
Aura Amplify Master Trust – Trust Deed

Aura Funds Management Pty Ltd (Manager)

Aura Capital Pty Ltd (Trustee)

	Office of State Revenue NSW Treasury	
Client No:	99424809	2289
Duty:	\$500.00	Trans No: 10328528-001
Assd details:	_____	

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Date: 10 Feb 2022

Parties

- 1 **Aura Capital Pty Ltd ACN 143 700 887** of Level 24, 52 Martin Place, Sydney NSW 2000 (Trustee)
- 2 **Aura Funds Management Pty Ltd ACN 607 158 814** of Level 24, 52 Martin Place, Sydney NSW 2000 (Manager)

The parties agree

1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary;
- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act; and
- (c) which is defined in the GST Act, but is not defined in the Dictionary or the Corporations Act, has the meaning given to it in the GST Act.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this deed.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

1.4 Trustee

A reference to the Trustee is to its capacity as trustee of the Trust only unless the context requires otherwise.

1.5 Pro rata as between Unitholders

A reference to 'pro rata as between Unitholders' or a similar reference means, unless the context requires otherwise, proportional to the number of Units each Unitholder holds adjusted for the Paid Up Proportion of each Unit of that Unitholder of the relevant Class.

2 The Trust

2.1 Unit Trust

The Trust is a unit trust called *Aura Amplify Master Trust* or such other name as determined by the Trustee from time to time.

2.2 Benefit and binding

The Trust is constituted for the benefit of the Unitholders. This deed is binding on the Unitholders, Trustee and Manager.

2.3 Commencement

The Trust commences when the Trustee issues (which it may) the first Unit for consideration.

2.4 Duration

The Trust ends 80 years (less one day) after the date of this deed or at an earlier time provided by this deed or by law.

2.5 Vesting

The Property vests in the Trustee on trust for the Unitholders.

2.6 Holding of Property

- (a) The Trustee must hold the Property as a separate fund which is not available to meet liabilities of another trust.
- (b) The Trustee may mix and mingle Property with other property to the extent legally permitted or as otherwise contemplated in this deed provided it:
 - (i) ensures the Property and Trust Liabilities related to the Trust are separately identified from that of each other trust or client; and
 - (ii) is permitted under law.

2.7 Trust Liabilities

Trust Liabilities are determined in accordance with the Accounting Standards subject to the exclusions in paragraphs (a) and (b) in the definition of Trust Liabilities.

2.8 Registered Scheme

The Trustee may apply to have the Trust Registered. While the Trust is Registered, this deed is subject to Schedule 3.

2.9 MIT Status

The Trustee may make a choice under section 275-115 of the Tax Act (relating to capital gains tax choices of managed investment trusts or MITs applicable to the Trust's Covered Assets) within the period permitted under section 275-115, if the Trustee is entitled under section 275-115 to make that choice.

2.10 AMIT Status

- (a) The Trustee may make an election into the AMIT Regime under the Tax Act.
- (b) Notwithstanding any other provision of this deed, where the AMIT Choice has been made, the Trustee is authorised to take actions and make decisions in order to enable the Trust to comply with the requirements of the Tax Act in respect of AMITs notwithstanding that such actions or decisions may be inconsistent with this

deed including, without limitation, that the Trustee will not be obliged to provide information under this deed which is inconsistent with the Tax Act as it applies to an AMIT.'

2.11 Clearly defined interests

- (a) The terms of this deed are intended to ensure that the rights to income and capital arising from each Unit are clearly defined for the purposes of section 276-10(1)(b) and section 276-15 of the Tax Act.
- (b) The Trustee may not exercise any rights or powers in a manner which would be contrary to clause 2.11(a).

3 Units

3.1 Beneficial interest

The beneficial interest in the Property is divided into Units.

3.2 Rights of Unitholders

- (a) A Unit confers on its holder an undivided beneficial interest in the Property of the relevant Class as a whole, subject to Trust Liabilities, not in parts or single assets.
- (b) All Units confer identical interests and rights except as otherwise provided in this deed or by their respective Terms of Issue.

3.3 Issue

The Trustee may create and issue one or more different Classes of Units:

- (a) with interests and rights differing from each other Class of Units, including different fees where agreed with the holder of those Units prior to issue of the Unit and relevant Sponsor Units (if relevant);
- (b) where each Investment and Follow-On Investments referable to a Class will unless otherwise determined by the Trustee form a separate pool of Property (**Class Pool**) and will be funded only by the Unitholders of that Class by way of issue of Units in that Class;
- (c) where, except in relation to Sponsor Distributions payable to Sponsor Unitholders under clause 12, only holders of Units in a Class have a beneficial interest in the respective Class Pool to which those Units relate and are entitled to any distributions from those Units in accordance with clause 12; and
- (d) where each Class may be denominated in a different currency to another Class.

3.4 Parts of Units

- (a) A part of a Unit may be created and issued and dealt with in the proportion that the part bears to a whole Unit.
- (b) The Trustee may at any time:
 - (i) convert partly paid Units to fully paid Units that together reflect the Paid Up Proportion of those first mentioned Units provided that this does not alter the:

- (A) aggregate beneficial interest held by a Unitholder prior to the conversion; or
 - (B) value of the relevant Unitholder's aggregate holding of Units; and
- (ii) split or merge Classes provided that this does not cause a defeasance in any interests of a Unitholder.

3.5 Unitholders not to interfere

A Unitholder must not and has no right to:

- (a) interfere with, or exercise powers of, the Trustee in respect of any Property, Trust Liability or obligation;
- (b) lodge a caveat affecting any Property, in respect of which it has no rights or powers; or
- (c) take part in the management of the business of the Trust and has no power to bind the Trust or other Unitholders.

This clause 3.5 does not affect the rights of Unitholders which are specifically set out in this deed.

3.6 Sponsor Units

- (a) The Trustee may prior to or on or about the First Closing Date for a Class, create and issue not more than 1,000 Units (**Sponsor Units**) in respect of a Class Pool to Sponsors or their nominees. Sponsor Units are of a different Class to all other Units.
- (b) Subject to their Terms of Issue, Sponsor Units carry the same rights and entitlements as other Units:
 - (i) including the right to vote on any resolution of Unitholders, subject to the other provisions of this deed, provided that they have no right to vote on a resolution to:
 - (A) change the Trustee or Manager;
 - (B) terminate the Trust; and
 - (ii) in addition carry the right to Sponsor Distributions (in addition to the same distribution rights as Ordinary Holders) as specified under this deed. The Sponsor Unitholders will be entitled as a Class to receive between them Sponsor Distributions in respect of a Class Pool pro rata to the number of Sponsor Units they hold.
- (c) Sponsor Units will not bear any fees (including Management Fees or Sponsor Distributions).
- (d) Notwithstanding any other provision of this deed, the rights and entitlements of the Sponsor Units may not be varied by amendment of this deed or otherwise, except with:

- (i) the prior approval in writing of Sponsor Unitholders holding 75% of the Sponsor Units on issue at the time the approval is given (which approval is binding on all Sponsor Unitholders); and
 - (ii) unanimous approval of Ordinary Holders.
- (e) Where Sponsor Units have not been issued, the provisions of this deed relating to Sponsor Distributions will not apply.

3.7 Manager Units

- (a) The Trustee may at any time create and issue any number of Units in respect of a Class Pool to the Manager or Manager Related Persons (**Manager Units**). Manager Units are of a different Class to all other Units.
- (b) Any votes cast by holders of Manager Units will be disregarded in respect of any resolution referred to in clause 3.6(b)(i).
- (c) Manager Units will not bear any fees (including Management Fees, Performance Fees, Establishment Fees or Sponsor Distributions) but will otherwise carry the same rights as Ordinary Units in the relevant Class.
- (d) Notwithstanding any other provision of this deed, clause 3.7(c) may not be varied by amendment of this deed or otherwise without the prior written consent of all Unitholders who hold Manager Units.

3.8 Different terms of issue

- (a) The Trustee may at any time issue Units in an existing or new Class with different Terms of Issue, provided such Terms of Issue do not adversely affect the rights of existing Unitholders (if any) in the relevant Class or cause a defeasance in any interests of a Unitholder.
- (b) For the purposes of this clause 3.8, matters that are taken not to adversely affect the rights of Unitholders include (but are not limited to):
 - (i) the Lock Up Period applicable to Unitholders;
 - (ii) any notice periods (as may be required under the relevant provisions of this deed);
 - (iii) the frequency of redemptions that may be available to Unitholders; or
 - (iv) the type of Reports provided to Unitholders.

4 Becoming a Unitholder

4.1 Applications

The Trustee may issue Units in a Class to a person on a Closing Date provided that the person has executed an Application Form (if required by the Trustee) and has met all other requirements of the Trustee and this deed.

4.2 Rejection or withdrawal of Application Form

- (a) The Trustee may in its absolute discretion reject an Application Form and may at any time by notice to a person reduce (but not increase) that person's Capital Commitment specified in their Application Form, each without giving a reason.
- (b) An Application Form, once submitted, may not be revoked or altered without the Trustee's consent which may be withheld in its discretion.

4.3 New Unitholders

Each Unitholder consents to the admission of new Unitholders and increases in Capital Commitment of Unitholders in accordance with this deed.

5 Issue of Units

5.1 Issue Price

- (a) The Issue Price of a Unit in a Class issued:
 - (i) prior to or on 20 Business Days after the First Closing Date is \$1.00; and
 - (ii) thereafter, is the Net Unit Value plus Transaction Costs.
- (b) The Trustee may offer and issue Units on terms that the Issue Price is payable by one or more instalments at such times as the Trustee determines.
- (c) Transaction Costs are to be determined by the Trustee on advice from the Manager.

5.2 Issue of Units

- (a) The Trustee may determine that Units issued under this deed within 20 Business Days of each other are to be treated as having been issued on the first such issue date.
- (b) Units are created and issued on a date determined by the Trustee after it has accepted a duly executed Application Form (if relevant) and received either the consideration or a commitment in a form acceptable to the Trustee to provide the consideration.
- (c) Units issued against consideration paid other than in cleared funds 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 Trustee.
- (d) The Trustee will issue certificates or other forms of confirmation (at its discretion) confirming a holding of Units. Such certificates or confirmations are not conclusive evidence of a holding of Units.

5.3 Separate bank account

The Trustee, Manager or custodian of the Trust (as applicable) may hold application money for Units in a single account containing application money for one or more funds.

6 Redemption of Units

6.1 Redemptions

- (a) The Trustee may allow the redemption of Units in a Class in its absolute discretion, pursuant to the applicable Terms of Issue for that Class.
- (b) The Trustee may, at any time and in its discretion, apply what it considers excess cash of the Trust to redeem a pro rata portion of each Unitholder's Units in a Class or reduce the Paid Up Proportion on those Units to the extent such cash represents a return of capital.
- (c) As at the date the last distribution is made to Unitholders in a Class in accordance with clause 12.3 and there are no more assets in the relevant Class, the Trustee may elect to cancel the relevant Units in that Class.

6.2 Lock Up Period

A Unit may not be redeemed during the Lock Up Period for that Unit, unless otherwise approved by the Trustee in its absolute discretion.

6.3 Redemption Price

Subject to clause 6.7, the Redemption Price at which Units in a particular Class may be redeemed under clause 6.1 is the Net Unit Value less Transaction Costs (to the extent that they are referable to the Class to which the Unit being priced belongs), of the Unit as at the date the Unit is redeemed and if partly paid Units are in issue in that Class, the Net Unit Value will be adjusted to reflect the Paid Up Proportion for that Unit to the extent not already reflected in the Net Unit Value.

6.4 Situation where Trust is not liquid

- (a) If the Trust is Registered and not liquid:
 - (i) a Unitholder may request the Trustee to redeem the Unitholder's Units only in accordance with the terms of any current withdrawal offer made by the Trustee in compliance with the provisions of the Corporations Act regulating offers of that kind; and
 - (ii) if there is no withdrawal offer currently open for acceptance by Unitholders, a Unitholder has no right to make a redemption request.
- (b) Despite paragraph (a) above, the Trustee does not have to make a withdrawal offer.

6.5 Redemption proceeds

- (a) Subject to clause 6.5(b), the Trustee must determine the portion of the Redemption Price or proceeds for a Unit which represents Distributable Income to which the Unitholder was presently entitled in accordance with clause 12.11, for the Accounting Period in which the Unit was redeemed. Any remaining amount of the Redemption Price or proceeds will represent a return of Trust capital attributable to that Unit.
- (b) If an amount is to be included in determining the Net Income of the Trust as a result of realising Property to satisfy a particular redemption request, the Trustee

must allocate such amount to the redeeming Unitholder and not to any other Unitholder to the extent reasonably practicable and to the extent that the realisation funds the redemption by including this amount in the calculation of the Distributable Income for the redeeming Unitholder under clause 6.5(a).

- (c) The Trustee must advise the Unitholder in respect of any Unit redeemed pursuant to this clause 6.5 of the extent to which the Redemption Price or proceeds represents a return of Trust capital attributable to that Unit and a distribution of Distributable Income.

6.6 No obligation to pay from Trustee funds

In no circumstances is the Trustee obliged to pay any part of the Redemption Price out of its own funds.

6.7 Valuations of redemption assets

Where the Trustee determines that Property must be realised to satisfy a redemption request (**Sale Assets**) and the Trustee (in consultation with the Manager) determines that a sale of such Property is not executable before the date for calculation of the Redemption Price, the Trustee may:

- (a) delay the calculation of the Redemption Price applying to that redemption request until such time as the realisation value of the last of the Sale Assets has become known to the Trustee; and
- (b) calculate the Redemption Price by adjusting each of the variables in clause 6.3 to the extent required so that the Redemption Price reflects the actual or estimated realisation value of the Sale Assets.

6.8 Suspension of redemption

Where applicable, the Trustee may at any time suspend the determination of the Net Trust Value or Net Unit Value, redemption or issue of Units or the payment of redemption proceeds, in the Trust for up to 120 days, if:

- (a) it is impracticable or not possible for the Trustee to calculate the Net Trust Value, for example because of closure of, or trading restrictions on, stock or securities exchanges, an emergency or other state of affairs, or on declaration of a moratorium in a country where the Trust invests (or the Trust has exposure to through any derivative in which the Trust invests) or under the Corporations Act;
- (b) the Trustee reasonably estimates that it must sell 2% or more (by value) of all Property to meet current unmet redemption requests;
- (c) there have been, or the Trustee anticipates that there will be, redemption requests that involve realising a significant amount of the Property and the Trustee considers that if those redemption requests are all met immediately, Unitholders who continue to hold Units may bear a disproportionate burden of tax or other amounts,
- (d) the Trustee determines that meeting those redemption requests would be to the existing Unitholders' disadvantage including a material diminution in the value of the Property;
- (e) the Trustee reasonably considers that it is in the interests of Unitholders; or

- (f) it is otherwise legally permitted.

Such suspension may be in respect of all or some Classes or Units held by a Unitholder.

7 Capital account management and Classes

7.1 Decreases in the Paid Up Proportion

The Trustee may in its absolute discretion decrease the Paid Up Proportion of a Unit to the extent that the Trustee:

- (a) makes a distribution to the holder of the Unit of part or all of the cash which had been called on the Unit for purposes which in the opinion of the Trustee no longer require the amount;
- (b) makes the distribution within three months of the call; and
- (c) gives notice to the affected Unitholders at the time of the distribution of the amount to which this clause applies.

7.2 Fees, expenses or tax referable to a Class

Unless otherwise specified in this deed and subject to clause 3.3, where an amount must be determined under this deed as being referable to a Class, the Trustee must:

- (a) calculate each Unitholder's share of Trust Income, Distributable Income (or in any Accounting Period when the Trust is an AMIT, their distribution under clause 12.14) and any other distribution to be paid pursuant to this deed by first calculating for each Class held by the Unitholder that proportion of the relevant amounts that are used in the calculation in clause 12 that the Trustee determines is properly referable to the Class and the Units held by the Unitholder and then aggregating those amounts; and
- (b) determine the proportion of net proceeds of realisation under clause 30.3 that is properly referable to each Class and each proportion referable to each Class must be distributed pro rata to Unitholders of that Class according to clause 12.

7.3 No limitation of Class rights or obligations

Clause 7.2 does not limit the extent to which a Class may have:

- (a) rights, obligations or restrictions other than or in addition to those specified in clause 7.2 different from any other Class; or
- (b) different rights, obligations or restrictions because of a determination by the Trustee under this deed, including in relation to issue and redemption prices applicable to different Classes.

7.4 Determination of variables in relation to a Class

The Trustee in making any determination of variables properly referable to a Class under this deed must ensure that any variable which relates:

- (a) only to a particular Class (as applicable) is solely referable to that Class; and

- (b) to more than one Class, is apportioned between those Classes in the same proportions as the aggregate value of Units on issue in each Class as at the most recent Valuation Time bears to the aggregate value of Units in all Classes on issue at that Valuation Time, to which the variable relates.

7.5 Value of Classes of Units

In clause 7.4, the value of Units in a Class is the Net Trust Value for that Class at the most recent Valuation Time.

7.6 Loans from Unitholders

- (a) A loan to the Trust or advance of money for the benefit of the Trust made by a Unitholder (**Lending Unitholder**) does not increase the Lending Unitholder's rights under this deed as a Unitholder.
- (b) The amount of the loan or advance by a Lending Unitholder to the Trust is a debt owed by the Trust to the Lending Unitholder on the terms and conditions, including interest on the loan or advance, agreed to by the Lending Unitholder and the Trustee.

8 Capital calls

8.1 When Units cannot be issued

The Trustee must not issue Units while a Capital Call Relief Event subsists other than for the purposes set out in clause 8.3.

8.2 When calls can be made

The Trustee may from time to time in accordance with this clause 8 make calls on Unitholders for any or all their unpaid Capital Commitment to that Class. The Trustee may at any time by notice in writing to relevant Unitholders of a Class revoke or postpone a call.

8.3 When calls cannot be made

The Trustee must not make a call while a Capital Call Relief Event subsists other than for the purpose of:

- (a) satisfying a debt, obligation or Outgoing of the Trust or any investment that the Trust is legally bound to make; or
- (b) making an investment which has been approved by Special Resolution.

8.4 Call notice

The Trustee must give Unitholders of a Class at least 5 Business Days' written notice of a call specifying the:

- (a) amount of the call;
- (b) purpose of the call; and
- (c) due date for payment, being the same for all Unitholders.

8.5 Amount of call

- (a) The amount of each Unitholder's call is equal to their Capital Commitment in a Class (as at the date of the call notice) multiplied by the increase in the Paid Up Proportion.
- (b) Unitholders of a Class of Units that do not bear any fees (including Management Fees) will be taken to have paid to the Trust (as a Capital Contribution) that part of a call referable to those fees (including Management Fees) as and when such calls are made or invoiced under clause 21.4 on all other Unitholders of that Class.

9 Capital Call Relief Events

The Trustee must within 5 Business Days after a Capital Call Relief Event and may at other times, give written notice to each Unitholder, of the amount in the reasonable opinion of the Trustee:

- (a) should be reserved by the Trust for contingencies (including Follow-On Investments), fees payable to the Trustee or Manager, Outgoings, and amounts required to meet obligations to a third party to which the Trustee is bound (including the Trust making an Investment); or
- (b) is otherwise necessary, desirable or conducive to the interests of the Trust or Unitholders.

10 Adjustment of Capital Commitments

10.1 Adjustment

At any time determined by the Trustee, without limiting clause 10.2, the Trustee may by notice to Unitholders reduce the Capital Commitments of the Unitholders (pro rata as between the Unitholders).

10.2 Liability

Upon any reduction of Capital Commitments in respect of a Class under this deed, the liability of a Unitholder to pay the difference between the original Capital Commitment and the reduced Capital Commitment, in respect of a Unit in a Class it holds, ceases and the Issue Price is reduced by the difference.

11 Defaults

11.1 Defaulting Unitholders

A Unitholder is a **Defaulting Unitholder** if:

- (a) the Unitholder is prohibited by an applicable law from being a Unitholder of the Trust;
- (b) an Insolvency Event occurs in relation to that Unitholder;
- (c) subject to clause 11.4(b), the Unitholder has not paid an amount called on or invoiced to it within 5 Business Days of receiving notice to do so in accordance with clauses 8 and 11.2 (as altered or extended under this deed). In such a case the

Unitholder must immediately pay into the Trust the unpaid amounts plus interest on those amounts for the period that they remain unpaid at the rate of 10% per annum (calculated and accruing daily) unless otherwise agreed with the Manager;

- (d) in the reasonable opinion of the Trustee, the Unitholder is in breach of an Investment Document (except for a breach to which clause 11.1(c) relates) which has a materially adverse effect on the Trustee, a Manager, the Trust or any Unitholder;
- (e) in the reasonable opinion of the Trustee, the Unitholder made a material misrepresentation in acquiring its Units;
- (f) the Trustee reasonably believes Units are held in circumstances which have or will result in a violation of an applicable law or regulation by the Trustee, the Manager, Trust or a Unitholder, or which has subjected, or will subject, the Trust to taxation or otherwise adversely affect the Trustee, a Manager, Trust or the Unitholders in any material respect; or
- (g) in the reasonable opinion of the Trustee, the person fails to comply with the reasonable request of the Trustee which results, or may result, in the Trustee or Trust breaching an applicable law.

11.2 Default Notice

At any time after a breach by a Unitholder of clause 8 or where clause 11.1 applies the Trustee may provide written notice (**Default Notice**) to the Unitholder specifying:

- (a) the breach or event;
- (b) any amounts that may be payable pursuant to clause 11.1(c);
- (c) any amount which in the reasonable opinion of the Trustee and verified by a Valuer would compensate the Trustee, a Manager and Trust for all losses and other amounts they incur as a result of the breach, event or in recovering unpaid amounts; and
- (d) in the case of clause 11.1(d), that failure to remedy the breach or event, within a specified period (which is not less than 10 Business Days after the notice) will result in the person becoming a Defaulting Unitholder and their Units being forfeited (except if they are already a Defaulting Unitholder).

11.3 Consequences of default

- (a) Notwithstanding any other provision of an Investment Document, while a person is a Defaulting Unitholder (or after their Units have been forfeited) all of that person's rights under an Investment Document or otherwise attaching to any Units are suspended until reinstated (if at all) by the Trustee.
- (b) For the avoidance of doubt, suspended rights under clause 11.3(a) include, but are not limited to, the right to vote, receive reports, transfer or redeem Units, be represented or participate in the Investment Committee and receive distributions.

11.4 Ceasing to be a Defaulting Unitholder

- (a) A person remains a Defaulting Unitholder until the earlier of:

- (i) the Defaulting Unitholder has remedied the breach or event or, if not fully remedied, at least to the satisfaction of the Trustee; or
 - (ii) that person's Units have been forfeited under this deed.
- (b) Where a Unitholder has not paid an amount called on or invoiced to it in accordance with clause 11.1(c), the Trustee may in its discretion reduce such Unitholder's Capital Commitment and determine such Unitholder is not a Defaulting Unitholder.

11.5 Failure to comply with Default Notice

Where a person has been issued with a Default Notice and the Defaulting Unitholder has:

- (a) not remedied the breach or event within the time specified in the notice; or
- (b) remedied the breach or event but did so after the time specified in the notice,

then, without limiting any other remedy at law of the Trustee, Manager or any Unitholder (such as commencing legal proceedings) prior to or after the notice is given, the Trustee, in its discretion, may but is not obliged to, forfeit any or all of that person's Units.

11.6 Disposal of forfeited interests

- (a) On forfeiture, a Unit becomes Property and, must be sold, disposed of, or redeemed (except where the Trustee annuls the forfeiture, which it may on conditions that it determines) on terms reasonably determined by the Trustee to be fair and equitable and recommended by the Investment Committee.
- (b) The Trustee may subject to clause 11.6(a), purchase forfeited Units. Each Unitholder irrevocably appoints the Trustee as its attorney to do anything to effect the forfeiture (including disposal) of that Unitholder's Units in accordance with this clause 11.

11.7 Purchaser of forfeited Units

The purchaser of forfeited Units:

- (a) is not bound to check the regularity of the sale or purchase price;
- (b) obtains title to the Units despite any irregularity in the sale; and
- (c) will not be subject to complaint or remedy by the former holder of the Units in respect of the purchase.

11.8 Proceeds of forfeiture

The net proceeds of any sale of a forfeited Unit must be applied in the following order, in payment of:

- (a) all calls or other amounts that were payable in respect of the forfeited Units or the respective Unitholder;
- (b) a payment to the Trust, a Manager or Trustee on behalf of the Defaulting Unitholder which, in the reasonable opinion of the Manager, equals the losses and Outgoings incurred by the Trust, a Manager or Trustee (as applicable) as a result of the default by the Defaulting Unitholder;

- (c) a payment to the Trust of any other amount which remains payable by the Defaulting Unitholder, on behalf of the Defaulting Unitholder; and
- (d) any surplus to the former registered holder (or its permitted successors or assigns) of the forfeited Units.

11.9 Failure to sell interests

If the Trustee is not able to sell forfeited Units to another eligible person within a reasonable period of time (as determined by the Manager), the:

- (a) Trustee may, by notice to the Unitholder, immediately retire the Unitholder from the Trust and procure the cancellation of the forfeited Units; and
- (b) Unitholder is not entitled to any consideration in respect of its Units and may not claim against any person connected to the Trust, a Manager or Trustee in relation to its retirement or the forfeited Units.

11.10 Forfeiture

Promptly after Units have been forfeited:

- (a) notice of the forfeiture must be given to the former registered holder of the forfeited Units; and
- (b) the forfeiture and its date must be noted in the Register,

however omission or neglect to give notice of the forfeiture will not invalidate a forfeiture.

11.11 Liability of former Unitholder

A person whose Units have been forfeited, sold, redeemed or otherwise disposed of under this clause 11, ceases to be a Unitholder in respect of the forfeited Units but remains liable to pay to the Trust:

- (a) all money (including interest and expenses) that was, at the date of forfeiture, or would have been, payable by it to the Trust in respect of the Units; and
- (b) any other amount payable by the person under an Investment Document until the Trust receives payment in full of all such money.

11.12 Unitholder acknowledgment

Each Unitholder acknowledges and agrees that the exercise of any of the rights of the Trust, Manager or Trustee under this clause 11:

- (a) may require those parties estimating or incurring a claim, loss or Outgoing that may be difficult or impractical to calculate;
- (b) bear a reasonable relationship to the damages which the parties estimate may be suffered by them and Unitholders as a result of the relevant breach;
- (c) is not unreasonable under the circumstances existing at the time of the exercise; and
- (d) does not and will not result in an entitlement of the Unitholder and its employees, officers and agents to any compensation as a result of exercising those rights,

and a failure by the Trustee, Manager or the Trust to exercise a right under an Investment Document does not relieve a Unitholder of its obligations thereunder.

11.13 Trustee's lien

From when a Unitholder fails to make a call or pay another amount due by it under an Investment Document, the Trustee will have a first and paramount lien over Units of the Unitholder and all distributions and other amounts payable to the Unitholder under an Investment Document except where to do so would cause the Unitholder to be in breach of applicable law.

12 Distributions and payment of Sponsor Distribution

12.1 General

The Trustee may in its absolute discretion make distributions of Property referable to a Class to Unitholders of that Class (other than Defaulting Unitholders) at any time except:

- (a) distributions made pursuant to clause 30.3; or
- (b) where cash or other available funds are held by the Trust, in which case it must be distributed to Unitholders of that Class, subject to clauses 12.3 and 12.7, as soon as reasonably practicable.

12.2 Distribution of non-liquid Property

- (a) Subject to clause 12.5(b), the Trustee may only make distributions of Property referable to a Class other than cash, tax credits or Marketable Securities to Unitholders of that Class with approval by Special Resolution of that Class to which the distribution is proposed to be made.
- (b) Such distributions may be subject to reasonable conditions set by the Trustee to preserve the value of the Property. The Trustee must, if directed by Special Resolution of the relevant Class, cause such assets to be valued by a Valuer prior to distribution to Unitholders of that Class.

12.3 Waterfall

- (a) The Trustee must apply Property of the relevant Class of Manager Units and Ordinary Units to make distributions to Unitholders of those Classes by allocating such Property between the Class of Manager Units and Ordinary Units pro rata to the number of Units held by each Unitholder of those Classes as adjusted to reflect each Unitholder's Paid Up Proportion as at the record date for the distribution.
- (b) The amount allocated to the holders of Manager Units under clause 12.3(a) must be distributed to the holders of Manager Units in accordance with clause 12.11(b).
- (c) Where Sponsor Units have been issued in respect of a Class Pool, the amount allocated to the Ordinary Unit Class, in respect of that Class Pool, under clause 12.3(a) must be distributed in the following order of priority:
 - (i) **(Unitholder Return)** 100% to Ordinary Holders and Sponsor Unitholders (considered together) until they have each received (including tax credits) the sum of their Capital Contributions and Preferred Return, as at the record date for the distribution. For the purposes of calculating the Unitholder

Return, any amount invoiced outside of the Trust under clauses 12.8(g) and 21.4 will be taken to be a Capital Contribution;

- (ii) **(Catch Up)** 100% to the Sponsor Unitholders (considered together) by way of Sponsor Distributions until they have received under this provision the Catch Up Percentage of the sum of the aggregate Preferred Return of Ordinary Holders and the amounts paid under this clause 12.3(c)(ii); and
- (iii) **(Split)** thereafter, in the Split Ratio.
- (d) Where Sponsor Units have not been issued in respect of a Class Pool, the amount allocated to the Ordinary Unit Class under clause 12.3(a) must be distributed to the Ordinary Holders of that Class in accordance with clause 12.11(b).

12.4 Unitholder Return exclusions

Any amount to which clause 7.1 applies is to be regarded as not having been distributed for the purpose of the Unitholder Return.

12.5 Sponsor Distribution

- (a) Sponsor Distributions are payable to Sponsor Unitholders by way of the amounts they receive pursuant to the Catch Up and Split and does not include the distributions payable to other Unitholders and is in addition to the Management Fee and any other fees to which the Trustee or Manager is entitled.
- (b) Subject to clause 12.5(a), all or part of the Sponsor Distributions may be paid by way of distribution in specie provided that Ordinary Holders of the relevant Class may require by Special Resolution of the relevant Class a Valuer to be appointed to provide a valuation on the in specie component of that distribution and either all:
 - (i) Ordinary Holders and holders of Manager Units of the relevant Classes receive a portion of their distribution entitlement as a distribution in specie of the same asset or assets, at the same time as the Sponsor Unitholders and at the same value; or
 - (ii) Ordinary Holders of the relevant Class consent to the Sponsor Distribution being paid by way of distribution in specie.
- (c) Notwithstanding any other provision in this deed, the Sponsor Unitholders (in aggregate) must not receive and are not entitled to 70% or more of each and every distribution which is made and which includes Trust Income or which would cause the Trust to no longer qualify as a MIT under the Tax Act.

12.6 Redraw

- (a) The Trustee may by notice under clause 12.6(b), redraw from past or present Unitholders of the relevant Class, on a pro rata basis, distributions paid to those Unitholders in respect of an Investment of the relevant Class for the purposes of the Trustee meeting obligations owed by it in respect of that Investment provided that no Unitholder shall be required to repay:
 - (i) any redraw amount under this clause after the third anniversary or such other period as agreed with the Trustee of the date the distribution (to which the redraw amount applies) was made to the Unitholder; or

- (ii) more than 30% of the aggregate distributions it has received from the Trust in respect of that Class.
- (b) The Trustee must provide each Unitholder of the relevant Class a notice which specifies the:
 - (i) redraw amount which must be based on the same proportion for all Unitholders of the relevant Class who have received distributions to which the redraw relates;
 - (ii) purpose and reason for the redraw; and
 - (iii) due date for payment, being the same for all Unitholders of the relevant Class, and not less than 7 days' notice.

12.7 Retention

- (a) Despite anything to the contrary in this deed, the Trustee may withhold from any distribution any amounts (including for the purposes of creating reserves) that it or the Manager reasonably believes are or may become payable by the Trust (including in respect of any actual, anticipated or contingent Outgoings, deficits, amortisation of assets, amounts payable to the Trustee or a Manager or Sponsor Unitholders (including fees) or obligations to a third party to which the Trust or the Trustee is bound) or otherwise as the Trustee may think necessary, desirable or conducive to the interests of the Trust or Unitholders.
- (b) Amounts withheld under clause 12.7(a) will remain Property until distributed or paid from the Trust.
- (c) This clause 12.7 also applies in respect of the termination of the Trust.

12.8 Management Fees and other fees

- (a) The Trustee is entitled to a fee paid from the Property, for acting as the Trustee of the Trust and holding Property.
- (b) A Manager or its nominee is entitled to be paid any Establishment Fee, Management Fee, Performance Fee and any other fees of the relevant Class pursuant to the terms of this deed and the Terms of Issue of that Class.
- (c) In calculating the Management Fee in respect of Ordinary Holders in a Class who are issued Units after the relevant First Closing Date, the Management Fee will be calculated as if the Units were issued on the relevant First Closing Date.
- (d) The Management Fee in respect of each Ordinary Unit Class is paid in the manner set out in the Terms of Issue for the relevant Units. Management Fees are to be pro rated for partial periods.
- (e) The Establishment Fee is to be paid to the relevant Manager or its nominee within seven days of the issue of the relevant Units or otherwise agreed by the Manager.
- (f) The Performance Fee in respect of each Ordinary Unit Class is paid to the relevant Manager in the period, on the terms and manner set out in the Terms of Issue for the relevant Units.

- (g) The Trustee may determine in its full discretion whether the Management Fee, Performance Fee, Establishment Fee or any other fees which the Trustee or Manager are entitled pursuant to a Disclosure Document will be paid:
 - (i) from the Trust; or
 - (ii) by invoicing Ordinary Holders of the relevant Class directly their pro rata share of the Management Fee, Performance Fee or Establishment Fee which Ordinary Holders must pay within seven days of receiving such invoice.
- (h) The Trustee or a Manager may, subject to obtaining any regulatory approval required, accept lower fees or Sponsor Distributions (including in respect of different Classes) than it is entitled to receive under this deed, or may defer payment for any period.
- (i) The Trustee or a Manager may pay a Unitholder, from its own resources, any amount which it in its discretion so determines by way of offset or rebate of fees or for any other reason (including because that Unitholder is an employee of a Manager or makes a pre-commitment to subscribe for Units) and the Manager, Trustee and that Unitholder will not be accountable to the Trust or any other Unitholder for such.
- (j) The above does not limit the fees that a Manager may be paid pursuant to the Terms of Issue of Units or otherwise agreed with Unitholders.

12.9 Distributable Income

- (a) Clauses 12.9, 12.10, 12.11 and 12.12 applies to the Trust for each Accounting Period when the Trust is not an AMIT.
- (b) Prior to the end of a Financial Year of the Trust, the Trustee may make a determination under clause 12.10 as to the method of calculating the Distributable Income for the Trust for that Financial Year.
- (c) If the Trustee does not make a determination under clause 12.9(b) above for the Trust prior to the end of a Financial Year, the Distributable Income for the Trust will be equal to the Trust Income for that Financial Year.
- (d) To the extent it is possible to do so, the Trustee must determine that the Distributable Income of the Trust for each Financial Year is at least \$1.

12.10 Determination of Distributable Income

The Trustee may determine the methodology for calculating the Distributable Income of the Trust for each Financial Year of the Trust using any method it considers appropriate. In particular, the Trustee may determine whether:

- (a) any deemed or actual:
 - (i) receipt, payment or outgoing;
 - (ii) profit, gain or loss;
 - (iii) provision or reserve; or
 - (iv) investment,

in a Financial Year in connection with the Trust is to be treated as being on income or capital account of the Trust (including treating the transfer of amounts from the corpus of the Trust as income of the Trust for any purpose);

- (b) any provisions or reserves need to be made in a Financial Year in connection with the Trust and the amount of those provisions or reserves; and
- (c) an item that is taken into account in determining the Net Income of the Trust for a Financial Year is to be taken into account in determining the Distributable Income of the Trust for that Financial Year.

12.11 Distributions of Distributable Income

- (a) A distribution made by the Trustee to a Unitholder will be taken to be a distribution of Distributable Income of an Accounting Period to the extent the Trustee determines the distribution constitutes a distribution of Trust Income.
- (b) Except as otherwise provided by this deed or the Terms of Issue for Units in a Class, Distributable Income referable to a Class must be made as between Unitholders of that Class pro rata to the number of Units held by each Unitholder as adjusted to reflect each Unitholder's Paid Up Proportion.
- (c) Each Unitholder registered at midnight on the last day of each Financial Year has a vested and indefeasible interest in a share of the Distributable Income for that Financial Year as reduced by any previous distributions in respect of the Units held by that Unitholder of Distributable Income in that same Financial Year.
- (d) Any Trust Income which exceeds the Distributable Income (each for the same Accounting Period) and has not been distributed on or before the end of the Accounting Period must be distributed by the Trustee to entitled Unitholders as soon as reasonably practicable after the end of the Accounting Period.

12.12 Change in the law

If the law changes in respect of Taxes so that any of the Trust, Trustee and Manager become subject to Taxes on income and gains derived by the Trust even where all available income is distributed to Unitholders, or regardless of the present entitlement of the Unitholders or Unitholders in a Class of Units, other than in accordance with the AMIT Regime:

- (a) the Trustee does not have to make distributions in accordance with clause 12.9(b); and
- (b) the Trustee, at its discretion, may choose when to make distributions of profits, income, capital or any taxation or franking credits that have become available in relation to the Trust.

12.13 Public Trading Trust

If and so long as the Trust is, for any reason (including that it is a public trading trust for the purposes of Division 6C of Part III of the *Income Tax Assessment Act 1936* (Cth)) to be taxed in a similar manner to a company, the Trustee may take any steps it reasonably considers necessary to comply with the law and the following applies (replacing clauses 12.9, 12.10, 12.11 and 12.12):

- (a) the Unitholders do not have a vested and indefeasible interest in a share of the Distributable Income at the end of an Accounting Period;

- (b) a distribution from the Trustee to a Unitholder will be paid from the after tax income of the Trust;
- (c) distributions paid under clause 12.13(b) will be distributed to Unitholders of a Class pro rata to their Units (adjusted for Paid Up Proportion) as at the record date for the distribution; and
- (d) the Trustee may choose when to make distributions of profits, income, capital or any taxation or franking credits that have become available in relation to the Trust.

12.14 AMIT

- (a) This clause applies:
 - (i) for each Accounting Period in which the Trust or a Class is or was an AMIT; and
 - (ii) to Attribution Amounts relating to any period in which the Trust or a Class is or was an AMIT.
- (b) The Trustee will attribute an Attribution Amount to a Unitholder in accordance with this deed.
- (c) Subject to clause 12.3, the Trustee may distribute any amount, including income or capital, to a Unitholder.
- (d) For the purposes of clauses 12.14(b) and 12.14(c) any amount the Trustee has paid or remitted in relation to Attribution Amounts attributed to a Unitholder is taken to be made for that Unitholder.
- (e) Without limiting this clause 12.14 or clause 18.3 the Trustee may:
 - (i) determine to make a choice for the purposes of subparagraph 276-10(1)(e)(i) of the Tax Act; and/or
 - (ii) determine to treat each Class as a separate AMIT.
- (f) Without limiting clause 23, the Trustee shall be indemnified out of the Property in relation any income tax liability incurred by it under a Tax Act because the Trust, or a Class, is or was an AMIT.

12.15 Distribution Reinvestment

Where the Trustee offers Distribution Reinvestment, a Unitholder may request at the time and manner determined by the Trustee to invest future Distributable Income wholly (or with the Trustee's approval, partly) in subscriptions for additional Units in the relevant Class at the Issue Price next determined after the Distribution Date at which the entitlement arises (**Distribution Reinvestment**).

12.16 Outside Fees

Unless otherwise disclosed to Unitholders pursuant to the terms of a Disclosure Document or as agreed between Unitholders and the Trustee or Manager:

- (a) Outside Fees will be retained by the Trustee, Manager, their Affiliates, Associates or nominated recipients unless otherwise determined by the Trustee; and

- (b) the Trust does not have any right, title or interests in Outside Fees.

13 Register

The Trustee must establish and maintain a register, which must specify at least the following in respect of each Unitholder:

- (a) its name and address;
- (b) the date the Unitholder becomes and ceases to be a Unitholder; and
- (c) the Capital Commitment of (as adjusted from time to time in accordance with this deed), the number of Units and Class held by and Paid Up Proportion of the Unitholder.

Each Unitholder must as soon as practicable notify the Trustee of any change in its details referred to in this clause.

14 Auditor

The Trustee may appoint and may at any time replace, as auditor of the Trust Accounts, either a registered company auditor or an audit firm.

15 Accounts, Reports and other information

15.1 Accounts

Trust Accounts will be prepared in accordance with the Accounting Standards or as required by law. The Trustee will keep the Trust Accounts.

15.2 Reporting guidelines

- (a) The Trustee or Manager may provide to Unitholders the following reports (**Reports**) to the extent they are relevant to the Class of Units the Unitholder holds and subject to the Terms of Issue of that Class:

Report	How to be given
Tax statements for the Fund or relevant Class.	To each Unitholder within 90 days after the end of the Financial Year.

- (b) Failure to provide a Report in the time period set out in clause 15.2(a) does not constitute a breach of this deed or a breach of trust by the Trustee or Manager (as applicable) provided they have used reasonable endeavours to provide the Report within such period and continue to use reasonable endeavours to provide the Report as soon as practicable or the cause of the delay is beyond the reasonable control of the Trustee or Manager.

15.3 Other information

No Unitholder has an entitlement beyond the Reports to any records or other information concerning the Trust (including its investments) except as otherwise agreed by the Trustee or Manager or where the:

- (a) Unitholder acting reasonably makes a request that is reasonable in the opinion of the Trustee or Manager relates only to information reasonably necessary for the preparation of the Unitholder's tax return in respect of the Unitholder's investment in the Trust;
- (b) Unitholder has made no more than two such requests for additional information during the 12 month period prior to the date of the request.

15.4 Specific Unitholder requirements and side letters

The Trustee or Manager may, but are under no obligation to, enter into arrangements with any Unitholder to provide additional information or an undertaking to satisfy legal or taxation requirements (including in respect of filings and the structuring of investments) of that Unitholder under the laws of any country, other than as set out in this deed provided that:

- (a) such arrangement does not affect any other Unitholder's beneficial interest in the Trust; and
- (b) the Trustee may request that Unitholder bear the costs incurred by the Trust of entering into such arrangements if it would be unreasonable for the Trust to bear these costs and the Unitholder agrees.

16 Valuation

16.1 Valuation

The Trustee or Manager may cause the Trust or its Property to be valued or revalued at any time (**Valuation Time**).

16.2 Trustee is not an expert

The Trustee is not to be regarded as having any expertise in valuation.

16.3 Method of valuation

- (a) The valuation method or policy for any type of Property is to be determined and varied by the Trustee.
- (b) The value of any Property will be the market value, the net fair value, or such other value as:
 - (i) may be appropriate to the nature of the Property; or
 - (ii) meets the Accounting Standards or Valuation Guidelines, or otherwise as approved by the Investment Committee.
- (c) The determination of the value of any Property by the Trustee, the Manager or a Valuer for any purposes contemplated in this deed is final and binding on all Unitholders.

16.4 Reliance

- (a) The Trustee may in valuing Property rely on information supplied by other persons such as the directors or managers of investments, accountants or professional valuers.

- (b) The Trustee will not be liable for acts or omissions in reliance on such information under clause 16.2(a) (except where the persons are Affiliates or Associates of the Trustee or officers or employees thereof, unless those persons are reasonably relying upon information provided by other persons such as the directors or managers of investments, accountants or professional valuers where such persons are not Affiliates or Associates of the Trustee or officers or employees thereof) where the Trustee reasonably relied upon or had no reason to question the accuracy of the information.

16.5 Valuation costs

All valuation costs are to borne by the Trust.

16.6 Calculation of Net Trust Value

The Net Trust Value must be calculated by deducting the value of the Trust's liabilities (other than liabilities representing rights attaching to Units) from the value of the Property (determined on the basis of the most recent valuation of each item), each as at the valuation time. Notwithstanding any other provision of this deed, the Trustee must calculate the Net Trust Value and Net Unit Value for the purposes of clause 5.1(a)(ii) by including as assets of the relevant Class the value of uncalled Capital Commitments to that Class to ensure the fixed and indefeasible interest of existing Unitholders in the Trust is maintained.

17 Management

17.1 Discretion

- (a) Subject to this deed, the Trustee may determine in its absolute discretion whether to exercise, and the manner, mode and time of exercise of its powers.
- (b) The Trustee must, subject to this deed, manage the Trust and its Property and liabilities while any remain.

17.2 Reinvestment

The Trustee must not apply proceeds of the realisation of Property (other than a Liquidity Investment which was not made from the realisation of other Property) to make or contribute to an investment of the Trust other than:

- (a) as set out in a Disclosure Document prior to an issue of the relevant Units;
- (b) to make a Liquidity Investment pending distribution;
- (c) as part of a bona fide reorganisation or merger of an investment of the Trust where the proceeds relate to that investment; or
- (d) any application of such proceeds approved by Special Resolution of the relevant Class.

17.3 Subsequent equity raisings

- (a) If there is an actual or proposed offer of equity interest in an Investee of a Class pursuant to an Investee Document or a transfer request in accordance with an Investee Document is received by the Trustee and the Trust does not have sufficient cash to fund that offer which is not less than \$1 million in aggregate (or

such other amount determined by the Trustee at its discretion), the Trustee must give notice of such event as soon as practicable to the Unitholders in that Class. Within 5 Business Days of receipt of such notice, the Unitholders of that Class must give notice in writing to the Trustee either:

- (i) confirming that they wish the Trust to take up the rights under the Investee Document and a binding understanding of how much they agree to increase their Capital Commitment in order to fund such;
- (ii) nominating the person to take up such rights; or
- (iii) confirming they do not wish to take up their rights.

If written notice is received by the Trustee under clauses 17.3(a)(i) or 17.3(a)(ii) within 5 Business Days of receipt of the notice from the Trustee, the Trustee must exercise such rights in accordance with such notice. If no written notice is received by the Trustee within 5 Business Days of receipt of the notice from the Trustee, the Unitholder(s) shall be taken to have rejected the offer to participate.

- (b) If Unitholders do not consent to all of the increase in the Capital Commitments under clause 17.3(a), the Trustee may offer part or all of such rights under the Investee Document to other persons (which may or may not be Unitholders):
 - (i) through the issue of Units in the same Class to such persons, provided that this does not adversely affect the MIT status of the Trust; or
 - (ii) allow such persons to invest directly in securities of the Investee,provided that in each case such terms are no less favourable than that already offered to Unitholders under this clause.
- (c) Despite anything in this deed to the contrary, a re-organisation in the number of security and/or other interests held by the Trustee in the Investee pursuant to the Investee Documents, sale agreement or any other document will not constitute a new Investment or a divestment for the purposes of this deed.
- (d) The Trustee may facilitate a subsequent equity raise under this clause 17.3 through the issue of a new Class.

17.4 Trustee and Manager

- (a) The Trustee appoints the Manager as the manager of the Trust pursuant to the Management Deed and this deed provided that the Manager has not retired or been removed under the Management Deed.
- (b) Where a Manager has been appointed, Schedule 2 will apply and prevail to the extent of any inconsistency with the other provisions of this deed.
- (c) Where there is no Manager and the Trustee is an Affiliate of Aura Funds Management Pty Ltd (ACN 607 158 814), a reference in this deed to the Manager will be a reference to the Trustee except in the definition of Manager in Schedule 1, in clause 17 and Schedule 2 and anywhere else the context requires unless the context requires otherwise.
- (d) The Trustee and Manager may notwithstanding any other provision of this deed agree between them investment managers that may be appointed by the Trustee to advise on or manage Investments.

17.5 Manager delegation

- (a) Subject to Schedule 2, the Manager, to the extent agreed with the Trustee in this deed and the Management Deed, may exercise all powers, enforce all rights and perform all obligations of the Trustee or Trust under an Investment Document, and in connection with the Trust provided such is done in accordance with the Investment Documents.
- (b) An act done by the Manager on behalf of the Trustee satisfies any obligation of the Trustee to do that thing under an Investment Document.
- (c) The Trustee as at the date of this deed, gives notice to the Unitholders that the Manager will receive the Management Fee until such time as otherwise agreed between the Trustee and the Manager.
- (d) Without limiting any other clause in this deed, each of clauses 21, 23.5, 29.8 and 29.10 will also apply to the Manager as though a reference in each of those clauses to the Trustee was a reference to the Manager.
- (e) The Manager may, subject to the Management Deed, delegate its functions to other parties, including to Related Bodies Corporate.

17.6 Manager liability

The Manager is liable (in its personal capacity) to pay the Unitholders any amount the Trustee is liable to pay to the Trust under this deed where the:

- (a) liability does not arise in respect of the exercise by the Manager of any of the Trustee's powers, rights or obligations under an Investment Document or in connection with the Trust (for which the current or former Unitholders have rights against the Manager);
- (b) the Trustee is an Associate of the Manager; and
- (c) Trustee does not satisfy the liability within 90 days of the liability arising.

Each of the Manager and the Trustee cease to be liable when and to the extent that the liability has been satisfied by any person.

18 Trustee's Powers

18.1 General powers

- (a) Subject to this deed and the Corporations Act, and, where Registered, the Trustee has throughout the world all the powers in relation to the Trust, its Property and liabilities, that it is legally possible for a natural person, corporation or trustee to have, as if it were the absolute and beneficial owner of all the Trust's property, except that it must not undertake a Restricted Activity other than in accordance with this deed. Such powers may be exercised without notice to or consent from Unitholders except as otherwise expressly stated in this deed.
- (b) Subject to clause 18.2, the Trustee's powers include, but are not limited to, causing the Trust to:
 - (i) invest in real or personal property of any nature;

- (ii) invest in financial products, or make other investments for the purpose of making returns;
- (iii) make investments through part or wholly owned entities, or investment vehicles where the Trustee or Manager (or their Related Bodies Corporate) may also be the trustee or manager;
- (iv) lend money;
- (v) enter into foreign exchange contracts;
- (vi) enter into derivatives;
- (vii) give guarantees and Security Interests over Property;
- (viii) incur liabilities and obligations of any kind (including obtaining financial accommodation);
- (ix) to grant in favour of any provider of financial accommodation (**Financier**) to the Trustee in its capacity as trustee of the Trust an irrevocable power of attorney entitling the Financier to exercise the rights of the Trustee under this deed in connection with capital calls (including, without, limitation, the right to make calls and call in capital from Unitholders) on behalf of the Trustee for so long as there is an event of default subsisting under the terms of the financial accommodation provided by the Financier to the Trustee in its capacity as trustee of the Trust; and
- (x) enter into the Management Deed; and
- (xi) fetter the discretion of the Trust or Trustee.

18.2 Restricted Activities

The following is a **Restricted Activities**, without obtaining approval of the Investment Committee (or the Trustee, where no Manager is appointed in respect of a Class Pool): all investment decisions that may have a material effect on the value of the Trust, including the disposal or dilution of part or all of an Investment or variation of voting rights attached to an Investment, and voting any rights attached to an Investment.

18.3 AMIT Regime powers

Without limiting this clause 18 and subject to the law, the Trustee may do all things required in the Trustee's absolute discretion to give effect to clause 12.14 (including but not limited to executing any documents or exercising any discretion for the purposes of clause 12.14).

18.4 Trustee may delegate powers

- (a) The Trustee, by power of attorney, agency, contract or otherwise, may authorise one or more persons (**Appointee**) whether or not related to or associated with it, to do anything that it may lawfully delegate, including holding any Property and executing documents on its behalf.
- (b) Acts and omissions of any Appointee which is an Affiliate of the Trustee or Manager are deemed to be those of the Trustee or Manager (as the case may be), and the Trustee or Manager (as the case may be) is liable for such acts and omissions.

- (c) For the avoidance of doubt, Unitholders must co-operate with any request from an Appointee as if the Appointee was the Trustee to the extent of the Appointee's appointment (as notified to them in writing by the Trustee).

18.5 Trustee may engage service providers

The Trustee may, as it sees fit and subject to this deed, in connection with the performance of its duties and obligations under this deed, engage (whether or not related to or associated with the Trustee) and from time to time replace, service providers including administrators, custodians and any advisers, agents, brokers, contractors, underwriters or other persons.

18.6 Reliance by Trustee

The Trustee may, in relation to the Trust, rely and act on any:

- (a) advice, opinion or other information provided to the Trustee by an Appointee, a person of a category listed in clause 18.5 (whether not engaged by Trustee) or similar; and
- (b) document which it is reasonable for the Trustee to rely upon,

and the Trustee will have no liability to any future or present Trustee or Unitholder or the Trust for such (except in relation to Affiliates or Associates of the Trustee or officers or employees thereof unless those persons are reasonably relying upon information provided by other persons such as the directors or managers of investments, accountants or professional valuers where such persons are not Affiliates or Associates of the Trustee or officers or employees thereof) provided the Trustee:

- (c) exercises due care and diligence in appointing the person; and
- (d) has no reason to believe the information or material not to be authentic, the instructions not to be authorised or the person not to have the relevant expertise (as the case may be).

18.7 Alternative Investment Vehicles

- (a) The Trustee or Manager may from time to time establish additional trusts or other entities (**Alternative Investment Vehicle**) to which undrawn Capital Commitment may be paid and Unitholders may be admitted as members or equivalent. Unitholders must, subject to clause 18.7(b), pay their Capital Commitment to an Alternative Investment Vehicle provided that the Alternative Investment Vehicle has been established:
 - (i) using constituent documentation that all Unitholders have had reasonable time to review prior to their finalisation; and
 - (ii) on substantially the same terms as the Trust except to the extent of different regulatory, tax or legal requirements of Unitholders or the particular type of entity or as otherwise approved by Special Resolution.
- (b) A Unitholder is only required to pay its Capital Commitment to an Alternative Investment Vehicle, if the Unitholder consents to such payment (such consent not to be unreasonably withheld) in which case their Capital Commitment to the Trust will be reduced by the amount of that contribution.

- (c) For the purposes of this clause, a Unitholder will not be taken to have unreasonably withheld its consent where it provides a written opinion from legal counsel to the Trustee's satisfaction to the effect that, for tax or regulatory reasons, it would be prohibited or materially disadvantaged from paying its Capital Commitment to such an entity. For the avoidance of doubt, a Unitholder need not obtain such opinion for its consent to be taken to be reasonable.
- (d) On the establishment of an Alternative Investment Vehicle under clause 18.7(a), the Trustee may transfer all or any of the Investments to the Alternative Investment Vehicle for the purposes of ensuring that, to the extent reasonably practicable, the Unitholders will have the same indirect interest in such Investment through the Alternative Investment Vehicle as it would if the Capital Commitment had been paid directly to the Trust instead.
- (e) The costs associated with establishing an Alternative Investment Vehicle under clause 18.7(a) will be borne by each Unitholder that pays its Capital Commitment to the Alternative Investment Vehicle in proportion to the Capital Commitment of each such Unitholder to the Alternative Investment Vehicle.

18.8 Pre-Issue Investments

- (a) The Trustee or Manager may cause investments to be made on behalf of the Trust before the First Closing Date (**Pre-Issue Investment**).
- (b) The Trustee or Manager may make transfers of the Pre-Issue Investments to and from the Trust.
- (c) The Trustee or Manager may transfer all or any of the Pre-Issue Investments to the Trust for consideration equal to the sum of:
 - (i) any amounts paid in respect of that investment (including any fees and expenses incurred in relation to the investment); and
 - (ii) unless otherwise determined by the Trustee or Manager, interest at BBSW plus 3% per annum (calculated and accruing daily) (applied from the date of the acquisition of the Pre-Issue Investment by the transferor to the date of transfer) multiplied by the sum of the amounts in clause 18.8(c)(i).
- (d) Any stamp duty or other transaction costs relating to the transfer of Pre-Issue Investments to the Trust shall be borne by the Trust, as well as all costs incurred by the Trustee or Manager relating to the making, holding and valuing of such investments.
- (e) Any transfers of Pre-Issue Investments pursuant to this clause 18.8 must occur either before or as soon as is reasonably practicable within 18 months after the First Closing Date.

19 Trustee duties and obligations

The Trustee must:

- (a) in its role as the Trustee act efficiently, honestly and with good faith, due care and the level of skill that may reasonably be expected from an experienced manager of private equity investments;

- (b) monitor and review each person it appoints as a delegate or adviser in respect of the Trust;
- (c) devote as much of its business time and attention as is reasonably required for the management and operation of the Trust;
- (d) subject to the provisions of the Investment Documents, act in the overall best interests of the Unitholders; and
- (e) without limiting any other obligation of the Trustee under an Investment Document, not make use of information acquired through being the Trustee in order to gain an improper advantage for itself or another person or cause detriment to the Trust.

20 Independent rights

20.1 Permitted activities

The Trustee and any Associate of the Trustee, may, subject to this deed (in particular clause 18.2) and acting in good faith to Unitholders:

- (a) invest in the Trust and Investments;
- (b) represent or act for, or contract with, individual Unitholders;
- (c) deal with their associates, the Trust, or any Unitholders including acquire or deal with any interest in, or an asset of, a fund, scheme or trust of which the Trustee or any of its associates is the manager trustee or responsible entity;
- (d) be interested in any contract or transaction with its associates, the Trust or any Unitholder and retain for its own benefit any profits or benefits derived from any such contract or transaction;
- (e) deal in any capacity with any responsible entity or with any related body corporate or associate or with any trust; or
- (f) act in any capacity in relation to any other trusts, including buying and selling Units from or to itself in another capacity,

without being liable to account to the Trust or to a Unitholder.

20.2 Co-investment arrangements

- (a) The Trustee or Manager and their Affiliates may enter into co-investment arrangements with Unitholders and other persons in their discretion for which the Trustee or Manager may receive amounts such as fees from that co-investor or co-investment. Such amounts will not constitute Property and the Trustee or Manager will not be accountable to Unitholders or the Trust for the amounts.
- (b) The Trustee or Manager may facilitate a co-investment opportunity under clause 20.2(a) by issuing a new Class.

21 Outgoings

21.1 General

Subject to clause 23.3(c), all expenses, Taxes and other amounts (**Outgoings**) and Organisational Costs incurred by the Trustee or Manager in the proper performance of its duties under or in connection with an Investment Document or the Trust are payable or reimbursable out of Property except for:

- (a) Overheads of the Trustee or an Appointee; and
- (b) amounts invoiced and paid by Unitholders of the relevant Class under clause 21.4.

21.2 Examples of Outgoings

Examples of Outgoings include amounts in relation to any of the following:

- (a) preparation, approval, stamping, execution and printing of any Investment Document and Management Deed;
- (b) retirement and appointment of the Trustee or Manager;
- (c) institution, prosecution, defence and compromise of any court proceedings (provided a compromise or settlement of any court proceeding or suit must first be approved by the Investment Committee), arbitration or dispute resolution proceedings in relation to an Investment Document or the Trust. The Trustee must repay to the Trust any amount it has been advanced in respect of outgoings in connection with proceedings in which, and to the extent that, it is found by a court to be liable for fraud, dishonesty, gross negligence or wilful default;
- (d) convening and holding a meeting and implementing a resolution of the meeting;
- (e) bank fees, interest, discount and acceptance fees for bill facilities and like amounts;
- (f) all Taxes (including those payable in respect of a distribution to a Unitholder) but excluding any Taxes that are attributable to any income the Trustee or Manager receive in their personal capacity;
- (g) any actual or proposed investment (whether or not such eventuates) acquisition, realisation, disposal, valuation, maintenance, alteration, improvement, enhancement, receipt, collection or distribution of any Property including Aborted Deal Costs;
- (h) fees payable to, or third party expenses from preparing any reports for, any Government Agency;
- (i) establishing and maintaining the Register, the Trust accounting system and records and the investment register (including operation and development of computer facilities, both software and hardware, salaries and on-costs);
- (j) preparing and printing accounts, cheques and documents, posting them to Unitholders, or paying Unitholders;
- (k) fees payable to ASIC or any other regulatory authority in relation to the Trust;

- (l) amounts payable to accountants, administrators, advisers, agents, brokers, contractors, custodians, trustees, underwriters, counterparties to any derivatives transactions or contracts entered into by the Trustee or its agents or other persons engaged by the Trustee under the Investment Documents (including legal costs on a full indemnity basis);
- (m) amounts incurred by an Auditor;
- (n) preparation and lodgement of taxation and other returns for the Trust;
- (o) terminating and winding up of the Trust;
- (p) dealing with subscriptions for and withdrawals of Units;
- (q) fees, costs, charges and expenses incurred in giving effect to clause 12.14;
- (r) the Trust's pro rata proportion (based on the amount invested by the Trust relative to other investors in the respective investment) of any directors and officers insurance, professional indemnity or other insurance to the extent such is related to the Trust or an Investment; and
- (s) fees paid to the Trustee or the Manager.

21.3 Class expenses

Subject to the Terms of Issue of Units and this deed, the Trustee may determine that an expense (whether paid or payable) of the Trust is referable, in whole or part, to a particular Class.

21.4 Expense recovery outside of the Trust

- (a) Subject to clause 21.4(b), all Outgoings in respect of a Class may (pursuant to the Terms of Issue of Units or otherwise agreed with Unitholders of that Class) be invoiced by the Trustee directly to Unitholders of that Class pro rata between them and will not be paid from Property, unless the Trustee believes there are sufficient cash reserves of the Class Pool or as otherwise agreed in writing by the Trustee and Unitholders representing 75% of Capital Commitment of that Class.
- (b) This clause 21.4 does not apply to amounts under clause 21.2(c).
- (c) Subject to clause 12.6, no relationship exists between a Unitholder and a creditor of the Trust as a result of this clause 21.4 and a Unitholder is not required to reimburse any creditors of the Trust.

22 Recoveries

22.1 Unitholders' liabilities

Each Unitholder, despite any other provision of an Investment Document, is liable to the Trustee and Trust (as applicable) for:

- (a) Taxes and costs in relation to the Unitholder's Units or any attribution of an Attribution Amount to that Unitholder; and
- (b) any amount in relation to any act or omission requested by that Unitholder;

- (c) all fees and expenses payable by a Unitholder to the Trustee, Trust, or other persons in relation to them; and
- (d) other unpaid amounts relating to the Unitholder which are required to be paid by the Unitholder under the Investment Documents.

The Trustee may (but is not obliged to):

- (e) deduct reimbursable expenses and their fees at any time from Trust Property including by selling such Property;
- (f) withhold payment of any money payable to a Unitholder until any such liability is discharged; or
- (g) recover the amount payable by a Unitholder from any other money or property held (including for the avoidance of doubt any distributions payable to the Unitholder under clause 12) or by forfeiting or redeeming any or all of the Unitholder's Units in accordance with clause 11,

in order to meet a liability or to be reimbursed for a liability which the Trustee has already met. Nothing in this clause shall limit the ability of the Trustee under this deed to meet payments or to be reimbursed out of the Property of the Trust generally.

22.2 Apportionment

The Trustee must apportion any fee, charge or expense which relates to more than one Unitholder or Class of Units fairly between them. Where a fee, charge or expense is specifically referable to a transaction effected for a particular Unitholder, it must be borne by that Unitholder.

23 Liability and indemnification

23.1 Liability of Unitholders

Subject to clauses 11 and 12.6 of this deed and any applicable law:

- (a) the liability of a Unitholder to contribute to the Trust at any time is, subject to clause 22.1, limited to the total amount of the Capital Commitment (from time to time) of each Unitholder which remains unpaid;
- (b) no Unitholder, in its capacity as a Unitholder, has any liability to any other Unitholder or the Trust in excess of that contemplated under clause 23.1(a); and
- (c) Unitholders need not meet the claim of any creditor in respect of the Trust and recourse of the Trust's creditors shall be limited to Property of the Trust.

23.2 Liability

- (a) To the extent legally permitted and subject to clause 23.3(c), the Trustee, the Manager, a person in their capacity as a member of the Investment Committee or a person acting in their capacity as a member of the Advisory Committee is not liable to any current or future Trustee, Unitholder or any other person for any amount in relation to the Trust or the Investment Documents.
- (b) Notwithstanding any other provision of this deed, the Trustee and Manager are not personally liable for the return of a Capital Contribution paid by a Unitholder.

- (c) To the extent legally permitted and subject to clause 23.3(c):
 - (i) the liability of the Trustee to any future trustee, current or future Manager or any other person other than a Unitholder in respect of the Trust (including in respect of any contracts entered into as trustee of the Trust or in relation to the assets of the Trust) is limited to the extent to which the liability can be satisfied out of the assets of the Trust which the Trustee has an actual right of indemnity for the liability; and
 - (ii) no person may sue the Trustee in any capacity other than as trustee of the Trust, including without limitation to seek the appointment of a receiver (except in relation to the assets of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to the assets of the Trust).

23.3 Indemnity of the Trustee

- (a) Each current and former Trustee is, subject to clause 23.3(c), and, where the Trust is Registered, to the extent permitted from time to the time by the Corporations Act, is entitled to be indemnified out of the Property of the Trust for any liabilities incurred by it, excluding Overheads, in performing any of its duties or exercising any of its powers in relation to the Trust generally.
- (b) Each current and former Manager is, subject to clause 23.3(c) and, where the Trust is Registered, to the extent permitted from time to the time by the Corporations Act, is entitled to be indemnified out of the Property of the Trust for any liabilities incurred by it, excluding Overheads, in performing any of its duties or exercising any of its powers in relation to the Trust generally.
- (c) Notwithstanding any other provision of this deed, the Trustee's right under clause 23.3(a) to be indemnified out of the Property of the Trust shall rank in right and priority of payment over the Manager's right in clause 23.3(b) to be indemnified out of the Property of the Trust.
- (d) Any indemnity to which the Trustee is entitled under this deed is in addition to any indemnity allowed under law.
- (e) Subject to clause 23.4, the Trustee must indemnify out of the Property each current or former member of the Investment Committee, for any liability incurred by them, excluding Overheads, in respect of the member properly performing any of its duties or exercising any of its powers in relation to the Investment Committee or attempting to do so.

23.4 Limitation of indemnity and liability limitation

The reimbursement rights, limitation of liability and indemnities in, respectively, clauses 21.1, 23.2(a), 23.3(a), 23.6 and 29.10 do not apply to:

- (a) members of the Investment Committee under clause 23.3(e) to the extent that an amount is due to that person's fraud or wilful default;
- (b) a person (other than persons to which clause 23.3(e) applies) to the extent that an amount is due to, or liability or expenses arises directly from that person's fraud, dishonesty, gross negligence, wilful misconduct or material unremedied breach of an Investment Document; or

- (c) in the case of the Trustee, to the extent that an amount is due to, or liability or expenses arises directly from the Trustee's fraud, dishonesty, gross negligence or wilful default.

23.5 Limitation of acts

The Trustee is not required to do or omit anything:

- (a) unless the Trustee is satisfied that its liability is satisfactorily limited; or
- (b) for which it does not have a full right of indemnity out of the Property of the Trust available for that purpose; or
- (c) where the Trustee may incur an actual or contingent liability that is in the opinion of the Trustee in its absolute discretion, not limited satisfactorily to the Trustee.

23.6 Indemnity of directors of investments

The Trustee may in its absolute discretion, but having regard to any relevant insurance policies, indemnify out of the Property any person who acts as a director (including alternate or shadow) of an actual or proposed investment (or an Affiliate of such) of the Trust or relating to such investment, on behalf of a Manager, Trustee or Trust, for any amount incurred by the person in relation to that role subject to clause 23.3(c) and the person otherwise acting in accordance with its duties and obligations in the role provided that the indemnified director first seeks to be indemnified under any applicable insurance policy where the amount exceeds the excess under such policy.

24 Advisory Committee

The Trustee or Manager may appoint and maintain a committee in respect of a Class (**Advisory Committee**):

- (a) whose members may be comprised of representatives of Unitholders in that Class, appointed by the Trustee or Manager from time to time in their absolute discretion;
- (b) which may consider a range of matters in relation to the operation of the Trust or the relevant Class as determined by the Trustee or the Manager in their absolute discretion or pursuant to an Investment Document;
- (c) which may consider any matter raised by a member of the Advisory Committee; and
- (d) which must meet as required by the Trustee or Manager.

25 Investment Committee

A Manager may appoint and maintain a committee in respect of a Class (**Investment Committee**):

- (a) whose members will comprise such persons appointed by the Manager from time to time;
- (b) decisions of which are decided by a majority affirmative vote of Investment Committee members who are present and eligible to vote;

- (c) which reviews and provides prior approval of all investments and divestments by the Trust or the relevant Class and anything else requiring Investment Committee approval under an Investment Document; and
 - (d) which must meet as required by the Manager.
-

26 Meetings

26.1 Convening meetings

The Trustee may at any time and must at the request of Unitholders with at least 50% of all Capital Commitments convene a meeting.

26.2 Postponing or cancelling meetings

If the Trustee has convened a meeting it may in its discretion postpone or cancel the meeting (except one requested by Unitholders) by giving reasonable notice to all Unitholders.

26.3 Notice

Unless all of the Unitholders otherwise consent in writing, at least 7 Business Days' notice in writing must be given to each Unitholder of every meeting and the notice must specify the general nature of the business to be transacted and the date, time and place (which must be in Sydney, Australia unless otherwise agreed by Unitholders) of the proposed meeting.

26.4 Failure to give notice

Accidental omission to give notice to, or non-receipt of notice by, a Unitholder, does not invalidate a meeting nor a resolution passed at a meeting.

26.5 Proxy rights

A proxy may attend, speak and vote for a Unitholder even if the Unitholder is present at the meeting.

26.6 Proxy appointments

An appointment of a proxy is valid even if it does not include the Unitholder's address or the Trust's name. An appointment of a proxy for a meeting is effective if received by the Trustee:

- (a) before the meeting or any adjournment of the meeting, is due to start; and
- (b) by any method the Trustee considers appropriate, subject to any specific directions in the notice of the meeting.

26.7 Classes of Units

- (a) Clauses 26 and 27 apply also, to the extent appropriate, to meetings of Unitholders of any type or Class so that:
 - (i) resolutions relating to matters affecting the rights of Unitholders of more than one Class will be decided by each of those affected Classes voting together; and

- (ii) resolutions affecting only the rights of Unitholders of one Class will be decided by only the Unitholders of that Class.
- (b) Where a consent or resolution of Unitholders is required under this deed (including to amend this deed) and the matter only relates to certain Classes, then only the Unitholders of the affected Class are required to give such consent or vote on the matter.

27 Conduct of meetings

27.1 Quorum

A quorum for a meeting is a minimum of three Unitholders which hold in aggregate at least 25% (or 75% for a meeting relating to the removal of the Trustee or Manager) of all Capital Commitments or, if there is one Unitholder, that Unitholder. In determining whether a quorum is present, the Trustee must also count individuals who are attending as proxies or body corporate representatives and, if a Unitholder has appointed more than one proxy or representative, the Trustee must count only one of them.

27.2 Quorum not present

If a quorum is not present within 30 minutes after the time for the start of the meeting set out in the notice of meeting, the meeting is adjourned to the date the Trustee specifies. If no quorum is present at the resumed meeting within 30 minutes after the time for the start of the meeting, the meeting is dissolved.

27.3 Adjourning meetings

The Unitholders may by Ordinary Resolution resolve to adjourn any meeting.

27.4 Closing of Register

When a meeting is to be held the Trustee must close the Register at the close of business on the Business Day before the scheduled meeting.

27.5 Joint Unitholders

The first named of joint Unitholders shown in the Register (or if that person does not vote, the next named joint Unitholder, or if that person does not vote, the next named, and so forth) may exercise the voting rights of jointly-held Units.

27.6 Voting

- (a) Each Unitholder has one vote for each dollar worth of Units it holds on a resolution.
- (b) In the case of an equality of votes, the chair does not have a casting vote.
- (c) Unless this deed requires that a matter be determined by Special Resolution or the Investment Committee, all matters to be decided by Unitholders must be decided by Ordinary Resolution.

27.7 Who may demand a poll

Voting is by a show of hands unless a poll is demanded by:

- (a) a Unitholder present who is presently entitled to vote on the resolution holding in aggregate at least 10% of the total Capital Commitments;
- (b) the Trustee or Manager and their representatives; or
- (c) the chairperson.

The number of votes that Unitholders have on a poll is by reference to the Register as at the close of business on the Business Day before the poll is demanded.

27.8 When a poll may be demanded

The poll may be demanded:

- (a) before a vote is taken;
- (b) before the voting results on a show of hands are declared; or
- (c) immediately after the voting results on a show of hands are declared.

27.9 Validity of vote

The chairperson's declaration of the validity of any vote and the result of voting is conclusive.

27.10 Resolution binds all Unitholders

A resolution duly passed in accordance with this deed binds all Unitholders, whether or not present at the meeting.

27.11 Written resolutions

A written resolution will be deemed to have been duly passed at a meeting and at the time the requisite voting threshold is first satisfied by all Unitholders signing the resolution (in counterpart or otherwise). Written resolutions cannot be used in respect of the removal of the Trustee or a Manager.

27.12 Minutes

Minutes of a meeting signed by the chairperson constitute conclusive evidence of the proceedings of the meeting.

27.13 Postal ballot

A meeting may be conducted by postal ballot in accordance with arrangements the Trustee may determine reflecting, as closely as may be practicable, the provisions of this deed.

27.14 Destruction of proxy forms and ballot papers

In the absence of any resolution to the contrary, all proxy forms and ballot papers may be destroyed 14 days after the closure of a meeting.

27.15 Technology

A meeting may be held at two or more venues simultaneously using technology that gives the Unitholders as a whole a reasonable opportunity to participate.

27.16 Chair

- (a) The Trustee may appoint a person to chair a meeting of the Unitholders. Where Unitholders have requisitioned a meeting, the Trustee may appoint a person to chair the meeting.
- (b) The decision of the chair on any matter relating to the conduct of the meeting is final.

27.17 Representatives

A body corporate may be represented at a meeting by a person appointed in the manner provided in the Corporations Act as if the Trust was a registered managed investment scheme and the person representing the body corporate was the trustee of that scheme. The Trustee may accept a certificate of appointment as evidence of the person's appointment.

27.18 Other attendees

The Trustee, Manager and Auditor may attend and speak but not vote at any meeting.

28 Transfers

28.1 Transfer of Units of a Unitholder

- (a) A Unitholder may only Transfer all or any portion of its Units if the transfer:
 - (i) is a Permitted Transfer under clause 28.2; or
 - (ii) has been consented to by the Trustee in writing.
- (b) This clause 28.1 does not apply to Sponsor Units.

28.2 Permitted Transfers

A Unitholder may transfer its Units in accordance with this clause 28.2 if:

- (a) the Unitholder and the transferee have done all things which the Trustee reasonably considers to be necessary or desirable to effect the Transfer;
- (b) the Trustee consents to the Transfer in writing, such consent may be withheld in the Trustee's absolute discretion except if the transfer is by a Unitholder to:
 - (i) its Affiliate;
 - (ii) its Immediate Family;
 - (iii) a trust or other investment vehicle controlled, advised or managed by the Unitholder, its Affiliate or its Immediate Family;
 - (iv) a trustee, general partner or manager of a trust or other investment vehicle controlled by the Unitholder, its Affiliate or its Immediate Family;
 - (v) any custodian that generally holds the investments; or
 - (vi) a successor trustee or co-trustee of the Unitholder;

- (vii) there is no change in the beneficial ownership of the Units or the Transfer is to a person acting in the capacity as a trustee, responsible entity, custodian, subcustodian or nominee of the same trust or person for whom the Units were held; or
- (viii) there is no change in legal ownership (such as a pledge permitted under this deed);
- (c) neither the Unitholder nor the transferee is a Defaulting Unitholder;
- (d) the Unitholder or the transferee has paid or agreed to pay all reasonable costs in connection with the Transfer;
- (e) the Unitholder, the transferee and the Trustee execute a Deed of Accession;
- (f) the transfer is not contrary to any applicable law;
- (g) the Transfer would not be prejudicial to the interests of Unitholders as a whole such as prejudicing the taxation treatment of the Trust or Unitholders; and
- (h) the Trustee, in its absolute discretion, determines that there is no material risk that the proposed transferee will be unable to meet its obligations under an Investment Document.

28.3 Release of Seller

On and from the date of transfer of all a Unitholder's Units in accordance with the Investment Documents, the Trust and the Trustee release the transferor from all obligations (other than under clause 31) and liabilities under the Investment Documents arising on or after that date, except to the extent of any Units still held by the transferor.

28.4 Transfer of Sponsor Units

- (a) Subject to clause 28.4(b), the Trustee must refuse to register a transfer of Sponsor Units unless the transfer is to a person who is a Sponsor.
- (b) Despite any other provision of this deed, a Sponsor may transfer part or all of its Sponsor Units to any other Sponsor nominated by that Sponsor, and the Trustee must procure the registration of any transfer under this clause 28.4(b).
- (c) Where a Sponsor Unitholder or the Sponsor they represent (as applicable) ceases to be a Sponsor they must within 30 days of such cessation, transfer that person's Sponsor Units to another Sponsor.

29 Change of Trustee or Manager

29.1 Retirement or removal of the Trustee and Manager

Subject to the Corporations Act, the Trustee or Manager may retire on 20 Business Days' written notice to Unitholders and must retire if:

- (a) directed to retire by Ordinary Resolution where an Insolvency Event occurs in respect of the Trustee;
- (b) directed to retire by Ordinary Resolution and:

- (i) it is required to do so by law; or
 - (ii) the Trustee continuing to act in its capacity as such is either prohibited or would result directly in the Trust incurring a material penalty and such is not rectified (if possible to rectify) within 60 Business Days after such requirement occurring; or
- (c) directed to retire by Ordinary Resolution provided that at least 30 days prior notice of the proposed resolution is given to the Trustee, the Trustee is given the opportunity to address the Unitholders at the meeting at which the resolution is considered, and:
- (i) has acted with fraud, dishonesty or wilful misconduct in its role as Trustee; or
 - (ii) is in material breach of an obligation under an Investment Document which is likely to have a materially adverse effect on the Trust or its Unitholders and the breach is not remedied within 30 Business Days after the later of the date of that Special Resolution or the date specified in the Special Resolution.

29.2 Mandatory removal of the Manager

The Manager must immediately retire if it is removed by the Unitholders in accordance with the Management Deed or otherwise ceases to act as manager of the Trust.

29.3 Termination payments

- (a) Where the Trustee or Manager retires or is removed pursuant to clause 29.1 or pursuant to the Management Deed, the Trust must, subject to clause 29.5, pay:
- (i) to the relevant Sponsor Unitholders all accrued but unpaid Sponsor Distributions at the date of termination (which is to be paid as soon as it is able to be satisfied from cash); and
 - (ii) to the Manager:
 - (A) all accrued but unpaid Management Fees, Performance Fees, Establishment Fees and any other fees to which the Manager is entitled pursuant to the Terms of Issue of a Class; and
 - (B) all reasonable Overheads or other costs properly incurred by the outgoing Manager that arise as a consequence of the removal of the outgoing Manager;

at the date of removal of the Manager (which is to be paid as soon as it is able to be satisfied from cash).
- (b) Following the date of termination of the Trustee or the Manager (as applicable), the Sponsor Unitholders will continue to carry the right to receive Sponsor Distributions that may become payable at a later time.
- (c) Clause 29.3(a) will not apply where the Trustee voluntarily retires and is replaced by a professional external trustee.
- (d) Clauses 29.3(b) will not apply to the extent that the replacement Trustee or Manager (as applicable) is an Associate, Affiliate or related entity of the Trustee or Manager (as applicable).

- (e) All Trustee Fees which are accrued but unpaid at the date of termination of the Trustee must be paid within 20 Business Days of the date of removal or retirement.

29.4 Nature of termination payments

Each of the payments in clause 29.3:

- (a) must only be paid to the extent that the Trust has been reimbursed for any material adverse financial consequence which has directly affected it or any Unitholder as a direct result of a breach to which clause 29.1(c) applies;
- (b) is a debt owed by the Trust to the outgoing Trustee or Manager or Sponsor Unitholders (as applicable) until those payments are made in full and take priority over any distributions to Unitholders;
- (c) must be calculated by the Valuer within 10 Business Days following the date of retirement and will be calculated as if the:
 - (i) Property was disposed of on the date of retirement at their respective valuations on that date, as determined by the Valuer; and
 - (ii) distribution allocation provisions under clause 12 apply; and
- (d) is not required to be also paid to a subsequent Trustee or Manager except in the manner provided in clause 29.3.

29.5 No Sponsor Distribution

A Sponsor Distribution is not payable under clause 29.3 where the Trustee or a Manager (as applicable):

- (a) voluntarily retires; or
- (b) was terminated pursuant to clause 29.1 other than under clause 29.1(b) (provided the termination was not because of the Trustee's or Manager's own misconduct).

29.6 Actions on retirement or removal

If the Trustee or Manager retires or is removed under this clause 29:

- (a) it must use all reasonable endeavours to effect its replacement including to do all things necessary to effect the transfer to the replacement Trustee of any Property held by or within the control of the outgoing Trustee; and
- (b) the replacement Trustee and Manager (if any) must allow the outgoing Trustee or Manager (as the case may be) to remedy any breach of an Investment Document during the six month period following the date of removal provided that doing so does not require the replacement Trustee to expend significant funds or would not cause material detriment to the Trust (other than the payment of any amount the outgoing Trustee or Manager (as the case may be) would be entitled to but for the remedy of the breach).

29.7 Admission Requirements

Other than by operation of law but subject to clause 29.8, if the Trustee or Manager retires under clause 29.1, the Trustee or Manager (as the case may be) may only appoint

a replacement Trustee or Manager if that replacement has met the following requirements (**Admission Requirements**):

- (a) the outgoing Trustee or Manager (as the case may be) is satisfied that the proposed replacement has sufficient resources and ability to perform the obligations of the Trustee or the Manager (as the case may be) under the Investment Documents;
- (b) the proposed replacement, the outgoing Trustee or Manager (as the case may be) and the remaining Trustee or Manager (as the case may be) have executed and delivered any documents, including a Deed of Accession, and have done any other act which the outgoing Trustee or the Manager (as the case may be) reasonably considers to be necessary or desirable to effect the appointment;
- (c) the proposed replacement will not breach an applicable law as a result of the appointment as Trustee or Manager (as the case may be);
- (d) the proposed replacement's appointment is approved by Special Resolution unless the proposed replacement is an Affiliate of the Trustee or Manager, which will not require Unitholder approval; and
- (e) the proposed replacement agrees to be bound by and otherwise honour any arrangements between the Trustee or the Manager and the Unitholder pursuant to clause 28.2(b).

29.8 Replacement Trustee

Despite clause 29.7, Unitholders may by Special Resolution elect and appoint a replacement Trustee if the Trustee is removed or retires if that replacement has met the following requirements:

- (a) the proposed replacement has executed and delivered any documents, including a Deed of Accession, and have done any other act which is reasonably necessary or desirable to effect the appointment; and
- (b) the proposed replacement will not breach an applicable law as a result of the appointment.

29.9 Date of termination of Trustee

The Trustee ceases to be the trustee of the Trust on the appointment of its replacement or as otherwise required under this deed. From the effective date of the appointment, except to the extent expressly provided for in this deed, the replacement Trustee will have the same powers, rights and obligations under the Investment Documents as if it were originally a party to the Investment Documents.

29.10 Trustee's indemnity

On the Trustee retiring or being removed from the Trust or otherwise ceasing to be the trustee of the Trust, to the extent legally permitted (and in no way limiting any liability under any laws) the outgoing Trustee is completely released from further responsibilities under the Investment Documents (except in respect of liability for past acts or omissions or to the extent that obligations under this deed at that date are expressed to continue) and is indemnified out of the Property against any claims arising out of its conduct as trustee of the Trust except as provided in clause 23.3(c).

29.11 Removal or retirement

For the avoidance of doubt, a reference in this deed to the Trustee or Manager being removed or terminated is a reference to the Trustee or Manager being required to retire under clause 29.1

29.12 Reasonable costs of Trustee

Where the Trustee is required to be removed under clause 29.1, its reasonable costs (excluding internal costs and overheads) in respect of the replacement of the Trustee are payable or reimbursable out of the Property.

30 Termination

30.1 Termination

The Trustee must terminate the Trust by or on the Termination Date.

30.2 No further business

From the Termination Date:

- (a) the Trustee may permit transfers of Units in accordance with clause 28, provided that the Trust is not terminating at the end of the period of 80 years (less one day) after the date of this deed specified in clause 2.4; and
- (b) the Trust must not engage in business beyond that necessary to discharge existing obligations, complete the wind up and any other matter reasonably required to be done such as meeting claims.

30.3 Action on termination

On the termination of the Trust, the Trustee must:

- (a) wind up the business of the Trust and realise all of its Property;
- (b) pay, discharge or provide for all liabilities and expenses of termination;
- (c) retain amounts or create reserves for payment of any contingent or unforeseen obligation of the Trust; and
- (d) distribute the net proceeds among Unitholders (subject to the Terms of Issue of the Units they hold), prior to the end of the Financial Year in which the proceeds are obtained (or if not practicable within 120 days of being obtained), in accordance with clause 12.

30.4 Entitlements at termination

- (a) Distributions and other entitlements of Unitholders in a Class on termination must be determined pro rata to the number of Units they hold adjusted for their Paid Up Proportion in that Class as at the Termination Date.
- (b) Unitholders continue to be entitled, subject to the Terms of Issue of their Units, to their proportionate share of any Distributable Income or, in any Accounting Period when the Trust is an AMIT, their distribution under clause 12.14, during the winding up period.

30.5 Auditing of winding up accounts

The Trustee must, if an applicable law or court so requires, cause the accounts of the winding up to be independently checked and signed-off by a registered company auditor or firm of chartered accountants of which at least one partner is a registered company auditor, and in either case independent of the previous auditor of the Trust.

30.6 Realisation of Property

The Trustee may, subject to 30.2, postpone realising Property for the purposes of seeking to obtain a higher realisation price or otherwise to effect an orderly realisation of Property and is not responsible for any resulting loss unless caused by its fraud, gross negligence, dishonesty or wilful default.

30.7 No repayment

- (a) To the extent permitted by applicable law, capital deficits of a Unitholder on winding up are not Property and the Unitholder is not required to pay any amount to extinguish such deficit.
- (b) No premium paid as part of a Capital Contribution by a Unitholder is liable to be repaid except as provided in this deed.

30.8 Termination of this deed

Subject to clause 41.3, this deed terminates upon the later of the completion of the winding up and distribution of all of the Property.

31 Confidentiality

31.1 Unitholders

All information provided to a current or former Unitholder in relation to an Investment Document, Investee, the Trustee, a Manager or the Trust must be only used by it for the purposes contemplated in an Investment Document and kept confidential except where the information is disclosed:

- (a) in accordance with an Investment Document;
- (b) by a Unitholder (or an Affiliate or Associate of the Unitholder), to the extent necessary and on a confidential basis, for the purposes of that Unitholder raising capital or for disclosure to a person or trust or similar that invests in the Unitholder or that the Unitholder (or an Affiliate or Associate of the Unitholder) manages or advises or any such investor's advisers and such persons have agreed to comply with substantially the same obligations in respect of the information as those imposed on the Unitholder under this clause;
- (c) has come within the public domain, other than by a breach of an Investment Document;
- (d) with the prior written consent of the Trustee or Manager (which consent may be withheld or delayed);
- (e) to the extent reasonably required by a Unitholder to perform its obligations to report to a custodian, trustee, manager, investors or beneficiaries, or similar and their advisers, of a fund for which the Unitholder holds its Units provided it informs those

parties of the confidential nature of the information and they have agreed to comply with substantially the same obligations in respect of the information as those imposed on the Unitholder under this clause;

- (f) to a person to whom the Unitholder proposes and is entitled to transfer its Units in accordance with this deed if the person prior undertakes to the Trustee and the Trust to keep the information confidential as if it were a Unitholder;
- (g) as required to do so by an applicable law, Government Agency or stock exchange, provided prior consultation with the Trustee or Manager (as applicable) about the disclosure occurs;
- (h) to Affiliates and committees within Affiliates provided that the information is kept confidential; or
- (i) to a Unitholder's custodian, bankers, lawyers, accountants or other or professional advisers or service providers.

31.2 Trustee and Manager

The Trustee, Manager and any of their Affiliates may disclose in a public domain any information about the Trust and Investment Documents where:

- (a) the information is disclosed in accordance with an Investment Document;
- (b) the Trustee, Manager (or an Affiliate or Associate of the Manager), to the extent necessary and on a confidential basis, for the purposes of the Manager raising capital or for disclosure to a person or trust or similar that invests in funds that the Manager (or an Affiliate or Associate of the Manager) does or intends to manage or advise or any such Manager's advisers;
- (c) the information has come within the public domain, other than by a breach of an Investment Document;
- (d) it does not relate specifically to a Unitholder (other than the name of the Unitholder) who has not consented to the disclosure;
- (e) it is reasonably required in relation to the Trust's activities including in relation to investing, divesting or managing investments of the Trust;
- (f) the disclosure is to a person to whom a Unitholder proposes and is entitled to transfer its Units in accordance with this deed if the person prior undertakes to the Trustee and the Trust to keep the information confidential as if it were a Unitholder;
- (g) the disclosure is to Affiliates and committees within Affiliates provided the information is kept confidential;
- (h) the disclosure is to the Trustee's or Manager's custodian, bankers, lawyers, accountants or other professional advisers or service providers; or
- (i) the Trustee or Manager is of the opinion that the disclosure is required by law, a Government Agency or the rules of a stock exchange.

For the avoidance of doubt, this clause does not limit the ability of the Trustee to use information referred to in this clause for purposes related to its role as trustee of the Trust.

31.3 No disclosure

The Trustee and Manager are not obliged to disclose to any Unitholder any information relating to the Trust and Property to the extent that they are bound by confidentiality obligations in respect of that information or consider in their absolute discretion that such information is commercially sensitive or otherwise that such disclosure would not be in the best interests of the Trust, Unitholders or direct or indirect investments of the Trust. The Manager must use reasonable endeavours to negotiate contractual confidentiality exclusions to permit it to report to Unitholders.

31.4 Exception

Subject to clause 31.3:

- (a) the Trustee must use reasonable endeavours to disclose to each Unitholder information regarding an Investment to the extent the Trustee is entitled to and receives such information under an Investee Document provided that such information is reasonably required by the Unitholder;
- (b) each Unitholder may disclose such information to the extent reasonably required by a Unitholder to perform its obligations to report to a custodian, trustee, manager, or beneficiaries, or similar of any of these, of a fund or partnership for which the Unitholder holds its Units; and
- (c) a Unitholder may disclose such information in its possession under an Investee Document by virtue of its being a direct investor in the Investee to the extent it is permitted to disclose such information under an Investee Document.

32 Limitation of liability of Trustee Unitholders

32.1 Capacity

Each Trustee Unitholder enters into the Investment Documents only in its capacity as trustee, responsible entity, custodian, sub-custodian or nominee (as the case may be) of the fund (**Trustee Fund**) for which it acts in that capacity.

32.2 Limitation

- (a) Subject to clause 32.4 and to the extent permitted by law, the liability of a Trustee Unitholder to any other party in respect of any Claim is limited to the extent that the Trustee Unitholder is entitled and able to recover from the property of the Trustee Fund (after taking account of the costs of exercising its right of indemnity or exoneration).
- (b) No further Claim may be made against the Trustee Unitholder personally for any amount outstanding after exercise of such rights.
- (c) This clause does not limit the rights of the Trustee to forfeit or effect the sale of any Units in accordance with this deed.

32.3 Acknowledgment of limitations

The parties agree and acknowledge that they must not, in respect of any Claim:

- (a) subject to clause 32.4, bring proceedings against the Trustee Unitholder in its personal capacity; or

- (b) seek to wind up, dissolve or appoint an administrator, manager, receiver, liquidator or other similar officer to the Trustee Unitholder or its assets except to the extent that the steps taken affect any property of the Trustee Fund or the Trustee Unitholder's right of recourse against, and indemnity from, the property of the Trustee Fund and nothing else.

32.4 Exception

The Trustee Unitholder may be personally liable to the extent that:

- (a) its right of indemnity, exoneration or recoupment out of the property of the Trustee Fund; or
- (b) the actual amount recoverable by the Trustee Unitholder in exercise of those rights,

is reduced (in whole or in part) or does not exist, as a result of it acting fraudulently, negligently, with wilful misconduct, dishonesty or in breach of trust.

32.5 Delegates

Acts and omissions of a person, who is appointed to perform a particular function in relation to a Trustee Fund and who is not an Associate of the respective Trustee Unitholder, will not be considered to be the fraud, gross negligence, wilful misconduct, dishonesty or breach of trust of the Trustee Unitholder for the purposes of clause 32.4.

33 Amendments to this deed

33.1 Power

The Trustee may, upon recommendation by the Manager, by supplemental deed, make any modification, addition or deletion to this deed if the modification, addition or deletion:

- (a) is of a formal or technical nature, made to correct a manifest error, inconsistency or is necessary to comply with the provisions of any law or requirements of any Government Agency;
- (b) will not have a materially adverse effect on Unitholders' rights (and, for this purpose, any amendment which causes a defeasance of any interest in income and/or capital of the Trust will be taken to have a materially adverse effect on each Unitholder);
- (c) is necessary to comply with any Tax law applicable to the Trust from having made or intending to make the AMIT Choice;
- (d) is authorised or required by an Ordinary Resolution, except if it relates to the entitlement or obligation of a Unitholder, the Trustee or Manager to fees, capital or distributions (as the case may be), in which case the consent of the affected person is also required; or
- (e) if all Unitholders and the Trustee consent in writing to the modification, addition or deletion.

Without limiting the above, the Trustee may make any modification, addition or deletion to this deed as it considers necessary in order to:

- (f) facilitate compliance with the preconditions for the operation of the AMIT Regime in relation to the Trust;
- (g) facilitate compliance with the terms of the AMIT Regime in relation to the Trust, including any provisions of the AMIT Regime that, if not complied with, would result in any additional liability or penalty for the Trustee or Unitholders;
- (h) facilitate the proper administration and operation of the Trust under the AMIT Regime and ensure that there is an appropriate and equitable application of the powers and rights of the Trustee and Unitholders that arise under the AMIT Regime;
- (i) comply with the conditions of any ASIC relief issued in relation to the AMIT Regime, or facilitate operation of the Trust in reliance on such relief; or
- (j) comply with any applicable provisions of the Corporations Act for the Trust to be Registered.

33.2 Amendment restrictions

- (a) If a proposed modification, or repeal and replacement, of this deed or the Management Deed may have a materially adverse effect on the rights of the current or a former Trustee, Manager or Sponsor Unitholder, the prior written approval of that person must be obtained.
- (b) The Trustee may terminate the Trust where:
 - (i) a failure to amend the deed may result in material detriment to the Trustee, Manager or Trust as a result of a change of law or additional obligations being imposed by a relevant Government Agency; and
 - (ii) the amendment required to remove or mitigate the detriment cannot be made or is not approved under clause 33.1.
- (c) For the avoidance of doubt, Unitholders may not modify, or repeal and replace, an Investment Document.

34 Transmission event in respect of a Unitholder

34.1 Death of a Unitholder

If a Unitholder dies, then only the legal personal representative of the Unitholder, or if the Unitholder is registered jointly as a holder of Units, the survivor, will be recognised as having any claim to the Units registered in the name of that Unitholder. The Trustee may require such information as it thinks fit to establish a person's entitlement to claim such Units.

34.2 Legal disability, bankruptcy etc.

If a Unitholder becomes subject to a legal disability, becomes bankrupt, or is placed in liquidation, then the survivor (or survivors in the case of a joint holding of Units) or any person who gives the Trustee all the information the Trustee requires to establish their entitlement to be registered as the holder of Units registered in the Unitholder's name as a result of the legal disability, bankruptcy or liquidation, will be recognised as having any claim to the Units registered in the name of the Unitholder.

34.3 Discharge to Trustee

A person who is entitled to Units upon the death, legal disability, bankruptcy or insolvency of a Unitholder may give a good discharge for any money payable or property transferable in respect of the Units. Such person is not entitled to receive notices of or attend or vote at any meetings until they are entered in the Register as the holder in respect of the Units.

35 GST

35.1 Interpretation

In this clause 34.1, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) has the same meaning given to it in that Act.

35.2 GST gross up

If the Trustee or Manager is liable for GST on any supply made under or in connection with an Investment Document (including the supply of any goods, services, rights, benefits or things), the Trustee or Manager (as the case may be) is entitled to receive, unless the consideration for the supply is specifically described in the Investment Document as being inclusive of GST, in addition to any consideration for the supply, an additional amount on account of GST, equal to the GST payable by the party, and the party is entitled to be reimbursed or indemnified for the amount out of the Property of the Trust.

35.3 Consideration exclusive of GST

Any consideration or payment obligation in an Investment Document (including all amounts payable to the Trustee or Manager) is exclusive of GST unless stated otherwise. All fees stated under this deed are exclusive of GST.

35.4 Tax Invoice

The Trustee or Manager and Unitholders must issue a tax invoice in respect of any consideration they receive in respect of a GST taxable supply as soon as practicable after that consideration is due.

35.5 GST adjustment event

The parties must do all things necessary to make sure that a GST adjustment event (if any) may be properly accounted for, including the issue of an adjustment note.

36 Payments

36.1 Method of payment

- (a) The Trustee may allow Unitholders to pay to the Trustee, Manager or a Unitholder under an Investment Document or receive amounts from the Trust using different methods to and from different entities and financial products from time to time. Unitholders may only make and request payments in accordance with such.
- (b) The Trustee's obligations in respect of the payment of any money under clause 36.1(a) are fully discharged and it will not be liable to the maximum extent

permitted by law where it receives or pays an amount in the manner requested by a Unitholder using such methods.

36.2 Payment in kind

The Trustee may accept property (other than money) as consideration for Units if the property is accompanied by a valuation that is acceptable to the Manager and is approved by the Investment Committee.

36.3 If payment not effective

If a cheque or payment from the Trustee or Manager to a Unitholder is returned unclaimed or is not presented for payment within 180 days, the Trustee or Manager may reinvest the relevant amount for the Unitholder or deposit the money into an unclaimed moneys account.

36.4 Timing of amounts

Each Capital Contribution or other amount paid by a Unitholder is deemed to have been received at 5:00 pm on the date on which the Capital Contribution or other amount is due or received in cleared funds by the Trust, whichever is later.

36.5 Trust payments

A payment which is required to be made to the Trust under an Investment Document must be made to the Trustee, Manager or a recipient they nominate.

36.6 Set-off

The Trustee or Manager may set off against any payment by it or the Trust to a Unitholder (including any distributions payable to a Unitholder under clause 12) against any amount that is due and payable by the Unitholder under an Investment Document (including any amounts payable by the Unitholder under clause 8) and the Trustee will give written notice to the Unitholder of the amount of offset.

36.7 Receipts

Amounts or property due and payable to a Unitholder (including any Distributions to a Unitholder), whether on realisation or otherwise, must be credited to the Units of that Unitholder, or at the election of the Trustee, an account with a bank or other institution approved by the Trustee.

36.8 Rounding of payments

The Trustee may in calculating amounts round to the nearest cent. Any excess money which results from rounding becomes part of the Property of the Trust.

37 Intellectual property

Aura Funds Management Pty Ltd may at any time restrict (including remove) the use of its name, trademarks and any other of its intellectual property (which for the avoidance of doubt are not assets of the Trust). Any incoming Trustee or Manager must do all necessary things at the cost of the Trust to effect such a restriction if requested to do so by Aura Funds Management Pty Ltd as an outgoing Manager.

38 Security Interests

38.1 Recognition of mortgages

- (a) A Unitholder must not create nor allow a Security Interest over a Unit without the consent of the Trustee.
- (b) On the Unitholder's written request, the Trustee may, but is not obliged to, record a Security Interest in the Register and on the Security Interest holder's written request may delete that record.

38.2 Payments to mortgagees

Capital distributions (not representing part of Distributable Income) and distributions after termination of the Trust must be paid to the recorded mortgagee of the Units in the Register (unless it directs otherwise in writing).

38.3 Transfer of Units

For the avoidance of doubt, a Transfer of Units subject to a Security Interest to the holder of the Security Interest remains subject to the terms of Transfer (such as the requirement for the Manager to approve the transfer) ordinarily applying under the Investment Documents.

38.4 Trustee not have notice of mortgage or charge

The Trustee, Manager and their agents have, in respect of a Security Interest over a Unit, no liability to any person (including the holder of the Security Interest or the Unitholder of the mortgaged Units) and are not taken to have notice of the terms of any Security Interest.

39 Reorganisation

Notwithstanding any other provision of this deed, the Trustee may convene a meeting of Unitholders to consider Special Resolutions or amend this deed or approve other proposed actions for the purpose of facilitating a restructure of the Trust, including:

- (a) for the Trust to acquire assets of other entities;
- (b) by merging or combining the Trust with one or more other entities;
- (c) to admit Unitholders, or to acquire Unitholders' Units;
- (d) to redeem Units or to issue Units to holders of units in other schemes at a price different from the price then provided for in this deed;
- (e) to authorise the Trustee on behalf of each Unitholder to subscribe for units in other trusts;
- (f) to terminate the Trust (but without limiting any other rights of the Trustee in respect of termination); or
- (g) otherwise to authorise actions that the Trustee proposes in order to facilitate the proposed restructure.

40 Power of attorney and agent for service

40.1 Power of attorney

Each Unitholder irrevocably appoints each of the Trustee and Manager as its attorney to jointly or severally do any of the following (and anything incidental to such) provided such is done in accordance with the Investment Documents:

- (a) anything to effect the forfeiture (including disposal) of a Defaulting Unitholder's Units;
- (b) execute and deliver any document:
 - (i) that the Trustee is entitled to request under this deed;
 - (ii) to amend the Register in accordance with this deed;
 - (iii) amending an Investment Document if the Unitholder fails to comply within 10 Business Days to a request by the Trustee to execute the document; and
 - (iv) stamp and register this power of attorney if required.

This power of attorney is not affected by an Insolvency Event, disability or other legal incapacity of the Unitholder.

40.2 Co-operation

Each Unitholder must on request from the Trustee or Manager to provide all assistance to give effect to the purpose of clause 40.1 including to ratify an act of the Trustee or Manager.

40.3 Conflicts and interests

The Trustee and the Manager may exercise any powers under the abovementioned power of attorney even where either or both of them has a conflict of duty or interest or another interest in doing so provided this deed is adhered to.

40.4 Agent for service

Non-Australian resident Unitholders appoint the Manager as agent of the Unitholder for service unless the Unitholder specifies in writing to the Trustee or Manager another agent for service in Australia.

40.5 Indemnity as attorney

Each current or former Unitholder indemnifies each current or former Trustee and Manager against any amount arising directly or indirectly from the lawful exercise of the abovementioned power of attorney except in respect of Overheads of the indemnified and except to the extent of an amount caused by the fraud, dishonesty, gross negligence or wilful default by the indemnified.

40.6 Trustee Unitholders

An attorney or agent of a Trustee Unitholder appointed in accordance with this deed must not act on behalf of the Trustee Unitholder in a way which a reasonable person would expect would expose the Trustee Unitholder to any personal liability. No act or omission

of any attorney or agent appointed in accordance with this deed will be considered gross negligence, wilful misconduct, dishonesty or breach of trust of the Trustee Unitholder for the purpose of clause 32.4.

41 Miscellaneous

41.1 Approvals and consents

Except where this deed expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally, or withhold, any approval or consent under this deed.

41.2 Set-off

The Trustee may set off against any payment by it or the Trust to a Unitholder against any amount that is due and payable by the Unitholder under an Investment Document.

41.3 Survival

Any definition or obligation of confidentiality under this deed is independent and survives termination of this deed as does this clause 41.3 and clauses 11, 12, 15.3, 20, 22, 31, 32 and 34.1 and any other term by its nature intended to survive termination of this deed and any indemnity under this deed (including clauses 23.3, 23.3(c) and 23.6) related to such a surviving provision shall survive for the same period.

41.4 Counterparts

- (a) This deed may be executed in any number of counterparts, each of which:
 - (i) may be executed electronically (for so long as it is permitted to do so by law) or in handwriting; and
 - (ii) will be deemed an original whether kept in electronic or paper form, and all of which taken together will constitute one and the same document.
- (b) Without limiting the foregoing, if the signatures on behalf of one party are on more than one copy of this deed, this shall be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this deed.

41.5 Entire agreement

The Investment Documents constitute the entire agreement between the parties in connection with its subject matter and supersede all previous agreements, representations or understandings between the parties in connection with its subject matter.

41.6 Severability

A term or part of a term of this deed that is illegal or unenforceable may be severed from this deed and the remaining terms or parts of the term of this deed continue in force.

41.7 Waiver

The Trustee or Manager do not waive a right, power or remedy if they fail to exercise or delay in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another

right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

41.8 Own costs and expenses

Unless otherwise expressly stated in an Investment Document each Unitholder must pay its own costs and expenses in relation to the Trust including negotiating and executing Investment Documents and receiving professional advice on any potential investment.

41.9 Exclusion of laws

To the extent permitted by laws of any applicable jurisdiction, all legislation and rules of law which may be excluded or amended by or is subject to either express or implied agreement does not apply to Trustee, Manager, Unitholders and any other parties in relation to the Investment Documents.

42 Notices

42.1 Service of notices

A notice, demand, consent, approval or communication under this deed (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post, email or facsimile to that the recipient's address for Notices specified in the Details or in the case of a Unitholder (and for joint Unitholders the first mentioned) in the Register, as varied by any Notice given by the recipient to the sender. A signature provided by facsimile, email or other electronic means is sufficient evidence of signature.

42.2 Effective on receipt

A Notice given in accordance with clause 42.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by facsimile, email or other electronic means, when the sender's electronic system generates a message confirming successful transmission of the entire Notice unless, within eight business hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

43 Governing law

This deed is governed by the law of New South Wales. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales, Australia and its appellate courts.

Schedule 1 Dictionary

1 Defined terms & interpretation

1.1 Defined terms

In this deed:

Aborted Deal Costs means costs to the Trust in respect of sourcing and analysing, and other related costs of, potential investments of the Trust that did not and will not proceed.

Accounting Income means for an Accounting Period, the net profit (after extraordinary items) of the Trust for that Accounting Period, determined in accordance with the Accounting Standards but **excluding** the effect of distributions to Unitholders and any increase or decrease in the net assets of the Trust attributed to Unitholders.

Accounting Period means the period from (and including) the day after a Distribution Date (or the date of establishing the Trust in the case of the first period) to (and including) the next Distribution Date (or the date of distribution on termination of the Trust), or such other period determined by the Trustee (which may be in respect of a Class).

Accounting Standards means accounting principles and practices approved by the Trustee.

Accounts means the financial statements of the Trust for the relevant period prepared in accordance with the Accounting Standards and otherwise with this deed.

ADI means an authorised deposit-taking institution under the *Banking Act 1959* (Cth) or a non-Australian financial institution with equivalent standing in its place of domicile.

Admission Requirements has the meaning provided in clause 29.7.

Advisory Committee has the meaning provided in clause 24.

Affiliate means, in respect of an entity or other person, an entity or other person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the entity or other person. An Affiliate of a Manager or the Trustee includes an entity or other person that directly, or indirectly through one or more intermediaries holds equity interests in the Manager or Trustee (as applicable) or a person for whom such interests are, directly or indirectly, held on their behalf.

Alternative Investment Vehicle has the meaning provided in clause 18.7.

AMIT or **attribution managed investment trust** has the meaning given by the Tax Act.

AMIT Regime means the regime for the taxation of AMITs, as set out in the following legislation:

- (a) *Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016* (Cth);
- (b) *Income Tax Rates Amendment (Managed Investment Trusts) Act 2016* (Cth);
- (c) *Medicare Levy Amendment (Attribution Managed Investment Trusts) Act 2016* (Cth); and

(d) *Income Tax (Attribution Managed Investment Trusts – Offsets) Act 2016 (Cth)*.

Application Form means the form under which a person applying for Units in a Class undertakes to comply with the terms of the Investment Documents as they apply to them.

Appointee means a person appointed under clause 18.4(a).

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 11 of the Corporations Act and without limiting the foregoing includes:

- (a) a person who would be an *associate* of another person if the other person was a body corporate and any person who directly or indirectly controls or is under the common control of any of the aforementioned persons; and
- (b) in relation to a Manager or the Trustee, includes an entity or other person that directly, or indirectly through one or more intermediaries holds equity interests in the Manager or Trustee (as applicable) or a person for whom such interests are, directly or indirectly, held on their behalf.

Attribution Amount means, for an Accounting Period, any amount calculated by the Trustee and attributed to a Unitholder for the purposes of Division 276 of the Tax Act, and may include or be adjusted by:

- (a) components of income character;
- (b) components of tax offset character;
- (c) any amount the Trustee determines to be fair and reasonable; and
- (d) unders or overs.

Auditor means the auditor of the Trust from time to time.

Business Day means a day that is not a Saturday, Sunday, bank holiday or public holiday in Sydney, New South Wales, Australia.

Capital Call Relief Event means where an Insolvency Event occurs in respect of the Trustee or its Affiliates.

Capital Commitment means, in respect of a Unitholder and a Class, the total of the capital commitments of the Unitholder to the Trust in the relevant Class, as determined and adjusted in accordance with this deed (including without limitation increased pursuant to clause 17.3).

Capital Contribution means an amount paid to the Trust by a Unitholder as consideration for the issue of a Unit in a Class.

Cash Amount means cash, cash equivalents and amounts attributable to assets that can be readily converted to cash by the Trustee. For the avoidance of doubt, amounts attributable to the revaluation of Property are not Cash Amounts.

Catch Up has the meaning provided in clause 12.3(c).

Catch Up Percentage means:

- (a) 10%; or
- (b) if a new Class is issued in accordance with clause 3.3, the percentage under paragraph (a) of this definition or such other percentage disclosed by the Trustee to investors of the new Class pursuant to the terms of the issue of that Class.

Claim means a cause of action, claim or loss arising under or in connection with an Investment Document (including any related representation or undertaking or any transaction contemplated therein).

Class means a class of Units.

Class Pool has the meaning in clause 3.3(b).

Closing Date means the date, as determined by the Trustee, on which Units in a Class are issued to a person.

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

Cost means, in relation to Property, the amounts invested in or paid to acquire the Property and any other amounts related thereto including all third party fees and transaction costs, as recorded in the Accounts.

Covered Assets has the meaning provided in section 275-105 of the Tax Act.

Deed of Accession means a deed approved by the Trustee under which a person undertakes to comply with the terms of the Investment Documents as they apply to them.

Default Notice has the meaning provided in clause 11.2.

Defaulting Unitholder has the meaning provided in clause 11.1.

Disclosure Document means an information memorandum, term sheet or other document issued by the Trustee or Manager and which includes some or all of the terms of the relevant Units.

Distributable Income has the meaning given by clause 12.9.

Distribution Date means 30 June of each Financial Year or any other date as determined by the Trustee during a Financial Year on which the Trustee determines to make a distribution to Unitholders of a Class.

Establishment Fee means a one-off establishment fee expressed as a percentage of aggregate Capital Contributions in a Class or the Net Trust Value referable to a Class. Any such Establishment Fee applies separately to each Class as disclosed by the Trustee to investors of the new Class and pursuant to the Terms of Issue of that Class.

Financial Year means each 12 month period ending on 30 June and a shorter period ending on the first 30 June after the first occurring First Closing Date or commencing on 1 July and ending on the date of termination of this deed.

Financier has the meaning provided in clause 18.1(b)(ix).

First Closing Date means a date determined by the Trustee on which Units in a Class are first issued to Unitholders. Each new Class issued pursuant to clause 3.3 will have a separate First Closing Date.

Follow-On Investments means in respect of a Class, the acquisition by the Trust of additional interests in the Investee or its Associates in accordance with clause 17.3.

fund means a managed investment scheme (as defined in the Corporations Act and includes each exception in that definition).

Government Agency means a government or governmental, semi-governmental, regulatory, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity whether foreign, federal, state, territorial or local.

GST Act has the meaning provided in clause 35.1.

Immediate Family means a person's spouse (including any de facto of that person but excluding any spouse that is separated or divorced from that person), children, siblings, parents, grandparents, grandchildren, uncle, aunt, niece or nephew together with each respective entity that they separately or jointly control.

Insolvency Event means, in respect of a person, any of the following occurring:

- (a) it becomes insolvent within the meaning of section 95A, is taken to have failed to comply with a statutory demand under section 459F(1), must be presumed by a court to be insolvent under section 459C(2), is the subject of a circumstance specified in section 461 or is taken to be unable to pay its debts under section 585, of the Corporations Act;
- (b) except with the consent of the Trustee, Manager and each Unitholder:
 - (i) it is the subject of a liquidation, or an order or an application is made for its liquidation (and any application is not withdrawn or dismissed within 10 Business Days); or
 - (ii) an effective resolution is passed or meeting summoned or convened to consider a resolution for its liquidation;
- (c) an external administrator, liquidator or a controller is appointed to it or any of its assets or a step is taken to do so and the appointment is not terminated within 15 Business Days after it is made;
- (d) if a registered corporation, a step that is not frivolous or vexatious or is not dismissed within 10 Business Days is taken under section 601AA, 601AB or 601AC of the Corporations Act to cancel its registration;
- (e) it stops or suspends payment to creditors generally;
- (f) the person proposes a winding-up or dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (g) the person ceases to carry on business or threatens to do so; or
- (h) an analogous or equivalent event to any listed above occurs in any jurisdiction,

other than for the purpose of amalgamation, reconstruction or other similar purpose, in each case not affecting the continued existence of the person, or a voluntary winding up or deregistration of the company (if the person is a company).

Investee means in respect of a Class, an entity (including a trust and non-corporate entities) that the assets of that Class are invested in (directly or indirectly) or a counterparty to an investment of a Class (including a borrower in respect of a debt investment of a Class).

Investee Document means any document governing an Investment (by way of equity or other interest) or its Affiliates and Associates.

Investment means, in respect of a Class, an investment in the assets of the Class including interests in an Investee (of the Class) and includes any Follow-On Investments.

Investment Committee has the meaning provided in clause 25.

Investment Documents means this deed, the Terms of Issue and the Application Form.

IRR means, at any date, the discount rate (accruing daily and compounding annually), expressed as an annual percentage, which when applied to cash flows and distributions in specie (including tax credits) results in a net present value of zero as at the date of calculation. For the purposes of this definition, cashflows are regarded as being made as determined under clause 34.

Issue Price means the price at which a Unit in a Class is created and issued.

Liquidity Investment means an investment for no more than 12 months in a financial product issued (including interests in a cash management trust), secured, guaranteed, supported, accepted, drawn or endorsed by a Government Agency, an ADI, an entity conducting any business of banking anywhere in the world or an Affiliate of any of these, to be realised within 12 months after its acquisition and which is a Security, other than Securities in the issuing entity itself.

Lock Up Period means:

- (a) such period determined by the Trustee from time to time prior to the issue of Units in a Class and as disclosed to investors in the Trust prior to subscription for such Units;
- (b) where such period has not been determined by the Trustee, nil.

Management Deed means the deed between the Trustee and Manager governing the management of the Trust by the Manager dated on or about the date of this deed.

Management Fee means:

- (a) an amount determined by the Trustee expressed as a percentage per annum of aggregate Capital Contributions in a Class; or
- (b) in absence of such determination, zero.

Any such Management Fee applies separately to each Class and commences on the First Closing Date of that Class as disclosed to investors by the Trustee and pursuant to the terms of the issue of that Class.

Manager means Aura Funds Management Pty Ltd as at the date of this deed and any manager appointed by the Trustee to manage the Trust from time to time. If the Trustee has not appointed a Manager, all references to Manager are taken to be references to the Trustee.

Manager Related Persons means collectively:

- (a) Aura Capital Pty Ltd, Aura Funds Management Pty Ltd and their Affiliates;
- (b) directors, officers, managers, employees, general partners and immediate family members of any of the persons described in paragraph (a);
- (c) Affiliates of any of the persons described in paragraph (b); and/or
- (d) any other person determined by the Trustee to be a Manager Related Person.

Manager Unit is a no fee or Sponsor Distribution bearing Unit issued to Manager Related Persons or their nominees under clause 3.7.

Marketable Security means a Security that is freely tradeable by its holder on at least one established public market.

Net Income means, for an Accounting Period which consists of all of a Financial Year, the net income of the Trust for the purpose of section 95 of the *Income Tax Assessment Act 1936* (Cth) for that year reduced by any amounts included in the net income of the Trust that are not represented by Cash Amounts (for example, foreign tax credits (but only to the extent that the Unitholders are able to realise the value of such foreign tax credits)). For the avoidance of doubt, the net income for an Accounting Period which does not consist of an entire Financial Year will be computed as if the Accounting Period were a full year of income.

Net Trust Value means the total value of the Property less the Trust Liabilities.

Net Unit Value means in respect of a Unit in a Class, the Net Trust Value divided by the number of Units, each referable to that Class.

Notice has the meaning provided in clause 42.1.

Ordinary Resolution means a resolution passed by a simple majority of votes cast by Unitholders entitled to vote on the resolution.

Ordinary Unit means a Unit other than a Manager Unit or Sponsor Unit.

Ordinary Holder means a person recorded on the Register as a holder of an Ordinary Unit.

Organisational Costs means all costs, incurred by the Trustee, a Manager or their associates in establishing and promoting the Trust including: government registration charges; legal fees and other expenses in relation to the preparation of the Investment Documents and Management Deed; marketing expenses; accounting, consultant, audit and taxation adviser fees; printing costs; Taxes and administrator and custodian setup fees.

Outgoings has the meaning provided in clause 21.1.

Outside Fees means any fees (excluding GST) paid by Investees, an investee of an Investee or their Affiliates or Associates in respect of services provided to them by the Trustee, Manager or their Associates such as (but not limited to) origination, debt advisory, administration and other similar fees.

Overheads means any administration, rent, office maintenance and administration, wage, salary, travel, personal income tax and fringe benefits tax expenses of the Trustee,

Manager or an Appointee and premiums for any insurance in respect of the Trustee, Affiliates and Associates, or its employees or officers, other than in respect of directors and officers insurance, professional indemnity or other insurance to the extent such is related to the Trust or Investments.

Paid Up Proportion means in respect of a:

- (a) Unitholder in a Class, the proportion of all Capital Contributions paid up on its Units in that Class to its Capital Commitment to that Class; and
- (b) Unit, the proportion of all Capital Contributions paid up on the Unit to the Issue Price of the Unit,
- (c) each as adjusted in accordance with this deed.

Performance Fee means the fee payable to the Manager as more accurately described in clause 12.8(f).

Permitted Transfer means a Transfer in accordance with clause 28.2.

Preferred Return means, in relation to an Ordinary Holder in a Class:

- (a) the aggregate of payments (including tax credits) made by the Trust to the Ordinary Holder in that Class (which have not been redrawn to the Trust) up to the time that an amount at which:
 - (i) those payments, considered as positive amounts; and
 - (ii) all Capital Contributions by the Ordinary Holder in that Class, considered as negative amounts,

represent an IRR of 8% per annum to the Ordinary Holder; **less**

- (b) all Capital Contributions by the Ordinary Holder in that Class,

or any other percentage in paragraph (a) disclosed by the Trustee to investors pursuant to the Terms of Issue for a Class.

Pre-Issue Investment has the meaning given in clause 18.8(a).

Property means all property, rights and income of the Trust.

Redemption Price means the redemption price for a Unit calculated under clause 6.3.

Register means the register of Unitholders maintained on behalf of the Trustee.

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

Relief means any declaration made or exemption granted by ASIC that is applicable to the Trust and that is in force.

Reports has the meaning provided in clause 15.2(a).

Restricted Activities has the meaning provided in clause 18.2.

Security has the meaning provided in section 92(1) of the Corporations Act.

Security Interest means:

- (a) any security for payment of money, performance of obligations or protection against default (including a mortgage, bill of sale, charge, lien, pledge, trust, power or title retention arrangement, right of set-off, assignment of income, garnishee order or monetary claim and flawed deposit arrangements); or
- (b) anything else giving a person priority or preference over claims of other persons or creditors with respect to the property or asset and includes any agreement to create any or allow any of the aforementioned.

Special Resolution means a resolution approved by Unitholders holding together at least 75% of the Capital Commitment of those Unitholders entitled to vote on the resolution.

Split has the meaning provided in clause 12.3(c).

Split Ratio means:

- (a) in the ratio of 10% to the Sponsor Unitholders (considered together) by way of Sponsor Distributions and 90% to Ordinary Holders (considered together) as distributions; or
- (b) if a new Class is issued in accordance with clause 3.3, in the ratio under paragraph (a) of this definition or such other ratio disclosed by the Trustee to investors of the new Class pursuant to the Terms of Issue of that Class.

Sponsor means Aura Funds Management Pty Ltd and its Associates or any persons determined by the Manager from time to time.

Sponsor Unit has the meaning provided in clause 3.6(a).

Sponsor Distribution in respect of a Financial Year means the amounts (if any) determined under clause 12.3 as payable to Sponsor Unitholders for that Financial Year.

Sponsor Unitholder means a person recorded on the Register as a holder of Sponsor Units.

Tax means any tax, levy, duty, rate, impost or charge imposed, levied or assessed by a Government Agency (and any related penalty, fine, fee or interest related thereto) including stamp duty, goods and services taxes, transaction taxes and fringe benefits tax.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) and *Income Tax Assessment Act 1997* (Cth), as applicable.

Term means 75 from the commencement of the Trust, unless:

- (a) extended by Special Resolution (subject to any rule against perpetuities);
- (b) terminated earlier by unanimous approval of all Unitholders to terminate the Trust;
- (c) the Trust otherwise being terminated by the Trustee in accordance with this deed.

Termination Date means the last day of the Term.

Terms of Issue in respect of a Unit means the terms of issue of that Unit determined by the Trustee which may be disclosed and contained in a term sheet, annexure to this deed, Disclosure Document or an analogous document to any of the former.

Transaction Costs means in respect of an application of Units:

- (a) an estimate by the Trustee of the aggregate of the transaction costs and/or Outgoings the Trust would incur to acquire or dispose of (as applicable) Property or the relevant Investment including the incurrence of Taxes and losses or impairments;
- (b) if appropriate having regard to the actual cost which would be incurred because of the issue of the Units, the Trustee's estimate of a portion of the costs including the incurrence of Taxes, which may be zero; or
- (c) if the Trustee does not make an estimate, zero,

divided by the Units in the applicable Class

Transfer means any sale, withdrawal, exchange, transfer, gift, assignment or other disposition, whether voluntary or involuntary and anything else which results in a change of economic, legal or beneficial interest.

Trust means the trust constituted by and under this deed.

Trust Accounts means in respect of a period, the financial statements of the Trust for the period prepared in accordance with the directions of the Trustee or otherwise this deed.

Trust Income in respect of a Financial Year or an Accounting Period will be equal to the Net Income, unless the Trustee in its absolute discretion determines before the end of the Financial Year or Accounting Period that Trust Income for that Financial Year or Accounting Period shall be determined using a different formula, and without limiting the above, the amount based on the formula may be any of the following:

- (a) the Accounting Income of the Trust in respect of that Accounting Period reduced by amounts included in determining Accounting Income that are not Cash Amounts;
- (b) all income gains, receipts and profits and all capital gains, receipts and profits derived during that Accounting Period less all expenses of the Accounting Period referable thereto; or
- (c) if the Net Income is less than zero, \$100.

Trust Liabilities include borrowings, accrued costs, charges, expenses and outgoings, contingent liabilities, provisions the Trustee decides to make (including a provision for accrued or unaccrued Sponsor Distributions), unpaid distributions due to Unitholders and other unpaid remuneration (if any) due to the Trustee or Manager but excluding:

- (a) any amount on account of Unitholder equity or application monies; or
- (b) any other amount representing the value of rights attaching to Units whether or not redeemable.

For the avoidance of doubt the definition of Trust Liabilities is not intended to affect any other meaning of 'liabilities' of the Trust which the Trustee may be required to adopt for financial reporting purposes.

Trustee means Aura Capital Pty Ltd ACN 143 700 887, while it remains trustee of the Trust and also means any subsequent trustee of the Trust from time to time.

Trustee Fees means the fees payable to the Trustee under clause 12.8(a).

Trustee Fund has the meaning provided in clause 32.1.

Trustee Unitholder means a Unitholder which has disclosed in its Application Form or Deed of Accession that it holds its Units as trustee, responsible entity, custodian, sub-custodian or nominee of a fund or person.

Unit means a beneficial interest in the Trust and includes Ordinary Units, Manager Units and Sponsor Units.

Unitholder means a person recorded on the Register as a holder of a Unit and includes an Ordinary Holder, a holder of Manager Units and a Sponsor Unitholder.

Unitholder Return has the meaning provided in clause 12.3(c)(i).

Valuation Guidelines means the valuation guidelines approved by the Manager.

Valuation Time has the meaning provided in clause 16.1.

Valuer means a person independent of the Trustee who is appointed by the Trustee to value any Property.

1.2 Interpretation

- (a) In this deed the following rules of interpretation apply unless the contrary intention appears:
- (b) headings are for convenience only and do not affect the interpretation of this deed;
 - (c) the singular includes the plural and vice versa;
 - (d) words that are gender neutral or gender specific include each gender;
 - (e) a reference to \$, AU\$ or \$AU is to Australian currency;
 - (f) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
 - (g) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
 - (h) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;

- (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;
- (vi) this deed includes all schedules and attachments to it;
- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
- (viii) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
- (ix) a monetary amount is in Australian dollars;
- (i) an agreement on the part of two or more persons binds them jointly and severally;
- (j) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (k) in determining the time of day, where relevant to this deed, the relevant time of day is:
 - (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located;
- (l) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it; and
- (m) if there is any conflict between the body of this deed and its schedules, the terms of the main body of this deed will prevail over the schedules.

Schedule 2 Consultation with the Manager

1 Consultation

The Trustee must consult with the Manager prior to exercising a right, power, discretion or obligation of the Trustee under this deed.

2 Directions

- (a) The Trustee must only act or omit to do an act under this deed in accordance with the direction of the Manager (**Direction**) except to the extent that to do so would in the reasonable opinion of the Trustee:
 - (i) be prohibited or hindered by, or result in a breach of, a provision of a law or decree, order or judgment of a competent court or the terms of its Australian financial services licence;
 - (ii) result in a breach of this deed;
 - (iii) result in a breach of its duties as trustee of the Trust; or
 - (iv) may result in the Trustee sustaining or incurring Costs or obligations for which an effective and enforceable indemnity backed by sufficient Property is not available to it.
 - (b) The Trustee may, from time to time, reasonably request the Manager to provide a Direction in respect of any matters in relation to the performance of any right, power, discretion or obligation of the Trustee under this deed or in respect of the Trust or the Property and the Manager must as soon as reasonably practical provide any such reasonably requested Direction.
 - (c) Where the Trustee requests the Manager to provide a Direction in accordance with paragraph 2(b) of this Schedule subject always to the Trustee's obligation to minimise loss to the Trust, the Trustee is not required to perform any right, power, discretion or obligation of the Trustee under this deed unless the Trustee receives a Direction.
-

3 Liability of Trustee

- (a) The Trustee is not liable to any person (including without limitation current and future Managers, or future Trustees) (including in relation to its fraud, gross negligence, dishonesty or wilful default) for acting or omitting to act if it is doing so in accordance with a Direction or for failing to consider or enquire whether the direction is of a kind described in paragraph 2(a)(i) of this Schedule 2.
- (b) The Trustee will not be liable to any person (including without limitation current and future Unitholders or Managers, or future Trustees) for any Costs incurred as a consequence (whether direct or indirect) of the Manager providing a Direction to the Trustee to act or refrain from acting in a manner which is fraudulent, negligent, dishonest or would constitute wilful default.

4 Units

The Manager may accept or reject Applications, issue, transfer, redeem and otherwise deal with Units in accordance with this deed as though a reference to the Trustee was a reference to the Manager.

5 Power of Manager

- (a) The Manager has in managing the Trust full and complete powers of management and must manage the Trust, the Property and Trust Liabilities.
 - (b) The Manager must direct the Trustee as to how the Trustee may exercise any power or right conferred on the Trustee under this deed or by Property.
-

6 Trustee Fees

6.1 Trustee fee

The Trustee is entitled to a fee, for acting as the Trustee of the Trust and holding Property.

6.2 Fee waiver and rebates

- (a) The Trustee may, subject to any applicable laws, in its discretion elect to receive less than such fees (or defer payment for any period) contemplated in clause 6.1. Where payment of a fee is deferred, the fee still accrues until paid.
 - (b) The Trustee may pay any Unitholder from its own resources, any amounts which it, in its absolute discretion, determines by way of offset or rebate of fees.
 - (c) The Trustee subject to all applicable laws may apply different fees to different Unitholders.
-

7 Insolvency

The Trustee must immediately notify the Manager:

- (a) if an Insolvency Event occurs in respect of the Trustee; or
 - (b) the Trustee ceases to hold on Australian financial services licence that contains appropriate authorisations to provide the financial services contemplated in this deed.
-

8 Miscellaneous provisions

Without limiting any other clause of this Schedule, each of clauses 21, 23.2, 23.3, 23.4, 23.5, 29.9 and 29.10 will apply to both the Trustee and the Manager as though a reference in each of these clauses to the Trustee includes a reference to the Manager.

9 Amendments

- (a) Without limiting any other clause of this Schedule, but subject to paragraph 9(b) of this Schedule 2, the Trustee may only exercise a power to modify the deed under clause 33 with the consent of the Manager.
- (b) Without limiting any other paragraph of this Schedule, the Trustee may make any modifications, additions or deletions to the deed in accordance with clause 33 which the Trustee considers necessary in order to comply with the provisions of any law or requirements of any Government Agency or having regard to the Trustee's duties as trustee of the Trust. The Trustee must consult with the Manager prior to any such modification, addition or deletion.

Schedule 3 Registered Scheme

Where the Trust is Registered, the following provisions apply:

1 Constitution upon Registration

1.1 Constitution

Upon Registration this deed becomes the constitution of the Trust for the purposes of the Corporations Act, and the Trustee becomes the responsible entity.

1.2 Constitution binding

The deed binds the Unitholders and the Trustee as responsible entity.

1.3 Trustee

The Trustee is the entity which is registered with ASIC as the responsible entity of the Trust under the Corporations Act.

1.4 Commencement

This schedule takes effect upon registration of the Trust as a registered scheme under the Corporations Act.

2 Corporations Act

2.1 Operation

The Corporations Act prevails to the extent of the inconsistency with the deed.

2.2 Matters required to be in deed

For so long as the Trust is registered as a managed investment scheme all provisions required from time to time to be contained in this deed by the Corporations Act or as a condition of any Relief, class order or other instrument are taken to be contained in this deed for so long as the Corporations Act or instrument (as applicable) applies.

2.3 Compliance with Relief and things required to be in deed

The Trustee as responsible entity and each Unitholder must, subject to the Corporations Act and to any Relief applicable to the Trust, comply with:

- (a) the Corporations Acts for so long as the Trust is Registered and for so long as the relevant provision of the Corporations Act applies;
- (b) any conditions of, and any covenants required to be contained in this deed as a condition of, the Relief, for so long as it applies; and
- (c) all provisions required from time to time to be contained in this deed as a condition of any class order applicable to the Trust, for so long as it applies.

2.4 Fees

- (a) The Trustee's entitlement as responsible entity to be paid fees and be indemnified or reimbursed under this deed is only available in relation to the Trustee's proper performance of its duties.
- (b) All expenses in connection with the establishment and conduct of any compliance committee including:
 - (i) remuneration of committee members;
 - (ii) audit of the compliance plan;
 - (iii) the expenses of independent legal, accounting or other professional advice or assistance properly commissioned by the compliance committee; and
 - (iv) to the extent permitted by the Corporations Act, directly or indirectly, indemnifying or insuring a person who has been a compliance committee member for or against any liability, including costs, expenses and liabilities incurred by the person in defending civil or criminal proceedings,

are to be taken as an outgoing under clause 21.1 and, subject to the requirements of that clause, are payable or reimbursable out of Property.

2.5 Complaints

The Trustee:

- (a) must, within 5 days acknowledge any complaint received from a Unitholder;
- (b) must, within 45 days (or in accordance with ASIC policy and best practice, such longer period as may reasonably be required having regard to the nature of the complaint, the information given by the complainant and the nature and extent of the investigation and other activities necessary to deal fully with the complaint);
- (c) investigate, properly consider and decide what action (if any) to take or offer regarding the complaint; and
- (d) communicate its decision to the Unitholder, at the same time informing the Unitholder of remedies available to the Unitholder of which the Trustee is aware and any available avenue of appeal against the decision to an external industry complaints tribunal or other body;
- (e) must include in any disclosure document an explanation of its procedures for handling complaints; and
- (f) may, in its discretion, give any of the following remedies to the complainant:
- (g) information and explanation regarding the circumstances giving rise to the complaint;
- (h) an apology;
- (i) compensation for loss incurred by the Unitholder as a direct result of the breach (if any); or
- (j) such other remedies as the Trustee considers appropriate.

2.6 Meetings

- (a) Without limiting the other provisions of this schedule, the provisions of this deed relating to the holding of a meeting of Unitholders must be read subject to the Corporations Act.
- (b) Where this deed deals with a matter that is required to be dealt with under and in accordance with the Corporations Act, then the later shall prevail.

Execution page

Executed as a deed.

Signed, sealed and delivered by Aura Capital Pty Ltd in accordance with section 127 of the *Corporations Act 2001* (Cth) by:



Signature of director

Eric Chan

Name of director (print)

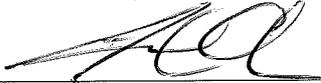


Signature of director/secretary

SHENG SHI

Name of director/secretary (print)

Signed, sealed and delivered by Aura Funds Management Pty Ltd in accordance with section 127 of the *Corporations Act 2001* (Cth) by:



Signature of director

Eric Chan

Name of director (print)



Signature of director/secretary

SHENG SHI

Name of director/secretary (print)
