

Trust Deed Wattle Creek Energy Hub Trust

Wattle Creek Energy Hub Pty Ltd (ACN 664 148 958)

Contents

1	Definitions and interpretation.....	1
2	The Trust	7
3	Trust Assets held on Trust.....	7
4	Units.....	8
5	Fully Paid Units and Partly Paid Units.....	9
6	Unitholders' rights.....	11
7	Unitholders' Liability.....	12
8	Application for Units.....	12
9	Issue Price of Units.....	14
10	Withdrawal from Trust	15
11	Distributions	17
12	Transfers.....	21
13	Powers of Trustee as trustee.....	22
14	Register of Unitholders	24
15	Valuation of Trust Assets.....	25
16	Limitation of liability of Trustee	25
17	Dealings with Trust and Unitholders.....	27
18	Trustee's indemnity out of Trust Assets	28
19	Removal and Retirement of Trustee	29
20	Payments and deductions	30
21	Trustee fees and Trust Expenses	31
22	Meetings of Unitholders.....	35
23	Amendments to the Trust Deed	37
24	Financial statements.....	38
25	Winding up of the Trust	38
26	Entitlement to Units on death and insolvency of a Unitholder.....	39
27	Notices.....	40
28	Perpetuity period	41
29	Governing law.....	41
30	Severability	41

Deed Poll dated 29 November 2022

Parties **Wattle Creek Energy Hub Pty Ltd ACN 664 148 958** of Level 40, Tower One, International Towers Sydney, 100 Barangaroo Avenue, Barangaroo NSW 2000, Australia (**Trustee**)

Introduction

- A** This Deed establishes the Wattle Creek Energy Hub Trust for the benefit of the Unitholders.
- B** The Trustee has consented to act as trustee of the Trust and to hold all Trust Assets, subject to the terms of this Deed.
- C** The Trustee is to be the Trust's first trustee.

1 Definitions and interpretation

1.1 Definitions

In this Trust Deed:

- (1) **ASIC** means the Australian Securities and Investments Commission or, if it ceases to exist, any regulatory body or authority as then serves substantially the same objects;
- (2) **Associate** of a person means another person who is associated with the first person within the meaning of the Corporations Act;
- (3) **Business Day** means any day (excluding a Saturday, a Sunday, a public holiday or bank holiday) on which banks are open for business generally in Sydney, New South Wales;
- (4) **Contribution** means payment of the Issue Price in whole or in part;
- (5) **Contribution Notice** means the notice referred to in clause 5.2(3);
- (6) **Control**:
 - (a) in respect of a trust, means the direct and indirect power to:
 - (i) control the trustee of the trust;
 - (ii) appoint and remove the trustee of the trust; and
 - (iii) control the application of income or capital of the trust; or
 - (b) otherwise, has the meaning given to that term in section 50AA of the Corporations Act,and **Controlled** has a corresponding meaning;
- (7) **Controlled Entity** means an entity Controlled by the Trustee;

- (8) **Corporations Act** means the *Corporations Act 2001* (Cth);
- (9) **Distributable Amount** means:
- (a) for a Distribution Period in a Financial Year (other than the last Distribution Period in a Financial Year), an estimate of the Distributable Income of the Trust as the Trustee considers is appropriate for distribution for the Distribution Period after taking account of all of the Redemption Entitlements paid during the Distribution Period; and
 - (b) for the last Distribution Period in a Financial Year, the excess of (i) over (ii) for the Distribution Period, where:
 - (i) is Distributable Income for the Financial Year; and
 - (ii) is the aggregate of Distribution Amounts for preceding Distribution Periods in the Financial Year and all Redemption Entitlements paid in respect of the Financial Year;
- (10) **Distributable Income** means, unless the Trustee otherwise determines, in respect of a Financial Year, the greater of:
- (a) the amount which, if distributed, would prevent the Trustee from being liable to Tax on any portion of the net income of the Trust; and
 - (b) the net profit of the Trust for the Financial Year being all income and gains of the Trust referable to the Financial Year but excluding any unrealised income and gains as determined by the Trustee, less:
 - (i) any loss, Expenses or outgoing or any other amount, deduction, or offset of the Trust which the Trustee determines are to be included or applied for the purposes of this definition; and
 - (ii) any provision or reserve that the Trustee may make and determine to be proper for the purposes of the Trust and, if the Trustee so determines, an item of income received or receivable in the Financial Year may be treated as instead being referable to, and available for distribution in, the next Financial Year.

The Trustee is to determine whether any item is income or capital for the purposes of this definition.

Any determination by the Trustee under this definition must be made before 5pm on the last day of the Financial Year;

- (11) **Distribution Amount on Redemption** where clause 11.12 applies for a Relevant Period will be the Trustee's estimate of the amount that would be appropriate to distribute if the Relevant Period were a Distribution Period, taking into account any net capital gains realised under the Tax Act as a result of the Withdrawal Request;
- (12) **Distribution Calculation Date** means 31 December and such other day or days in each year or such other dates as the Trustee may determine;
- (13) **Distribution Date** means 61 days after the Distribution Calculation Date for the relevant Distribution Period or such other date determined by the Trustee and, in respect of a Redemption Entitlement, means the date for payment of the Withdrawal Price to the person in respect of each Unit;

- (14) **Distribution Entitlement** means a Unitholder's entitlement to the Distributable Amount determined in accordance with clause 11.2;
- (15) **Distribution Period** means:
- (a) for the first Distribution Period, the period from the date of establishment of the Trust to the next Distribution Calculation Date;
 - (b) for the last Distribution Period, the period beginning on the day after the preceding Distribution Calculation date to the date of termination of the Trust; and
 - (c) in all other circumstances, the period beginning on the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date;
- (16) **Expenses** includes any expenses, costs, charges, fees, commissions, brokerage, Taxes, interest on borrowings, rates, levies, insurance premiums, valuation fees and any other like payment and all amounts payable in respect of any of them;
- (17) **Financial Year** means each consecutive 12 month period beginning on 1 January in each year and ending on 31 December in the following year, except that:
- (a) the first Financial Year begins on the date of commencement of the Trust and ends on the first 31 December to occur thereafter; and
 - (b) the last Financial Year begins on the last 1 January before the date of final distribution on winding up of the Trust and ends on the date of that final distribution,
- or any other period determined by the Trustee;
- (18) **Governmental Agency** means any government or governmental, semi-governmental, administrative, fiscal, judicial or quasi judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world;
- (19) **Gross Asset Value** means at any time, the total value of the Trust Assets at that time as most recently determined by the Trustee in accordance with clause 15.
- (20) **Initial Unitholders** means those person(s) listed in Schedule 1;
- (21) **Investment** means any investment made by the Trustee in respect of the Trust (whether directly or indirectly).
- (22) **Issue Price** means, at any time, in respect of a Unit, the amount at which that Unit is to be issued, calculated in accordance with clause 9;
- (23) **Liabilities** means, at any time, the aggregate of the following at that time as determined by the Trustee:
- (a) all liabilities of every nature of or in respect of the Trust, including contingent liabilities and any anticipated liabilities or provisions for liabilities that the Trustee considers should be included; and
 - (b) all amounts payable out of or reimbursable from Trust Assets or in relation to the Trust, including (without limitation) any unpaid amounts due and payable to any Unitholders or to the Trustee (as its remuneration), or where determined by the Trustee, provisions with respect to such amounts,

but excluding any amounts included as liabilities for accounting purposes reflecting funds available to pay Unitholders;

- (24) **Losses** includes any losses, liabilities, damages or Expenses and **Loss** has a corresponding meaning;
- (25) **Minimum Application Amount** means (subject to clause 8.4) in respect of Units, such amount as is specified in their terms of issue or any other amount as the Trustee determines from time to time. The Trustee may determine a different amount for different applicants;
- (26) **Minimum Balance** means any amount that the Trustee determines from time to time. The Trustee may determine a different amount for different applicants;
- (27) **Minimum Withdrawal Amount** means any amount that the Trustee determines from time to time. The Trustee may determine a different amount for different applicants;
- (28) **Net Asset Value** means, at any time, the Gross Asset Value at that time less the Liabilities of the Trust at that time;
- (29) **Net Investment** means, in respect of an application for Units, an amount equal to the application moneys or (as the case may be) the value of the property (as determined by the Trustee), in each case minus the aggregate of the following sums except to the extent the Trustee decides otherwise:
 - (a) any Expenses incurred or payable by the Trust or the Trustee in respect of the payment of any application money or otherwise in respect of the issue of the Units; and
 - (b) such of the Expenses in respect of the valuation of the property or transfer to (or at the direction of) or acceptance by (or on behalf of) the Trustee of the property as the Trustee determines not to be payable or reimbursable out of Trust Assets;
- (30) **Partly Paid Unit** has the meaning given in clause 5.1(2);
- (31) **Register** means the register maintained by the Trustee under clause 14.1;
- (32) **Redemption Entitlement** has the meaning given to that expression in clause 10.9;
- (33) **Related Body Corporate** has the meaning given to the expression “related body corporate” in the Corporations Act, but on the basis that “body corporate” includes any entity and a trust and **Related Bodies Corporate** has a corresponding meaning;
- (34) **Relevant Law** means any applicable statute, ordinance, code or other law of the Commonwealth of Australia or any State or Territory with which the Trustee or the Trust must comply or if failure to do so would result in a penalty or similar cost.
- (1) **Relevant Period** where clause 11.12 applies, means the period commencing on the first day of the Distribution Period in which the Withdrawal Request is received and ending on the day the Units the subject of the Withdrawal Request are redeemed;
- (2) **Requisite Majority** means, except where the Trust Deed otherwise or any applicable law provides otherwise, a simple majority;
- (3) **Special Resolution** has the meaning given in the Corporations Act;

- (4) **Tax** means any kind of tax or taxes, levy, charge, impost, rate, fee, deduction, duty, excise, or withholding or instalment amount, whether direct or indirect, by whatever method imposed, collected or recovered, together with any interest, fine, fee, penalty or statutory charge payable, imposed or claimed in respect of any such amount;
- (5) **Tax Act** means the *Income Tax Assessment Act 1936* (Cth) and/or the *Income Tax Assessment Act 1997* (Cth), as applicable, and where appropriate, includes the *Taxation Administration Act 1953* (Cth), applicable imposition and/or collection legislation, and any subordinate legislation in relation to those Acts or that legislation;
- (6) **Taxation Amount** for a Unitholder or former Unitholder (**Relevant Person**) means an amount of Tax which is payable or which is anticipated to become payable by the Trustee on its own account or out of the Trust and which is referable to the Relevant Person and a Taxation Amount includes an amount of Tax imposed on account of or in respect of:
 - (a) the Relevant Person;
 - (b) an amount paid or payable to the Relevant Person;
 - (c) a Unit held by the Relevant Person;
- (7) **Transaction Costs** means:
 - (a) when calculating the Issue Price of a Unit at any time, an amount (if any) which the Trustee estimates is the total of all Expenses which may be incurred or are expected to be incurred if all existing Trust Assets held at that time were to be acquired at that time. If the Trustee considers it appropriate, it may determine Transaction Costs to be a lesser sum or zero; and
 - (b) when calculating the Withdrawal Price of a Unit at any time, an amount (if any) which the Trustee estimates is the total Expenses which may be incurred or are expected to be incurred if all existing Trust Assets held at that time were to be disposed of at that time. If the Trustee considers it appropriate, it may determine Transaction Costs to be a lesser sum or zero;
- (8) **Trust** means the trust known as the "Wattle Creek Energy Hub Trust" which is constituted by this Trust Deed;
- (9) **Trust Assets** means all cash, property, rights and income of the Trust from time to time (including without limitation all the cash or property transferred to (or at the direction of) the Trustee by an applicant but only on and from the time when Units are taken to be created and issued to the applicant) and where the context permits, includes any part of it, but it does not include proceeds of redemption allocated for payment but which have not yet been paid;
- (10) **Trust Deed** means this document together with any schedule or annexure to it;
- (11) **Trustee Group** means any entity which Controls the Trustee, and any other entity which is Controlled by the entity which Controls the Trustee;
- (12) **Unit** means a unit issued under this Trust Deed and for the time being held by a Unitholder;

- (13) **Unitholder** means a person whose name is, for the time being, entered in the Register as the holder of a Unit that has not been redeemed (including persons jointly so registered);
- (14) **Unitholder Direction** means a written direction given to the Trustee to do any act or thing, or not to do any act or thing, for the purposes of or in connection with the Trust, signed by all Unitholders, or signed by any agent or other person acting on behalf of Unitholders.
- (15) **Valuation Time** means a time at which the Trustee calculates the Net Asset Value of the Trust Assets;
- (16) **Withdrawal Price** means the amount or amounts paid or payable in respect of a Unit under this Trust Deed in respect of a Withdrawal Request that the Trustee has accepted or a Unit the Trustee has otherwise determined to redeem, calculated in accordance with clause 10.3; and
- (17) **Withdrawal Request** means a request which is in accordance with clause 10.2.

1.2 Interpretation

- (1) In this Trust Deed:
 - (a) headings are for convenience only and do not affect interpretation;
 - (b) a reference to a party to a document includes that party's legal personal representatives, successors and permitted assigns, including any person taking by way of novation;
 - (c) the expression "**person**" includes an individual, a corporation and an unincorporated association, an authority, a partnership, a trust and any Government Agency;
 - (d) a reference to any statute or to any statutory provision includes any statutory modification, re-enactment or replacement of it or any statutory provision substituted for it and all ordinances, by-laws, regulations, rules and other statutory instruments (however described) issued under it;
 - (e) words importing the singular include the plural (and vice versa) and words indicating a given gender include all other genders;
 - (f) the word "includes" in any form, is not a word of limitation;
 - (g) where a word or phrase has a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
 - (h) if the day by which any sum is payable hereunder or any act, matter or thing is to be done is a day other than a Business Day, that sum will be paid or that act, matter or thing will be done on the next succeeding Business Day;
 - (i) a reference to cash includes cheque and bank cheque;
 - (j) a reference to a month or a quarter means a calendar month or calendar quarter respectively;
 - (k) a reference to any document or agreement (including this Trust Deed) is to that document or agreement as amended, novated, varied or replaced from time to time;

- (l) unless otherwise defined in this Trust Deed, terms defined in the Corporations Act are used in this Trust Deed with their same defined meaning; and
- (m) a reference to dollars or \$ is to Australian currency.

1.3 Calculations and rounding of Payments

Subject to clause 4.3, all calculations by the Trustee under this Trust Deed (including calculations of the Issue Price and Withdrawal Price) may be made and rounded up or down to such number of decimal places as the Trustee determines and where any calculations by the Trustee under this Trust Deed would result in a total amount payable to a person (including to the Trustee) including a fraction of a cent, that amount may be rounded up or down to the nearest cent as determined by the Trustee. Any excess money which results from rounding becomes part of Trust Assets.

2 The Trust

2.1 Trust's initial trustee and Trust Deed

The Trustee agrees to act as the trustee of the Trust on the terms of this Trust Deed.

2.2 Trust Deed is legally binding

This Trust Deed binds the Trustee and each Unitholder and former Unitholder from time to time (and each person claiming through the Unitholder and former Unitholder) in accordance with and to the extent provided for in this Trust Deed, as if each of them had been a party to this Trust Deed.

2.3 Name of Trust Fund

The Trust is to be known as the Wattle Creek Energy Hub Trust, or any other name determined by the Trustee from time to time.

2.4 Investment objective of the trust

The investment objective of the Trust is to invest in such investments as are approved by the Unitholders Direction from time to time. Such investments may be direct or through one or more interposed investment vehicles and may be wholly or partly owned. Any material change to the investment objective requires the approval of the Trustee (not to be unreasonably withheld or delayed).

3 Trust Assets held on Trust

3.1 Commencement of Trust

The Trust commences when the Trustee issues the first Units.

3.2 Declaration of Trust

- (1) The Trustee declares that it holds all of the Trust Assets on trust for Unitholders subject to, and in accordance with, the provisions of this Trust Deed. The Trust Assets vest in the Trustee.
- (2) The Trustee must ensure the Trust Assets are clearly identified as property of the Trust and held separately from all other property of the Trustee (whether held by the Trustee personally or for the benefit of any other person or persons).

- (3) The Trustee may appoint a custodian to hold any of the Trust Assets.

3.3 Exclusion of other obligations

To the maximum extent permitted by Relevant Law and except as expressly set out in this Trust Deed, all duties, obligations, liabilities or restrictions on powers which might otherwise be implied or imposed by Relevant Law or equity upon the Trustee in any capacity are hereby excluded.

3.4 Duties of the Trustee

Notwithstanding any other terms of this Trust Deed, in exercising its powers and carrying out its duties, the Trustee must:

- (1) act honestly;
- (2) act in good faith;
- (3) act in the best interest of the Unitholders and, if there is a conflict between the Unitholders' interests and its own interests, give priority to the Unitholders' interests; and
- (4) exercise the degree of care and diligence that a reasonable person would exercise if they were in the Trustee's position.

4 Units

4.1 Nature of a Unit and rights attaching to a Unit

- (1) The beneficial interest in the Trust Assets of the Trust is divided into a changeable number of Units which may be issued by the Trustee at any time.
- (2) Subject to any rights, obligations and restrictions attaching to any particular Unit or class of Unit:
 - (a) all Units rank equally with each other;
 - (b) each Unit confers an equal undivided interest in the Trust Assets as a whole, subject to the Liabilities; and
 - (c) a Unit does not confer any interest in any particular part of the Trust Assets nor in any particular part of the Trust.
- (3) The terms of issue of Units (including the terms of issue of a class of Units) must be set out in this Trust Deed (which may be included in a schedule).
- (4) A Unitholder holds a Unit subject to the rights, obligations and restrictions attaching to that Unit.

4.2 Issue of Units

Subject to the Relevant Law, the Trustee may issue Units to any person at the Issue Price at any time and in any numbers.

4.3 Fractions of Units

Subject to clause 4.4, fractions of a Unit may be issued or redeemed or created by consolidation or division, as determined by the Trustee, rounded up or down to any number

of decimal places which the Trustee determines. The value of, and all rights and obligations attaching to, a fractional Unit will be in the proportion which the fraction bears to a whole Unit. Any excess money or property which results from rounding becomes part of Trust Assets.

4.4 Consolidation and division of Units

Units may be consolidated or divided on any basis the Trustee determines except that a consolidation or division of Units must not change the ratio of Units registered in the name of a Unitholder to the total Units on issue.

4.5 Joint Unitholders

Where more than one person is registered as the Unitholder of any Unit then, for the purposes of the administration of the Trust:

- (1) they shall be deemed to hold the Unit as joint tenants unless the Trustee determines otherwise;
- (2) they shall be liable jointly and severally in respect of all amounts payable (including Tax) in respect of the Unit;
- (3) they shall be counted as a single Unitholder for the purposes of calculating the number of Unitholders as referred to in clause 22.6 relating to meetings of Unitholders;
- (4) clause 22.6(2) applies to determine which joint Unitholder may exercise the voting rights of jointly held Units;
- (5) any payment to joint Unitholders shall be subject to clause 20.4;
- (6) on the death, legal disability or bankruptcy of a joint Unitholder, the provisions of clause 26 shall apply; and
- (7) delivery of notices and all other communications by the Trustee will be made pursuant to clause 27.

5 Fully Paid Units and Partly Paid Units

5.1 Division of Units

Units may be created as:

- (1) Fully Paid Units – being Units in respect of which the Issue Price per Unit has been fully paid; or
- (2) Partly Paid Units – being Units in respect of which the Issue Price has not been fully paid.

5.2 Partly Paid Units

The following provisions apply to Partly Paid Units:

- (1) They have the voting rights (if any) proportional to the amount paid of each Partly Paid Unit.
- (2) They have proportional share to the amount paid of each Partly Paid Unit in the income of the Trust Assets as Fully Paid Units but if the Unit Holder defaults in

payment of any Contribution the Trustee may appropriate any income to which the Unit is entitled towards payment of the Contribution.

- (3) The Trustee may fix the number, amount and period for payment of Contributions by service of a Contribution Notice upon the holder of a Partly Paid Unit.
- (4) A Contribution Notice must specify:
 - (a) the name of the Unit Holder;
 - (b) the number of Partly Paid Units held by it;
 - (c) the amount of the Contribution required to be paid;
 - (d) the date for payment (which must not be less than 5 days after the date of service of the Contribution Notice); and
 - (e) the place for payment.
- (5) If a Unit Holder fails to pay a Contribution on the day specified for payment, the Trustee may, at any time while a Contribution remains unpaid, serve a Forfeiture Notice on the Unit Holder requiring payment of so much of the Issue Price for the Partly Paid Units held by it as is then unpaid.
- (6) The Forfeiture Notice may provide that interest is payable on the sum outstanding from the date of the Forfeiture Notice to the date the Trustee receives payment in full of the sum outstanding at a rate the Trustee determines.
- (7) The Forfeiture Notice must specify:
 - (a) a date, not less than 7 days after the date of service of the Forfeiture Notice, by which the payment as required by that Forfeiture Notice must be made; and
 - (b) that in the event of non-payment in full on the date specified, the Partly Paid Units referred to in the notice may be forfeited.
- (8) If the Unit Holder fails to comply with the requirement of the Forfeiture Notice, the Partly Paid Units in respect of which the Forfeiture Notice is given may be declared forfeited by the Trustee.
- (9) A Forfeited Unit may be sold by the Trustee on any terms the Trustee thinks fit.
- (10) Before the sale of a Forfeited Unit by the Trustee, the forfeiture may be cancelled on any terms the Trustee thinks fit.
- (11) The previous holder of a Forfeited Unit ceases to be a Unit Holder in respect of the Forfeited Unit, but remains liable to pay the Trustee all money that, at the date of forfeiture, was payable by it to the Trustee in respect of the Forfeited Unit (including interest at the rate specified in the Forfeiture Notice).
- (12) A certificate by the Trustee that a Unit has been forfeited is prima facie evidence of the facts stated as against all persons claiming to be entitled to the Forfeited Unit.
- (13) The Trustee may receive the proceeds of sale of a Forfeited Unit and may execute a transfer of the Forfeited Unit in favour of the person to whom it is sold.

- (14) Upon the execution and stamping of the transfer of the Forfeited Unit, the transferee is entitled to be recorded in the Register as a Unit Holder and is not bound to see to the application of any money paid as consideration.

5.3 Transfer not affected by irregularity

The transferee of a Forfeited Unit is not affected by any irregularity or invalidity in connection with the forfeiture or sale of the Forfeited Unit.

5.4 Application of proceeds

Proceeds of sale of a Forfeited Unit must be applied as follows:

- (1) first, an amount equal to the balance of the Issue Price of the Forfeited Unit which then remains unpaid and the interest accrued together with all commissions, stamp duties, transfer fees and other charges and any costs associated with the forfeiture or any proceedings brought against the previous holder of the Forfeited Unit to recover the unpaid Contributions must be paid into the Fund; and
- (2) the balance (if any) remaining must be paid to the previous holder of the Forfeited Unit.

5.5 Payments in advance

- (1) The holder of a Partly Paid Unit may at any time pay all or any part of the unpaid Issue Price although the Contributions are not then payable.
- (2) The Trustee may pay interest upon the whole or any part of the Contributions paid in advance at the rate the Trustee determines.

6 Unitholders' rights

6.1 Trustee acting in accordance with Unitholders Direction

Notwithstanding anything in this Trust Deed, the Trustee will not be liable to Unitholders for, and will be indemnified out of the Trust Assets for, any Loss to the extent it arises from it acting in accordance with a Unitholders Direction.

6.2 Limitation on Unitholders' rights

Subject to this clause 6, a Unitholder is not entitled to and waives any right it may otherwise have to:

- (1) require any Trust Assets to be transferred to the Unitholder (other than in accordance with clauses 10.7, 11.10 or 25.5);
- (2) interfere with any rights, trusts, powers, authorities or discretions of the Trustee conferred upon it by this Trust Deed or by Relevant Law (including in respect of the Trust Assets (or any part of it) or the Trust) or the exercise or non-exercise of any such rights, trusts, powers, authorities or discretions by or on behalf of the Trustee; and
- (3) claim or exercise any right, power, authority or discretion in respect of the Trust Assets (or any part of it). Without limitation, a Unitholder must not lodge any caveat or other notice to protect or maintain in litigation or otherwise any proprietary, or other interest or claim in, or in relation to, the Trust Assets (or any part of it).

6.3 Exclusions

Unitholders may not give any directions to the Trustee if it would require the Trustee to do or omit to do anything which may result in:

- (1) the Trustee acting contrary to Relevant Law; or
- (2) the Trustee not being indemnified to its reasonable satisfaction either by the Unitholders or out of the Trust Assets.

7 Unitholders' Liability

7.1 Liability of a Unitholder is limited

Except as expressly provided for in this Trust Deed or in the terms of issue and subject to any contrary agreement with a Unitholder:

- (1) the liability of each Unitholder in its capacity as such is limited to the amount (if any) which remains unpaid in relation to the Unitholder's application for Units; and
- (2) no Unitholder in its capacity as such is liable to, or is required to, indemnify the Trustee or any creditor of the Trustee against any liability of the Trustee in respect of the Trust in any case whatsoever including if at any time the Liabilities of the Trust exceed the Gross Asset Value.

7.2 Relationship of agency excluded

Any relationship of agency between the Trustee in its capacity as such and any Unitholder is expressly excluded.

8 Application for Units

8.1 Applications

- (1) A person intending to apply for Units must give the Trustee a completed application which is in such form and which is delivered, sent or given in such a manner and to such place as the Trustee may require from time to time.
- (2) An applicant for Units in the Trust does not acquire an interest in the Trust until that applicant is entered on the Register as the holder of Units.

8.2 Payment

- (1) Payment in respect of an application in an amount which is not less than the Minimum Application Amount must be paid in favour of or to the Trustee (or its nominee). The amount must be in such form as the Trustee requires (which may include periodic debits to a bank account and cheques). Such payment must be received by the Trustee within a time period before or after the Trustee receives the application form as the Trustee determines or as the terms of issue of the Unit contemplate.
- (2) The Trustee may accept payment in respect of an application in the form of a transfer of property (of a kind acceptable to the Trustee) rather than cash at a value or on any other terms as are agreed between the Trustee and the applicant. In that case the applicant must transfer the title to the property to (or at the direction of) the Trustee (and the title and the value of the property must be confirmed or verified in a manner acceptable to the Trustee). Such transfer must be effected within a time period before or after the Trustee receives the application form as the

Trustee determines or as the terms of the issue of the Unit contemplate. The Trustee may determine that some or all of the Expenses in respect of the valuation or transfer of the property are payable or reimbursable out of Trust Assets or payable by the applicant concerned.

8.3 The Trustee may accept or reject applications

- (1) The Trustee must accept the application made by the Initial Unitholders.
- (2) The Trustee must not accept or reject all or any part of any other application for Units except as directed in a Unitholder Direction.
- (3) The Trustee must not accept an application for Units where payment for the Units is proposed to be by way of a transfer of property, unless the Trustee has obtained an independent valuation of such property which supports the approximate equality of the value of the property to the price for the Units, and the Units are issued for that price.

8.4 Application must be for Minimum Application Amount

The amount of application money or value of any property to be transferred in accordance with clause 8.2 must be no less than the Minimum Application Amount.

8.5 Time of issue

- (1) Subject to clause 8.5(2), Units are taken to be created and issued for the purpose of this clause 8 when the later of the following events occurs:
 - (a) the time when the Trustee accepts the application and the Units are entered in the Register; or
 - (b) as the case may be:
 - (i) the time when the application money is received by the Trustee; or
 - (ii) the time when the title to the property (which is acceptable to the Trustee) against which the Units are to be created and issued is transferred free of encumbrances to (or at the direction of) the Trustee.
- (2) Units which are to be issued on a reinvestment of distributions under clause 11.5 are taken to be issued at the time specified in that clause or otherwise notified to Unitholders in accordance with that clause.

8.6 Number of Units issued

When Units are taken to be created and issued under clause 8.5, the number of Units created and issued is that number calculated by dividing the Net Investment by the Issue Price at that time and, subject to clause 4.3, rounding down to the nearest whole Unit and any balancing amount will become part of Trust Assets.

8.7 Defective applications and cancellation of issue

If following receipt of an application, any payment is not received or cleared, or the direct debit order is not accepted by a bank, or the transfer of property is not effective, or the property is not transferred free of encumbrances, in each case within such period from receipt of such application as the Trustee determines, then the Trustee may in its discretion determine that any Units which have been created and issued in consideration therefore

are void ab initio and are deemed for all purposes not to have been created or issued. The Trustee may cause the Register to be rectified.

8.8 No certificates

No certificates for Units will be issued unless and until the Trustee otherwise determines.

8.9 Interest on application money part of Trust Assets

All income in respect of the payment received on an application for Units (which has been accepted by the Trustee) prior to the issue forms part of the Trust Assets. If an application is not accepted by the Trustee, then the payment received on an application shall be repayable to the applicant, and no income in respect of that payment received shall be payable to the applicant. Any income in respect of the payment received on an unsuccessful application forms part of the Trust Assets.

8.10 Restriction on issue and redemption of Units

Notwithstanding any other provision in this Trust Deed, no Units may be issued or redeemed after the perpetuity period referred to in clause 28.2 if that issue or redemption would cause a contravention of the rule against perpetuities or any other rule of law or equity.

9 Issue Price of Units

A Unit must only be issued at its Issue Price determined in accordance with the following provisions of this clause:

- (1) The Issue Price for each of the Units to be issued by the Trustee to the Initial Unitholders is \$1.00 per Unit (or parts thereof for a Partly Paid Unit) or such other amount determined by the Trustee.
- (2) After the issue of Units referred to above, the Issue Price for a Unit at any time must be calculated in accordance with the following formula:

$$\frac{\text{Net Asset Value} + \text{Transaction Costs}}{\text{total number of Units on issue}}$$

For the purposes of the formula in this clause:

- (a) "Net Asset Value" will mean the Net Asset Value of the Trust Assets at that time;
- (b) "Transaction Costs" will mean the Transaction Costs at that time; and
- (c) "total number of Units on issue" is the number of issued Units as recorded in the Register at that time.

For the purposes of this clause all variables in that formula are to be calculated as at the first Valuation Time after the later of the following events:

- (d) the time the Trustee receives the application for Units; and
- (e) the first occurring of the times referred to in clause 8.5(1)(b).

10 Withdrawal from Trust

10.1 Clauses which apply to Withdrawal

Except as provided in this clause 10, a Unitholder has no right to withdraw from the Trust and the Trustee has no obligation to redeem any Units or cause any Units to be redeemed.

10.2 Withdrawal Request

- (1) A Unitholder may make requests of the Trustee to redeem some or all of their Units (**Withdrawal Request**). The Withdrawal Request must:

- (a) specify the number or total value of Units to be withdrawn; and
- (b) be in such form and be delivered, sent or given in such manner and to such place as the Trustee may require from time to time.

After making the request the Unitholder has no right to deal with and must not purport to deal with the Units unless and until the request is denied by the Trustee in accordance with clause 10.2(2).

- (2) The Trustee may accept or reject, in its absolute discretion, a Withdrawal Request (in whole or in part). If the Trustee accepts a Withdrawal Request, then the Trustee may, subject to clauses 10.4, 10.5, 10.6, 10.7 and 25.2(2):

- (a) redeem the number or value of Units specified in the Withdrawal Request out of the Trust Assets for the Withdrawal Price determined in accordance with clause 10.3; or
- (b) purchase or arrange for another person to purchase the number or value of Units specified in the Withdrawal Request at a price per Unit no less than the Withdrawal Price determined in accordance with clause 10.3; or
- (c) satisfy the Withdrawal Request in part in the manner described in clause 10.2(2)(a) and in part in the manner described in clause 10.2(2)(b),

in each case, within such period as the Trustee specifies (in its absolute discretion).

10.3 Withdrawal Price

- (1) Subject to the terms of issue of Units, a Unit must only be redeemed following the payment of the Withdrawal Price, calculated at any time as follows:

$$\frac{(\text{Net Asset Value} - \text{Transaction Costs})}{\text{total number of Units on issue}}$$

For the purposes of the formula in this clause 10.3(1):

- (a) “Net Asset Value” will mean the Net Asset Value of the Trust Assets at that time;
- (b) “Transaction Costs” will mean the Transaction Costs at that time; and
- (c) “total number of Units on issue” is the number of issued Units as recorded in the Register at that time.

- (2) The Withdrawal Price must be calculated as at the first Valuation Time after the Trustee receives the Withdrawal Request (or such later Valuation Time as the Trustee may determine).

10.4 No obligation to satisfy out of own funds

Nothing in this Trust Deed imposes any obligation whatsoever on the Trustee to satisfy a Withdrawal Request in whole or in part out of its own funds.

10.5 Withdrawal Request cannot be withdrawn

A Unitholder may only withdraw a Withdrawal Request with the approval of the Trustee.

10.6 Trustee may deduct sums owed to it

Without limiting the rights of the Trustee under clause 20, any amounts due to the Trustee by the Unitholder may be deducted by the Trustee from the Withdrawal Price.

10.7 Transfer of Trust Assets

Subject to this Trust Deed, the Trustee may, instead of paying cash, transfer Trust Assets to the Unitholder in satisfaction in whole or in part of a Withdrawal Request with the consent of the Unitholder who is to receive the transfer of Trust Assets. The value of the Trust Assets must be equal to the amount which would have been the Withdrawal Price remaining after any distribution has been made in accordance with clause 11.12 (or part thereof) if paid in cash to that Unitholder, less such part (if any) of the Expenses associated with that transfer as the Trustee considers should be payable by the Unitholder. For the purposes of this clause 10.7, each Unitholder appoints the Trustee as their agent to do anything needed to give effect to a transfer of the Trust Assets from the Trustee to the Unitholder including agreeing to become a member of any body corporate or trust whose securities comprise or are included in the relevant Trust Assets. Any agreement made under such an agency authority from a Unitholder is effective and binds the Unitholder.

10.8 Cancellation of Units upon redemption

Units are automatically cancelled upon their redemption.

10.9 Withdrawal Price may represent Distributable Amount

The total amount paid for withdrawal from the Trust in respect of a Unit is the Withdrawal Price. However, the Trustee may at any time and in respect of any withdrawal request determine whether, and the extent to which, the Withdrawal Price for a Unit is to be paid by way of a distribution of Distributable Income of the Trust (being a Redemption Entitlement determined in accordance with clause 11.12 (**Redemption Entitlement**)), with the remainder of the Withdrawal Price being paid from the capital of the Trust, resulting in the cancellation of the Unit

10.10 Order of withdrawal of Units

Unless the Trustee determines otherwise, Units will be withdrawn according to when they were issued with the first Units issued to a Unitholder being the first Units withdrawn.

10.11 Payment not cleared

If the application money for the Units to be redeemed has been paid by cheque or direct debit order or by transfer of property, the Trustee may refuse to act on a Withdrawal Request relating to those Units until that cheque or direct debit order is honoured by the bank on which it is drawn and the proceeds received, or until unencumbered title to that property has been transferred to or at the direction of the Trustee.

10.12 Trustee's discretion to redeem

- (1) The Trustee may, in its absolute discretion, but subject to clause 10.12(4), redeem some or all Units held by a Unitholder regardless of whether or not the Trustee has received a Withdrawal Request in respect of those Units.
- (2) Subject to clause 10.12(3), the Trustee must give at least 30 Business Days' notice of its intention to redeem Units under this clause.
- (3) The Trustee need not give notice under clause 10.12(2), or may give shorter notice, if the Trustee considers that the redemption is necessary:
 - (a) in order to comply with a law;
 - (b) to comply with the terms of any agreement with a Government Agency; or
 - (c) to lessen the risk of the Trust or Unitholders suffering a material detriment.
- (4) Units redeemed under this clause will be redeemed in return for the Withdrawal Price remaining after a distribution has been made in accordance with clause 11.12 and determined under clause 9 as at the next Valuation Time after notice is given of the proposed redemption (or, if no notice is given, at the next Valuation Time after the Trustee decides to effect the redemption) or such later Valuation Time as the Trustee may determine.

11 Distributions

11.1 Trust income

The income of the Trust for any Financial Year, including for the purposes of section 97 of the Tax Act, is the Distributable Income for the Financial Year.

11.2 Distribution of income

- (1) The Unitholder immediately prior to the end of the last day of each Distribution Period has at that time a vested and indefeasible interest in, and a present entitlement to, the Unitholder's proportionate interest in the Distributable Amount (**Distribution Entitlement**) which will be an amount equal to **A** calculated using the formula below:

$$A = DA \times \frac{UH}{UI}$$

where:

- (a) **A** is the Distribution Entitlement for the Distribution Period;
 - (b) **DA** is the Distributable Amount for the Distribution Period;
 - (c) **UH** is the number of Units held by the Unitholder, at the close of business on the Distribution Calculation Date for the Distribution Period; and
 - (d) **UI** is the total number of Units on issue in the Trust, at the close of business on the Distribution Calculation Date for the Distribution Period.
- (2) For the avoidance of doubt, a Unitholder has a vested and indefeasible interest in and is presently entitled to the Distributable Income of the Trust for the Financial Year, including for the purposes of section 97 of the Tax Act, in the proportion that

the Distribution Entitlements and Redemption Entitlements made to the person in respect of the Financial Year bear to the sum of the Distribution Entitlements and Redemption Entitlements made to all persons who are or have been Unitholders at any time during the Financial Year. The satisfaction of a Unitholder's present entitlement to the Distributable Income of the Trust for a Financial Year is the payment to the Unitholder of that Unitholder's Distribution Entitlement and Redemption Entitlements in respect of that Financial Year.

- (3) Subject to clause 11.6, this Trust Deed and the terms of issue applicable to each Unit, for each Distribution Period the Trustee must calculate the Distribution Entitlement or Redemption Entitlement of each Unitholder on or before the Distribution Date and pay the Distribution Entitlement or Redemption Entitlement to each Unitholder by the Distribution Date.
- (4) The Trustee may retain from each Unitholder's Distribution Entitlement or Redemption Entitlement all amounts which are necessary to avoid distributing a fraction of a cent or which the Trustee determines it is not practical to distribute on a Distribution Date. Any sum so retained will for all purposes be treated as income for the next following Distribution Date.
- (5) The Trustee may retain from the amounts to be distributed to a Unitholder or a former Unitholder an amount in or towards satisfaction of any amount:
 - (a) payable by the Unitholder to the Trustee under this Trust Deed;
 - (b) required to be deducted by law; and
 - (c) of Tax or Taxation Amount or any estimate of it,

and all amounts retained must be applied in reimbursing the Trust for any corresponding amount paid, distributed or reimbursed out of the Trust or reimbursing the Trustee for the payment of the Tax to the person or authority entitled to it.

11.3 Separate accounts

The Trustee may keep separate accounts of different categories or sources of income, capital deductions or credits for tax purposes, and may allocate income, capital, deductions or credits from a particular category or source to particular Unitholder if the terms of issue of any Unit permits.

11.4 Composition of Distribution Entitlements

At the end of each Financial Year the Trustee must notify each Unitholder of the extent to which its Distribution Entitlements throughout that Financial Year are composed of, and the type of, income, capital, credits and offsets for income tax purposes.

11.5 Distribution reinvestment arrangements

- (1) The Trustee may notify Unitholders from time to time in writing that Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may reinvest all or a proportion of their Distribution Entitlements by subscribing for additional Units.
- (2) If a Unitholder agrees to participate in an arrangement notified under clause 11.5(1), the Unitholder will be treated as having subscribed for additional Units pursuant to an application received and accepted by the Trustee immediately before the first Valuation Time after the relevant Distribution Period to which the distribution relates but calculated as if the Transaction Costs are nil.

11.6 Tax

Subject to clause 11.2, the Trustee may take any action that it considers necessary (including without limitation by distributing or applying capital to or for the benefit of the Unitholder) to ensure to the maximum extent possible that any Tax liability under the Tax Act in respect of a Distributable Amount or Redemption Entitlement is borne by the Unitholders in proportions that correspond with their Distribution Entitlement or Redemption Entitlement, as the case may be, and that the Trustee incurs no liability to pay under the Tax Act as trustee of the Trust Assets.

11.7 Excess and shortfall amounts

If the Trustee determines that the total amount of distributions actually made to the Unitholders during or with respect to a Distribution Period exceeds the Distributable Amount for the Distribution Period, the Trustee may treat the excess as a distribution of capital.

11.8 Capital distribution

The Trustee may at any time distribute to Unitholders any amount of capital of the Trust. The Trustee when resolving to pay a distribution of capital may direct payment of the distribution wholly or partly by a payment in cash or by the distribution of specific assets, including fully paid up Units or other securities of the Trust or of another body corporate or trust.

11.9 Liability

The Trustee does not incur any liability nor is it obliged to account to anyone (including any Unitholder or former Unitholder) nor is it liable for any Losses as a result of the exercise of any discretion or power under this clause 11 or in respect of any determination of fact or law made as part of, or as a consequence of, the exercise of such discretion or power despite any error or miscalculation in any provision made for Tax.

11.10 In specie distributions

- (1) The Trustee may transfer Trust Assets to a Unitholder rather than pay cash in satisfaction of all or part of a payment of a distribution of income or capital, with the sanction of a resolution which has been passed by at least 80% of the votes cast by Unitholders entitled to vote on the resolution and the consent of the Unitholder who is to receive the Trust Assets.
- (2) To give effect to any resolution to satisfy a distribution as set out in clause 11.10(1), the Trustee may:
 - (a) settle as it thinks expedient any difficulty that arises in making the distribution or capitalisation and, in particular:
 - (i) make cash payments in cases where Units or other securities become issuable in fractions; and
 - (ii) decide that amounts or fractions of less than a particular value decided by the Trustee may be rounded up to the next whole number or may be disregarded in order to adjust the rights of all parties;
 - (b) fix the value for distribution of any specific assets based on the market value of such assets;

- (c) pay cash or issue Units or other securities to any Unitholder in order to adjust the rights of all parties;
- (d) vest any of those specific assets, cash, Units or other securities in a trustee on trust for the persons entitled to the distribution that seem expedient to the Trustee; and
- (e) authorise any person to make, on behalf of each Unitholder entitled to any further Units or other securities in the Trust or in another body corporate or trust as a result of the distribution, an agreement with the Trustee or other trust or body corporate which provides, as appropriate:
 - (i) for the issue to them of those further Units or other securities credited as fully paid up; or
 - (ii) for payment by the Trust on their behalf of the amounts or any part of the amounts remaining unpaid on their existing Units or other securities by applying their respective proportions of the amount resolved to be distributed.
- (3) If the Trust is to distribute to Unitholders (either generally or to specific Unitholders) securities in the Trust or in another body corporate or trust (whether as a distribution of income or capital and whether or not for value), each of those Unitholders appoint the Trustee as their agent to do anything needed to give effect to that distribution, including agreeing to become a member of that other body corporate or trust.
- (4) Any agreement made under an authority referred to in clause 11.10(2)(e) or 11.10(3) is effective and binds all Unitholders concerned.
- (5) The Trustee must only exercise its right under this clause 11.10 relating to the issue or redemption of any Units to a Unitholder if, at the same time, the same number of Attached Securities are issued, redeemed or bought back in respect of that Unitholder.

11.11 Deductions

The Trustee may deduct from any amount dealt with under this clause 11 any Tax that it is required by law to deduct from such amount and any amount which the Trustee may provide for on account of any Tax attributable to the income of the Trust.

11.12 Redemption Entitlement

- (1) Where Units are to be redeemed in accordance with clause 10, then the Trustee may determine that a Redemption Entitlement is to be paid for each Unit for which the Withdrawal Price is being calculated for that day.
- (2) The Redemption Entitlement referred to in clause 11.12(1) for a Unit is an amount equal to **A** calculated using the formula below:

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

Where:

- (a) **A** is the Redemption Entitlement for the Relevant Period;
- (b) **B** is the Distribution Amount on Redemption for the Relevant Period; and

- (c) **C** is the number of Units held by all Unitholders at the time of the calculation of the Withdrawal Price (including Units in relation to which the Withdrawal Request has been received).
- (3) The Trustee may determine that all or part of a Redemption Entitlement will be comprised of amounts from one or more particular categories or sources of net income or net gains included in the Distribution Amount on Redemption for the Relevant Period. The Trustee must advise each Unitholder of the extent to which the Redemption Entitlement comprises amounts from a particular category or source.
- (4) If the Trustee makes a determination under clause 11.12(3), then it must record in the accounts and records of the Trust no later than 2 months after the end of the Financial Year:
 - (a) the details of any net capital gain that was wholly or partly included in a Redemption Entitlement paid, including the details of each capital gain that has been taken into account in the calculation of that net capital gain; and
 - (b) the proportion of that net capital gain that was included in the Redemption Entitlement.
- (5) For the avoidance of doubt a determination by the Trustee under clause 11.12(3):
 - (a) provides the recipient Unitholder with a specific entitlement to their proportionate share of each capital gain recorded under clause 11.12(4) in respect of that Redemption Entitlement; and
 - (b) the Unitholder thereafter has a vested and indefeasible interest in each component of the Redemption Entitlement.

11.13 Trust taxed as a company

If in any Financial Year:

- (1) the Trustee as trustee of the Trust; or
- (2) the Trust,

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

12 Transfers

12.1 Transferability

- (1) Units cannot be transferred other than:
 - (a) pursuant to a Unitholders Direction; or
 - (b) in accordance with clause 12.4.
- (2) A transfer of Units shall be made in such form as the Trustee may from time to time require or by any other means which the Trustees may from time to time approve.
- (3) If any Units are purported to be sold or transferred in contravention of this Trust Deed then the Trustee shall continue to treat the seller or transferor as the case

may be as the registered holder of the said Units for all purposes under this Trust Deed.

- (4) The Trustee may assume, as against a Unitholder, that a power of attorney granted by that Unitholder that is lodged with or produced or exhibited to the Trustee remains in force, and may rely on it, until the Trustee receives express notice in writing at its registered office of:
 - (a) the revocation of the power of attorney; or
 - (b) the death, dissolution or insolvency of the Unitholder.

12.2 Registration of a transfer

A transfer form must be delivered to the Trustee (or as it directs), duly stamped and executed by the transferor and transferee and be accompanied by any evidence of title required by the Trustee.

12.3 Transferor remains Unitholder

Subject to their terms of issue, a transferor of a Unit remains the Unitholder until the transfer has been entered in the Register.

12.4 Transfer of Units upon enforcement of security

- (1) Where a Unitholder has granted over all or any of the Units in the Trust a mortgage, charge, lien, pledge or other security for the payment of a monetary obligation or the observance of any other obligation (a **Security Interest**), the Trustee must register any transfer of Units where the transfer is:
 - (a) in favour of a person entitled to the benefit of any Security Interest or a person acting as any receiver, receiver and manager, trustee, nominee, agent or attorney of that person (each a **Mortgagee**); or
 - (b) by or on behalf of a Mortgagee to any third party upon disposal or realisation of any Unit or Units following the Mortgagee becoming entitled to exercise or enforce its right under any such Security Interest.
- (2) The Trustee may rely on the certificate of that person that the Units were so secured or that the Security Interest has become enforceable as conclusive evidence of that fact.

13 Powers of Trustee as trustee

13.1 All powers

In addition to its powers arising under other provisions of this Trust Deed and by Relevant Law, and subject to its obligations under this Trust Deed (where applicable), the Trustee has all the powers both inside and outside Australia in respect of the Trust and the Trust Assets that it is possible to confer on a natural person or corporation by law and as though it were the absolute and beneficial owner of the entirety of the Trust Assets acting in its personal capacity. Without limitation but provided that the Trustee treats all Unitholders equally, the Trustee in its capacity as trustee of the Trust has full and complete power to:

- (1) operate the Trust including the management of Trust Assets and Liabilities;
- (2) issue, acquire, dispose of, redeem, and/or cancel Units;

- (3) borrow or raise money or procure or grant any financial accommodation including the giving of guarantees for the purposes of the Trust in any manner whatsoever including whether or not on a secured basis and including the giving of security over Trust Assets;
- (4) issue debentures (including a power to issue debentures that are irredeemable, redeemable only if a contingency, however remote, occurs, or redeemable only at the end of a period, however long);
- (5) grant a floating charge over the Trust Assets;
- (6) incur obligations and liabilities of any kind, including to guarantee the obligations and liabilities of any person or provide indemnities in respect of such obligations and liabilities;
- (7) apply and invest all money at any time forming part of the Trust Assets in investments of any kind, including the power to invest in a Controlled Entity;
- (8) exercise, enforce, dispose of or otherwise deal with any property or right;
- (9) enter into any agreement with any person (including an Associate of the Trustee) to underwrite the subscription or purchase of Units;
- (10) enter into derivatives (within the meaning of the Corporations Act) for any purpose; and
- (11) fetter its own powers or discretions,

in each case on any terms and conditions as the Trustee thinks fit in its absolute discretion.

13.2 Discretion to exercise powers

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

13.3 Power to change name of Trust

The Trustee must not change the name of the Trust except pursuant to a Unitholders Direction.

13.4 Power to require information

- (1) Each Unitholder must provide to the Trustee any information requested by the Trustee (**Required Information**) in a notice sent to the Unitholder (a **Required Information Request**).
- (2) Subject to paragraph 13.4(3):
 - (a) the Trustee may issue Required Information Requests at any time and may issue supplementary Required Information Requests seeking more information; and
 - (b) each Unitholder authorises the Trustee to use Required Information in any way, including providing it to third parties.

- (3) The Trustee may only issue a Required Information Request if it believes the Required Information is necessary to:
- (a) comply with any law of Australia or any other jurisdiction or a request for information by a Government Agency where the request is binding on the Trustee; or
 - (b) lessen the risk of the Trust or any Unitholder suffering a material detriment (whether or not financial),
- and the Required Information Request specifies a reasonable period within which the Unitholder must provide the Requested Information.
- (4) If any Required Information is not provided by the Unitholder within the time and in the manner specified in a Required Information Request then, despite any other provision of this Trust Deed, the Unitholder must indemnify the Trustee for any loss suffered by the Trustee in relation to the Unitholder's failure to provide the Required Information.

13.5 Power to appoint agents and delegates

The Trustee may appoint, engage or replace any person as its agent, sub-agent, delegate, attorney, sub-attorney, custodian or nominee or otherwise engage any person (alone, jointly or jointly and severally with other persons), to hold title to any Trust Asset, or to exercise or perform (or to assist the Trustee to exercise or perform) any of its duties, powers, discretions and obligations in connection with the Trust (and may include a power in turn to appoint their own agent, sub-agent, delegate, attorney, sub-attorney, custodian or nominee or otherwise engage another person for that purpose). Any such appointment or engagement may be on any terms that the Trustee determines in its absolute discretion. An agent, delegate or other person appointed by the Trustee pursuant to this clause 13.5 may be an Associate or Related Body Corporate of the Trustee. The Trustee will not be liable for the acts or omissions of any agent, delegate or other person appointed by the Trustee pursuant to this clause 13.5 so long as reasonable care is taken by the Trustee in relation to that person.

13.6 Power to grant waiver of breach

Subject to its obligations at law, the Trustee may waive or excuse on any terms as it thinks fit any breach by any such agent, delegate or other person of their obligations to the Trustee in connection with the Trust.

13.7 Independent advice

Nothing in this Deed limits the right of the Trustee to seek independent professional advice (including legal, accounting and financial advice) on any matter connected with the discharge of their responsibilities, in accordance with the procedures and subject to any conditions set out in this Deed and corporate governance principles from time to time.

14 Register of Unitholders

14.1 Keeping Register

The Trustee must establish and keep a Register of Unitholders at any location determined by the Trustee. The Register may show the name, address and information relating to the qualifications of an investor to hold Units. The Register may include such other information as the Trustee determines. Notwithstanding this clause and subject to the law, a single register may be kept in which the holders of Units and Attached Securities are recorded.

14.2 Unitholder is absolute owner

The Trustee may treat a Unitholder as the absolute owner of the Units which are registered in their name in the Register. Except as required by law, the Trustee need not recognise any claim or interest in a Unit by another person, but if it decides to do so, the terms and conditions on which it is prepared to do so will be determined by the Trustee from time to time in its absolute discretion.

14.3 Unitholder to notify Trustee of changes

A Unitholder must notify the Trustee of a change of name or address.

15 Valuation of Trust Assets

15.1 Valuation

The Trustee may cause any of the Trust Assets to be valued at any time (not limited to once a day) and the Trustee may calculate the Net Asset Value of the Trust Assets as at any time (not limited to once a day), in each case, in its absolute discretion.

15.2 Trustee is not an expert

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

15.3 Valuation method

- (1) The Trustee may determine valuation methods and policies for each category of Trust Asset and change them from time to time.
- (2) Unless the Trustee determines otherwise in accordance with the valuation methods and policies determined under clause 15.3(1), the value of a Trust Asset for the purpose of calculating Net Asset Value will be its market value.

15.4 Payment currency and currency conversion

- (1) If the Trustee considers it should convert one currency to another it may do so at any time and at any conversion rate as is quoted to the Trustee by any financial institution the Trustee determines.
- (2) Any amount payable to a Unitholder, whether as or on account of distributions of income or capital or otherwise, may, with the agreement of the Unitholder or under the terms of issue of the Unit, be paid in the currency of a country other than Australia. The Trustee may fix a time before the payment date as the time at which the applicable exchange rate will be determined for that purpose.

16 Limitation of liability of Trustee

16.1 Statutory protection for the Trustee

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

16.2 Trustee may obtain and rely on advice

In respect of the operation and administration of the Trust or otherwise in connection with the Trust, the Trustee may obtain and rely on:

- (1) the Register;
- (2) the opinion, advice, statements or information obtained from solicitors or barristers (whether or not they are instructed by the Trustee), bankers, accountants, auditors, valuers, brokers, underwriters, advisers or consultants and any other person who is an expert appointed or otherwise engaged by the Trustee who are in each case believed by the Trustee in good faith to have the relevant expertise in relation to the matters upon which they are consulted;
- (3) the opinion, advice, statements or information provided by any other service provider engaged by the Trustee that is expressly permitted under this Trust Deed;
- (4) any document believed by the Trustee in good faith to be the original or a copy of an appointment by a Unitholder of a person to act as their agent for any purpose in connection with the Trust; and
- (5) any other document or information from any Unitholder or other person (whether or not the person is appointed or otherwise engaged by the Trustee) believed by the Trustee in good faith to be the original or a copy thereof.

16.3 Liability of Trustee is limited

Subject to clause 16.7, the Trustee is not liable in contract, tort, under statute or otherwise to any Unitholder for any Loss or damage to the Trust Assets (or any part of it) regardless of when or how that Loss or damage has arisen, including (without limitation) whether or not the loss or damage has arisen because of any of the following acts or omissions:

- (1) the Trustee obtaining or relying on (in accordance with clause 16.2) any of the opinions, advice, statements, documents, or information referred to in clause 16.2 ;
- (2) the Trustee performing or not performing its duties, or exercising or not exercising any of its powers;
- (3) the Trustee doing or omitting to do any act as a consequence of the impracticability or impossibility of performing any duty or exercising any power where such an impracticability or impossibility arises for any reason or reasons beyond the control of the Trustee;
- (4) any act or omission of any person (whether or not the person is appointed or otherwise engaged by the Trustee), this includes fraudulent or unauthorised acts or omissions;
- (5) the Trustee making any payment to any fiscal authority on any basis, even if the payment need not have been made;
- (6) the Trustee doing or omitting to do any act which by reason of:
 - (a) any present or future law; or
 - (b) any decree, order or judgment of any court,
- (7) the Trustee is hindered, prevented or forbidden from doing or required to do; or

- (8) the Trustee doing or omitting to do any act at the request or direction of a Unitholder or in accordance with the Unitholders' direction or a Unitholders Direction.

16.4 Liability limited to third parties

The Trustee is not liable to any person who is not a Unitholder and nor will that person be entitled to enforce any rights against the Trustee to any greater extent than the Trustee is entitled to recover through its right of indemnity from and is in fact indemnified from the Trust Assets.

16.5 Exclusion of other obligations

To the maximum extent permitted by law, all restrictions on power, and all duties, obligations and liabilities, which might otherwise be implied or imposed by law or equity upon the Trustee in any capacity are hereby excluded.

16.6 Exclusion of other obligations

This clause 16 survives termination of this Trust Deed.

16.7 Fraud, gross negligence or wilful misconduct of the Trustee

Clause 16.3 does not apply in respect of any Loss or damage if and to the extent the Loss or damage is caused by the fraud, gross negligence, dishonesty, wilful misconduct or breach of trust of the Trustee.

17 Dealings with Trust and Unitholders

17.1 Dealings by Trustee and Associates

Notwithstanding any provision in this Trust Deed or any rule of common law or equity:

- (1) the Trustee and any one or more of its Associates may at any time:
- (a) deal with itself (as trustee of the Trust or in another capacity), any of the Controlled Entities, any member of the Trustee Group, the Company or with any Unitholder or with any company or other entity any part of whose units, or shares or other issued capital forms part of the Trust Assets;
 - (b) in any capacity subscribe for, purchase, hold or otherwise deal with Units or shares or other interests in the Company or Trustee;
 - (c) be a trustee or responsible entity or manager in relation to any other managed investment scheme or schemes;
 - (d) act in any representative, fiduciary or professional capacity on its own behalf or on behalf of itself or with any other of them in any capacity or with any Unitholder; and
 - (e) be interested in or enter into any contract or transaction with the Trustee (in such capacity or in another capacity), the Company, any of the Controlled Entities, any member of the Trustee Group or with any Unitholder or with any company or other entity any part of whose units, or shares or other issued capital forms part of the Trust Assets; and

- (2) the Trustee may at any time:
 - (a) invest in and maintain as Trust Assets interests in any managed investment schemes managed or promoted by the Trustee or any of its Associates; and
 - (b) engage an Associate to provide services to the Trustee and the Trust.

17.2 Trustee and Associates not liable to account

The Trustee and its Associates may retain for its own benefit and are not liable to account to the Trust, the Unitholders or any other person for any profits or benefits arising from or in connection with any action, contract or transaction referred to in clause 17.1.

17.3 Trustee as a Unitholder

The Trustee may acquire and hold Units (on its own account or in some other capacity).

18 Trustee's indemnity out of Trust Assets

18.1 Trustee's indemnity

- (1) In addition to any other rights of indemnity or reimbursement which it may have under this Trust Deed or at law, the Trustee is indemnified and is entitled to be reimbursed out of the Trust Assets for, or pay from the Trust Assets, all Losses incurred or sustained by it in relation to the proper performance of its duties and exercise of its powers in relation to the operation, administration and management of the Trust, but excludes any Losses incurred or sustained by the Trustee in relation to any fraud, wilful misconduct, dishonesty, breach of trust or gross negligence of the Trustee.
- (2) The Trustee is not required to do anything (including enter into any contract or commitment) which involves it in incurring a liability (actual or contingent) for which it does not (or for which it considers it does not) have full rights of indemnity and reimbursement out of the Trust Assets, or which it cannot fully pay from the Trust Assets and unless its own liability is limited in a manner satisfactory to it in its absolute discretion.

18.2 Indemnity extends to cover acts of agents or delegates

The indemnity in clause 18.1 extends to also include any liability of the Trustee incurred as a result of any act or omission of any agent, delegate or other person appointed by the Trustee pursuant to clause 13.5.

18.3 No obligation to commence litigation

The Trustee is not under any obligation to commence, prosecute, defend or compromise any court, arbitration or other dispute resolution action, claim or proceeding unless it is satisfied the Trust Assets have, and will at all times have, sufficient net assets to adequately indemnify it against all Losses it may incur or sustain in connection with that action, claim or proceeding.

18.4 Right of indemnity is continuing

- (1) The Trustee's right of indemnity and reimbursement in respect of a matter (an **Indemnified Matter**) will not be lost or impaired by reason of a separate matter (whether it arises before or after the Indemnified Matter) in respect of which those rights of indemnity do not apply.

- (2) The rights of indemnity and reimbursement provided by this clause 18 shall continue in favour of the Trustee after it has ceased to be trustee of the Trust.

19 Removal and Retirement of Trustee

19.1 Retirement of Trustee

- (1) The Trustee must retire:
 - (a) when required by law; and
 - (b) where directed to do so by a Unitholders Direction.
- (2) Subject to (1), the Trustee may retire on not less than 1 month's written notice to the Unitholders (or by such shorter period as they agree).
- (3) The Trustee may appoint in writing a replacement trustee, acting reasonably.

19.2 Removal of Trustee

The Trustee may be removed from office by Unitholders by giving a Unitholders Direction to the Trustee to that effect. The removal of the Trustee will take effect at the time specified in the Unitholders Direction.

19.3 Consequences of change of trustee

If and when the Trustee retires or is removed as the Trustee then, with effect from and including the time of that retirement or removal:

- (1) the former Trustee is released from all obligations and liabilities in relation to the Trust arising after that time; and
- (2) the new Trustee will be taken to have agreed to indemnify the former Trustee for all its costs and expenses incurred (after that time) in connection with the matters contemplated by clause 19.4.

19.4 Obligations on retiring Trustee

Upon the retirement or removal of the Trustee, the Trustee must promptly, at the expense of the Trust:

- (1) hand to the new Trustee all books, records, documents and other property of or relating to the Trust;
- (2) do all things necessary to transfer the legal title in the Trust Assets to the new Trustee;
- (3) sign authorities and give directions reasonably required by the new Trustee to give possession or control of any part of the Trust in the hands of third parties; and
- (4) give any assistance reasonably required by the new Trustee to put the new Trustee into full knowledge of the affairs of the Trust.

19.5 Covenant of proposed new trustee

Any proposed new trustee of the Trust must agree to be bound by this Trust Deed as if it had been an original party to it by executing a deed to that effect. The former trustee must

also be a party to that deed and agree to do all things reasonably necessary to facilitate the change of trustee.

19.6 Retirement benefits

The Trustee is entitled to agree with the proposed replacement Trustee to be remunerated by, or to receive a benefit from, the proposed replacement Trustee in relation to:

- (1) entering into an agreement to submit a proposal for its retirement to a meeting of Unitholders, and nominating to the Unitholders the incoming Trustee as its replacement; or
- (2) its retirement as Trustee,

and is not required to account to Unitholders for such remuneration or benefit. The Unitholders consent to the Trustee receiving any such remuneration or benefit.

20 Payments and deductions

20.1 Payments by the Trustee to a Unitholder

Any money payable by the Trustee to a Unitholder may be paid or applied in any manner (including by cheque or directly into a designated account with a financial institution) that the Trustee determines from time to time. Only whole cents are to be paid (after rounding up or down as determined by the Trustee) and any remaining fraction of a cent becomes Trust Assets.

20.2 Unitholder direction to Trustee to pay a third party

If any Unitholder (including any person registered jointly as a Unitholder) directs the Trustee to pay to any person any money which would otherwise be payable under this Trust Deed to the Unitholder, then the Trustee may accept or reject that direction in its absolute discretion.

20.3 Cancellation of Payments by the Trustee

- (1) If the Trustee decides to pay money by cheque then if such cheque is issued to the Unitholder and is presented and paid or the payment is made to a person at the direction of the Unitholder or to an account with a financial institution nominated by the Unitholder then, in each such case, that payment is in full satisfaction of the Trustee's obligation to pay and a good discharge to the Trustee.
- (2) The Trustee may determine that:
 - (a) any cheque issued which is made payable to the Unitholder or to a person at the Unitholder's direction and which is not presented within 3 months; or
 - (b) any payment unsuccessfully attempted to be made 3 times to a Unitholder by electronic transfer of funds,

may at the discretion of the Trustee be cancelled and the money reinvested in Units in the name of the Unitholder at the Issue Price which applies as at the next Valuation Time occurring after the cancellation of the cheque or after the third unsuccessful attempt at payment by electronic transfer, or dealt with by the Trustee in accordance with the requirements of any applicable unclaimed moneys laws.

20.4 Payments by Trustee to joint Unitholders

For persons registered jointly as Unitholders, payment to any one of those joint Unitholders is a good discharge to the Trustee in respect of that payment.

20.5 Trustee may deduct amounts

Notwithstanding any other provision in this Trust Deed (whether express or implied) each Unitholder and former Unitholder indemnifies the Trustee (both on its own account and on account of the Trust) for, and the Trustee may deduct from any money (including distribution entitlements) payable to a Unitholder or former Unitholder or received from a Unitholder or former Unitholder or otherwise recover from a Unitholder or former Unitholder (including by redeeming any Units of a Unitholder):

- (1) any unpaid amounts due by the Unitholder or former Unitholder on any basis (including under this Trust Deed or pursuant to any disclosure document relating to the Trust) to the Trustee (either on its own account or on account of the Trust). If those amounts represent fees payable to the Trustee, it may retain the amounts deducted or recovered for its own purposes;
- (2) any amount of Tax (or the Trustee's estimate of Tax) owed by the Unitholder which the Trustee reasonably believes it must or should deduct from the payment or receipt and any Expenses in respect of the redemption of Units or the entitlement of the Unitholder or former Unitholder to, or payment of income or capital or the issue and allotment of Units, and the Trustee may apply all these amounts so deducted or recovered in payment or reimbursement of the relevant Taxes or Expenses; and
- (3) any Tax or Expense in relation to a Unitholder or former Unitholder (or the Trustee's estimate of it) that is incurred by the Trustee as a consequence of an action or omission of, or which is requested by, the Unitholder or former Unitholder.

20.6 Payments to comply with laws

Each Unitholder undertakes that any payment of money by the Trustee in accordance with instructions provided by the Unitholder (or agent of the Unitholder) will not breach any law of Australia or any other jurisdiction.

20.7 Trustee's lien

The Trustee has a first and paramount lien over all of a Unitholder's Units in respect of any moneys payable to the Trustee on any basis under this Trust Deed in respect of any of those Units. This lien extends to distributions from time to time payable in respect of any such Units. Despite any other provision of this Trust Deed, the Unitholders exempt Units from this clause 20.7 where the Trustee has granted a Security Interest for the benefit of any person.

21 Trustee fees and Trust Expenses

21.1 Trustee fees

The Trustee is entitled to receive out of the Trust Assets and retain for its own use and benefit, from the date on which the Trust commences in accordance with clause 3.1 until the Trust Assets are all distributed under clause 25.2, any fees as are determined by Unitholders Direction.

21.2 Trust Expenses

In addition to fees payable under clause 21.1, and in addition to any other rights to indemnity or reimbursement which it may have under this Trust Deed or at law, the Trustee is indemnified and is entitled to be reimbursed out of the Trust Assets for, or pay from the Trust Assets, all Expenses incurred in the performance of its duties or exercise of its powers. Without limitation this includes all Expenses of or in connection with:

- (1) the establishment, registration operation, administration and management of the Trust, the Trust Assets, Trust Liabilities and any Controlled Entities and affiliates including without limitation complying with any law, and any requirements of ASIC;
- (2) preparation, approval, execution and enforcement of this Trust Deed (and any amendment of this Trust Deed);
- (3) the retirement or removal of the Trustee and the appointment of a successor in its place;
- (4) the initiation, prosecution, defence and compromise of any court, arbitration or other dispute resolution action, claim or proceedings relating to the Trust (including any action, claim or proceeding brought by or against the Trustee in its capacity as trustee of the Trust);
- (5) convening and holding meetings of Unitholders and giving effect to resolutions of any meeting and sending other communications to Unitholders;
- (6) the Register and all other registers in respect of any aspect of the Trust;
- (7) the acquisition, realisation, insurance, valuation, custody, management, supervision, repair, maintenance, receipt, collection, or distribution of or other dealing with any Trust Assets or proposed Trust Assets (or any proposal to do any of those things). Without limitation, this includes the due diligence costs associated with an acquisition of a Trust Asset (including time spent by executives);
- (8) obtaining and servicing of financial accommodation (including bank fees, interest, expenses, charges and borrowing costs);
- (9) appointing or otherwise engaging any agent, delegate, advisor, developer, development manager, development advisor, real estate agent, marketing agent, administrator or other person (including an Associate) for any purpose in connection with the Trust. Without limitation, this includes persons who supply services to or on behalf of or at the request of the Trustee and persons whose professional advice has been sought in respect of any matter concerning the operation, administration or management of the Trust (including any brokerage or commission payable to those persons);
- (10) the preparation, review, printing and distribution of any information memorandum or other disclosure document for the offering of Units or Attached Securities or other promotion in connection with such offering or in connection with the Trust or the Trustee;
- (11) the issuing of Units by the Trustee or any sales of Units by one or more Unitholders, including underwriting costs, brokerage and commission payable to any person for subscribing or agreeing to subscribe or procuring or agreeing to procure subscription for Units;
- (12) keeping the financial records relating to the Trust, and keeping, preparing, distributing and/or lodging the accounts relating to the Trust and complying with

any obligations with respect to the accounts relating to the Trust and any audit of those accounts;

- (13) the termination of the Trust and winding up of the Trust;
- (14) the establishment and operation of the compliance committee for the Trust (including any costs incurred in the selection and appointment of members of that committee). Without limitation this includes indemnities, fees, costs and insurance premiums given, paid or otherwise made available in respect of such members and any fees of professional advisors in respect of advice or assistance obtained by the compliance committee;
- (15) (while there is no compliance committee in respect of the Trust) the board of directors of the Trustee carrying out the functions which a compliance committee in respect of the Trust would be required by law to perform;
- (16) the preparation, operation, amendment and audit of the compliance plan;
- (17) compliance with all obligations and requirements under Tax laws, including the keeping of taxation records, the preparation of taxation returns, taxation statements, invoices and documents relating to the Trust, any taxation audit, and the management of the Tax affairs of the Trust;
- (18) Taxes and bank fees;
- (19) complying with any law and any request or requirement of ASIC or other Government Agency;
- (20) travel and accommodation expenses of directors and employees of the Trustee incurred in connection with the Trust;
- (21) entering the Trust in any survey;
- (22) any fees payable to any ratings organisation;
- (23) computer hardware, software and other equipment (including development and maintenance of internet facilities);
- (24) any restructuring of the Trust;
- (25) attending to additional activities outside the usual day-to-day activities of the Trustee which may include:
 - (a) sale of Trust Assets, loan defaults or covenant breaches;
 - (b) Unitholder meetings;
 - (c) new equity raisings, mergers and acquisitions, divestments or significant restructures;
 - (d) responding to significant regulatory inquiries; and
 - (e) debt refinancing;
- (26) the operation of any internal investment committee, including fees payable to any investment committee member, insurance premiums and travel and accommodation costs;

- (27) meeting compliance by the Trust or the Trustee with the *Personal Properties Securities Act 2009* (Cth) as it may apply to the Trust;
- (28) internal expenses of the Trustee incurred in connection with the matters referred to in this clause 21.2 (including costs of appointing and maintaining staff in connection with those matters); and
- (29) amounts paid by the Trustee to its Related Bodies Corporate for services provided to the Trustee in connection with the Trust where the expenses referable to such services would have been reimbursable under this clause 21.2 had they been incurred by the Trustee.

21.3 **Differential fees and waiver of fees and Expenses**

- (1) Subject to Relevant Law, the Trustee has an absolute discretion to (in respect of a particular Unitholder or generally) accept lower fees than it is entitled to under this Trust Deed or otherwise waive or defer (in the case of a deferral the fee accrues on a daily basis until paid) for any period it considers appropriate:
 - (a) the amount of any fees (or any part of a fee) payable to it under this Trust Deed in respect of all or any Units; and
 - (b) reimbursement of any or all Expenses under clause 21.2.

Where the Trustee defers the payment of any fees that it is entitled to under this Trust Deed, the Trustee may charge interest on such deferred amount.

- (2) Without limiting the generality of clause 21.3(1), the Trustee has an absolute discretion to agree with any Unitholder fee arrangements in respect of that Unitholder which are different to those that would otherwise apply under this Trust Deed.

21.4 **Issue of Units to Trustee in satisfaction of fees and Expenses**

The Trustee may elect that it is to be issued Units instead of cash in payment (in whole or in part) of its fees or payment or reimbursement of its Expenses under this Trust Deed.

21.5 **GST**

- (1) Terms used in this clause 21.5 have the meanings given to those terms in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth). A reference to Trustee in this clause includes the representative member of any GST group to which the Trustee belongs.
- (2) The fees payable to the Trustee under this Trust Deed do not include any amount referable to GST. If GST is payable in respect of any supply made by the Trustee under or in connection with this Trust Deed, the Trustee is entitled to be paid as additional consideration an amount equal to the amount of GST payable on that supply (the **GST Amount**). The Trustee will be entitled to be reimbursed or indemnified for the GST Amount out of the Trust Assets.
- (3) The Trustee shall issue a tax invoice for taxable supplies made by it under or in connection with this Trust Deed no later than the time at which the Trustee recovers or is paid the GST Amount.
- (4) Where an indemnity, reimbursement or similar payment under this Trust Deed is based on any cost, expense or other liability, it shall be reduced by an Input Tax Credit entitlement in relation to the relevant cost, expense or other liability.

22 Meetings of Unitholders

22.1 Corporations Act applies

Meetings of Unitholders will be called and conducted as if Part 2G.4 of the Corporations Act applied to the Trust (as modified by this clause 22) with any necessary modifications except that:

- (a) at least 21 days' notice of a meeting must be given to Unitholders, or such shorter notice as they agree; and
- (b) sections 252B, 252C, 252D, 252E, Division 3 and section 253E will not apply.

22.2 Convening of meetings

- (1) The Trustee may convene a meeting of Unitholders at any time and may determine the time and place and the manner in which the meeting will be conducted.
- (2) The Trustee must convene a meeting of Unitholders if requisitioned to do so in writing by Unitholders holding no less than 20% of Units on issue.

22.3 Chair

- (1) The Trustee may appoint a person to chair a meeting of Unitholders.
- (2) The chair of a meeting of Unitholders need not be a Unitholder and, if there is an equality of votes either on a show of hands or on a poll, the chair does not have a casting vote in addition to the votes to which they may be entitled as a Unitholder.
- (3) The decision of the Chair on any matter relating to the conduct of a meeting is final.

22.4 Form of proxy

The Trustee may prescribe the form of proxy from time to time.

22.5 Acceptance of proxy appointment

The Trustee may in its absolute discretion accept an appointment of a proxy as valid. An appointment of proxy may be a standing one.

22.6 Joint Unitholders

Where more than one person is registered as the Unitholder of any Unit, then:

- (1) all such registered holders shall be counted as a single registered Unitholder for the purposes of calculating the number of Unitholders who have:
 - (a) requested a meeting under section 252B(1) of the Corporations Act; or
 - (b) demanded a poll under section 253L of the Corporations Act; and
- (2) the joint Unitholder first named in the Register (or if that person does not vote, the next named joint Unitholder, and so forth) may exercise the voting rights of jointly held Units.

22.7 Quorum requirements

- (1) The quorum for a meeting of the Unitholders is:

- (a) if there is more than 1 Unitholder, 2 Unitholders present in person or represented by proxy who so represent more than 25% of Units held by Unitholders who are not disqualified from voting at that meeting and the quorum must be present at all times during the meeting; and
- (b) otherwise one Unitholder.

22.8 Proxies and representatives

- (1) Notwithstanding section 252R(3) of the Corporations Act, if an individual is attending a meeting both as a Unitholder and as a proxy or body corporate representative, then the Trustee may, for the purposes of determining whether a quorum is present, count the individual in respect of each such capacity.
- (2) Notwithstanding section 252W(2) of the Corporations Act, a proxy is entitled to vote on a show of hands.
- (3) For the purposes of section 252Z(5) of the Corporations Act, the Trustee may determine, in relation to a particular meeting or generally, to reduce the period of 48 hours referred to in sections 252Z(2) and 252Z(3) for receipt of proxy documents before the time appointed for the meeting or resumption of the adjourned meeting.
- (4) Section 253A(1) of the Corporations Act applies to determine the validity of proxy votes. That section also applies to determine the validity of a vote of a body corporate representative as if the reference to 'proxy' in that section was a reference to body corporate representative.

22.9 Absence of quorum - Dissolution or adjournment of meeting

- (1) If the quorum is not present within 30 minutes after the scheduled time for the start of the meeting set out in the notice of meeting, the meeting is adjourned to a place and time that the Trustee decides.
- (2) The quorum for any adjourned meeting is the number of Unitholders who are present in person or by proxy or by body corporate representative. If the quorum is not present within 30 minutes after the scheduled time for the start of the adjourned meeting, the meeting is dissolved.

22.10 Power of chair to cancel, postpone or adjourn meetings

- (1) The chair may cancel or postpone a meeting for any reason to any place and time as it thinks fit. At any time during the course of the meeting, the chair of a meeting of Unitholders may adjourn the meeting to a time and at a place the chair decides.
- (2) It is not necessary to give any notice of an adjournment or postponement of the business to be transacted at any postponed or adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned or postponed meeting must be given as in the case of an original meeting.

22.11 Resolution binding

A resolution duly passed by the Requisite Majority at a meeting of Unitholders duly convened and held in accordance with this Trust Deed or by postal ballot or electronic mail under clause 22.14 or by written resolution under clause 22.15, binds all Unitholders (in that capacity) and the Trustee and each Unitholder is bound to give effect to the resolution. This is so whether or not a Unitholder was present at the meeting.

22.12 Poll

- (1) A poll cannot be demanded on any resolution concerning either the election of the chair of the meeting or the adjournment of the meeting.
- (2) Subject to clause 22.12(1), a poll may be demanded and if demanded, will be conducted as directed by the chair. The result of the poll is the resolution of the meeting at which the poll was demanded.

22.13 Notice of meeting

- (1) Notwithstanding section 252G(4) of the Corporations Act, a notice of meeting sent by post or by email or other electronic means is taken to be received by the Unitholder at the time specified in clause 27.2(3).
- (2) Anything done (including the passing of a resolution) at a meeting of Unitholders is not invalid if a person does not receive notice of the meeting or notice of a cancellation or postponement of a meeting (including if the relevant notice was accidentally omitted to be given to a person).

22.14 Resolution by postal ballot or electronic mail

- (1) Subject to the Corporations Act, a resolution of Unitholders may be passed by the Unitholders completing, signing and returning to the Trustee, within such period as specified by the Trustee, copies of a written resolution.
- (2) The resolution may consist of several documents in the same form, each signed by one or more Unitholders and is effective at the time specified by the Trustee.
- (3) A Unitholder has, in relation to the resolution, the number of votes determined in accordance with section 253C(2) of the Corporations Act and the value of the Unitholder's total interests must be determined at such time as the Trustee specifies.

22.15 Written Resolution

A resolution in writing signed by Unitholders together holding that number of votes necessary for the resolution to be passed is a valid resolution of Unitholders and is effective when signed by the last of the Unitholders constituting the Requisite Majority.

23 Amendments to the Trust Deed

The Trustee may by supplemental deed vary, modify, add to or delete from this Trust Deed:

- (1) if the Trustee is of the reasonable opinion that a variation to this Trust Deed:
 - (a) is necessary or desirable to correct a manifest error in the Trust Deed; or
 - (b) will not adversely affect Unitholders' rights, provided that no such variation will enable the Trustee or any person who has acted in the capacity of the trustee to derive any benefit under the provisions of this Trust Deed or to obtain any interest in any Unit or in any part of the Trust;
- (2) where in the opinion of the Trustee a variation would adversely affect Unitholders' rights and the variation is not of a kind contemplated by clause 23(3), provided the Trustee must obtain the approval of Unitholders by Special Resolution; or

- (3) where in the opinion of the Trustee the variation is required to facilitate, or is otherwise made in connection with, any proposed:
- (a) Registration of the Trust; or
 - (b) admission of the Trust to the Official List of the ASX,
- provided the Trustee must obtain the approval of Unitholders by Resolution that has been passed by at least 50% of the votes cast by Unitholders.

24 Financial statements

The Trustee must keep and prepare financial statements of the Trust in accordance with applicable Australian accounting standards and must cause the financial statements to be audited on an annual basis and must provide the audited financial statements to Unitholders within a reasonable period after they are finalised.

25 Winding up of the Trust

25.1 Termination of Trust

The Trust terminates on the earliest of:

- (1) the date specified by the Trustee as the date that the Trust is to terminate in a notice given to Unitholders; or
- (2) the occurrence of an event requiring the winding up of the Trust under any applicable law.

25.2 Procedure on termination

If under clause 25.1 the Trust has terminated then, subject to any court orders or directions to the Trustee, the following provisions will apply:

- (1) the Trustee must give to each Unitholder notice of the termination and of its intention to wind up the Trust;
- (2) no Units may be issued and no Units may be redeemed in response to a Withdrawal Request received after the date the Trust terminates;
- (3) subject to clauses 25.2(5) and 25, the Trustee will as soon as reasonably practicable after giving the notice under clause 25.2(1) realise all of the Trust Assets in such manner as the Trustee considers appropriate and pay, discharge or provide for (which provision may be made for such period of time as the Trustee thinks fit) all liabilities (whether actual, contingent or prospective) and all Expenses of or in connection with the Trust including those anticipated in connection with the winding up of the Trust;
- (4) subject to the terms of issue of a Unit and following the application of clause 25.2(3), the net proceeds of realisation and all other cash forming part of the Trust Assets will be distributed by the Trustee to the Unitholders in proportion to the number of units they hold;
- (5) the Trustee is entitled to postpone the realisation of any of the Trust Assets for the time that it thinks is desirable to do so in the interests of the Unitholders, and will not be responsible for any Loss or damage attributable to that postponement; and
- (6) the Trustee may make partial distributions in accordance with this clause 25.2.

25.3 Retention of proceeds of realisation

If the Trustee decides to make a provision under clause 25.2(3), then it may retain such part of the proceeds of realisation as it thinks fit for as long as it thinks fit to meet all the Liabilities and Expenses referred to in clause 25.2(3). Any proceeds so retained which are ultimately found not to be required will be distributed in accordance with clause 25.2.

25.4 Distribution to Unitholders

The Trustee must make a distribution under this clause 25 only if the Unitholder delivers to it any form of receipt and discharge required by the Trustee.

25.5 In specie distributions

The Trustee may, instead of paying cash and with the consent of the Unitholder who is to receive the Trust Asset, distribute any Trust Asset to a Unitholder in specie and to that extent such transfer will satisfy the Unitholder's entitlement in the Trust Assets. The value of the asset is to be determined by the Trustee and clause 11 will apply for this purpose. Expenses payable in respect of an in specie distribution are to be paid for by the Unitholder unless the Trustee determines any such Expenses are payable or reimbursable out of Trust Assets. For the purposes of this clause 25.5, each Unitholder appoints the Trustee as their agent to do anything needed to give effect to a transfer of the Trust Assets from the Trustee to the Unitholder including agreeing to become a member of any body corporate or trust whose securities comprise or are included in the relevant Trust Assets. Any agreement made under such an agency authority from a Unitholder is effective and binds the Unitholder.

25.6 Audit of accounts

If determined by the Trustee, following the winding up of the Trust, the Trustee must cause the accounts of the Trust to be audited by an independent registered company auditor in the manner determined by the Trustee.

25.7 Amounts to which Unitholder is presently entitled

Prior to the winding up of the Trust, the Trustee must pay to Unitholders any undistributed amounts to which they are presently entitled to respectively by virtue of this clause 25.

25.8 Continuation of Trust Deed

This Trust Deed (including all rights of indemnity), continues to apply until the Trust is finally wound up but only to the extent the Trust Deed is not inconsistent with this clause 25.

25.9 Cancellation of Units

Unless the Trustee determines otherwise, Units in respect of which a final distribution is made are cancelled from the date of that distribution.

26 Entitlement to Units on death and insolvency of a Unitholder

26.1 Death of a Unitholder

If a Unitholder dies, then only the legal personal representative or, if the Unitholder is registered jointly as a Unitholder of Units only the survivor or survivors, will be recognised as having any claim to 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 a Unitholder's Units.

26.2 Legal disability or bankruptcy of a Unitholder

If a Unitholder becomes subject to a legal disability or 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 Unitholder of the 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 that Unitholder.

26.3 Discharge to the 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 Units. Such a person is not entitled to receive notices of or attend or vote at any meetings of Unitholders until they are entered in the Register as the Unitholder in respect of the Units.

27 Notices

27.1 Form of notice by Unitholder

Any notice or other communication by a Unitholder to the Trustee:

- (1) must be in writing (or in any other manner determined by the Trustee) and in English unless the Trustee determines otherwise;
- (2) must be signed personally or bear the electronic signature or other electronic identification of the Unitholder or, of a duly authorised officer or representative of the Unitholder unless the Trustee determines otherwise;
- (3) must be addressed to the registered office of the Trustee or to the fax number or any other address (including electronic address) that the Trustee notifies from time to time; and
- (4) is taken to be duly given by the sender and received by the Trustee only at the time of actual receipt by the Trustee.

27.2 Form of notice by the Trustee

Any notice or other communication by the Trustee to a Unitholder:

- (1) must be given in writing (or in such other manner as the Trustee determines);
- (2) sent to the Unitholder at their physical or electronic address specified in the Register;
- (3) is taken to be received by the Unitholder;
 - (a) (in the case of delivery by hand) on delivery at the physical address of the Unitholder or on delivery personally to them;
 - (b) (in the case of pre-paid post) on the next Business Day after the date of posting;
 - (c) (in the case of email) at the time recorded on the Trustee's computer as the time the communication was sent; and
 - (d) (if sent by any other manner) at the time the Trustee determines.

27.3 Joint Unitholders

For persons registered jointly as the Unitholders of a Unit, notices or other communications given to or by the Unitholder named first in the Register as provided in clauses 27.1 and 27.2 respectively will be taken to be validly given to or by all the joint Unitholders.

28 Perpetuity period

28.1 Actions by Trustee after expiry of perpetuity period

If to exercise a power (or to exercise a power in a particular way) under this Trust Deed after the expiry of the perpetuity period would offend against any rule of law or equity such as the rule against perpetuities, then the Trustee ceases to have power to exercise that power (or to exercise that power in that way) at the expiry of the perpetuity period.

28.2 Perpetuity period

The perpetuity period applicable to any disposition made by this Trust Deed is the period of 80 years from the date the Trust is established.

29 Governing law

This Trust Deed is governed by and will be construed according to the laws of the State of New South Wales.

30 Severability

Where any provision of this Trust Deed is void, illegal, or unenforceable so much of it as is necessary to render it valid, legal and enforceable is taken to be severed without affecting the remaining provisions of this Trust Deed which remain in full force and effect.

Schedule 1 – Initial Unitholders

Names and addresses of Initial Unitholders	Number of Units held
Spark Renewables Pty Limited (ACN 632 860 023) of Level 40, Tower One, International Towers Sydney, 100 Barangaroo Avenue, Barangaroo NSW 2000	100

Executed as a deed poll and delivered on the date shown on the first page.

TRUSTEE

Executed by **Wattle Creek Energy Hub Pty Ltd (ACN 664 148 958)** in accordance with section 127 of the *Corporations Act 2001*:



Director/company secretary



Director

VERA MALESEVIC

Name of director/company secretary
(BLOCK LETTERS)

ANTHONY MARRINER

Name of director
(BLOCK LETTERS)