

Trust Deed for the Thakral Holdings Trust
Consolidated as at 11 March 2008
(being the constitution for the Thakral Holdings Trust in accordance with
Chapter 5C of the Corporations Law)

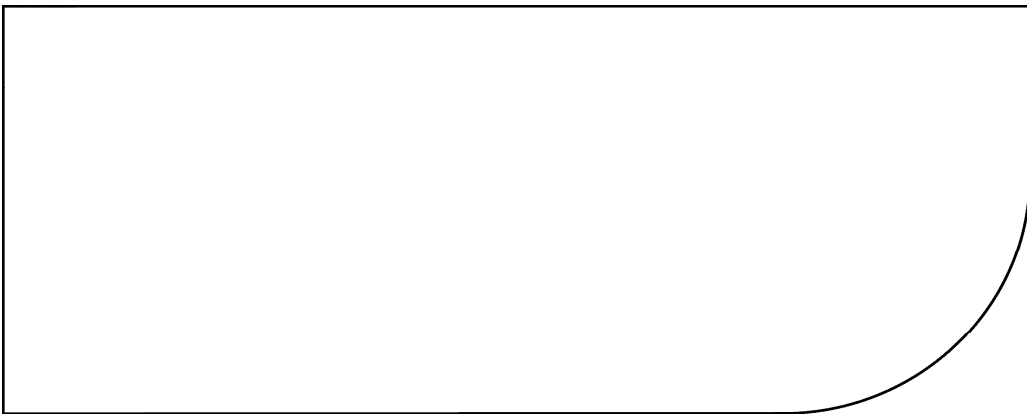


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Deed of Trust

(Being the constitution for the Thakral Holdings Trust in accordance with Chapter 5C of the Corporations Law)

OPERATION OF THIS CONSTITUTION

Upon registration of the Trust (which was originally constituted by deed dated 9 September 1987, as amended, between Howlong Pty Limited and Redan Pty Limited) as a managed investment scheme pursuant to Part 5C.1 of the Corporations Law, this document will be the constitution of the Trust pursuant to Part 5C.3 of the Corporations Law.

Nothing in this constitution is intended to diminish the rights of Unit Holders in respect of the Trust Fund as they existed immediately prior to adoption of this constitution. Nothing in this constitution should be construed as diminishing a Unit Holder's rights in the Trust Fund as they existed immediately prior to adoption of this constitution. The interest of Unit Holders in the Trust Fund (as they were immediately before the date of adoption of this constitution) are preserved and are not diminished or intended to be diminished under the variation.

1 Definitions and Interpretation

1.1 Definitions

Unless the contrary intention appears or the context otherwise requires in this constitution and in any instrument agreement or other document made entered into executed or issued hereunder:

Acquisition Date means:

- (a) (in the case of Real Property acquisitions or Investments of the kind referred to in paragraph (o) of the definition of Authorised Investments) the date upon which the acquisition of the Investment in question is completed or settled;
- (b) (in the case of Investments of the kind referred to in paragraph (c) of the definition of Authorised Investments) the date upon which the particular right or interest is first held by the Responsible Entity (in its capacity as responsible entity of the Trust); and
- (c) (in the case of all other Investments) the date upon which the Investment in question is acquired by or on behalf of the Trust.

Application means any application for Units or Options.

Application Monies means any form of valuable consideration received by the Responsible Entity for Units or Options and any entry fee and other moneys paid upon Application for any Units or Options.

Approved Sub Trust has the meaning given to that term in Clause 12.2.

ASIC means the Australian Securities and Investments Commission.

ASX means the Australian Securities Exchange.

Asset means any property held by or on behalf of the Responsible Entity on trust for the Unit Holders and includes any income accruing on and rights relating to that property.

Associate has the same meaning as for Division 2 of Part 1.2 of the Corporations Law.

Auditor means the auditor of the Trust.

Authorised Investments means:

- (a) Real Property whether improved or unimproved;
- (b) any improvement or extension of or addition to or reconstruction or renovation or other development of any Real Property or any building thereon;
- (c) any right to participate or any interest in any assets or realisation of such assets or in any profits of or arising from any financial or business undertaking or scheme the principal aim or activity of which involves the acquisition of any Real Property and/or the improvement or extension of or addition to or reconstruction renovation or other development of any Real Property;
- (d) projects, ventures and proposals involving the establishment, development and / or operation of any business, commercial enterprise or undertaking on Real Property forming part of the Trust Fund or in any building thereon and all rights and licences to market, sell and distribute goods and services incidental thereto;
- (e) furniture, carpets, furnishings, machinery, plant and equipment installed or used or to be installed or used in or in association with any Real Property forming part of the Trust Fund or any building thereon;
- (f) Trustee Investments;
- (g) Units in any other unit trust;
- (h) preference or ordinary shares in the capital of any limited liability company whose assets include Real Property which have a book value at the Acquisition Date not less than 90% of the total book value at the Acquisition Date of all of the assets of the company provided that such shares confer on the holder thereof not less than 75% of the effective voting rights at a general meeting of preference shareholders or ordinary shareholders as the case may be;
- (i) moneys on deposit whether with or without security with a Bank or an Authorised Money Market Dealer;
- (j) Bills of Exchange drawn issued endorsed (with recourse) made or accepted by a Bank or an Authorised Money Market Dealer or a Major Corporation and Promissory Notes made or endorsed (with recourse) by a Bank or an Authorised Money Market Dealer or a Major Corporation;
- (k) stocks, bonds, notes or other securities issued by the Government of the Commonwealth of Australia or any State or Territory thereof or by any instrumentality of any such Government or by any statutory body constituted by, under or pursuant to any Act of the Parliament of the Commonwealth of Australia or any State or Territory thereof;
- (l) certificates of deposit or any other securities (not being shares or stock Units) issued by any Bank;
- (m) deposits with or loans to any corporation where the obligations of the corporation in respect of the deposit or loan are guaranteed by the Government of the Commonwealth of Australia or a State or Territory thereof or guaranteed by or secured by an irrevocable letter of credit which is not capable of terminating earlier than 7 days after the date upon which

the deposit or loan matures and which is issued or confirmed by a Bank or by any other corporation which is duly certified to have a Net Worth in excess of \$A500,000,000 or the equivalent thereof;

- (n) loans secured by the pledging by deposit with the Responsible Entity of any security or other item described in paragraph (i) or paragraph (k) or paragraph (l) of this definition;
- (o) loans for any period not exceeding 5 years secured by first registered legal mortgage of Real Property within the Commonwealth of Australia where the amount of such loan or debt does not exceed 50% of an amount equal to the value of such Real Property as fixed by an Approved Valuer; and any other provision of financial accommodation in the nature of:
 - (i) a guarantee or indemnity;
 - (ii) a loan to the Company or its Subsidiaries; and
 - (iii) investing in or lending to an Approved Sub Trust.

Provided always:

- (A) in respect of each of the Investments referred to in paragraphs (i) to (n) of the definition of Authorised Investments that the maturity date of the investment shall not be more than 12 months after the Acquisition Date or, in the case of any investment redeemable on notice, the period of notice required must not be longer than 12 months; and
- (B) in respect of the Investments referred to in paragraph (n) of the definition of Authorised Investments that the security or other item deposited must mature or be capable of being redeemed by the Responsible Entity within 12 months of the date of the making of the loan.

Authorised Money Market Dealer means a corporation declared pursuant to Section 65(1)(a) of the Corporations Law to be an authorised dealer in the short term money market.

Bank means a corporation authorised under the Banking Act 1959 to carry on banking business, including the general business of banking, in Australia.

Bill of Exchange means a bill of exchange as defined by Section 8 of the Bills of Exchange Act 1909 (Cth) and where the context so requires shall include a cheque as defined by the Cheques and Payment Orders Act 1986 (Cth).

Bonus Unit means a Unit issued as a bonus Unit in accordance with this constitution.

Business Day means a day other than Saturday, Sunday, a bank holiday or public holiday in New South Wales.

Company means Thakral Holdings Limited ACN 054 346 315.

Current Market Buy-Back Value Per Unit means, in the case of Units Officially Quoted as part of a Stapled Security, the value calculated in accordance with the following formula:

X multiplied by Y

Where:

X represents the average market price, being the closing price on ITS of all sales (excluding special crossings, overnight sales and exchange traded option exercises) for the last 5 days on which Stapled Securities were sold on the ASX immediately preceding the date on which the Unit is bought back.

Y represents the proportion of the average market price (as described in “X” above) which the Responsible Entity has attributed to a Unit.

Current Market Value means, in the case of Units Officially Quoted as part of a Stapled Security, the value calculated in accordance with the following formula:

$$CMV = X \times Y$$

Where

CMV = Current Market Value

X = either:

- (a) the average of the daily weighted average of the Joint Market Price on each day on which Stapled Securities were sold on the ASX during the last 4 Business Days before the commencement of the period of 4 Business Days immediately preceding:
 - (i) in the case of the exercise price of Options the date of exercise of the Option;
 - (ii) in the case of reinvestment of income or capital, such date as is determined by the Responsible Entity; and
 - (iii) in any other case, the date of an Offer, and where the Offer is contained in a Disclosure Document, the date of the Disclosure Document, or
- (b) should there be no sales during that period, the last bid price for such Stapled Securities during that period.

Y = the proportion of the Joint Market Price which the Responsible Entity has attributed to a Unit.

Current Unit Value means an amount equal to the Net Trust Value divided by the number of Units in issue.

Custodian means any person appointed as a custodian of an Asset.

Disclosure Document means a prospectus, an information memorandum or other disclosure document issued by the Responsible Entity in relation to the Trust.

Distribution Period means each 6 month period ending on 30 June and 31 December, with the last to be the period between the last occurring 30 June or 31 December, whichever is the later, and finishing on the final distribution of the Assets to Unit Holders.

Extraordinary Resolution has the meaning given to that term in the Corporations Law.

Financial Year of the Trust means each 12 month period ending on 30 June, with the last such period being the period between the last occurring 1 July and finishing on final distribution in respect of the Trust.

Fully Paid Unit means a Unit the Issue Price of which is payable in full when the Unit is applied for or a Unit in relation to which the whole of the Issue Price has been paid.

Gross Trust Value means the Value of the Assets before any accrued expenses or other liabilities of the Trust.

GST means a goods and services tax or a similar value added tax.

Investment means any one of the Assets forming for the time being a part of the Trust Fund.

Issue Price means the price at which Units or Options are issued.

ITS means the Integrated Trading System run by ASX.

Joint Quotation or **Jointly Quoted** means the linked or joint Official Quotation (notwithstanding suspension) of Stapled Securities.

Joint Register means the Joint Register to be maintained by the Company in which is recorded the name of the holder of a Non-Voting Unit stapled to a Share to form a Stapled Security.

Joint Market Price means the price recorded on the ASX for a Stapled security during such period as it is Jointly Quoted or the last recorded price during any period of suspension.

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

Major Corporation means a corporation duly certified as having been incorporated in Australia and as having a Net Worth of not less than \$A500,000,000.

Net Worth of a corporation as at any date means the shareholders' funds of that corporation as disclosed by the audited balance sheet of that corporation last published prior to that date or, if the corporation had any subsidiary or subsidiaries at the date as at which such balance sheet was prepared, the consolidated shareholders' funds of the corporation and its subsidiary or subsidiaries as disclosed by their audited consolidated balance sheet last published as aforesaid.

Net Income in relation to the Trust for a Distribution Period:

- (a) the balance of the income of the Trust after deducting expenses and losses from such income, calculated according to generally accepted accounting principles and Australian Accounting Standards; and
- (b) after allowing such other amounts and contingencies considered necessary by the Responsible Entity in order that the net income may fairly represent the results of the Trust including without limitation, any amortisation of goodwill, alterations or reversal of accounting treatments and any realised or unrealised gains or losses (whether or not recognised in the financial statements) on the assets and liabilities of the Trust; and
- (c) at least the amount the Responsible Entity needs to distribute to Unit Holders so as not to be deemed assessable or liable to pay any tax for that Distribution Period under the Tax Act or otherwise other than withholding taxes.

Net Trust Value means the Value of the Assets less the accrued expenses and other liabilities of the Trust. In this definition, "liabilities" excludes any amount representing Unit Holder capital, undistributed profits, interest attributable to Unit Holders accruing on Unit Holder capital, capital reserves or any other amount representing the value of rights attaching to Units, whether or not redeemable, regardless of whether characterised as equity or debt in the accounts of the Trust.

Non-Voting Unit means a fully paid or partly paid Unit having no voting rights.

Offer includes making available, issuing, offering for subscription or purchase and inviting to subscribe for or buy.

Official List means the official list of the ASX.

Officially Quoted means quotation of securities by the ASX.

Operating Standards means the applicable provisions of:

- (a) Corporations Law including any regulations made under it and any relevant ASIC modifications and exemptions;
- (b) other relevant legislation including any regulations made under it; and common law.

Option means an option to subscribe for a Unit, and includes an option issued under an employee option plan.

Option Holder means a person registered as the holder of an Option.

Ordinary Resolution means a resolution passed by at least 50% of votes cast by Unit Holders in person or by proxy, attorney or Representative.

Partly Paid Unit means a Unit the Issue Price of which is payable otherwise than in full when the Unit is applied for or a Unit in relation to which the whole of the Issue Price has not been paid.

Partly Paid Unitholder means any person or entity in whose name the Partly Paid Units referred to in clause 5.16 are registered from time to time.

Promissory Note means a promissory note as defined by Section 89(1) of the Bills of Exchange Act 1909.

Real Property means an estate in fee simple in land situate in Australia or a leasehold estate in land situate in Australia (either under a lease with an unexpired term as at the Acquisition Date of not less than 25 years or under a lease with an unexpired term as at the Acquisition Date of less than 25 years but which is able to be converted to freehold at any time) or an estate in fee simple in strata title property, units title property or like property situate in Australia including in each of such cases throughout this Sub-clause an estate held as a tenant-in-common.

Record Date means a date fixed by the Responsible Entity within a period of 3 months after the end of a Distribution Period or such other date as permitted by law and by the Listing Rules.

Register means any register established and maintained under this constitution or an applicable law.

Relief means a class order, an exemption, declaration, modification or other instrument granted or issued by ASIC in connection with the Responsible Entity or the Trust and includes any amended or substituted class order, exemption, declaration, modification or other instrument.

Representative means the representative of a Unit Holder appointed:

- (a) in accordance with an applicable law; or
- (b) subject to an applicable law, in such manner and on such terms as the Responsible Entity determines.

Responsible Entity means the person appointed as Responsible Entity of the Trust, with the first Responsible Entity being Sovereign Funds Management Limited ACN 053 919 065.

SCH business rules has the meaning given to that term in the Corporations Law.

Share means an ordinary share issued in the capital of the Company.

Special Resolution means a resolution passed by at least 75% of votes cast by Unit Holders in person or by proxy, attorney or Representative.

Stapled Security means a Non-Voting Unit issued after 31 March, 1994 and a Share which are stapled together and registered in the name of the holder in the Joint Register in accordance with the provisions of this constitution.

Stapling means the linking together of all of the rights and obligations which attach to a Stapled Security as provided for by this constitution.

Stapled means the state that exists consequent upon Stapling.

State or Territory means any State or Territory of the Commonwealth of Australia.

Subsidiary means a corporation which is a subsidiary for the purposes of the Corporations Law.

Tax in relation to the Trust or Units means income tax, tax on the acquisition of any authorised investment, tax on the disposal of any Asset, debits tax, land tax, withholding tax, goods and services tax, financial institutions duty, stamp duty and other taxes, duties, levies, imposts and charges payable by the Responsible Entity to any person, referable to the Trust or those Units, and includes related interest, penalties and other amounts, but does not include tax referable to the Responsible Entity in respect of income or gains for performing its functions as the responsible entity of the Trust, as the case may be.

Tax Act means the Income Tax Assessment Act 1936 and the Income Tax Assessment Act 1997.

Thakral Group means the Company and the group of companies and trusts controlled by the Company. For the purposes of this definition:

- (a) any company in which the whole of the issued shares are held by the Company beneficially or as mortgagor or any wholly owned Subsidiary of the Company shall be treated as being controlled by the Company; and
- (b) any trust in which the Company holds beneficially or as mortgagor all of the units or any trust in which the unit holder is ultimately controlled by the Company shall be treated as being controlled by the Company.

Trust means the Trust hereby constituted called "Thakral Holdings Trust".

Trust Fund means all of the Assets.

Trustee Investments means any investments in which trustees shall for the time being be authorised by the law of any State or Territory to invest trust moneys.

Unit means a unit in the Trust and includes a Fully Paid Unit, a Partly Paid Unit and a Bonus Unit.

Unit Equaliser means in relation to a:

- (a) Fully Paid Unit the number one; and
- (b) Partly Paid Unit, the fraction represented by the amount paid in relation to the Partly Paid Unit (excluding amounts paid in advance of their due date) divided by the Issue Price of the Partly Paid Unit.

Unit Holder means a person recorded on the Register as a holder of Units from time to time.

Value means the current market value of an Asset as included in the Asset Register determined having regard to applicable law, the nature and characteristics of the

Asset and the market for that Asset at the time of valuation and the basis of that determination, as determined by the Valuer making the valuation.

Valuer means an independent adviser appointed by the Responsible Entity to Value an Asset or the Assets.

Voting Unit means a Unit which is not a Non-Voting Unit.

2 Constitution of the Trust Fund

2.1 Appointment of Responsible Entity

The Responsible Entity is hereby appointed and agrees to act as responsible entity for the Unit Holders and shall hold the Trust Fund in trust for the Unit Holders upon and subject to the trusts, terms and conditions of this constitution.

2.2 Initial Sum and Additions to the Trust

Howlong Pty Limited lodged the sum \$20 with the first trustee of the Trust which sum has vested in and is held by the first trustee of the Trust upon and subject to the trusts, terms and conditions of this constitution. These moneys and all other parts of the Trust Fund will, subject to the terms of this constitution, be held by the Responsible Entity and invested in Authorised Investments in accordance with the provisions of this constitution.

2.3 Unit Holders Bound By this constitution

This constitution is a legally enforceable contract as between each Unit Holder and the Responsible Entity.

3 Creation and Issue of Units

3.1 Division into Units

The beneficial ownership of the Trust Fund shall be divided into Units. The number of Units in Issue shall not exceed 1,000,000,000.

3.2 Interest Conferred by Units

Each Unit shall confer upon the holder an equal undivided beneficial interest in the Trust Fund as a whole but shall not confer any proprietary or caveatable interest in the Trust Fund or any interest in any particular part of the Trust Fund or in any Asset. At any given date all Units shall be of equal value except that Partly Paid Units shall have a value only equal to the value of Fully Paid Units decreased by the amount of the unpaid contributions in respect of such Partly Paid Units (whether or not called).

3.3 Initial Units

The beneficial ownership of the Trust Fund as originally constituted by the lodging with the first trustee of the Trust of the sum of \$20 referred to in Clause 2.2 shall be divided into 20 Units and Hesse Pty Limited ACN 009 636 248 shall be recorded in the Register as the holder of those Units.

3.4 Creation of Units

The Responsible Entity may create Units and offer them for subscription or sale in accordance with the applicable law.

3.5 Parts of Units and consolidation and subdivision

3.5.1 The Responsible Entity may create parts of Units. Subject to the terms of this constitution, the holder of a part of a Unit has rights appropriate to the proportion of the Unit he or she holds.

3.5.2 The Responsible Entity may consolidate or subdivide the Trust into any number of Units but the consolidation or subdivision must not affect the relativity between Unit Holders of the Trust. While Stapling prevails the Responsible Entity must only consolidate or subdivide the Non-Voting Units if the Company contemporaneously implements a proportional consolidation or subdivision in respect of the Shares.

3.6 Restriction on issue of Units

Despite any other provision in this constitution, no Units may be issued after the last day of the perpetuity period that applies to this Trust, unless that issue would not offend the rule against perpetuities or any other rule of law or equity.

4 Price of Units

4.1 Issue Price for rights issue

In the case of Units offered to all Unit Holders registered on a date determined by the Responsible Entity, as nearly as possible pro rata to the number of Units held by them on that date, the Issue Price will be:

- a) the Current Market Value (where the Stapled Security is Officially Quoted);
- b) the Current Unit Value on the business day preceding such offer (for Units not Officially Quoted); or
- c) where permitted by any Relief, such other price as the Responsible Entity determines in its discretion, but not less than 80% of the Current Market Value or Current Unit Value (as the case may be).

4.2 Issue price for placements or other issues

In the case of any Units not issued under any other provision of this constitution, the Issue Price will be:

- a) the Current Market Value (where the Stapled Security is Officially Quoted);
- b) the Current Unit Value on the day preceding the making of the relevant offer (for Units not Officially Quoted); or
- c) where permitted by any Relief, such other price as the Responsible Entity determines in its discretion.

4.3 Issue price for income reinvestment

In the case of reinvestment of any income or capital entitlement, the Issue Price will be:

- a) the Current Market Value (where the Stapled Security is Officially Quoted);
- b) the Current Unit Value on the last day of the relevant Distribution Period (for Units not Officially Quoted); or
- c) where permitted by any Relief, such other price as the Responsible Entity determines in its discretion, but, in the case of Units part of a Stapled Security which is Officially Quoted, not less than 80% of the Current Market Value and in the case of Units not Officially Quoted, not less than 80% of the Current Unit Value on such date as is determined by the Responsible Entity.

4.4 Satisfaction of Issue Price

The Issue Price may be satisfied in such manner as the Responsible Entity determines including by payment of cash or by transfer to the Responsible Entity of investments acceptable to the Responsible Entity, or by a combination of these methods.

4.5 Issue while Stapling Prevails

While Stapling prevails, no issue of Non-Voting Units can be made unless the Company contemporaneously resolves to issue an identical number of Shares.

4.6 Calculation of Unit Price for Jointly Quoted Units

Where:

- a) the price per Unit is to be determined pursuant to this Clause 4;
- b) Joint Quotation has been established and is continuing;
- c) regard is to be had to the prices at which Units were sold on the ASX; and
- d) the prices at which Units were sold on the ASX reflects the Joint Market Price, the Responsible Entity, having regard in such manner as the Responsible Entity shall in its absolute discretion determine, shall from time to time apportion the Joint Market Price between the Unit and the Share on a percentage basis. The price at which Units on any relevant date were sold on the Exchange shall for the purposes of this Clause 4 be deemed to be the amount in Australian currency calculated in accordance with the following formula:

$$P = JMP \times A$$

Where:

P represents the price at which Units on any relevant date were sold on the ASX.

JMP represents the Joint Market Price on any relevant date (being the same date utilised for the purposes of P).

A represents the percentage of the Joint Market Price apportioned by the Responsible Entity to a Unit the apportionment being made for the same date utilised for the purposes of P.

5 Partly Paid Units

5.1 Terms of Issue

The Responsible Entity may issue Partly Paid Units on such terms and conditions as it determines.

5.2 Calls

Each holder of a Partly Paid Unit will be liable to pay the amount of a call in accordance with terms of issue of the Unit.

5.3 Interest on late payments of calls

If any call is not paid on or before the date payment is due, the holder of such Partly Paid Units must pay interest on the amount not paid (such interest to accrue for the benefit of the Trust) from the date payment was due to the time of actual payment, at such rate as is from time to time determined by the Responsible Entity.

5.4 Non-receipt of notice of call

The non-receipt of a notice required to be given in respect of any call, or the accidental omission to give such a notice of a call, to any Unit Holder will not invalidate the call.

5.5 Deductions for unpaid calls

If all or part of a call is not paid on or before the date appointed for payment, then until such time as the call is paid, the Responsible Entity may deduct or set off such unpaid amount (together with interest accrued and all costs and expenses incurred by the Responsible Entity by reason of the non-payment) from any distribution or other amount payable to the relevant Unit Holder, including on a winding up of the Trust.

5.6 Forfeiture of Units

If a call is not paid on or before the date payment is due, the Responsible Entity may in its discretion at any time after this date but before the payment of the amount equal to the amount of the call plus interest accrued on the payment plus the costs and expenses incurred by the Responsible Entity by reason of non-payment, cause the Units in respect of which any such amount is payable, to be forfeited with effect from a date determined by the Responsible Entity. Such forfeiture will include forfeiture of all distributions, rights to Bonus Units and other moneys payable to and entitlements of the Unit Holder in respect of the forfeited Units and not paid prior to the date determined for forfeiture.

5.7 Entry on Register

Where any Unit has been forfeited in accordance with this Clause, an entry of the forfeiture and the date of forfeiture must be made in the Register.

5.8 Disposal of Forfeited Units

Where permitted by applicable law or by a Relief, a forfeited Unit may be sold by the Responsible Entity at any price.

5.9 Cancellation of Forfeiture

The Responsible Entity may, at any time before a forfeited Unit is sold, cancel the forfeiture of the Units on such terms and conditions as the Responsible Entity determines.

5.10 Unit Holder remains liable

Any Unit Holder whose Units have been forfeited will cease to be a Unit Holder in respect of the forfeited Units but shall notwithstanding such forfeiture remain liable to pay to the Responsible Entity the total amount not paid and all other moneys payable in accordance with the provisions of this Clause.

5.11 Transfer of Forfeited Units

The Responsible Entity may, on any sale of a forfeited Unit, receive the proceeds of the sale and effect in the name of the Unit Holder whose Unit has been forfeited, a transfer in favour of the transferee of the Unit. Upon effecting the transfer, the transferee will be registered as the holder of the Unit and the transferee's title to the Unit will not be affected by any irregularity or invalidity in connection with the forfeiture or sale of the Unit.

5.12 Responsible Entity's Lien

The Responsible Entity will have a first and paramount lien upon every Unit for amounts not paid and other moneys payable to the Responsible Entity by the Unit Holder in respect of a Unit and such lien shall extend to all distributions and other moneys from time to time payable in respect of that Unit.

5.13 Sale of units to enforce lien

The Responsible Entity may sell the Units to enforce the lien in the same manner as if the Units had been forfeited.

5.14 Proceeds of Sale

The net proceeds of any sale of forfeited Units or the sale of Units to enforce a lien must be applied:

- a) Firstly, in payment of all costs in relation to the enforcement of the lien or the forfeiture (as the case may be) and the sale.
- b) Secondly, in satisfaction of the amount of the unpaid calls and any payable interest on the unpaid calls.
- c) Thirdly, if any proceeds remain they must be paid to the person registered as the Unit Holder in respect of the Units immediately prior to the sale.

5.15 Issue of Partly Paid Units while Stapling prevails

Notwithstanding anything contained herein, while Stapling prevails:

- a) The Responsible Entity shall not issue partly paid Non-Voting Units unless contemporaneously the Company issues an identical number of partly paid Shares to the same person and such partly paid Non-Voting Units give rise to identical obligations in relation to the payment of the unpaid balance of the issue price as attach to the applicable partly paid Shares which are then stapled.
- b) The amount paid on a partly paid Non-Voting Unit shall be proportional to the contribution paid up in respect of both the par value and any premium payable on the partly paid Share so that the partly paid Non-Voting Unit and partly paid Share are at all times paid up to the same proportional amount which are then stapled.
- c) For the purpose of this Clause the words "Shares" and "Non-Voting Units" shall include an option to acquire a Share or Non-Voting Unit or to acquire a security with the right of conversion to a Share or Non-Voting Unit as the case may be.
- d) While Stapling prevails, the Responsible Entity and the Company shall ensure that all amounts to be contributed in respect of partly paid Non-Voting Units and Shares are for such amounts as will ensure that they are paid up to the same proportional amount.

5.16 40 Million Partly Paid Units in issue to TCP

5.16.1 40,000,000 partly paid Non-Voting Units in the Trust are on issue and registered in the name of the Partly Paid Unitholder, having been issued at an issue price of 23 cents per Unit each paid to 0.23 of a cent.

5.16.2 The Partly Paid Unitholder is entitled at any time from 1 May 2008 up until 11 June 2010 to pay the full amount of the unpaid issue price of all or any of these Units but is not entitled to pay part only of the unpaid issue price in respect of any of such Units.

5.16.3 The Responsible Entity is entitled to call for an amount equal to any or all of the unpaid balance owing on any or all of these Non-Voting Units on giving three months prior notice in writing to the Partly Paid Unitholder so as to expire at any time before 11 June 2019.

5.16.4 Unless paid or called beforehand in accordance with this Clause, the Partly Paid Unitholder must pay the remaining unpaid issue price of the Units on 11 June 2019.

- 5.16.5 Should any calls or other amounts in respect of any of the 40 million partly paid Units not be in accordance with this constitution, then:
- a) the partly paid Units may be forfeited by the Responsible Entity and become the property of the Trust and may be sold or otherwise disposed of by the Responsible Entity for the benefit of the Trust as it sees fit in accordance with this Clause; and
 - b) notwithstanding anything else in this constitution, the Partly Paid Unitholder remains liable to pay the balance remaining unpaid on the partly paid Units despite any forfeiture or sale.

6 Bonus Units

6.1 Issue of Bonus Units

The Responsible Entity may determine that an issue of Bonus Units be made to Unit Holders in respect of their Units. While Stapling prevails, such a determination can only be made if the Company contemporaneously resolves to issue an identical number of Shares.

6.2 Terms of an Issue of Bonus Units

- 6.2.1 Bonus Units are created on the date the Responsible Entity makes a determination under the preceding Clause. The number of Units created will be determined by the Responsible Entity and each Unit will be deemed to have been fully paid for.
- 6.2.2 Units must be issued to Unit Holders in proportion to the number of Units held by them on the date determined by the Responsible Entity and in proportion to the Unit Equalisers of those Units at the date so determined.
- 6.2.3 In determining the number of Bonus Units to be issued to each Unit Holder the Responsible Entity may ignore fractions and round down each Unit Holder's entitlement under this Clause to the nearest whole number.
- 6.2.4 Bonus Units are deemed to have been issued to the persons entitled to them when the names of such persons have been recorded in the Register.

7 Options

7.1 Issue of Options

The Responsible Entity may issue Options on such terms and conditions as it determines, provided that:

- a) Subject to Sub-clause c), the Issue Price of the Options will, if permitted under the Corporations Law or any Relief be such price as the Responsible Entity determines in its discretion, but if not so permitted, the Issue Price will be nil.
- b) Subject to Sub-clause c), the Issue Price of a Unit pursuant to the exercise of an Option, will be determined as follows:
 - (i) during such period as the Units are Officially Quoted, at the Current Market Value on the date of issue of the Option, or such other reasonable period ending on or immediately prior to that date determined by the Responsible Entity; and
 - (ii) during such periods as Units are not Officially Quoted, at the Current Unit Value on the date of issue of the Option, or such other reasonable period

ending on or immediately prior to that date determined by the Responsible Entity.

- c) Where permitted by any Relief, in the case of Options offered to all Unit Holders registered on a date determined by the Responsible Entity, nearly as possible pro rata to the Units held by them on that date, the Issue Price of an Option and of a Unit pursuant to the exercise of the Option, shall be determined by the Responsible Entity provided that during such periods as the Units are Officially Quoted, the Issue Price of the Unit shall be an amount greater than 80% of the Current Market Value, and otherwise shall be the Current Market Value on the date of exercise of the Option.

7.2 Interest of Option Holders

An Option does not confer any interest in the Trust or any right to participate in the income or capital.

7.3 Voting rights of Option Holders

Option Holders will be entitled to receive notices of meetings of Unit Holders but, subject to the Corporations Law or any Relief shall not be entitled to attend, speak or vote at any such meeting.

8 Stapling and Voting and Non-Voting Unit Holders

8.1 Voting Units and Non-Voting Units

The Trust is divided into Voting Units and Non-Voting Units. Units issued as part of a Stapled Security are Non-Voting Units. Units which are not issued as part of a Stapled Security may be Voting Units or Non-Voting Units, provided that any Units issued at a time where there is only one Unit Holder in the Trust may be issued as Voting or Non-Voting Units with the consent of that Unit Holder.

8.2 Rights

8.2.1 Voting and Non-Voting Units shall rank *pari passu* in all respects save that whilst Stapling prevails the holders of Non-Voting Units:

- a) are not entitled to vote at any meeting of Unit Holders or to attend or be heard at any meeting of Unit Holders; and
- b) so long as Unit Holders receive notice of any matter to be dealt with by a meeting of Unit Holders in their capacity as members of the Company, are not entitled to any notice of meeting of Unit Holders.

8.2.2 Any holding statement, certificate or other indicia of title relating to Units in the Trust must be endorsed to indicate whether the Units referred to in such holding statement, certificate or other indicia of title are Voting or Non-Voting Units.

8.3 Stapling and cessation of Stapling

8.3.1 The Non-Voting Units will remain stapled to the Shares for so long as the Company or any of its Subsidiaries are the registered holder or mortgagor of all Voting Units.

8.3.2 Notwithstanding anything contained in this constitution, if any Stapled Securities become un-Stapled for any reason or Stapling is discontinued, all Non-Voting Units will automatically be converted to Voting Units on the date un-Stapling occurs or Stapling is discontinued.

8.3.3 The Responsible Entity must not do any act, matter or thing nor refrain from doing any act, matter or thing if to do so or refrain from doing so, as the case may be, would

directly or indirectly result in any stapled Non-Voting Unit no longer being stapled to a Share.

8.4 Joint Quotation

The Responsible Entity must use every reasonable endeavour to cause and procure that the Stapled Securities are Jointly Quoted on the ASX as the one security.

8.5 Voting and action

8.5.1 For so long as the Units are divided into Voting Units and Non-Voting Units, where the Listing Rules, this constitution or the Corporations Law or any other relevant legal requirement requires:

- a) the approval of Unit Holders at a duly convened meeting of Unit Holders before the Responsible Entity may do any act, matter or thing; or
- b) the Responsible Entity to do any act, matter or thing upon a resolution of Unit Holders.

the Unit Holders holding Voting Units may not exercise the right to vote attaching to the Voting Units other than in accordance with a resolution passed at a general meeting of the members of the Company with the same majority as would have been required if the general meeting were a meeting of Unit Holders.

8.5.2 For so long as the Units are divided into Voting Units and Non-Voting Units, the provisions of this Clause may not be amended, modified nor abrogated without the approval of the holder of all of the Voting Units.

8.6 Inconsistency

Notwithstanding anything contained in this constitution, if there is any inconsistency between any provisions relating to Stapling and all other provisions of this constitution (except for Clause 29) the provisions relating to Stapling prevail and override all other provisions (except for Clause 29) to the extent of such inconsistency.

9 Application for Units

9.1 Application form

The Responsible Entity may create forms to assist in making Applications.

9.2 Applications

9.2.1 A person may apply to the Responsible Entity to be issued Units or Options. If an applicable law requires it, an Application must be made on an Application form.

9.2.2 Unless an applicable law provides otherwise, Application forms must be accompanied by either:

- a) the appropriate Application Monies; or
- b) an effective transfer to the Responsible Entity of the other consideration the Responsible Entity proposes to accept as Application Monies.

9.2.3 An Application may not be withdrawn without the consent of the Responsible Entity.

9.2.4 The Responsible Entity may set a minimum or maximum amount (or both) for an Application to be made.

9.3 Acceptance of Applications and issue of Units and Options

9.3.1 A Unit or Option is issued to a person when:

- a) the Application is accepted by the Responsible Entity; and

- b) the Responsible Entity records the person's name on the relevant Register.
- 9.3.2 The Responsible Entity may accept or reject an Application, either partly or completely, at its absolute discretion. The Responsible Entity must make that decision as soon as practicable after receiving the Application.
- 9.3.3 If an Application is not accepted at all or in full, the Responsible Entity must refund the Application Monies. The Responsible Entity may deduct reasonable expenses from the Application Monies.
- 9.3.4 The Responsible Entity may issue a receipt for Application Monies the Responsible Entity receives. However, that receipt is no evidence that a Unit or Option has been issued or that the applicant is entitled to it.
- 9.3.5 The Responsible Entity must record an applicant's name in the Register of Unit Holders on the day the Responsible Entity accepts the Application Monies, or as soon as practicable afterwards.
- 9.3.6 If the Responsible Entity accepts an Application and the Responsible Entity does not receive clear title to the Application Monies, an issue of Units or Options made on the basis of the Application is void.

10 Rights and Liabilities of Unit Holders

10.1 Restrictions

A Unit Holder is entitled to a beneficial interest in the Assets, but is not entitled to do any of the following:

- a) Interfere with the exercise of the powers of the Responsible Entity.
- b) Exercise a right or claim an interest in respect of an Asset (including lodging a caveat or other notice affecting an Asset).
- c) Require the transfer to it of an Asset.

10.2 Unit Holder Liability

A Unit Holder is not, merely because he or she is a Unit Holder:

- a) Liable to make any payment to the Responsible Entity except the unpaid part of the Issue Price for each Unit issued to the Unit Holder.
- b) Under an obligation to indemnify the Responsible Entity or any creditor of it for any liabilities that arise in connection with the Trust.

10.3 Other obligations

- 10.3.1 A Unit Holder must pay any expenses that are referable to his or her Application, Application Monies and Units. The Responsible Entity may refuse to act in relation to that Unit Holder if those expenses are not paid.
- 10.3.2 A Unit Holder must give the Responsible Entity each of the following:
 - a) Details of any inaccuracy in anything stated in an Application form or Register, and of any change to any of that information, of which he or she becomes aware.
 - b) On request by the Responsible Entity, all reasonable information concerning his or her interest in the Trust.

11 Valuations

11.1 Valuations

The valuation of an Asset may be made by the Responsible Entity or by a Valuer appointed by the Responsible Entity. A valuation must be made at the times the Responsible Entity considers necessary or desirable.

11.2 Asset Register

The Responsible Entity must record in the Asset Register the most recent valuation of an Asset. However, this does not apply if the Valuer reasonably believes that that Value is inaccurate, incomplete, out of date or not the fair Value. Instead, the Responsible Entity must have the Asset revalued by the Valuer.

12 Investment of Trust Fund

12.1 Assets and Investments

12.1.1 The general investment policy of the Trust will be as determined by the Responsible Entity from time to time and initially the Assets must be invested in the Authorised Investments. The Responsible Entity will notify the Unit Holders in writing of any change in this investment policy.

12.1.2 The Responsible Entity may, but is not obliged to, encumber the Assets of the Trust, borrow money, make a loan to a Unit Holder or provide any other facility to a Unit Holder unless the liability of the Responsible Entity is limited, to its satisfaction, to the Assets.

12.1.3 The Responsible Entity must keep a Register of Assets containing the information in relation to the Assets that the Responsible Entity considers necessary or desirable.

12.2 Investing in Sub-Trusts

Where monies available for investment are invested in any other trust which is not established pursuant to an approved deed within the meaning of section 1069 of the Corporations Law as at 30 June 1998 or a managed investment scheme registered under Part 5C of the Corporations Law (Approved Sub-Trust) the administration of the Approved Sub-Trust must be under the complete control of the Responsible Entity or the Company and while the Responsible Entity holds the investment in the Approved Sub-Trust:

- a) The Responsible Entity, as responsible entity or trustee of the Trust and/or the Company, or its wholly owned subsidiaries, must hold the entire beneficial interest in the Approved Sub-Trust.
- b) The trustee of the Approved Sub-Trust must be a wholly owned Subsidiary of the Responsible Entity or the Company or a wholly owned Subsidiary of a bare trustee holding the shares for the Responsible Entity or the Company.
- c) The Approved Sub-Trust must have the same auditor as the Trust.
- d) The accounts of the Approved Sub-Trust must be consolidated with the accounts of the Trust, which are sent to the Unit Holders in accordance with the Corporations Law.
- e) The Responsible Entity must not have grounds to form the opinion that maintaining an investment would be contrary to the best interests of the Unit Holders but if such reasonable grounds exist, all reasonable steps must be taken to liquidate any existing investment in the Approved Sub-Trust.

13 Period of Trust and Termination of the Trust

13.1 Period of Trust

The Trust commenced on 9 September 1987. The Trust will terminate in any of the following circumstances:

- a) If the Responsible Entity, in a notice to the Unit Holders, specifies that the Trust is to be terminated.
- b) If any of the other circumstances specified in section 601NE of the Corporations Law apply.
- c) On the day that is the twentieth anniversary of the date of the death of the last survivor of the lineal descendents male or female living as at 9 September 1987 of His Late Majesty George The Sixth.

13.2 Procedure on termination

13.2.1 On or, if practicable, before the termination of the Trust, the Responsible Entity must notify the Unit Holders that the Trust has been or is to be terminated and will be wound up.

13.2.2 When the Trust is terminated, the Responsible Entity must realise the Assets. The Responsible Entity must then arrange for an independent audit by a registered company auditor of the accounts of the Trust up to the date of its winding up.

13.3 Effect on Termination

When the Trust is terminated, the Responsible Entity must do each of the following (according to priorities at law in respect of secured and unsecured liabilities of the Trust and not necessarily in the order specified below):

- a) Not accept any Applications for Units or issue any Units.
- b) Make a call for any unpaid Application Monies or other unpaid amounts due in respect of any Units.
- c) Call in and sell the Assets.
- d) Apply the Assets, or their proceeds, to pay any expenses of the Trust.
- e) Retain whatever part the Responsible Entity reasonably thinks appropriate of the Assets or their proceeds for contingent or prospective expenses and liabilities. (but excluding any amount representing Unit Holder capital, undistributed profits, interest attributable to Unit Holders accruing on Unit Holder capital, capital reserves or any other amount representing the value of rights attaching to Units, whether or not redeemable, regardless of whether characterised as equity or debt in the accounts of the Trust).
- f) Distribute any remaining Assets or their proceeds to Unit Holders of the Trust pro rata to their holdings of Units (and according to the amount paid up on each Unit) at the date of termination of the Trust or a later date selected by the Responsible Entity.
- g) With the distribution to Unit Holders, send to Unit Holders a copy of the audit report prepared by a registered company auditor.

13.4 Right to postpone realisation of Assets

The Responsible Entity may postpone the sale, calling in and conversion of any part of the Assets for such time as it thinks it desirable to do so in the interest of the Unit Holders and is not responsible for any loss attributable to such postponement.

13.5 Responsible Entity's decision final and binding

The decision of the Responsible Entity as to the amount available to be distributed to Unit Holders is final and binding upon all Unit Holders.

13.6 Fees to the Responsible Entity

All fees and expenses to which the Responsible Entity is entitled continue to accrue and to be payable to it until its duties and responsibilities under this constitution finally come to an end.

14 Buy-Back of Units

14.1 Buy-Back Power

Subject to this constitution, the Responsible Entity may buy back Units in the Trust. Unit Holders have no right to have any or all of their Units bought back by the Responsible Entity.

14.2 Buy-Back Price

Subject to conditions of any ASIC relief, the price at which the Responsible Entity will buy back any Unit will be:

- a) the Current Market Buy-Back Value Per Unit; or
- b) such other price per Unit as the Responsible Entity determines in its discretion, but not more than 5% above the Current Market Buy-Back Value Per Unit.

14.3 Buy-Backs while Stapling Prevails

While Stapling prevails the Responsible Entity shall not buy back Units unless contemporaneously the Company buys back an identical number of Shares from the same person.

15 Distributions

15.1 Determination of Distributions

15.1.1 Unit Holders on the Register at midnight as at the end of each Distribution Period are presently entitled to the Net Income for that Distribution Period in the manner determined below. The Responsible Entity may in addition at any time make a distribution by deciding that an amount representing capital or other income of the Trust should be distributed to the Unit Holders.

15.1.2 Joint holders are treated as a single Unit Holder in respect of their holding. Payments of less than a cent need not be made. The balance is to remain an Asset.

15.2 Entitlement

15.2.1 The persons who on the Record Date in relation to a Distribution Period are the Unit Holders of the Fully Paid Units in Issue at the end of that Distribution Period shall be presently entitled to an amount calculated according to the following formula:

$$PE = \frac{FPE \times NITF}{TE}$$

where

PE = the present entitlement of the Unit Holder

NITF = the Net Income of the Trust Fund in respect of that Distribution Period

FPE = the total of all Unit Equalisers at the end of that Distribution Period of all Fully Paid Units in Issue at that time

TE = the total of all Unit Equalisers at the end of that Distribution Period of all Units in Issue at that time

in proportion to the numbers of Fully Paid Units held by them respectively on that Record Date.

- 15.2.2 The persons who on the Record Date in relation to a Distribution Period are the Unit Holders of Partly Paid Units in Issue at the end of that Distribution Period shall be presently entitled to an amount calculated according to the following formula:

$$PE = \frac{PPE \times NITF}{TE}$$

where

PE = the present entitlement of the Unit Holder

NITF = the Net Income of the Trust Fund in respect of that Distribution Period

PPE = the total of all Unit Equalisers at the end of that Distribution Period of all Partly Paid Units in Issue at that time

TE = the total of all Unit Equalisers at the end of that Distribution Period of all Units in Issue at that time

in each case in proportion to the numbers of Partly Paid Units held by them respectively on that Record Date and in proportion to the Unit Equalisers of those Units on that Record Date.

15.3 Time and Manner of Distribution

- 15.3.1 Subject to the terms of issue of any Units and to the terms governing any Partly Paid Units, the Responsible Entity must ensure that each distribution due to Unit Holders is made within 120 days after the end of the relevant Distribution Period.

- 15.3.2 The Responsible Entity must make a distribution to a Unit Holder by posting a cheque to the Unit Holder, by direct debit to an account nominated by the Unit Holder, or as directed by the Unit Holder and agreed by the Responsible Entity.

- 15.3.3 The Responsible Entity must make a distribution to joint Unit Holders by making it to the joint Unit Holder who is named first in the Register of Unit Holders in relation to the Units held, or in accordance with his or her directions.

15.4 Retention of income

- 15.4.1 The Responsible Entity may from time to time retain out of the income of the Trust Fund such moneys as the Responsible Entity in its absolute discretion considers should be retained for any reason whatsoever considered necessary or desirable by the Responsible Entity. This includes, without limitation, in order to provide a fund out of which contingencies can be met and moneys paid for the repair, maintenance, improvement or replacement of any Asset which may by its nature require repair, maintenance, improvement or replacement.

- 15.4.2 All moneys so retained shall be transferred by the Responsible Entity to a general reserve account or (if applicable) a repair and maintenance reserve account, or such other account as the Responsible Entity designates, which moneys, if the Responsible Entity so determines, may be invested in Authorised Investments.

15.5 Distribution Reinvestment

- 15.5.1 The Responsible Entity may grant to Unit Holders or any class of Unit Holder the right to elect to reinvest cash distributions by way of Application for additional Units. The terms of any right of reinvestment will be determined by the Responsible Entity. Any invitation may be withdrawn or varied by the Responsible Entity.
- 15.5.2 While Stapling prevails, the Responsible Entity will not grant to Unit Holders the right to elect to reinvest cash distributions in the manner contemplated by this Clause in respect of Non-Voting Units unless an offer is made at the same time by the Company to issue and allot an identical number of Shares. The offeree shall be precluded from accepting any offer other than an offer for an equal number of Non-Voting Units and Shares.
- 15.5.3 While Stapling prevails, if a Unit Holder elects to reinvest cash distributions otherwise payable by the Responsible Entity in the manner contemplated by this Clause, then a proportion of the distribution shall be applied in satisfaction of the Issue Price of Non-Voting Units and the remaining proportion shall be applied in satisfaction of the Issue Price of the same number of Shares.

16 Remuneration of Responsible Entity

16.1 Fees

- 16.1.1 The Responsible Entity may charge a fee of up to 0.5% per annum of the Gross Trust Value, payable monthly in arrears. The fee is payable as an expense of the Trust.
- 16.1.2 The Responsible Entity may waive, reduce or refund any part of the Responsible Entity fee.
- 16.1.3 The Responsible Entity fee is payable first out of income of the Trust, then out of capital of the Trust. The entitlement continues until the Trust is wound up. Neither the termination nor the winding up of the Trust affects the right of the Responsible Entity to unpaid fees in relation to it.
- 16.1.4 The right of the Responsible Entity to its fee is available only in relation to the proper performance of its duties.

16.2 Right to Reimbursement

- 16.2.1 The Responsible Entity may pay, or reimburse itself for, all payments the Responsible Entity properly makes in respect of the Trust from the Assets.
- 16.2.2 All outgoings and payments of whatever nature due in relation to the Trust, whether paid, contingent or otherwise, are to be liabilities of the Trust and accounted for in accordance with generally accepted accounting principles and Australian Accounting Standards. These outgoings include without limitation:
- a) Outgoings, fees, commissions and payments of or incidental to Offers of Units or Options or Applications for Units or Options.
 - b) The fees and expenses of the auditor of the Trust and compliance committee.
 - c) The fees and expenses of the compliance committee of the Trust.
 - d) Costs of convening and holding any meetings of Unit Holders and of carrying out any directions or resolutions of those meetings.
 - e) Costs of any valuation of the Trust or of any Asset.
 - f) All costs and expenses incurred in or in connection with the implementation of the provisions of the Corporations Law relating to collective investment schemes.

- g) All Taxes payable under this constitution in respect of the Trust including without limitation stamp duty payable on distribution cheques and any GST payable by the Responsible Entity in respect of any services provided for the Trust or any fees received from the Trust.
- h) Fees payable to attorneys, managers, consultants, agents, advisers, Unit registrars, experts and other persons engaged by the Responsible Entity in relation to the Trust or its management or in relation to any Assets or in their management, including without limitation the fees and expenses of any Custodian, any managing agent of any property and any accounting or finance function provided to the Trust.
- i) The cost of all insurances effected in connection with the Trust and the Assets, including directors and officers and for compliance committee members.

16.2.3 The right of the Responsible Entity to pay or reimburse itself from the Assets for any expenses the Responsible Entity incurs in respect of the Trust is available only in relation to the proper performance of its duties.

16.3 Goods and Services Tax

If any GST is payable by the Responsible Entity in respect of any services provided for the Trust or any fees received from the Trust the amount of the GST payable will be an expense of the Trust.

17 Responsible Entity's Powers and Obligations

17.1 Powers of a natural person and to borrow

17.1.1 In relation to the Trust, the Responsible Entity has all the powers of a natural person who is the absolute and beneficial owner of property. This includes, subject only to the Listing Rules but otherwise without limitation, all the powers of a natural person to borrow or raise money for the purposes of the Trust.

17.1.2 The Responsible Entity may exercise any of its powers in relation to the Trust as it considers necessary or desirable. However, the Responsible Entity does not have to do anything in relation to the Trust for which it considers it may not have a right of full indemnity from the Trust, other than to the extent to which it is required by law to do so.

17.2 Responsible Entity's certificate

A certificate signed by the Responsible Entity that it has the power to do any specific thing is conclusive evidence of that fact unless it is in direct conflict with a limitation on the Responsible Entity's powers contained in this constitution.

17.3 Appointment of Advisers

17.3.1 The Responsible Entity has power to appoint a consultant, manager or adviser to perform any of its duties under this constitution. The appointment may be in a form the Responsible Entity chooses. The Responsible Entity may include in the appointment document any provisions the Responsible Entity thinks fit to protect and assist those dealing with the consultant or adviser.

17.3.2 The appointment of a consultant, manager or adviser does not affect the responsibility of the Responsible Entity to carry out all its functions.

17.4 Appointment of Custodian

17.4.1 With the approval of the ASIC, the Responsible Entity may (or if required by law, must) appoint a Custodian of any or all of the Assets. The powers given to the

Custodian and the person appointed Custodian must be approved by the ASIC. The appointment may be in a form the Responsible Entity and Custodian choose. The Responsible Entity may include in the appointment document any provisions the Responsible Entity thinks fit to protect and assist those dealing with the Custodian.

17.4.2 The Responsible Entity is liable for the acts or omissions of the Custodian in relation to any Assets as if they were the acts or omissions of the Responsible Entity.

17.5 Interests of the Thakral Group

Notwithstanding any other provision of this constitution or rule of law to the contrary, in exercising any power or discretion conferred upon the Responsible Entity under this constitution, the Responsible Entity must while Stapling prevails, have regard to the interests of the Thakral Group as a whole and not only to the interests of Unit Holders.

17.6 Conflict of Interest

The Responsible Entity and any Associate of the Responsible Entity may do any of the following and is not liable to account to the Unit Holders for doing so:

- a) Deal with each other or with itself as the trustee of another trust or otherwise.
- b) Act for other persons in a similar capacity to which it acts under this constitution or in any other capacity.
- c) Hold Units.
- d) Act for or represent individual Unit Holders.
- e) Buy Assets in its own or any other capacity.
- f) Sell any assets held by it in its own right or in any other capacity to the Trust.
- g) Make and accept loans.

17.7 Compliance Plan and Committee

The Responsible Entity must ensure that:

- a) the Trust has a compliance plan which complies with the requirements of the Corporations Law; and
- b) if required by the Corporations Law, there is a compliance committee in respect of the compliance plan.

18 Responsible Entity's Indemnity

18.1 Indemnity

The Responsible Entity and its officers and agents are continually indemnified against all expenses, losses and liabilities (whether actual, contingent, prospective or otherwise) that are incurred as a direct or indirect result of anything done or not done under this constitution. This indemnity:

- a) is separate from any indemnity allowed by law;
- b) survives the termination of this constitution; and
- c) may be claimed from the Assets.

18.2 Limitations

This indemnity does not exist in relation to an expense, loss or liability attributable to a failure to properly perform the duties of the Responsible Entity under this

constitution or under the Corporations Law. Nor does it apply in relation to anything against which the Responsible Entity and its officers and agents are not permitted to be indemnified under an applicable law.

19 Retirement and Replacement of Responsible Entity

19.1 Forced retirement

The Responsible Entity must retire if any of the following events occurs in relation to it:

- a) The Responsible Entity becomes an externally administered body corporate within the meaning of the Corporations Law.
- b) The Responsible Entity ceases to have power to act as Responsible Entity under this constitution.
- c) The Responsible Entity is not, or indicates that it is not, able to meet its debts when they fall due.
- d) The Responsible Entity has or elects to have any necessary approval or licence granted to it under the Corporations Law revoked.
- e) Unit Holders by Extraordinary Resolution require the retirement of the Responsible Entity as the responsible entity of the Trust.

19.2 Voluntary retirement

If the Responsible Entity wants to retire, it must call a meeting of Unit Holders to explain its reasons and to enable the Unit Holders to vote on an Extraordinary Resolution to choose a new company to be the Responsible Entity.

19.3 Effect of Retirement

If the Responsible Entity changes, the provisions of the Corporations Law regarding the rights, obligations and liabilities of the outgoing Responsible Entity apply.

20 Entitlement to Holding Statements and Certificates

20.1 Uncertificated Holdings

20.1.1 The Responsible Entity may determine that all the Units in a class of Units issued in the Trust are to be issued on the terms that they may be held only as uncertificated holdings under the SCH business rules. A Unit Holder holding Units of that class is not entitled to require the Responsible Entity to issue or deliver certificates as evidence of title to the Units. The Responsible Entity may at any time revoke a determination under this Clause.

20.1.2 The Responsible Entity may permit a Unit Holder's holding of Units to be held as an uncertificated holding under the SCH business rules and they must do so if the Listing Rules or the SCH business rules require that Units or the Stapled Security are to be held as uncertificated holdings.

20.2 Entitlement to Certificates

Every Responsible Entity whose Units are not held as an uncertificated holding of Units is entitled without payment to receive a certificate in respect of Units issued, as required by the Corporations Law.

20.3 Cancelling Existing Certificates

The Responsible Entity may cancel without replacing a certificate for Units held by a Unit Holder whose Units are to be held as an uncertificated holding.

21 Register

21.1 Register

21.1.1 A Register of Unit Holders and Option Holders (where required) will be kept by or on behalf of the Responsible Entity. The Register may be loose-leaf, computer stored or otherwise of any type determined by the Responsible Entity. The Responsible Entity will determine the information to be recorded in the Register.

21.1.2 Entry of a person on the Register as the holder of a Unit or an Option shall be conclusive evidence of that person's ownership of that Unit or Option.

21.1.3 The Responsible Entity may treat the registered Unit Holder of a Unit as the absolute owner of the Unit for all purposes. The Responsible Entity is not required to record any trust or equitable interest on any Register.

21.2 Common Registry Information during Stapling

21.2.1 While Stapling prevails, the common registry information will be shared between the Trustee and the Company and that the Joint Register to be kept by the Company shall function also as the Register of Unit Holders.

22 Transfer of Units

22.1 Form and Method of Transfer

22.1.1 All transfers of Units and Options must be made in the manner and form required by the Responsible Entity and for so long as the Trust is admitted to the Official List, the ASX.

22.1.2 Every transfer must be delivered to the Responsible Entity, together with the holding statement, certificate or other indicia of title in respect of the Units or Options to be transferred or such other evidence of title that the Responsible Entity reasonably requires.

22.2 Transfer of Stapled Securities

While Stapling prevails an instrument of transfer in respect of a Voting Unit shall be deemed to include an instrument of transfer of the applicable Share and no transfer of a Voting Unit shall be registered unless contemporaneously there is registered a transfer in respect of the applicable Share and any provision contained in this constitution which contemplates the transfer of a Voting Unit shall be deemed to include a reference to the transfer of the applicable Share.

22.3 Responsible Entity may refuse to register

The Responsible Entity may in its absolute discretion refuse to register any transfer of Units or Options but where a transfer of Units or Options is regulated by the Securities Clearing House, may only do so where permitted by the Listing Rules. The Responsible Entity is not required to give any reason for refusing to register a transfer.

22.4 Transmission of Units

In the case of the death of a Unit Holder, the Responsible Entity is only required to recognise any surviving joint Unit Holder or the legal personal representative of the Unit Holder as having any rights in relation to the Units of that Unit Holder. In the case

of bankruptcy, liquidation or administration of a Unit Holder, the Responsible Entity is only required to recognise the person legally entitled to the Units of that Unit Holder.

22.5 Sale of unmarketable Unit holdings

The Units of Unit Holders holding less than a marketable parcel within the meaning of the Listing Rules may be repurchased and cancelled by the Responsible Entity on the same terms and at the same time as any like repurchase and cancellation of unmarketable parcels of the Shares Stapled to those Units. The purchase price of a Unit under any such repurchase will be that proportion of the aggregate purchase price of the Stapled Security which the Responsible Entity attributes to the Unit.

23 Meetings of Unit Holders

23.1 Rights of Non Voting Unit Holders

Clause 8.2 sets out the rights of Non-Voting Unit Holders to receive notices of meetings of Unit Holders and to attend, be heard and to vote at any meeting of Unit Holders, whilst Stapling prevails. The balance of this Clause is to be read subject to Clause 8.2.

23.2 Meetings

23.2.1 The Responsible Entity may convene a meeting of Unit Holders at the time and place it thinks fit.

23.2.2 The Unit Holders may convene a meeting of Unit Holders of the Trust in accordance with applicable law. The notice of meeting must be approved by the Responsible Entity.

23.2.3 The Responsible Entity must convene a meeting of Unit Holders of the Trust as often as required by applicable law.

23.2.4 A notice of a meeting of Unit Holders may not be sent out unless it contains the information applicable laws require. A notice of meeting may contain any other reasonable information the convenor considers necessary or desirable.

23.2.5 A meeting of Unit Holders is not invalidated by an accidental omission or by a Unit Holder not receiving notice of that meeting.

23.3 Notice

At least 21 days notice must be given of a meeting of Unit Holders, unless a longer period is required by an applicable law. The 21 day period may be reduced if an applicable law allows it or the Responsible Entity agrees to a lesser period.

23.4 Quorum

23.4.1 No business shall be transacted at any such meeting unless a quorum is present.

23.4.2 Any two or more Unit Holders present in person and holding Voting Units in the Trust constitute a quorum for a meeting.

23.4.3 If there is only one Unit Holder holding Voting Units in the Trust, that person is the quorum.

23.4.4 If a quorum is still not present half an hour after the time for commencement of the meeting convened by Unit Holders, the meeting is dissolved. If a quorum is still not present half an hour after the time for commencement of any other meeting, the meeting must, if practicable, be adjourned to the same time, day and place in the following week. At that meeting, the Unit Holders holding Voting Units present in person or by proxy, attorney or Representative will constitute a quorum.

23.5 Chairperson

Unless the Corporations Law requires otherwise, the chairperson of meetings of Unit Holders shall be the nominee of the Responsible Entity.

23.6 Voting rights of Unit Holders

- 23.6.1 Questions put to a meeting of Unit Holders are decided on a show of hands. However, the chairperson, or Unit Holders holding Voting Units representing not less than a quorum, may demand a poll. In that case, the resolution of the poll is the resolution of the meeting.
- 23.6.2 A Unit Holder holding Voting Units has one vote for each Unit held. If a Unit Holder has a Partly Paid Unit, the Unit Holder is entitled to that part of a vote representing the amount paid up on the Unit.
- 23.6.3 If a Voting Unit is held by joint Unit Holders, only the Unit Holder who is named first in the Register of Unit Holders is entitled to a vote.
- 23.6.4 Whether voting is by a show of hands or by poll, votes may be given personally or by proxy, attorney or Representative.
- 23.6.5 If the votes are equal, the chairperson may exercise a deciding vote.
- 23.6.6 If a Unit Holder holding Voting Units wants to object to a vote cast at a meeting of Unit Holders, he or she must do so before the close of the meeting. The decision of the chairperson on an objection is final.

23.7 Proxies, Attorneys, Representatives

- 23.7.1 A Unit Holder holding Voting Units may appoint another person as his or her proxy, attorney or Representative in relation to a vote at a meeting of Unit Holders. The Unit Holder must give notice of that appointment to the Responsible Entity or its nominee in accordance with directions contained in the notice of meeting of Unit Holders.
- 23.7.2 The appointment of a proxy is valid for the period stated in the notice of meeting of Unit Holders. It remains valid even if the Unit Holder dies, becomes subject to a legal disability, becomes bankrupt or goes into liquidation, unless the Responsible Entity or its nominee has received written notice of that fact before the meeting.
- 23.7.3 The appointment of a proxy must be in the form the Responsible Entity decides on.
- 23.7.4 The Responsible Entity does not have to enquire whether the appointment of a proxy, attorney or Representative has been validly made.

23.8 Meeting procedures

- 23.8.1 The Responsible Entity may appoint a nominee to attend and address any meeting of Unit Holders.
- 23.8.2 Before a meeting of Unit Holders, the Responsible Entity may set the procedure for that meeting.
- 23.8.3 The chairperson must follow the procedure as far as practicable. In all other respects, the chairperson has an absolute discretion in conducting proceedings at the meeting.

23.9 Adjournments of meeting

The Chairman may, with the consent of any meeting by Ordinary Resolution, adjourn any meeting to a time and place he or she thinks appropriate.

23.10 Written resolutions of Unit Holders

Subject to the provisions of Clause 8.5, while Stapling prevails the Unit Holders holding the Voting Units may pass any resolution whether under the Listing Rules or

the Corporations Law, this constitution or other relevant law, without a meeting. The resolution must be circulated to all Unit Holders holding Voting Units entitled to vote in respect of that resolution. It is effective if it, or separate copies of it, is signed by Unit Holders holding Voting Units amounting to the required majority. The resolution will be taken to have been passed on the date specified in the resolution. If no date is specified, it will be taken to have been passed on the date on which the person appointed to evaluate the result of the resolution receives the signed resolution.

23.11 Variation of rights

The rights attached to any class of Units may only be varied with the consent in writing of the holders of three-quarters of the Units on issue of that class, or with the sanction of a resolution passed at a separate meeting of the Unit Holders of that class of Units by more than three quarters of the votes cast in respect of that resolution.

23.12 Procedure for meeting of a class of Unit Holders

The provision of this constitution relating to meetings of Unit Holders apply so far as they are capable of application, with all necessary changes, to every meeting of a class of Unit Holders except that:

- a) A quorum is constituted by 2 Unit Holders who hold Units of the class, except where there is only 1 such Unit Holder in which case that Unit Holder forms a quorum.
- b) Any holder of Units of the class or classes, present in person or by proxy, may demand a poll.

24 Auditor and Accounts

24.1 Auditor

24.1.1 The Responsible Entity must appoint a registered company auditor to audit the accounts of the Trust when required by applicable law. The Responsible Entity must fix the Auditor's remuneration. The Auditor must give the Responsible Entity at least one months notice of retirement or a shorter period the Responsible Entity agrees to.

24.1.2 The Responsible Entity must give the Auditor any information or copies of documents regarding the Trust that the Auditor reasonably requests.

24.2 Accounts

24.2.1 The Responsible Entity must keep proper books of account for the Trust to enable the preparation of true and fair accounts of the Trust and the convenient and proper auditing of the accounts of the Trust.

24.2.2 The Responsible Entity must prepare the accounts of the Trust as at the end of each Financial Year. If an applicable law requires it, the Responsible Entity must also prepare accounts as at the end of each Distribution Period and Financial Year.

25 Unit Holder Complaints

25.1 Internal complaints procedure

If a Unit Holder makes a complaint in relation to the Trust, the Responsible Entity must observe and comply with each of the following rules:

- a) The Responsible Entity must, as far as practicable, conduct its complaint handling procedures in accordance with best practice in Australia.

- b) The Responsible Entity must acknowledge the complaint. It must do its best to ascertain what the complaint relates to. It may ask the complainant for additional information. It may request that the complaint be made in writing.
- c) The Responsible Entity must properly consider the complaint and make a decision on it within a reasonable time after the Responsible Entity has ascertained what it is about.
- d) The Responsible Entity must inform the complainant of its decision as soon as practicable. Oral complaints may be answered orally; written complaints must be answered in writing.
- e) The Responsible Entity must outline to the complainant the other remedies open to the complainant, including making a complaint under the external complaints resolution procedures.

25.2 External complaints procedure

If the complaint is not resolved to the satisfaction of the complainant, the complainant or the Responsible Entity may refer the matter to the external complaints system included in or contemplated by the dealers licence from ASIC authorising the Responsible Entity to be the responsible entity of the Trust.

26 Notices

26.1 Giving Notices

A communication between the Responsible Entity and a Unit Holder may be made in any of the following ways:

- a) By personal delivery to the recipient or by being left at the recipient's address.
- b) By being sent to the recipient's address by pre-paid mail.
- c) By being sent by fax to the recipient's fax number.
- d) By any other means permitted or required under an applicable law.

26.2 Change of address

The Responsible Entity may change its address by notice. A Unit Holder may change its address by having the change noted in the Register of Unit Holders.

26.3 Time communication is made

If a communication is made by post to an Australian address, it is to be treated as having been made one Business Day after it was posted. If a communication is made by post to another address, it is to be treated as having been made five Business Days after it was posted. If a communication is made by fax, it is to be treated as having been made when the sender receives an error free transmission report from the sender's fax machine. However, all notices of meetings of Unit Holders will be taken to be received 1 Business Day after it was posted or otherwise sent.

27 Amendment of this Constitution

27.1 Responsible Entity ceasing to hold office

If the Responsible Entity ceases to hold office under this constitution in respect of the Trust, the incoming responsible entity of the Trust must, on request by the Responsible Entity, amend this constitution so that the current or any former name of

the Responsible Entity or any name similar to those names which implies a connection to the Responsible Entity does not appear in the name of the Trust.

27.2 Other amendments

This constitution may be varied, amended, added to, deleted from or replaced in accordance with the Corporations Law. Any amendment may have retrospective or prospective effect.

28 Information

28.1 Copies of Constitution

The Responsible Entity must make a copy of this constitution available for inspection by Unit Holders at any reasonable time on any Business Day. A Unit Holder is entitled to a copy of it on payment of the reasonable sum, if any, that the Responsible Entity decides to charge.

28.2 Information to Unit Holders

The Responsible Entity must provide Unit Holders with any information or document it is required to provide by law. The Responsible Entity may provide Unit Holders with any other information or document the Responsible Entity considers necessary or desirable.

29 Regulatory Compliance

29.1 Listing Rules

Notwithstanding anything contained in this constitution, for so long as the Trust is admitted to the Official List:

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

29.2 Compliance with law

The Responsible Entity must in relation to the Trust comply with the applicable requirements of Chapter 5C of the Corporations Law, subject to any Relief and compliance with that Relief. This Clause prevails over all other Clauses.

29.3 Corporations Law relief

Where the effect or benefit of any Relief is conditional on or dependent upon this constitution containing a provision to a certain effect, those provisions will be deemed

to be incorporated in this constitution and will prevail to the extent of any inconsistency.

30 Miscellaneous

30.1 Presumptions of interpretation

30.1.1 Unless the context otherwise requires a word which denotes:

- a) The singular denotes the plural and vice versa;
- b) Any gender denotes the other genders; and
- c) A person includes an individual, a body corporate, and a government.

30.1.2 Unless the context otherwise requires a reference to:

- a) Any legislation includes any regulation or instrument made under it and where amended, re-enacted or replaced means that amended, re-enacted or replacement legislation;
- b) Any other agreement or instrument where amended or replaced means that agreement or instrument as amended or replaced; and
- c) A group of persons includes any one or more of them.

30.1.3 Where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

30.2 Headings and table of contents

Headings and any table of contents must be ignored in the interpretation of this constitution.

30.3 Joint and several liability

If a Unit is owned jointly by 2 or more Unit Holders, their obligations are joint and several.

30.4 Severability

If a Clause or part of a Clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If a Clause or part of a Clause is illegal, unenforceable or invalid in a particular jurisdiction, that Clause or part is to be treated as removed from this constitution in that jurisdiction, but the rest of this constitution is not affected there.

30.5 No partnership etc

This constitution does not create a partnership or agency between the Responsible Entity on the one hand and the Unit Holders on the other or between the Unit Holders.

30.6 Governing law and jurisdiction

30.6.1 This constitution is governed by and must be construed in accordance with the laws of Queensland.

30.6.2 The Responsible Entity and each Unit Holder:

- a) Irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland and all courts which have jurisdiction to hear appeals from those courts; and

- b) Waives any right to object to proceedings being brought in those courts for any reason.

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