.
- (c) Subject to the Market Rules and the Corporations Act, the Responsible Entity will make a market and provide liquidity in respect of the Units for so long as the Responsible Entity is required to do so under the Market Rules, provided that the Responsible Entity does not form the view for any time period that it is not in the best interest of Members to do so. The Responsible Entity may make a market and provide liquidity in respect of the Units thereafter, but is not obliged to do so.

12.21 Redemption by Responsible Entity

- (a) The Responsible Entity may in its absolute discretion, upon a minimum of 3 Business Days' notice to a Unitholder, redeem all or a portion of Units held by the Unitholder in its absolute discretion:
 - (i) if the Responsible Entity believes that the Units are held in breach of prohibitions contained in this Constitution;
 - (ii) if the Responsible Entity believes that the Units are held in circumstances which might result in a violation of an applicable law or regulation, or subject the Fund to taxation or otherwise adversely affect the Fund in any material respect;
 - (iii) if the Responsible Entity determines that the Fund is uneconomical to operate;
 - (iv) if a Unitholder made a misrepresentation in acquiring its Units;
 - (v) if the Responsible Entity determines that the continued participation of a Unitholder might cause the Responsible Entity or any Unitholder to violate any law or if any litigation is commenced or threatened against the

responsible entity or any Unitholder arising out of the participation of the Unitholder in the Fund; or

- (vi) subject to the Corporations Act and the Market Rules, for any other reason that the Responsible Entity determines in its absolute discretion.

12.22 Direct withdrawals while trading is suspended

Where the Fund is Liquid and trading in the Units on an Approved Market has been suspended, for any reason, for 5 consecutive Business Days, the Responsible Entity will facilitate direct withdrawals of Units the subject of a withdrawal request, at the applicable Withdrawal Price.

13. Valuation

13.1 Periodic valuations

The Responsible Entity may value Assets at any time, and must do so in accordance with and when required by the Corporations Act.

13.2 Valuation methods

The valuation methods and policies applied by the Responsible Entity must be consistent with ordinary commercial practices for valuing property of the relevant kind and produce a value that is reasonably current.

13.3 Valuation of Assets

Assets must be valued at their market value unless:

- (a) there is no market for an Asset; or
- (b) the Responsible Entity reasonably believes that the valuation does not represent the fair value of the Asset,

in which case, the Responsible Entity may use another valuation method or policies in respect of the Asset provided that the method or policies for calculating the value must be consistent with ordinary commercial practice for valuing that type of scheme property and produce a value that is reasonably current at the time of valuation.

Unless the Responsible Entity otherwise prescribes, the value of Assets as at a specified day is to be determined using the values as at the close of business on the day.

13.4 Valuation binding

The Responsible Entity's determination of the value of the Fund and of any Asset and of any part of the Fund, in the absence of fundamental error, final and binding on all Unitholders.

13.5 Net Asset Value

- (a) The Responsible Entity must ascertain the Net Asset Value of the Fund on each Valuation Date, which must occur:
 - (i) on the last Business Day of each calendar month and if the Responsible Entity determines that more regular Valuation Dates are appropriate in the circumstances in which case the Valuation Date may also occur on any

Business Day as the Responsible Entity determines and notifies in any product disclosure statement or information memorandum issued in respect of the Fund; or

- (ii) if a Market Disturbance occurs within ten Business Days before the last Business Day of a calendar month, the last Business Day of the next calendar month unless the Responsible Entity determines that an earlier Business Day within that calendar month is appropriate in the circumstances.
- (b) For the purposes of any valuation of the Net Asset Value of the Fund, if any Assets are valued by reference to a day or date then that day or date may be any period of 24 hours determined by the Responsible Entity.

13.6 Approved Markets

- (a) If trading in any investments of the Fund is conducted on an Approved Market in any foreign country during the course of trading on that market but after the period of 24 hours determined by the Responsible Entity under clause 13.5(b) for the purposes of valuation of the Net Asset Value of the Fund, such trading shall be deemed for the purposes of such valuation to occur in the period of 24 hours so approved.
- (b) For the purposes of this Constitution, if any Assets are disposed of or acquired by the Responsible Entity, the acquisition or disposal shall be treated as a Liability incurred, or an Asset acquired, as of the date of the transaction, notwithstanding that pursuant to the Market Rules of any Approved Market on which such transaction occurs, the liability to pay the purchase price (whether upon the Responsible Entity or the purchaser) is deemed to arise on a different date.

14. Income and Capital Distributions

14.1 Distributions if Fund is not an AMIT

This clause 14 applies in respect of any Financial Year in which the Fund is not an AMIT and is not seeking to qualify as an AMIT.

14.2 Determination of Distributable Income

The Responsible Entity must:

- (a) collect, or cause to be collected, all income in respect of the Fund;
- (b) determine the Distribution Periods for each class of Units, provided that immediately following one Distribution Period, another Distribution Period must commence and in respect of each class of Units, one Distribution Period must end at 11:59pm on 30 June in the relevant calendar year;
- (c) determine the Distributable Income of each class of Units for each Distribution Period; and
- (d) determine (in its absolute discretion) the classification of an item as being on income or capital account, and the extent to which the income of the Fund is to be adjusted by allocating such amount as it considers proper in accordance with generally accepted accounting principles to a provision or reserve account for the purpose of meeting anticipated expenses or obligations of the Fund.

14.3 Distributable Income

- (a) The total amount to be distributed in respect of a Distribution Period must be transferred to a distribution account or dealt with in accordance with the Responsible Entity's distribution facility:
 - (i) as soon as reasonably practicable after the Distribution Period End Date; and
 - (ii) in any event, within 90 days after the Distribution Period End Date.
- (b) Unitholders in a class on the Register at 11:59pm on each Distribution Period End Date have an absolute, vested and indefeasible interest in the Distributable Income (less any share of income paid to Unitholders under clause 12.6(a)(ii)) for that class of Units for the relevant Distribution Period. Subject to any Class Rights and any determination made under clause 12.6(a)(ii), the Income Entitlement of each Unitholder is the Unitholder's pro rata proportion of the Distributable Income, for the relevant Distribution Period calculated according to the number of Units held by the Unitholder in the class compared to the total number of Units in issue in the class, as at 11:59pm on each Distribution Period End Date, less amounts:
 - (i) specified in clause 14.4; and
 - (ii) required to be deducted under this Constitution or by law including all Taxes.

14.4 Power to accumulate or defer amounts

Any Income Entitlement which it is impractical to distribute in a Distribution Period becomes an Asset and is deemed to accrue to the next Distribution Period including any balance representing a fraction of one cent arising as a consequence of the rounding off of the Income Entitlement to whole cents.

- (a)

14.5 Responsible Entity to notify Unitholders

The Responsible Entity must notify Unitholders of the composition of their Income Entitlement and the types of income and capital.

14.6 Other distributions

In addition to any Income Entitlement and subject to any Class Rights, the Responsible Entity may, at any time, distribute any amount (capital or income) by way of cash, in specie or bonus Units to Unitholders pro rata to the number of Units held as at a time determined by the Responsible Entity.

14.7 Distribution reinvestment facility

- (a) The Responsible Entity may offer a reinvestment facility under which Unitholders may elect to reinvest all or a proportion of their Income Entitlement in applications for further Units of the same class on each Distribution Period End Date.
- (b) If clause 14.7(a) applies, the Responsible Entity is taken to have received and accepted an Application to reinvest distributions at the time the relevant Unitholder becomes presently entitled to the Income Entitlement which is to be reinvested.

- (c) The procedure for reinvestment of distributions and the Application Price payable for the further Units by a Unitholder is to be determined by the Responsible Entity and is to be notified to Unitholders as and when the facility is offered.
- (d) A request for cancellation of the operation of the reinvestment facility by a Unitholder in respect of a distribution for a particular Distribution Period and those Distribution Periods following, is effective only if the Responsible Entity receives written notice of this request at least 21 days prior to the end of a Distribution Period or such other period determined by the Responsible Entity.
- (e) The Responsible Entity may withdraw or suspend the operation of a reinvestment facility at any time.

14.8 Payment of distributions

- (a) The Responsible Entity must arrange for, and prepare, the payment of the Income Entitlements and any capital distributions to Unitholders.
- (b) Payment of the Income Entitlements and any capital distributions to Unitholders may be paid in any manner the Responsible Entity decides.
- (c) If a cheque is issued by the Responsible Entity and returned unclaimed, or not presented for payment within 6 months, or an attempted deposit is rejected, the cheque or deposit will be cancelled and the Income Entitlement or capital distribution reinvested in Units at the Application Price prevailing at the time the cheque or deposit is cancelled.
- (d) Income Entitlements must be paid to Unitholders out of the distribution account as soon as practicable after the Distribution Period End Date.

15. Taxation

15.1 Payment of Tax

Subject to clause 15.3, the Responsible Entity shall pay out of the Fund such Taxes or instalments thereof as may be payable pursuant to and in accordance with the provisions of the Tax Act in respect of any financial year. The Responsible Entity may realise any investments held by the Fund to pay such Tax. The Responsible Entity shall, in respect of the amount or amounts of such payments, debit the provision for Taxes made pursuant to this clause 15.1 in respect of any financial year being a year of income to which such Taxes relate and:

- (a) if the provision for Taxes made in the financial year (being a year of income) exceeds the Taxes payable in the year of taxation in respect of such year of income, the Responsible Entity shall credit the provision in respect of the next succeeding year of income with such amount or, if the Responsible Entity so determines, treat such amount (or any part thereof) as income of the Fund; and
- (b) if the provision made for Taxes in respect of any year of income is less than the amount of Taxes payable in the year of tax in respect of that year of income, the Responsible Entity shall be entitled, as it sees fit, to debit the excess of Taxes to such provision for Tax as the Responsible Entity may have made in respect of the next succeeding year of income of the Fund, and if any balance thereafter remains to debit the same to such account as the Responsible Entity thinks fit.

15.2 Deduction of Tax amounts owing

The Responsible Entity may deduct from any money payable to a Unitholder any Taxes which it is required or authorised to deduct or which it considers should be deducted.

15.3 Lien for Taxes

The Responsible Entity shall be entitled to:

- (a) deduct, or set aside, from a Unitholder's entitlement to Distributable Income or, in any financial year when the Fund is an AMIT, from a Unitholder's distribution under clause **Error! Reference source not found.**; or
- (b) be reimbursed by a Unitholder for:
 - (i) any Tax which the Responsible Entity is obliged by the Tax Laws to deduct from any Distributable Income of the Fund or, in any financial year when the Fund is an AMIT, from any distributions made under clause 16.4(c)**Error! Reference source not found.**, from any Withdrawal Price payable to that Unitholder or from any amounts attributed to that Unitholder; or
 - (ii) any other amount which in the Responsible Entity's reasonable opinion may become payable in connection with that Unitholder. The Responsible Entity may exercise a lien over any Units of that Unitholder in the Fund and otherwise take steps to recover such monies as a debt due to the Fund.

15.4 Tax Liability of the Responsible Entity

Subject to the Act, the Responsible Entity shall not incur any liability, be liable to account to anyone (including any Unitholder or former Unitholder) or be liable for any loss or damage as the result of the exercise of the discretion or Power set out in or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of the discretion or Power pursuant to this Constitution relating to Tax notwithstanding any error or miscalculation in any provision made for Tax.

15.5 GST

- (a) All payments have been calculated without regard to GST. If the whole or any part of any payment is the consideration for a Taxable Supply for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the GST Amount, either concurrently with that Payment or as otherwise agreed in writing.
- (b) Any reference to a cost or expense in this Constitution excludes any amount in respect of GST forming part of the relevant cost or expense when incurred by the relevant payee for which the payee can claim a full or reduced Input Tax Credit.
- (c) The payee will provide to the payer a Tax Invoice.
- (d) For the avoidance of doubt, clauses 15.5(b) to 15.5(c) do not apply to any amounts paid to Unitholders as refunds of application payment, Distributable Income (or, in any financial year when the Fund is an AMIT, distributions under clause 16.4(c)**Error! Reference source not found.**) or Withdrawal proceeds.
- (e) For the purposes of this clause 15, the following words have the following meanings, unless the context requires otherwise:

Input Tax Credit means "input tax credit" as defined in the GST Act.

Taxable Supply means "taxable supply" as defined in the GST Act.

Tax Invoice means "tax invoice" as defined in the GST Act.

16. Attribution Managed Investment Trust

16.1 AMIT election

The Responsible Entity may, in accordance with the Tax Act, resolve to:

- (a) make a choice with respect to the Fund to be an attribution managed investment trust for the purposes of the Tax Act; and
- (b) if the Responsibility Entity has made a choice under clause 16.1(a), make a choice to treat each class of Units in the AMIT as being a separate attribution managed investment trust for the purposes of the Tax Act.

16.2 Application of AMIT provisions

Notwithstanding any other provision of this Constitution which relates to the units in, income of, or distributions from, the Fund (including but not limited to clause 18) the provisions of this clause 16 apply when clause 14 does not apply.

16.3 Attribution under AMIT regime

- (a) Terms used in this clause 16.3 that are not otherwise defined in this Constitution take their meaning from the Tax Act.
- (b) The attribution model of taxation as set out in Division 276 of the Tax Act (or any successor provisions) applies to the Fund for each AMIT Income Year.
- (c) Subject to clause 16.3(d), and without limiting its other rights and Powers provided for under this Constitution, the Responsible Entity may make any determination or choice, and may take any action which it can or is required to make or take under the Tax Act for the relevant AMIT Income Year, including, but not limited to:
 - (i) the determination of the taxable amounts of the Fund to be attributed in relation to the Fund or each class or Units; and
 - (ii) the determination of those Assets and Liabilities allocated to a class of Units; and
 - (iii) the determination of the trust components and determined trust components of a particular character for the Fund or for each class of Units, including the determination of the particular character of an item and the timing of its inclusion in a trust component and a determined trust component; and
 - (iv) the attribution of the member component of a particular character for each Unitholder (including a former Unitholder); and
 - (v) the making of alterations to the relevant trust components and determined trust components and the relevant member components and determined

member components as a result of any unders or overs (those terms having the definitions attributed to them in Division 276 of the Tax Act); and

- (vi) the giving of an annual statement, within the period set out in the Tax Act, to each Unitholder (including a former Unitholder for the relevant AMIT Income Year) which includes information that reflects:
 - (A) the amount and character of each member component of the Unitholder (or a former Unitholder); and
 - (B) any cost base adjustment in respect of the Units of the Unitholder (or of a former Unitholder); and
- (vii) the amendment of an annual statement that has been issued to a Unitholder (or a former Unitholder) within the time specified in the Tax Act, and the basis upon which the annual statement issued is to be amended.
- (d) In making a determination or choice, or in taking an action, as contemplated by clause 16.3(c), the Responsible Entity must ensure that any determination, allocation or attribution is made on a fair and reasonable basis.
- (e) The Responsible Entity is entitled to attribute the determined trust component to determine the member component and determined member component of a particular character in respect of an AMIT Income Year to be attributed to a Unitholder as a result of a redemption or withdrawal (or any other similar action) of Units by that Unitholder.
- (f) Notwithstanding any other provision of this Constitution, if the Responsible Entity has given a statement to a Unitholder in accordance with Division 276 of the Tax Act (or any successor provisions), the Responsible Entity is not required to otherwise notify a Unitholder of their proportionate share of the Fund's income or capital, including income of the trust estate or net income calculated under Division 6 of Part III of the Tax Act.

16.4 Distributable Income and Distributions

- (a) The Responsible Entity must:
 - (i) collect, or cause to be collected, all income in respect of the Fund;
 - (ii) determine the Distribution Periods for each AMIT in relation to the Fund, provided that immediately following one Distribution Period, another Distribution Period must commence; and
 - (iii) determine the Distributable Income of each AMIT in relation to the Fund for each Distribution Period.
- (b) The preparation of the accounts of the Fund under clause 17.3 is not to be regarded as a determination of the method for calculating the Distributable Income.
- (c) Notwithstanding any other provision of this Constitution, the Responsible Entity is entitled to determine the amount to be distributed to Unitholders for an AMIT Income Year including, but not limited to, after taking into consideration:
 - (i) to extent to which reserves or provisions need to be made; and

- (ii) any distributions (income or capital) in addition to the Distributable Income by way of cash, in specie distribution or bonus Units to Unitholders pro rata to the number of Units held as at a time determined by the Responsible Entity.

16.5 Payment of distributions

- (a) Subject to clauses 16.6 and 16.7, the Responsible Entity must arrange for, and prepare, the payment of any amounts determined under clause 16.4 to Unitholders as soon as practicable after the Distribution Period End Date.
- (b) Payment of any amounts determined under clause 16.4 to Unitholders may be made in any manner the Responsible Entity decides.
- (c) If a cheque is issued by the Responsible Entity and returned unclaimed, or not presented for payment within 6 months, or an attempted deposit is rejected, the cheque or deposit will be cancelled and the amount determined under clause 16.4 reinvested in Units at the Application Price prevailing at the time the cheque or deposit is cancelled.

16.6 Power to accumulate or defer amounts

Subject to the Corporations Act and the terms of issue, the Responsible Entity has the discretion to accumulate and not distribute an amount to Unitholders for an AMIT Income Year.

16.7 Distribution reinvestment arrangements

- (a) Subject to the approval of the Responsible Entity, a Unitholder may elect to reinvest some or all of any distribution payable to that Unitholder by acquiring additional Units in accordance with this Constitution in which case:
 - (i) the Responsible Entity will be treated as having received and accepted an application to reinvest distributions; and
 - (ii) Units issued in respect of such application are to be issued at an Application Price determined by the Responsible Entity.
- (b) The procedure for reinvestment of distributions (and any changes in the procedure) shall be determined by the Responsible Entity and notified to Unitholders from time to time.
- (c) The Responsible Entity may withdraw or suspend the operation of a reinvestment arrangement at any time.

16.8 Responsible Entity indemnity

Subject to the Corporations Act, the Responsible Entity is entitled to be indemnified out of the Assets for:

- (a) any tax liabilities incurred by the Responsible Entity as a result of the application of clause 16.3; or
- (b) any liability that results from a Unitholder (or a former Unitholder) making a claim against the Responsible Entity in relation to a tax liability of the Unitholder (or a former Unitholder) that results from the application of clause 16.3,

together with any other Costs, expenses or liabilities incurred by the Responsible Entity as a result of incurring any such liability.

17. Accounts and Audit

17.1 The Responsible Entity must:

- (a) prepare, or cause to be prepared, accounts of the Fund in accordance with generally accepted accounting principles and approved accounting standards as they apply to managed investment schemes; and
- (b) ensure that the accounts are maintained, audited and reported on as prescribed by the Corporations Act.

17.2 The Responsible Entity must appoint an independent registered company auditor to audit the accounts of the Fund. Subject to the Corporations Act, the Responsible Entity may remove and subsequently replace any Auditor.

17.3 The accounts of the Fund must be kept and prepared by the Responsible Entity in accordance with applicable Australian accounting standards and the Corporations Act. The Responsible Entity may in relation to the recording of Liabilities record any provision or reserve as contemplated by the definition of Liabilities as it deems necessary to give a true and fair view of the financial position of the Fund.

17.4 The Responsible Entity must report to Unitholders concerning the affairs of the Fund and their holdings as required by the Corporations Act. Subject to the Corporations Act, the person preparing the report may determine the form, content and timing of it.

17.5 The Responsible Entity will cause:

- (a) the Auditor to audit and report on the accounts; and
 - (b) the auditor of the Compliance Plan to audit and report on the Compliance Plan,
- each in the manner required by the Corporations Act.

18. Powers of Responsible Entity

18.1 Powers of investment

- (a) Without limiting any other Power, the Assets may be invested in, or represented by, any form of Property. The Responsible Entity is to have regard to clauses 18.1(b) and 18.1(c) in exercising its discretion as to the types of Property into which the Fund is to be invested.
- (b) Subject to the Corporations Act, the Responsible Entity must seek out investments which provide support for:
 - (i) the development of workers' participation in the ownership and control of their work organisations and places;
 - (ii) the production of high quality and properly presented products and services;
 - (iii) the development of locally based ventures;

- (iv) the development of appropriate technological systems;
 - (v) the amelioration of wasteful and polluting practices;
 - (vi) the development of sustainable land use and food production;
 - (vii) the preservation of endangered eco-systems;
 - (viii) activities which contribute to human happiness, dignity and education;
 - (ix) the dignity and well-being of non-human animals;
 - (x) the efficient use of human waste;
 - (xi) the alleviation of poverty in all its forms; or
 - (xii) the development and preservation of appropriate human buildings and landscapes.
- (c) The Responsible Entity must seek to avoid investments which it considers to unnecessarily:
- (i) pollute land, air or water;
 - (ii) destroy or waste non recurring resources;
 - (iii) extract, create, produce, manufacture or market materials products, goods or services which have a harmful effect on humans, non-human animals or the environment;
 - (iv) market, promote or advertise products or services in a misleading or deceitful manner;
 - (v) create markets by the promotion or advertising of unwanted products or services;
 - (vi) acquire land or commodities primarily for the speculative gain;
 - (vii) create, encourage or perpetuate militarism or engage in the manufacture of armaments;
 - (viii) entice people into financial over commitment;
 - (ix) exploit people through the payment of low wages or the provision of poor working conditions;
 - (x) discriminate by way of race, religion or sex in employment, marketing or advertising practices; or
 - (xi) contribute to the inhibition of human rights generally.

18.2 Powers of the Responsible Entity

The Responsible Entity has all the Powers in respect of the Fund, the Assets and the Liabilities that it is legally possible for a natural person, trustee or corporation to have including all and any Powers:

- (a) to acquire, develop, maintain, deal with, invest in and sell any property as it sees fit and in its discretion;
- (b) which it could exercise if it were the absolute and beneficial owner of the Assets;
- (c) to incur liabilities and obligations of any kind (including to grant indemnities and guarantees, to make representations, to give warranties and undertakings and enter into any sort of futures, derivative, swap, option contract or arrangement or instrument or combination of any of these) and including of a speculative nature;
- (d) to borrow, procure financial accommodation and raise money for the purposes of the Fund whether or not on the security of the Assets;
- (e) to lend money and on-lend or provide financial accommodation to any person;
- (f) to issue debentures, grant mortgages and grant or give any security over, create any interests in (including security interests), or encumber, the Assets;
- (g) to carry on any business;
- (h) to fetter future discretions;
- (i) to sell, transfer, encumber or otherwise deal with, any of the Assets or any interests in the Assets as part of any securitisation or repurchase arrangement undertaken in connection with the Fund; and
- (j) to enter into any form of contract in exercise of any Power in paragraphs (a) to (i) above.

18.3 When and how the Responsible Entity may exercise Powers

The Responsible Entity may decide how and when to exercise its Powers in its absolute discretion.

18.4 Agents

- (a) The Responsible Entity may appoint or engage Agents to act on behalf of the Responsible Entity including to exercise any Power under this Constitution for, on behalf of and in the name of the Responsible Entity.
- (b) The appointment or engagement of an Agent may be on such terms as the Responsible Entity determines in its absolute discretion.
- (c) Subject to the Corporations Act, an Agent may be an associate or related body corporate of the Responsible Entity.
- (d) To the extent permitted by law, the Responsible Entity may waive or excuse on the terms as it thinks fit any breach by an Agent or other person of their obligations to the Responsible Entity in connection with the Fund.
- (e) The appointment, engagement or other contracting of an Agent under this clause 18.4 does not relieve the Responsible Entity from the obligation to properly perform all of its duties and obligations as responsible entity of the Fund, including to ensure that all services that are to be provided, or any Powers that are to be exercised, by an Agent on behalf of the Responsible Entity are properly provided, exercised or otherwise performed.

18.5 Advisers

- (a) The Responsible Entity may engage or appoint any Adviser to provide it with advice or specialist services or to otherwise assist it in managing the Fund, exercising any Power, discharging any duty or obligation or dealing with any Asset or Liability.
- (b) Subject to the Corporations Act:
 - (i) an Adviser may be an associate or related body corporate of the Responsible Entity; and
 - (ii) the Responsible Entity is not liable for the acts or omissions of an Adviser if the Responsible Entity exercised reasonable care in selecting the Adviser.
- (c) An Adviser who is an associate or related body corporate of the Responsible Entity must be engaged on arm's length terms and is to be remunerated out of the Assets for such services (which is to be in addition to any remuneration payable to the Responsible Entity under clause 23).

18.6 Powers to suspend issue and redemption of Units

Despite anything expressed or implied to the contrary in this Constitution, and in addition to clause 12.19 in respect of withdrawals, the Responsible Entity may determine that it is desirable for the protection of the Fund or in the interests of the Unitholders (as a whole) to suspend the issue or redemption of Units or the calculation of Application Prices or Withdrawal Prices due to a Market Disturbance.

The Application Price or Withdrawal Price for Units the subject of an Application or withdrawal request accepted by the Responsible Entity before the suspension but for which the Application Price or Withdrawal Price has not yet been determined, or received and accepted by the Responsible Entity during the suspension, shall be the Application Price or Withdrawal Price next determined after the end of the suspension.

18.7 Operation

- (a) None of the clauses in this clause 18 limit or restrict the operation of any other clause in this clause 18 or any other clause of this Constitution.
- (b) The Powers, discretions and rights of the Responsible Entity under this clause 18 must be exercised subject to any duties imposed under the Corporations Act.

19. Retirement of Responsible Entity

19.1 While a Registered Scheme

While the Fund is a Registered Scheme, the Responsible Entity:

- (a) may retire as the responsible entity of the Fund as permitted by law; and
- (b) must retire as the responsible entity of the Fund when permitted by law.

Subject to the Corporations Act, the Responsible Entity may appoint in writing, or propose the appointment of, another person to be the Responsible Entity.

19.2 While not a Registered Scheme

While the Fund is not a Registered Scheme, the Responsible Entity:

- (a) may retire as the responsible entity of the Fund on not less than 1 month's notice to Unitholders (or any shorter period as they agree); and
- (b) must retire as the responsible entity of the Fund if required by law or by all Unitholders.

On retirement, the Responsible Entity may appoint in writing another person to be the Responsible Entity.

19.3 New Responsible Entity

Any replacement Responsible Entity must execute a deed by which it covenants to be bound by this Constitution as if it had originally been a party to it.

19.4 Release

When it retires or is removed, the Responsible Entity is released from all obligations in relation to the Fund arising after the time it retires

20. Rights and Liabilities of Responsible Entity

20.1 Responsible Entity as a Unitholder

Subject to the Corporations Act and the Market Rules (while the Fund is Quoted), the Responsible Entity and its Affiliates may hold Units.

Subject to the Corporations Act, when the Responsible Entity is a Unitholder, the Responsible Entity is entitled to all of the benefits and rights of any other Unitholder under this Constitution and the Corporations Act.

20.2 Other capacities

Despite any other provision in this Constitution but subject to the Corporations Act and the Market Rules, the Responsible Entity or its Affiliates are permitted to:

- (a) deal with their Affiliates, the Fund or any Unitholders including acquire or deal with any interest in, or Property of, a fund, scheme or trust of which the Responsible Entity or any of its Affiliates is the manager, trustee or responsible entity;
- (b) deal with itself in relation to the Fund if, in respect of such dealing, it is acting in different capacities;
- (c) be interested in any contract or transaction with its Affiliates, the Fund or any Unitholder and retain for its own benefit any profits or benefits derived from any such contract or transaction;
- (d) act as investment manager in relation to the Fund; or
- (e) act as responsible entity, trustee, investment manager or a similar capacity in relation to any other fund, scheme or trust.

The Responsible Entity and its associates may retain and are not liable to account to the Unitholders or any other person for any profits or benefits arising from or in connection with any action, contract or transaction referred to in paragraphs (a) to (e) above.

21. Limitation of liability and indemnity of Responsible Entity

21.1 No limitation on other statutory protection

Nothing in this Constitution limits, prejudices or otherwise affects the operation of the provisions of any statute under which the Responsible Entity may obtain relief from a breach of trust or other duty in respect of the Fund.

21.2 Responsible Entity may obtain and rely on advice etc.

In respect of the operation and administration of the Fund or otherwise in connection with the Fund, the Responsible Entity may obtain and rely on:

- (a) the Register;
- (b) the opinion, advice, statements or information obtained from solicitors or barristers (whether or not they are instructed by the Responsible Entity), bankers, accountants, auditors, valuers, brokers, underwriters, advisers or consultants and any other person who is an expert appointed or otherwise engaged by the Responsible Entity who are in each case believed by the Responsible Entity in good faith to have the relevant expertise in relation to the matters upon which they are consulted;
- (c) any document believed by the Responsible Entity 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 the purposes of or in connection with the Fund; and
- (d) any other document or information from any Unitholder or other person (whether or not the person is appointed or otherwise engaged by the Responsible Entity) believed by the Responsible Entity in good faith to be the original or a copy thereof.

21.3 Limitation of Responsible Entity's liability

Subject to the Corporations Act, the Responsible Entity is not liable to the Unitholders in contract, tort, statute or otherwise for any loss or damage suffered in relation to the Fund (regardless of how that loss or damage has arisen), including, without limitation, loss or damage arising because of any of the following acts or omissions:

- (a) the Responsible Entity obtaining or relying on (in accordance with clause 21.2) any of the opinions, advice, statements, documents or information referred to in clause 21.2;
- (b) the Responsible Entity performing or not performing its duties or exercising or not exercising any of its Powers;
- (c) the Responsible Entity doing or omitting to do any act because it is impracticable or impossible and such impracticability or impossibility is beyond the control of the Responsible Entity;
- (d) any act or omission of any person (whether or not the person is appointed or otherwise engaged by the Responsible Entity), including fraudulent or unauthorised acts or omissions;
- (e) the Responsible Entity doing or omitting to do any act by reason of law; or

- (f) the Responsible Entity doing or omitting to do any act at the Request of a Unitholder.

21.4 Liability not limited

Clause 21.3 does not apply in respect of any loss or damage if and to the extent that the loss or damage is caused by the actual fraud or gross negligence or wilful default of the Responsible Entity and while the Fund is Registered Scheme, a failure of the Responsible Entity to properly perform its duties.

21.5 Liability limited to Assets

Subject to the Corporations Act, the liability of the Responsible Entity to any person (including a Unitholder) in respect of the Fund is limited to the extent to which the Responsible Entity is actually indemnified out of the Assets for that liability.

The Responsible Entity is not required to do anything:

- (a) unless the Responsible Entity is satisfied that its liability is satisfactorily limited; or
- (b) for which it does not have a full right of indemnity out of the Assets available for that purpose and in respect of which there are, in the Responsible Entity's opinion, sufficient Assets to fully discharge any such liability.

21.6 Responsible Entity indemnity

To the extent permitted by the Corporations Act and in addition to any indemnity the Responsible Entity has under this Constitution or in law, the Responsible Entity is entitled to be indemnified and is entitled to be reimbursed in full out of the Assets for, or pay from the Assets, any liability or loss incurred by it in the proper performance of its duties in relation to the Fund, whether incurred by exercise of its Powers under this Constitution or by any other act, omission or circumstance. The Responsible Entity may realise any Assets in whole or in part for the purposes of such indemnity.

21.7 Indemnity extends to cover acts or agents to delegates

To the extent permitted by the Corporations Act, if for any reason (including because of the operation of section 601FB(2) of the Corporations Act), the Responsible Entity is liable for the direct or indirect acts or omissions of any person (whether or not the person is appointed or otherwise engaged by the Responsible Entity), then the indemnity in clause 21.6 extends to also include that liability.

21.8 Indemnity continues

The indemnity in clause 21.6 continues to apply after the Responsible Entity retires or is removed as responsible entity of the Fund.

21.9 Right of indemnity applies even if unrelated breach of trust

The Responsible Entity's right of indemnity and reimbursement under this Constitution in respect of a matter will not be lost or impaired by reason of a separate matter (whether arising before or after the indemnified matter) in respect of which those rights of indemnity and reimbursement do not apply.

22. Liability of Unitholders

- 22.1 Subject to clauses 22.3 and 22.4 and the Market Rules (while the Fund is Quoted), the liability of a Unitholder is limited to the amount, if any, that remains unpaid on the Unitholder's Units.
- 22.2 A Unitholder need not indemnify the Responsible Entity or any creditor of the Fund if the Assets are not sufficient to discharge the Liabilities or meet the claim of any creditor of the Fund or the Responsible Entity in respect of the Fund.
- 22.3 The Responsible Entity is entitled to be indemnified by a Unitholder to the extent that the Responsible Entity incurs any liability for Tax or Cost as a result of:
- (a) that Unitholder's action or inaction; or
 - (b) an act or omission requested by that Unitholder; or
 - (c) any other matter arising in connection with the Units held by that Unitholder.
- 22.4 Except as provided in this Constitution, the recourse of the Responsible Entity and any creditor is limited to the Assets.

23. Remuneration and Expenses

- 23.1 Despite any other provision of this Constitution, the right of the Responsible Entity to be paid fees out of the Assets, or to be indemnified out of the Assets for the Liabilities or any liabilities or expenses incurred in relation to the performance of its duties is available only in relation to the proper performance of those duties.

23.2 Fees

Subject to clause 23.1 and 23.6, the Responsible Entity is entitled to receive and retain the following fees for its own use being fees which (unless stated otherwise) are to be paid out of the Assets:

- (a) a management fee of up to 4% per annum of the Gross Asset Value of the Fund. The management fee is calculated and accrues daily and is payable within 30 days of the end of each month. The Responsible Entity may determine whether this fee is payable out of income or out of the capital of the Fund or both;
- (b) an Entry Fee payable from the relevant application payment within 10 days after the relevant Units are issued;
- (c) an Exit Fee payable from the relevant redemption proceeds within 10 days after the relevant Units are redeemed; and
- (d) the performance fee set out in Schedule 1 to this Constitution.

23.3 Expenses

Subject to clause 23.1, in addition to the remuneration payable to the Responsible Entity and any other rights to indemnity or reimbursement which the Responsible Entity may have under this Constitution or at law, the Responsible Entity is indemnified, and is to be kept indemnified, out of the Assets for all Costs, liabilities, damages and losses reasonably and properly incurred by the Responsible Entity in connection with the Fund, the Assets and the Liabilities or in performing its duties and obligations including in connection with:

- (a) this Constitution and the formation of the Fund, any modification, repeal or replacement of this Constitution and lodgement with ASIC;
- (b) the preparation, review, printing, distribution and promotion of any disclosure document, product disclosure statement or information memorandum in respect of Units and any material supplemental, or in replacement of, such document;
- (c) the identification, acquisition, disposal, sale, purchase, transfer, insurance, custody of, management, supervision, repair, maintenance and any other dealing with, the Assets. Without limitation, this includes the due diligence costs associated with an acquisition of Property which may or may not become an Asset;
- (d) any registry services associated with the Fund;
- (e) any proposed or actual investment;
- (f) the operation, administration, management, investment or promotion (including in connection with any proposed or actual issue of Units) of the Fund, the Assets or the Liabilities, including investment management, property and project management Costs and any fees payable to ASIC;
- (g) the preparation, printing and postage of distribution statements or any other communications with Unitholders;
- (h) the cost of admission of the Fund to quotation on an Approved Market and compliance with the Market Rules of that Approved Market;
- (i) the cost of participating in a CS Facility and compliance with the Clearing and Settlement Rules of the CS Facility;
- (j) convening and holding meetings of, and dealings with, Unitholders (other than expenses payable under section 252C(4) of the Corporations Act), and the implementation of any resolutions passed at a meeting of Unitholders;
- (k) all Taxes (provided the Tax is not income tax on the personal account of the Responsible Entity) including any goods and services tax or value added tax payable in respect of the fees payable to the Responsible Entity or another person and bank fees and other Costs;
- (l) appointing or otherwise engaging Advisers and Agents;
- (m) preparation and audit of the taxation returns, financial statements and reports and accounts of the Fund;
- (n) computer and other facilities relating to the matters in paragraphs (c), (f) and (m);
- (o) termination of the Fund and the retirement or removal of the Responsible Entity and the appointment of a new Responsible Entity;
- (p) the initiation, prosecution, defence and compromise of any court proceedings, arbitration, claim or other dispute concerning the Fund or any Asset or Liability including proceedings against the Responsible Entity (except to the extent that a court has found that the Responsible Entity did not properly perform its duties);

- (q) any Costs incurred in connection with, or as a result of, any agreement in connection with the Fund to which the Unitholders are parties and any Costs which any such agreement provides are to be borne by the Fund or paid for out of the Assets;
- (r) the establishment, operation and maintenance of the Register, including without limitation, any Costs of any person employed or appointed by the Responsible Entity in connection with that Register (notwithstanding it may be the Responsible Entity's agent);
- (s) preparing, changing and auditing the Responsible Entity's compliance with, the Compliance Plan;
- (t) fees (including insurance premiums) of external directors of the Responsible Entity, or external members of the Responsible Entity's compliance committee;
- (u) the preparation and lodgement of accounts, applications and returns with ASIC;
- (v) the Liabilities;
- (w) any amounts payable by the Responsible Entity pursuant to any agreement entered into by it for the benefit of, otherwise relating to or in connection with, the Fund;
- (x) any Costs in connection with borrowings, securities lending or other financial accommodation (including capital repayments, interest and discount and other bank fees) and any other bank account or services offered by any financial institution (including electronic funds transfer and other electronic banking or payment services or any other method of making payments to Unitholders) in connection with the Fund;
- (y) any Costs (including an apportionment of such Costs) of handling complaints from Unitholders and resolving disputes with them, including all Costs in connection with the Responsible Entity being a member of an external complaints handling scheme to which a dispute may be referred under clause 26 (including as required by the terms of the Responsible Entity's licence, in applying for membership, application and ongoing membership fees, in maintaining membership and any Costs in connection with any complaints or matters to or to be, or proposed to be, dealt with by, the manager of such a scheme in accordance with the terms of such a scheme);
- (z) the termination and winding up of the Fund; and
- (aa) complying with any law, and any request or requirement of ASIC or an Exchange.

23.4 Sharing of fees

The Responsible Entity may, in its absolute discretion, pay from the remuneration and fees it receives in accordance with this clause 23, fees or commissions to its advisers, agents, delegates and employees or any licensed or authorised dealer, broker or adviser.

23.5 Power to realise Assets or make provisions

The Responsible Entity may:

- (a) realise any Asset of the Fund in whole or in part; and/or
- (b) from the Fund, set aside and make a provision or provisions,

in order to meet any Costs that are required to be made under this Constitution in connection with the Fund. The Responsible Entity may pay any items referred to in this clause directly out of the Assets or it may pay them itself and be reimbursed out of the Assets.

23.6 Waiver of fees and expenses and differential fees

- (a) The Responsible Entity may waive or take a lower fee than it is entitled to under this Constitution, and may defer payment for any period. If payment is deferred, the fee still accrues daily until paid.
- (b) Subject to the Corporations Act or any ASIC Instrument, and without limiting clauses 23.2 or 23.6(c) the Responsible Entity may agree fee arrangements (including, without limitation, fees under clause 23.2) with one or more Unitholders, or class of Unitholders, on a basis that differs from those applying to other Unitholders who hold Units of the same class on such terms and conditions as the Responsible Entity determines.
- (c) The Responsible Entity may, in its absolute discretion, to the extent permitted under the Corporations Act or any ASIC Instrument, agree with a Unitholder, or a class of Unitholders to rebate a percentage of the remuneration or fees charged to the account of a Unitholder or class of Unitholders. The Responsible Entity may either pay such rebated amounts to the Unitholder in such manner as determined by the Responsible Entity or reinvest the rebated amounts into additional Units of the same class for the benefit of the relevant Unitholder as elected by the Unitholder.

23.7 GST

- (a) The fees payable to the Responsible Entity under clause 23.2 are inclusive of GST.
- (b) If the Responsible Entity exercises a Power to transfer Assets to a Unitholder as a distribution, the Responsible Entity may as it sees fit in its absolute discretion either:
 - (i) require the Unitholder receiving the Asset as a distribution, or another Unitholder receiving Assets or cash as a distribution, to pay some or all of any GST on any supply arising from the distribution (and any Unitholder so required must then indemnify the Responsible Entity against that GST, and pay to the Responsible Entity an amount equal to that GST); or
 - (ii) itself pay some or all of that GST and recover the amount of that GST out of the Assets.

24. Notices

24.1 A notice given under this Constitution must be in writing (which includes a fax and any electronic format) and may be given in any form and manner as prescribed by the Responsible Entity (including any electronic means of communication). A notice is deemed to be received by a Unitholder as follows:

- (a) if posted, within 2 Business Days from the date of postage;
- (b) if sent by facsimile to the correct facsimile number, on receipt of a message from the machine from which it was sent confirming that the notice was sent in its entirety; or
- (c) if sent by electronic mail, within 1 Business Day from the date of sending provided that no error message has been received.

25. Unitholders' Meetings

25.1 Convening of meetings

The Responsible Entity may convene a meeting of Unitholders at any time in the manner prescribed by the Corporations Act and the Market Rules (while the Fund is Quoted).

25.2 Unitholders' request for meetings

- (a) While the Fund is a Registered Scheme:
 - (i) the Responsible Entity must convene a meeting of Unitholders upon receipt of a Unitholders' request made in accordance with the Corporations Act; and
 - (ii) Unitholders may convene a meeting of Unitholders in accordance with the Corporations Act.
- (b) While the Fund is not a Registered Scheme, the Responsible Entity must convene a meeting of Unitholders upon receipt of a request by Unitholders with at least 15% of the votes that may be cast on the resolution if such request is in accordance with sections 252B(2) and (3) of the Corporations Act. Sections 252B (6), (7) and (8) of the Corporations Act apply to a meeting convened under this clause 25.2(b).

25.3 Notice of meeting

- (a) While the Fund is a Registered Scheme, notice of a meeting of Unitholders must be given in the manner and form prescribed by the Corporations Act and the Market Rules (while the Fund is Quoted).
- (b) While the Fund is not a Registered Scheme, at least 10 days' notice of a meeting of Unitholders must be given to Unitholders, or such shorter notice as they agree.
- (c) Subject to the Corporations Act, unintentional omission to give notice to, or non-receipt of notice by, a Unitholder does not invalidate a meeting or resolution passed at a meeting, of Unitholders.

25.4 Right to attend and speak

The Responsible Entity, its agents, representatives and advisers are entitled to attend and speak at a meeting of Unitholders.

25.5 Proxies

A Unitholder may appoint a proxy in the manner provided by the Corporations Act to attend and vote at a meeting. An appointment is valid even if it does not contain all the information required by section 252Y(1) of the Corporations Act. A proxy and any authority under which it may be made must be received by the Responsible Entity at a place, facsimile number or electronic address specified in the notice of meeting at least 48 hours, or such shorter time specified by the Responsible Entity in the notice of meeting, before the time of the meeting.

25.6 Corporate representatives

A body corporate may be represented at a meeting by an individual appointed pursuant to the Corporations Act. The appointed person may, subject to the terms of the appointment, exercise all of the powers of the body corporate that the body corporate could exercise at a meeting or in voting for a resolution.

25.7 Chair

- (a) A meeting of Unitholders will be chaired by a person appointed by the Responsible Entity or otherwise in accordance with the Corporations Act.
- (b) The decision of the chairman on any matter relating to the conduct of the meeting is final.
- (c) Subject to the Corporations Act, the chairman has power to:
 - (i) adjourn a meeting for any reason to a place and time as the chairman thinks fit; and
 - (ii) cancel a meeting or postpone a meeting for any reason to a place and time as the chairman thinks fit.

25.8 Quorum

The quorum for a meeting of Unitholders of the Fund, or Unitholders of a class of Units is at least 2 Unitholders (or 2 members of that class, as applicable) in person or proxy, unless there is only one Unitholder or of a class of Units (as applicable) in which case the quorum is that Unitholder. The quorum must be present at all times during the meeting.

If a quorum is not present within 30 minutes of the scheduled commencement time of the meeting, the meeting is:

- (a) if convened pursuant to clause 25.2, dissolved; or
- (b) otherwise, adjourned to such date, time and place as the Responsible Entity specifies.

If a quorum is not present at the resumed meeting within 30 minutes of the scheduled commencement time of the meeting, the meeting is at the discretion of the Responsible Entity dissolved or adjourned to such other date, time and place as the Responsible Entity specifies.

25.9 Majority votes

At any meeting of Unitholders convened pursuant to the provisions of this Constitution, unless the Corporations Act otherwise provides or the express terms of this Constitution otherwise require, a resolution is duly passed if Unitholders holding the Required Majority of votes vote in favour of the resolution.

25.10 Voting - not a Registered Schemes

- (a) While the Fund is not a Registered Scheme, voting is by a show of hands, unless a poll is duly demanded or the proposed resolution is required by this Constitution or by law to be decided by a percentage of Units.
- (b) Subject to the rights, obligations and restrictions attaching to any particular Units, each Unitholder who is present in person or by proxy has:
 - (i) on a show of hands, one vote; and
 - (ii) on a poll, one vote for each dollar of the value of whole Units held by the Unitholder.

25.11 Voting - Registered Scheme

While the Fund is a Registered Scheme, voting shall be conducted in accordance with Part 2G.4 of the Corporations Act.

25.12 Demand for a poll

A poll may be demanded on any resolution before a vote is taken, and before or immediately after the voting result on a show of hands are declared by:

- (a) the chairman;
- (b) Unitholders present in person or by proxy, collectively holding at least 5% or more of the votes that may be cast on the resolution on a poll; or
- (c) at least 5 Unitholders present in person or by proxy entitled to vote on the resolution.

25.13 Joint holders

The joint Unitholder first named in the Register is entitled to exercise the voting rights of jointly held Units.

25.14 Resolution in writing

To the extent permitted by the Corporations Act, Unitholders may pass a resolution without a meeting being held if all Unitholders entitled to vote on the resolution are given a document setting out the resolution and Unitholders holding the Required Majority of Units, sign a document containing a statement that they are in favour of the resolution set out in the document.

25.15 Resolution binding

A resolution duly passed at a meeting of Unitholders duly convened and held in accordance with the Corporations Act and this Constitution, or duly passed in writing in accordance with this Constitution, binds all Unitholders, or all Unitholders of a class of Units, as applicable (in that capacity) whether or not the Unitholder was present at the meeting (in the case of a resolution passed at a meeting) or whether or not they signed the resolution (in the case of a resolution in writing) and each Unitholder is bound to give effect to the resolution.

25.16 Objections

Any objection made to a vote cast can only be made at the meeting. The chairman's decision as to the validity of a vote is final and binding on all Unitholders, or all Unitholders of a class of Units, as applicable, and for all purposes.

25.17 Minutes of meeting

Minutes of a meeting executed by the Chairman constitutes conclusive evidence of the business transacted at a meeting.

25.18 Meetings of a class

This clause 25 applies to meetings of Unitholders of a class with any necessary modifications.

26. Complaints Handling

- 26.1 A Unitholder or Applicant who is dissatisfied with the Fund or a service provided by the Responsible Entity in relation to the Fund is entitled to make a complaint to the Responsible Entity.
- 26.2 For the purposes of this clause 26, a complaint will be taken to be an expression of dissatisfaction made to the Responsible Entity in relation to the products and services being provided to the Unitholder or Applicant, which in this case relates to the Fund as the product and the services supplied in relation to the Fund, including the complaints handling process itself, if a resolution is explicitly or implicitly expected.
- 26.3 The Responsible Entity must comply, as an Australian financial services licensee, with the dispute resolution requirements under s912A(2) of the Corporations Act for Retail Clients in dealing with a complaint of a Unitholder or Applicant that is a Retail Client.
- 26.4 The Responsible Entity must apply the following procedure in relation to complaints of a Unitholder or Applicant that is a Wholesale Client:
- (a) the Responsible Entity must designate certain of its officers, employees or agents to be responsible for handling complaints;
 - (b) the Responsible Entity will ensure that a complaint is acknowledged in writing immediately and the Unitholder or Applicant making the complaint is treated courteously; and
 - (c) the Responsible Entity will ensure that a final written response will be provided to the Unitholder or Applicant within 45 days of receipt of the Complaint and in a manner that is fair to the Unitholder or Applicant and Responsible Entity or its officers or employees against whom it is made. The final written response will inform the Unitholder or Applicant of the final outcome of their complaint within the internal dispute resolution scheme (including the remedies available to the Unitholder or Applicant).

27. Amendments to the Constitution

- 27.1 While the Fund is a Registered Scheme, subject to the Corporations Act and the Market Rules (while the Fund is Quoted), this Constitution may be amended:
- (a) by a resolution passed by at least 75% of the votes that may validly cast on the resolution;
 - (b) in accordance with the conditions and restrictions of any applicable ASIC Instrument (including ASIC Instrument 2016/489); or
 - (c) by deed executed by the Responsible Entity.
- If this Constitution is amended in the manner contemplated in paragraphs (a) or (b) above, the Responsible Entity may give effect to the amendments by executing a supplemental deed.
- 27.2 While the Fund is not a Registered Scheme, the Responsible Entity may by deed amend this Constitution.

Schedule 1 Performance Fee

1. The Responsible Entity is entitled to be paid out of the Assets within 30 days of the end of a Performance Fee Period a performance fee equal to the positive amount (if any) that is the sum of the DPF accruals for each Business Day in the Performance Fee Period calculated as follows:

$$\text{DPF} = 15\% \times (A-B) \times \text{Adjusted NAV}$$

if for a Business Day:

DPF	The performance fee accrual for a Business Day.
A	The percentage change in the sum of the Adjusted NAV (calculated as at the close of business on the Business Day) and any amount distributed to Unitholders or to be distributed to Unitholders that ceased to be an Asset.
B	The percentage change in the published value of the S&P/ASX Small Industrials Accumulation Index (or such other index determined by the Responsible Entity and of which 30 days' written notice is provided to Unitholders) as at the close of business on the Business Day from the close on the previous Business Day.
Adjusted NAV	The Net Asset Value for the relevant Business Day except that the following amounts shall be disregarded in determining the Assets and Liabilities (as applicable): <ul style="list-style-type: none"> (i) any accrued Performance Fees; (ii) any unpaid distribution amounts; and (iii) any application money or property in respect of Units which have not yet been issued, any proceeds of redemption which have not yet been paid or any amount to which a Unitholder is presently entitled.

2. For each Business Day in a Performance Fee Period, the sum of the Daily Performance Fee accruals for the Business Days in the Performance Fee Period which have elapsed is to accrue as a Liability provided that the sum is a positive amount.
3. If the sum of the DPF accruals for each Business Day in the Performance Fee Period is a negative amount, the Responsible Entity is not entitled to a Performance Fee for that Performance Fee Period. The negative amount shall be subtracted from the opening accrual for the first Business Day in the following Performance Fee Period for the purposes of calculating the performance fee for that following Performance Fee Period.