

Amending Deed

Hostplus Pooled Superannuation Trust

Host-Plus Pty Limited

Ref AH:942541

Doc ID 846036543/v1

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Deed of Amendment

Date 24 June 2021

Parties **Host-Plus Pty Limited**
ABN 79 008 634 704 of Level 9, 114 William Street, Melbourne Vic 3000
(Trustee)

- Recitals
- A. The Trustee is the trustee of the Hostplus Pooled Superannuation Trust (ABN 13 140 019 340) (**Trust**).
- B. The Trust was established by a trust deed dated 7 February 2014 as varied by a Deed of Amendment dated 25 February 2016 (**Trust Deed**).
- C. The Trust Deed may be amended in accordance with clause 24 of the Trust Deed, which provides as follows:
- 24. Amendment**
- 24.1 Amendment of deed**
- Subject to Superannuation Law and clause 24.2, the Trustee may amend any provision of this deed by deed.*
- 24.2 Effective date**
- Any amendment under clause 24.1 takes effect:*
- (a) *on any earlier or later effective date specified in the deed of amendment; or*
- (b) *if no effective date is specified, on the date the deed of amendment is executed.*
- D. The Trustee wishes to amend the Trust Deed to:
- (a) modernise and consolidate the drafting of the Trust Deed to:
- (i) reflect current industry practices and current law; and
- (ii) rectify errors with the drafting of the Trust Deed; and
- (b) provide for the establishment of Portfolios that will accrue predetermined investment returns for specified

periods on the basis that the Trust Deed will require adjustments to be made between the Portfolio and a linked Portfolio so as to achieve that outcome.

- E. Accordingly, the Trustee wishes to amend the Trust Deed in the manner set out in this deed (**Amending Deed**) with effect from the Effective Date.
- F. The amendments are in accordance with the requirements specified in clause 24 of the Trust Deed, and the Trustee considers that the amendments are consistent with the requirements of clause 24 of the Trust Deed.
-

This deed witnesses as follows:

1. Definitions and interpretation clauses

1.1 Definitions

The meaning of the terms used in this Amending Deed are as set out below.

Amending Deed	this deed dated 24th June 2021.
Effective Date	24th June 2021.
Replacement Deed	the document titled 'Hostplus Pooled Superannuation Trust Deed' attached as Annexure A to this Amending Deed.
Trust	Hostplus Pooled Superannuation Trust (ABN 13 140 019 340).
Trust Deed	the trust deed for the Trust dated 7 February 2014 (as amended from time to time).

2. Amendments to Trust Deed

Pursuant to clause 24 of the Trust Deed, the Trustee determines that on and from the Effective Date all the provisions of the Trust Deed are deleted in their entirety and replaced with the provisions of the Replacement Deed.

The Trustee confirms that the amendments to the Trust Deed effected by this Amending Deed are not intended to declare or resettle the Trust or to create any new trust in relation to the Trust, or to cause the transfer, vesting or accrual of property to or in any person.

3. Governing law and jurisdiction

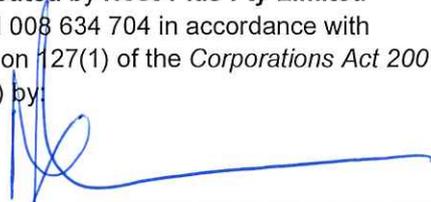
This deed is governed and construed by reference to the laws of Victoria.

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Signing page

Executed as a deed

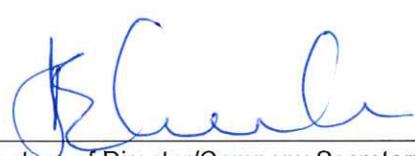
Executed by Host-Plus Pty Limited
ACN 008 634 704 in accordance with
section 127(1) of the *Corporations Act 2001*
(Cth) by:



Signature of Director

MARK ROBERTSON

Full name (print)



Signature of Director/Company Secretary

DAVID
BLUMSLIF

Full name (print)

Annexure A Hostplus Pooled Superannuation Trust Deed

Trust Deed

Hostplus Pooled Superannuation Trust

Host-Plus Pty Limited

Ref AH:942541

Table of contents

1.	Definitions and interpretation	4
2.	Trustee	9
3.	Trust	9
4.	Investment	10
5.	Unitholders	14
6.	Liability of Unitholders	15
7.	Application for units	16
8.	Units	17
9.	Redemption of units	18
10.	Transfer of Trust Property	20
11.	Special Circumstances	21
12.	Switching Portfolios	21
13.	Valuation of Trust Property	21
14.	Tax	22
15.	Accounts	22
16.	Trust accounts and audits	25
17.	Powers of Trustee	25
18.	Dealings with Trust and Unitholders	27
19.	Reimbursement of Trustee	27
20.	Trustee indemnity	29
21.	Recoveries	29
22.	Retirement of Trustee	30
23.	Termination of Trust	31

24.	Amendment	31
25.	Notices	32

1. Definitions and interpretation

1.1 Definitions

In this deed:

Additional Tax	means an amount which can reasonably be said to represent, in relation to the Trust, the amount of additional Tax to which the Trust is assessed, in a particular year of income, as a result of the transfer of taxable Application Moneys under section 295-260 of the Tax Act.
Application Moneys	has the meaning in clause 7.
Business Day	means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment to be made.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth) and any regulations made under that Act.
GST	means any goods and services tax imposed by authority of any GST Law and includes GST within the meaning of the GST Act. This includes any replacement or subsequent similar tax.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
GST Law	has the meaning given to it in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Guarantee Act	means the <i>Superannuation Guarantee (Administration) Act 1992</i> (Cth) and any regulations made under that Act.
Liabilities	include, at the discretion of the Trustee and without limitation, liabilities, borrowings, accrued costs, charges, expenses and outgoings, contingent liabilities, provisions (including provision for contingent or future losses, expenses and liabilities), liability for unpaid Tax, reimbursement or indemnity due to the Trustee and unpaid amounts due and payable to Unitholders or others in respect of withdrawal payments.
Linked Portfolio	has the meaning specified in clause 4.2(a)(ii).
Net Value of a Portfolio	has the meaning specified in clause 8.2.
Portfolio	has the meaning specified in clause 4.1(a).

Predetermined Return Portfolio	has the meaning specified in clause 4.2(a).
Redemption Amounts	means the moneys referred to in clause 9.2.
Regulator	means the Australian Prudential Regulation Authority (APRA), the Australian Securities and Investments Commission (ASIC), the Australian Taxation Office (ATO), the Commissioner of Taxation, the Australian Transaction Reports and Analysis Centre (AUSTRAC) or their successors, State Revenue Offices or such other regulatory body responsible for administering the laws or any other rules governing superannuation or the availability of income tax concessions to superannuation entities.
Relevant Law	means: <ul style="list-style-type: none"> (a) the SIS Act and SIS Regulations; (b) the Corporations Act; (c) the Tax Act; (d) the Guarantee Act; (e) the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i>; (f) <i>Stamp Duty Acts</i> of each Australian State and Territory; (g) any other present or future law of Australia or a State or Territory of Australia, which imposes obligations on the Trust, Trustee or Unitholders, or which these persons must comply with in order to avoid, in the opinion of the Trustee, a penalty or detriment, disadvantage to the Trust, Trustee or Unitholders; (h) any prudential standard, direction, instruction, ruling, requirement, guidance, regulatory instrument or pronouncement, licence or registration condition issued under Relevant Law or by a Regulator which the Trustee determines is required to be followed or complied with, by the Trust, Trustee or Unitholders, on the basis that non-compliance might result in a penalty, detriment or disadvantage to the Trust, the Trustee or Unitholders; and (i) any present or future law of Australia, a State or Territory of Australia or a foreign jurisdiction which the Trustee determines to be a Relevant Law for the purposes of this Deed.
Return Period	has the meaning specified in clause 4.2(a).

Return Period Strategy	has the meaning specified in clause 4.2(a).
Risk Trigger Event	for a Predetermined Return Portfolio, means a severe market, legislative or economic event that results in a significant risk to the implementation of the Return Period Strategy of that Predetermined Return Portfolio or the investment strategy for the Linked Portfolio of that Predetermined Return Portfolio.
SIS Act	means the <i>Superannuation Industry (Supervision) Act 1993</i> (Cth).
SIS Regulations	means the <i>Superannuation Industry (Supervision) Regulations 1994</i> (Cth).
Specified Return	has the meaning specified in clause 4.2(a).
Tax	means all income tax, capital gains tax, payroll tax, land tax, excise tax, stamp duty, GST and any other taxes, or duties or any other levies, imposts, deductions and charges of whatever description and any related interest and penalties paid or payable by the Trustee on behalf of the Trust or, where applicable, by any Unitholders (including any amount charged by a supplier of goods or services or both to the Trustee in its capacity as trustee of the Trust (and for the avoidance of doubt excluding any amounts of GST charged to the Trustee in its own corporate capacity) by way of or as a reimbursement for GST).
Tax Act	means the <i>Income Tax Assessment Act 1936</i> (Cth) and the <i>Income Tax Assessment Act 1997</i> (Cth) (as amended) and any regulations issued under those Acts.
Tax Saving	means an amount which can reasonably be said to represent, in relation to the Trust, the amount of Tax from which the Trust is exempt, in a particular year of income, as a result of any applicable exemption from Tax under the Tax Act or any other present or future law of Australia or a State or Territory of Australia in relation to Tax.
Terminating Portfolio	has the meaning specified in clause 4.4.
Termination Date	has the meaning specified in clause 4.4.
Trust	means the trust known as the Hostplus Pooled Superannuation Trust established by deed dated 7 February 2014 (as amended from time to time).
Trust Liabilities	means all Liabilities of the Trust.

Trust Property	means all property or other assets of the Trust of any nature (including, cash, derivatives and income or other receivables).
Trustee	means the trustee for the time being of the Trust.
Unit	has the meaning set out in clause 5.6.
Unitholder	means a person who has been admitted as a unitholder of the Trust and who has not ceased to be a Unitholder under clause 5.5.
Unitholder Account	has the meaning specified in clause 15.1.
Unit Price	means, as the case requires, the price at which a Unit is issued or redeemed in accordance with clause 8 or 9 as the case may be.
Valuation Time	has the meaning specified in clause 8.2.

1.2 Interpretation

- (a) Unless a contrary intention appears;
 - (i) one gender includes the others;
 - (ii) the singular includes the plural and vice versa;
 - (iii) a party includes the party's executors, administrators, successors and permitted assigns;
 - (iv) a thing includes the whole and each part of it separately;
 - (v) a statute, regulation, code or other law or a provision of any of them includes:
 - (A) any amendment, substitution, modification, re-enactment or replacement of it; and
 - (B) another regulation or other statutory instrument made under it, or made under it as amended, substituted, modified, re-enacted or replaced; and
 - (vi) dollars means Australian dollars unless otherwise stated.
- (b) 'Amendment' includes an addition, variation, deletion and substitution.
- (c) 'For example' is only illustrative and means including without limitation.
- (d) 'Including' and similar expressions are not words of limitation.

- (e) 'May' confers absolute discretion on the person entitled to exercise a right or power conferred but does not infer any obligation to exercise that right or power
- (f) 'Person' includes:
 - (i) an individual, a body corporate and any other person recognised at law;
 - (ii) a partnership, joint venture and any other group or association; and
 - (iii) an authority.
- (g) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- (h) Headings and any table of contents or index are for convenience only and do not form part of this deed or affect its interpretation.
- (i) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (j) Any power, right or discretion given under this deed, for example, the power to determine or agree, may be exercised:
 - (i) from time to time; and
 - (ii) generally or in any particular case.
- (k) A term similar to any term defined in this deed has a corresponding meaning, for example, Net Value of a Portfolio has the same meaning as Net Value of the relevant Portfolio.
- (l) References to any law include:
 - (i) that law as amended, re-enacted or replaced and any law that substitutes or supersedes that law; and
 - (ii) any regulation, instrument, binding determination or ruling made in connection with that law.
- (m) An express reference to one matter (including a rule or law) must not be taken as excluding other matters (including rules or laws).
- (n) References to this deed include this deed as amended or replaced.

1.3 SIS defined terms

Unless the context requires otherwise, words and phrases that are used in this deed and capitalised, and that are defined or used in the SIS Act or the SIS Regulations have the same meaning in this deed. These expressions include but are not limited to: Constitutional Corporation, Pooled Superannuation Trust, Regulated Superannuation Fund.

1.4 Severance

Any provision of this deed which:

- (a) is invalid in whole or in part; or
- (b) would need to be limited or read down in order to be valid;

is severed or limited or read down to the extent of the invalidity, but the remainder of the provision continues in full force and effect.

1.5 Governing Law

- (a) This deed is governed and construed, and takes effect in accordance with the laws of Victoria.
- (b) The Trustee and Unitholders submit to the non-exclusive jurisdiction of the courts of Victoria and of the Commonwealth of Australia.

2. Trustee

2.1 Eligibility

Only a single Constitutional Corporation that satisfies the requirements of Relevant Law may be trustee of the Trust.

2.2 Appointment

- (a) The Trustee is appointed as the trustee of the Trust and consents to that appointment.
- (b) The Trustee will maintain the Trust for the benefit of its Unitholders.

3. Trust

3.1 Name of Trust

The Trust governed by this deed is called the Hostplus Pooled Superannuation Trust or such other name as the Trustee determines from time to time.

3.2 Vesting

The Trustee holds the Trust Property on trust for the Unitholders of the Trust.

3.3 Relevant Law

- (a) The provisions of this Deed are subject to the Relevant Law and if there is any inconsistency between the provisions of this Deed and the Relevant law, the requirements of the Relevant Law prevail.
- (b) The Trust will be maintained as a Pooled Superannuation Trust.
- (c) Despite any other provision of this deed, if any requirements of Relevant Law must be included in this deed from time to time in order for the Trust to be a Pooled Superannuation Trust in any year of income, those requirements are deemed to be included in this deed, but only for so long as that deemed inclusion is necessary for that purpose or such longer period as the Trustee may determine.
- (d) The Trustee may comply with Relevant Law even if Relevant Law is inconsistent with this deed.
- (e) A breach of Relevant Law will not constitute a breach of trust.

4. Investment

4.1 Investment

- (a) The Trustee may, from time to time, specify one or more Portfolios comprising the Trust. A Portfolio is a pool of assets (or an undivided share of a pool of assets) included in the Trust Property that are attributable to a particular investment option made available by the Trustee. The Trustee may determine that assets attributable to one Portfolio are attributable to another Portfolio from time to time to reflect transactions affecting those Portfolios. Assets attributable to a Portfolio must be reallocated to another Portfolio to the extent required by clause 4.2(e).
- (b) Subject to the consent of the Trustee, on admission as a Unitholder, a Unitholder may select the Portfolios by reference to which their Application Moneys are to be invested.
- (c) Each Unitholder Account will be invested by reference to one or more Portfolios selected in accordance with this deed.
- (d) Portfolio selections may be varied by the Unitholder or the Trustee from time to time in accordance with this deed.
- (e) The Trustee is not bound to establish or maintain any Portfolio or, having established a Portfolio, to make it available to any particular Unitholder, and the Trustee may vary, discontinue, close, cease to offer or dispose of any Portfolio, as it considers the circumstances require.

4.2 Predetermined Return Portfolios

- (a) A Portfolio may be established on the basis that it is subject to a fixed rate of return or a formula through which an objectively ascertainable rate of return can be calculated (**Specified Return**) for one or more periods of time (**Return Period**) commencing on or after the Predetermined Return Portfolio is established. The Trustee may, from time to time, establish a Predetermined Return Portfolio by:
- (i) specifying a Portfolio under clause 4.1(a);
 - (ii) specifying another Portfolio in relation to which any reallocation of Trust Property under this clause 4.2 will be made for the Portfolio (**Linked Portfolio**); and
 - (iii) determining for the Portfolio:
 - (A) the Specified Return and Return Period; and
 - (B) a strategy for the investment of the assets of the Portfolio during the Return Period (**Return Period Strategy**).

At all times during a Return Period, the assets of a Predetermined Return Portfolio must be invested in accordance with the Return Period Strategy.

- (b) During any Return Period for a Predetermined Return Portfolio, the Trustee must, as at each Valuation Time other than the Valuation Time coinciding with the start of the Return Period:
- (i) calculate the change in the Unit Price under clause 9.3 for Units referable to the Predetermined Return Portfolio since the immediately preceding Valuation Time, taking into account the reallocation of any Trust Property made under clause 4.2(b)(ii) (if any) as at the preceding Valuation Time; and
 - (ii) reallocate Trust Property from the Predetermined Return Portfolio to its Linked Portfolio or vice versa to the extent required so that the change in the Unit Price since the last Valuation Time will be equal to the Specified Return for the Predetermined Return Portfolio, and any such reallocation will for all purposes be taken to have occurred as at the Valuation Time in respect of which the calculation under clause 4.2(b)(i) was made.
- (c) The Trustee has discretion in relation to the method of implementing the requirements of this clause, including in relation to:
- (i) determining the Trust Property to be reallocated;
 - (ii) determining the application of rounding of decimal places when performing the calculations required by this clause; and
 - (iii) any other matter incidental to giving effect to this clause.

- (d) If, during the period in respect of which a calculation under clause 4.2(b)(i) is being made, a distribution of capital or income has been made to Unitholders holding Units referable to the Predetermined Return Portfolio, the change in Unit Price under clause 4.2(b)(i) must be calculated to take into account any such distribution, by treating the distributed Trust Property as if it were still an asset of the Predetermined Return Portfolio, or in such other way as the Trustee considers appropriate.
- (e) In order to give effect to the reallocation of Trust Property under clause 4.2(b), the Trustee must determine that certain Trust Property referable to the Predetermined Return Portfolio is instead referable to the Linked Portfolio or that certain Trust Property referable to the Linked Portfolio is instead referable to the Predetermined Return Portfolio, as the case requires.
- (f) At least 30 days before the end of any Return Period, the Trustee must decide whether to determine that a new Return Period will apply with effect from the end of the current Return Period, and if so:
- (i) whether the same Specified Return will apply for the new Return Period or if a different Specified Return will apply for the new Return Period;
 - (ii) whether the same Portfolio will be the Linked Portfolio for the new Return Period or if a different Portfolio will be the Linked Portfolio for the new Return Period; and
 - (iii) whether the same Return Period Strategy will apply for the new Return Period or if a different Return Period Strategy will apply for the new Return Period;
- and must notify Unitholders holding Units referable to the Predetermined Return Portfolio of its decision:
- (iv) if the Trustee decides that a new Return Period will not apply, or if the Trustee decides that a different Specified Return will apply, or if the Trustee decides that a different Portfolio will be the Linked Portfolio or if the Trustee decides that a different Return Period Strategy will apply, at least 30 days before the end of the Return Period; and
 - (v) otherwise, as soon as reasonably practicable after the end of the Return Period.
- (g) If a Return Period ends and the Trustee does not determine that a new Return Period will apply with effect from the end of the Return Period:
- (i) the Portfolio ceases to be a Predetermined Return Portfolio with effect from the end of the Return Period;
 - (ii) the Trustee may at any time at its discretion arrange for all of the Units referable to the Portfolio (**Initial Portfolio**) to be redeemed and for the proceeds of redemption to be applied to issue Units in a Portfolio or Portfolios selected by the Unitholder, or where none has been so

selected, by the Trustee. Such Units will be issued to the Unitholders who are holding Units referable to the Initial Portfolio at that time;

- (iii) the Trustee may at any time at its discretion decide to determine that a new Return Period will apply from a specified future date in which case, the Trustee must give the Unitholders who are holding Units referable to the Portfolio at that time at least 30 days' prior notice of:
 - (A) the Return Period;
 - (B) the Specified Rate;
 - (C) the Linked Portfolio; and
 - (D) the Return Period Strategy; and
- (iv) the Trustee may at any time at its discretion terminate the Portfolio in accordance with clause 4.4.

A failure by the Trustee to comply with this clause does not affect the validity of any determination of a new Return Period, new Specified Return, new Linked Portfolio or new Return Period Strategy.

- (h) The Trustee may bring forward the end of a Return Period:
 - (i) if at any time the Trustee determines that a Risk Trigger Event has occurred, by giving at least 30 days' notice to Unitholders holding Units referable to the Predetermined Return Portfolio; and
 - (ii) otherwise, by giving 90 days' notice to Unitholders holding Units referable to the Predetermined Return Portfolio.
- (i) For the avoidance of doubt, during any period which is not a Return Period for a Portfolio which has at any time been a Predetermined Return Portfolio, the Portfolio is not a Predetermined Return Portfolio and the Portfolio and any Portfolio which was at any time its Linked Portfolio are not subject to any reallocation of Trust Property under clause 4.2(b) and the requirement to invest assets of the Portfolio in accordance with the Return Period Strategy does not apply.
- (j) In the exercise of any power by the Trustee under this clause 4.2, the Trustee must be satisfied that it is acting fairly in dealing with both Unitholders of Units referable to the Predetermined Return Portfolio and Unitholders of Units referable to the Linked Portfolio.

4.3 Special Conditions

The Trustee may:

- (a) offer a Portfolio for selection by one or more Unitholders on special terms, conditions and restrictions; and

- (b) vary or remove any special terms, conditions and restrictions previously imposed.

4.4 Termination of Portfolios

The Trustee may determine that a Portfolio (**Terminating Portfolio**) will terminate with effect from a particular date (**Termination Date**), in which event:

- (a) all Unitholders affected by that determination will be notified by the Trustee (in a manner approved by the Trustee) of the determination;
- (b) any Unitholder who has, in accordance with this deed, requested the Trustee to invest any part of the assets referable to their Unitholder Account in the Terminating Portfolio must be given the option to elect to transfer, on or before the Termination Date, the amount invested in the Terminating Portfolio to other Portfolios offered by the Trustee to the Unitholder; and
- (c) any amount in respect of which any Unitholder fails to return a valid transfer election under clause 4.4(b) prior to the Termination Date (in a manner determined by the Trustee) will, with effect from the Termination Date, cease to be invested in the Terminating Portfolio and must be invested in such manner as the Trustee determines.

5. Unitholders

5.1 Application to become Unitholder

The trustee or custodian of a Regulated Superannuation Fund may apply (including by electronic means) to become a Unitholder in a form acceptable to the Trustee.

5.2 Admission of Unitholders

A person becomes a Unitholder from the date the Trustee accepts the person's application as a Unitholder or any other date agreed between the person and the Trustee.

5.3 Information and Evidence

Each applicant must:

- (a) give such information and evidence;
- (b) execute such documents (including by electronic means); and
- (c) satisfy such other requirements,

as, and when, the Trustee requires.

5.4 Special Conditions

The Trustee may:

- (a) reject any application to become a Unitholder;
- (b) admit a Unitholder on special terms, conditions and restrictions; and
- (c) vary or remove any special terms, conditions and restrictions previously imposed.

5.5 Ceasing to be a Unitholder

A person ceases to be a Unitholder when all amounts which are or may be payable in respect of the Unitholder have been paid or otherwise applied or satisfied in accordance with this deed.

5.6 Unitholders' Rights and Units

- (a) A Unitholder of a Trust has a beneficial interest in the Trust as a whole, not in parts or single assets.
- (b) A Unitholder may not interfere with, or exercise, the powers of the Trustee in respect of any Trust Property, Trust Liability or obligation, or lodge a caveat affecting Trust Property.
- (c) The beneficial interest of a Unitholder is represented by the Units referable to the Portfolios in which their Unitholder Account is invested.
- (d) The rights attached to Units referred to in clause 5.6(c) will be determined in accordance with this deed.
- (e) The Trustee may create, issue, redeem and cancel fractions of Units, calculated to the fourth decimal place, which will be dealt with for all purposes of this deed as Units, but in the proportion that the fraction bears to a whole Unit.
- (f) The Trustee may round up or down Units, and amounts to be converted into Units, to the nearest fraction of a Unit calculated under clause 5.6(e).

6. Liability of Unitholders

6.1 Limitation of Liability

- (a) The liability of each Unitholder is limited to the amount for the time being standing to the credit of their Unitholder Account, as represented by the Units recorded in the Unitholder Account.
- (b) Recourse of the Trustee and of Trust creditors will be limited to Trust Property.

- (c) Any relationship of agency between the Trustee and any Unitholder is expressly excluded (except for the purposes of clause 9.5(e)).

7. Application for units

7.1 Application for Units

Subject to the other provisions of this deed, each Unitholder may apply, in a manner acceptable to the Trustee, for Units referable to a particular Portfolio.

7.2 Application Moneys

The moneys received by the Trustee from a Unitholder representing an application for Units under clause 7.1 are Application Moneys for the purpose of this deed.

7.3 Payment of Application Moneys

Application Moneys must be paid at the times and in the manner determined by the Trustee.

7.4 Application Moneys other than Cash

The Trustee may, accept Application Moneys other than in cash on special terms, conditions or restrictions. These Application Moneys will be valued in accordance with clause 13.

7.5 Application Moneys Paid by Mistake

The Trustee must repay Application Moneys which:

- (a) it determines were paid by mistake, unless:
- (i) Relevant Law prevents that repayment; or
 - (ii) the person who mistakenly paid the Application Moneys and the Trustee agree otherwise; or
- (b) the Trustee should have refused to accept under clause 7.6.

7.6 Refusal of Application Moneys

- (a) The Trustee may refuse to accept all or part of any Application Moneys.
- (b) The Trustee must refuse to accept Application Moneys if required by Relevant Law.

7.7 Special Conditions

The Trustee may:

- (a) issue Units to a Unitholder on special terms, conditions and restrictions; and
- (b) vary or remove any special terms, conditions and restrictions previously imposed.

8. Units

8.1 Unit Price

Subject to clause 11, the price at which Units referable to a Portfolio may be created by the Trustee is:

$$\frac{NVP + ITC}{U}$$

where:

- NVP is the Net Value of the Portfolio as at the next Valuation Time after the Application Moneys become Trust Property;
- ITC is the amount not exceeding the Trustee's estimate of the total cost which would be incurred in respect of the acquisition of the relevant Portfolio's investments;
- U is the number of Units on issue referable to the relevant Portfolio at that Valuation Time.

8.2 Net Value

The Trustee must determine for each Portfolio at least once each quarter and as at the first and last days of any Return Period and at such other times as the Trustee determines (**Valuation Time**), on the basis of the most recent valuation of each item of Trust Property and determination of Trust Liabilities:

- (a) the value of all of the assets of the Portfolio;
- (b) the Liabilities of the Portfolio, being the aggregate of:
 - (i) all Trust Liabilities which the Trustee considers relate solely to the Portfolio; and
 - (ii) in relation to each Trust Liability which in the opinion of the Trustee either does not relate to any particular Portfolio or relates to multiple Portfolios, the portion of the Trust Liability which the Trustee determines is appropriate to be allocated to the Portfolio for the purpose of determining the Net Value of the Portfolio;

- (c) the Net Value of a Portfolio by subtracting the Liabilities of the Portfolio (determined in accordance with clause 8.2(b)) from the value of all of the assets of the Portfolio (determined in accordance with clause 8.2(a)).

Nothing in this clause creates a separate trust in respect of assets of a Portfolio or limits the recourse of a Unitholder to the Trust Property.

8.3 Refusal to Issue Units

Without limiting the Trustee's discretion in clause 7.6, the Trustee may suspend the issue of Units referable to a Portfolio during any period in which the Trustee is of the opinion that the issue price of those Units cannot be calculated in a manner that is fair to all persons holding those Units.

8.4 Classes of Units

- (a) The Trustee may:
- (i) issue different classes of Units; or
 - (ii) divide issued Units into different classes; or
 - (iii) consolidate Units; or
 - (iv) reclassify Units;
- as and when it thinks fit.
- (b) The Trustee must determine the rights attached to a class of Units when it exercises its discretion under clause 8.4(a), and such rights will prevail over the provisions of this deed to the extent of any inconsistency.

9. Redemption of units

9.1 Redemption of Units

A Unitholder may request, in a form acceptable to the Trustee, the payment of all or part of the Unitholder Account of the Unitholder. The Unitholder may specify Units referable to a particular Portfolio which are to be redeemed in order to make the payment.

9.2 Redemption Amount

The proceeds of the redemption of Units to be paid to a Unitholder under clause 9.1 must be treated as if they were a withdrawal for the purpose of clause 9.4.

9.3 Redemption Price

- (a) Subject to clause 11, the price at which Units referable to a Portfolio will be redeemed and cancelled by the Trustee is:

$$\frac{NVP - TC}{U}$$

where:

NVP is the Net Value of the Portfolio as at the next Valuation Time after the date of the redemption request;

TC is an amount not exceeding the Trustee's estimate of the total cost which would be incurred in respect of the disposal of the relevant Portfolio's investments;

U is the number of Units on issue referable to the relevant Portfolio at that Valuation Time.

- (b) Subject to clause 9.5, the Trustee will redeem and cancel Units within 60 days after lodgement with the Trustee of the redemption request.

9.4 Withdrawals from Unitholder Accounts

- (a) The Trustee will make payment in respect of a withdrawal from a Unitholder Account (by way of redemption and cancellation of Units) in accordance with this deed.
- (b) Any such payment, whether to the relevant Unitholder or to another person believed by the Trustee in good faith to be entitled to receive it, will be a complete discharge of the Trustee's obligations in respect of that payment.
- (c) A payment may be made other than in cash or its equivalent in accordance with clause 10.
- (d) Where an amount is paid, or consideration is provided other than in cash, in respect of a withdrawal from a Unitholder Account, the amount of the payment or value of the consideration, must be debited to the Unitholder Account, and Units referable to the relevant Portfolio of an equivalent value must be redeemed and cancelled.

9.5 Suspension of Redemptions

The Trustee may suspend the redemption of Units referable to a Portfolio during any period in which the Trustee considers any of the following circumstances to prevail:

- (a) it is of the opinion that the redemption price of the Units cannot be calculated in a manner that is fair to all persons holding those Units;

- (b) there would be insufficient cash remaining in the Trust to meet other Trust Liabilities;
- (c) it reasonably believes that sufficient Trust Property will not be able to be realised:
 - (i) at an appropriate price; or
 - (ii) on adequate terms; or
 - (iii) due to any other circumstances outside its control;
- (d) if the outstanding redemption requests are all satisfied immediately:
 - (i) Unitholders who continue to hold Units may bear a disproportionate burden of Trust Liabilities; or
 - (ii) there would be a material diminution in the value of the Trust Property to the material disadvantage of existing Unitholders; or
- (e) in the Trustee's opinion, it is not otherwise in the interests of Unitholders for any Trust Property to be sold in order to satisfy a redemption request.

10. Transfer of Trust Property

The Trustee may, instead of paying cash, transfer Trust Property to a Unitholder in satisfaction of any part of a redemption request with or without the consent of the Unitholder.

The value of the Trust Property to be transferred to the Unitholder under this clause 10 is to be determined by the Trustee in accordance with clause 13.

For the purposes of this clause 10, each Unitholder;

- (a) appoints the Trustee as their agent to do anything needed to give effect to a transfer of the Trust Property from the Trustee (or its custodian) to the Unitholder;
- (b) agrees to become a member of any body corporate or trust whose securities are included in the relevant Trust Property; and
- (c) agrees that any agreement or arrangement made under the agency authority in this clause 10 is effective and binds the Unitholder.

In this clause 10, a reference to a Unitholder includes a reference to the custodian of the Unitholder.

11. Special Circumstances

- (a) Despite clauses 4.2, 8.1 and 9.3, the Trustee may determine a price at which Units referable to a Portfolio will be:
 - (i) issued in relation to any particular Application Moneys; or
 - (ii) redeemed in relation to any particular withdrawal payment;that is different from the price determined under clauses 4.2, 8.1 and 9.3 (as appropriate) if the Trustee believes that to do so will not prejudice the interests of the other Unitholders.
- (b) Despite clauses 8.1 and 9.3, the price at which the first Units referable to a Portfolio will be issued is \$1 or such other price as the Trustee determines.

12. Switching Portfolios

12.1 Switching Request

A Unitholder may request:

- (a) in a manner acceptable to the Trustee; and
- (b) with the approval of the Trustee,

for any or all of the Units referable to a particular Portfolio to be switched to Units referable to another Portfolio.

12.2 Effect of Request

A switching request approved by the Trustee must be treated by the Trustee as:

- (a) a request under clause 9.1 for redemption of the relevant Units referable to a Portfolio; and
- (b) an application under clause 7.1 for the issue of the relevant Units referable to another Portfolio.

13. Valuation of Trust Property

The Trustee may instruct a valuer or other expert to value any part of the Trust Property. The costs of those valuations must be paid out of the Trust. Trust Property must be valued by reference to the valuation principles determined by the Trustee from time to time.

14. Tax

14.1 Taxation

- (a) In addition to its powers under clause 15, the Trustee:
 - (i) must comply with the law in force in relation to the deduction, remittance and payment of Tax (**Tax Laws**); and
 - (ii) may adjust (either or both of):
 - (A) the amount of Application Moneys or Redemption Amounts; and
 - (B) conditions relating to any applications for, or redemptions of, Units;

in order to comply with any Tax Laws or as a result of any changes in Tax or Tax arrangements.
- (b) Any adjustment under this clause 14.1 will have immediate effect without the necessity of amending this deed.

14.2 Provision for Tax

The Trustee may make provision for Tax:

- (a) in the Unitholder Account of each Unitholder; and
- (b) in the calculation of any Trust Liabilities and the Net Value of a Portfolio.

15. Accounts

15.1 Accounts

- (a) The Trustee will establish and maintain a separate Unitholder Account for each Unitholder of the Trust.
- (b) The Trustee:
 - (i) must establish and maintain for the Trust such other accounts as this deed requires;
 - (ii) may establish and maintain for the Trust such other accounts, including reserving accounts as the Trustee considers appropriate; and
 - (iii) may establish and maintain sub-accounts within any account for any purpose and in any manner the Trustee considers appropriate.

15.2 Unitholder Account

- (a) Unitholder Accounts will not constitute separate trusts.
- (b) Each Unitholder Account will commence when the Trustee first accepts Application Moneys in respect of that Unitholder Account or as otherwise determined by the Trustee.
- (c) The following amounts may be credited to the Unitholder Account of a Unitholder:
 - (i) any Application Moneys received in respect of the Unitholder;
 - (ii) any amount credited to the Unitholder Account under clause 15.4; and
 - (iii) any other amount which the Trustee determines is appropriate to credit to the Unitholder Account.
- (d) The following amounts may be debited to the Unitholder Account of a Unitholder:
 - (i) any amount required to be debited to the Unitholder Account under clauses 15.5 or 15.6;
 - (ii) any Redemption Amounts paid or applied from the Unitholder Account; and
 - (iii) any other amount which this deed requires to be debited to the Unitholder Account or the Trustee considers it appropriate and equitable to debit to the Unitholder Account.

15.3 Unitising amounts

Where an amount is to be credited or debited to an account under this deed, the Trustee may:

- (a) convert the amount into Units of the relevant Portfolio immediately before the amount is credited or debited to the account; and
- (b) issue or redeem (as the case may be) the relevant number of Units of the relevant Portfolio having regard to the relevant issue or redemption price.

15.4 Allocation of Tax Savings

The Trustee may, at any time, determine to credit to all or any Unitholder Accounts, the amount of any Tax Saving, in such proportions as the Trustee determines.

15.5 Allocation of Additional Tax

The Trustee may, at any time, determine to debit to all or any Unitholder Accounts, the amount of any Additional Tax, in such proportions as the Trustee determines.

15.6 Trust Liabilities

Each Unitholder's share of the Trust Liabilities must be applied in one of the following ways as determined by the Trustee:

- (a) deducted from Application Moneys before they are credited to the Unitholder Account;
- (b) debited to the Unitholder Account;
- (c) taken into account in the calculation of the Net Value of a Portfolio;
- (d) deducted from Redemption Amounts;
- (e) dealt with in any other manner determined by the Trustee; or
- (f) applied in any combination of the above.

15.7 Estimation of Expenses

The Trustee may make:

- (a) any deduction or debit under clause 15.6 on an estimated basis; and
- (b) subsequent adjustments to take account of any difference between estimated and actual amounts.

15.8 Closing of Accounts

- (a) The Trustee must close a Unitholder Account after all amounts which could become payable in respect of the Unitholder have been paid or applied.
- (b) Any amount remaining in a Unitholder Account at that time may be forfeited to the Trust and applied as the Trustee considers appropriate.

15.9 Trustee's Discretion

The Trustee:

- (a) must terminate a Unitholder Account if required to do so under Relevant Law; and
- (b) may terminate a Unitholder Account after giving reasonable notice to the relevant Unitholder.

15.10 Application of Assets

On termination of a Unitholder Account, the Trustee must apply the assets referable to the Unitholder Account in the following order of priority:

- (a) all Trust Liabilities which have been incurred or are likely to be incurred in respect of the Unitholder Account (including the termination of the Unitholder Account); and
- (b) the balance of the Unitholder Account to the Unitholder or at their direction in accordance with Relevant Law.

15.11 Securing of Entitlements

The Trustee may make any arrangements it considers appropriate to secure any entitlements of a Unitholder on the termination of a Unitholder Account, without the Unitholder's consent and even if the arrangement is contrary to the Unitholder's wishes.

15.12 Liability of Trustee

On completion of the arrangements under clause 15.11:

- (a) no person has any right against the Trustee in respect of any entitlement in relation to the relevant Unitholder Account; and
- (b) the Trustee is discharged from the trusts of the relevant Unitholder Account.

16. Trust accounts and audits

The Trustee will keep accounts for the Trust, and arrange for them to be audited, in accordance with Relevant Law.

17. Powers of Trustee

17.1 Powers of the Trustee

Subject to this deed, the Trustee has within and outside Australia all the powers in relation to the Trust, Trust Property and Trust Liabilities that it is legally possible for a natural person or a corporation to have, including (but not limited to) power to:

- (a) invest in real or personal property of any nature and in any jurisdiction;
- (b) incur liabilities and obligations of any kind, as if it were the absolute and beneficial owner of all Trust Property;

- (c) effect (including payment of premiums) any indemnity insurance policy covering the Trustee or its directors and officers or both, or any other insurance or assurance policy;
- (d) exercise any powers or discretions conferred by, and to comply with, Relevant Law and the provisions of this deed;
- (e) give undertakings, guarantees, discharges, releases and indemnities;
- (f) pay commission or brokerage to a person in consideration of that person applying or agreeing to apply to be a Unitholder or procuring or agreeing to procure applications to be a Unitholder;
- (g) provide for or transfer any Tax;
- (h) by power of attorney or otherwise, authorise one or more persons (whether or not related to or associated with the Trustee) to do anything that the Trustee may do, including (but not limited to) holding any Trust Property and executing documents on its behalf;
- (i) engage and remove any administrators, advisers, agents, service providers, brokers, contractors, custodians, investment managers, valuers, actuaries, auditors, underwriters or any other persons (whether or not related to or associated with the Trustee) in connection with the performance of its duties, and pay fees or other remuneration to those persons out of the Trust; and
- (j) segregate (physically or notionally) particular assets of the Trust from other assets. For the avoidance of doubt, the Trustee may segregate (physically or notionally) assets referable to one class of Units or category of Unitholder for any reason the Trustee determines is appropriate. For example, to segregate pension assets from non-pension assets for tax purposes.

17.2 Discretions

- (a) The Trustee may determine the manner, mode and time of exercise of its powers in its absolute discretion. The Trustee may exercise any of its powers in its absolute discretion and without giving any reasons for the exercise of its powers.
- (b) Despite anything to the contrary in this deed:
 - (i) in exercising any of the Trustee's powers under this deed, the Trustee:
 - (A) may rely on any information provided by any person; and
 - (B) may only be subject to the direction of another person in the circumstances permitted under Relevant Law;
 - (ii) where this deed provides for the Trustee to be subject to a direction by any person in circumstances other than those permitted under Relevant Law, the right to give that direction must be interpreted instead as a

right for that person to exercise a discretion subject to the consent of the Trustee; and

- (iii) no discretion which is required under this deed to be exercised by a person other than the Trustee may be exercised except in the circumstances permitted under Relevant Law.
- (c) Any exercise of discretion, determination or decision by the Trustee under this deed is final and effective and binding on all Unitholders.

17.3 Development power

- (a) The Trustee may, either by itself or in joint venture, partnership or other association or by arrangement with any other person, develop or participate in or commit or agree to participate in the development of any Trust Property.
- (b) For the purposes of clause 17.3(a), 'participate in' includes providing equity or loan funding for the development of the Trust Property on such terms as the Trustee may determine, and whether with or without security.

18. Dealings with Trust and Unitholders

The Trustee and any related company or associate of the Trustee may, subject always to acting in good faith to Unitholders, deal in any capacity with the Trust or act in any capacity in relation to any other trusts, without in any such case being liable to account to the Trust or to any Unitholder.

19. Reimbursement of Trustee

19.1 Trust Liabilities

All Trust Liabilities incurred by the Trustee in connection with the administration, management, operation or termination of the Trust and which are not referable to a particular Unitholder Account or Portfolio are payable or reimbursable out of Trust Property (apportioned in a manner determined by the Trustee).

19.2 Reimbursement of Expenses

The Trustee is, in addition to its right of indemnity under clause 19.1 and its other rights under this deed, entitled to recover out of the Trust the following costs, charges and expenses:

- (a) disbursements in connection with the acquisition or disposal of any asset, including commission and brokerage;

- (b) any Tax or reimbursement of Tax properly charged to the Trustee or the Trust in connection with the Trust but excluding any Tax payable personally by the Trustee on its own account;
- (c) all costs in connection with the initiation, carriage, defence and settlement of any tribunal or court proceedings; and
- (d) all other costs, charges and expenses incurred in connection with the administration, management, operation or termination of the Trust.

19.3 Reserving Charge

- (a) Whenever the Trustee calculates the Net Value of a Portfolio, the Trustee may deduct out of the Trust Property comprising the Portfolio and credit to one or more reserving accounts maintained under clause 15, an amount as determined by the Trustee equal to a percentage of the Net Value of the Portfolio.
- (b) The Trustee may reduce the amount of any reserving charge under clause 19.3(a) in relation to a particular Unitholder by crediting the relevant Unitholder Account and issuing additional Units of an equivalent value in any Portfolio in which the Trustee is required to invest Application Moneys in respect of the Unitholder or as the Trustee otherwise determines.

19.4 Allocation of Expenses and charges

Amounts paid or payable to the Trustee under this clause 19 must be allocated in accordance with clause 15 or otherwise in accordance with this deed.

19.5 GST

- (a) Unless otherwise defined in this Deed, terms used in this clause 19.5 have the meanings given to those terms in the GST Act.
- (b) Unless expressly stated otherwise, the fees and any other amounts which are payable to the Trustee under any other provision of this Deed are exclusive of GST.
- (c) If the Trustee is liable to pay GST in respect of any supplies it makes under or in connection with this Deed then:
 - (i) in addition to any fees or other amount to which the Trustee is entitled, the Trustee is entitled to recover or be paid from the Trust Assets (by way of increased fee or otherwise), at the same time as the fees or other amount, an additional amount equal to the amount of that GST liability; and
 - (ii) the Trustee will issue a tax invoice for such supplies no later than the time at which the Trustee recovers or is paid the additional amount referred to in clause 19.5(c)(i) from the Trust Assets, or otherwise receives the consideration for the supply.
- (d) If the GST payable in relation to a supply made under or in connection with this Deed varies from the additional amount recovered or paid from the Trust Assets under clause

19.5(c)(i) in respect of that supply, then the Trustee will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from the Trust Assets (as appropriate). Where there is an adjustment event the Trustee must issue an adjustment note as soon as practicable after becoming aware of the adjustment event.

- (e) Any payment or reimbursement required to be made under this Deed for an Expense or other amount paid or incurred by the Trustee will be limited to the total Expense or amount less the amount of any input tax credit to which the Trustee is entitled for the acquisition to which the Expense or amount relates.

20. Trustee indemnity

20.1 Indemnity

Except if the Trustee or a director of the Trustee (as the case may be) fails to act honestly in a matter concerning the Trust or intentionally or recklessly fails to exercise, in relation to a matter affecting the Trust, the degree of care and diligence that the Trustee or the director (as the case may be) was required to exercise, or unless the liability or payment is excluded under Relevant Law:

- (a) the Trustee or the director (as the case may be) will not be liable for any loss or breach of trust;
- (b) the Trustee or the director (as the case may be) will not be liable to any greater extent than the Trust Property actually vested in the Trustee in accordance with this deed; and
- (c) the Trustee and each director is indemnified out of Trust Property against all liabilities, losses, costs and expenses incurred in the exercise or purported exercise of the Trustee's powers.

20.2 Limitation

The Trustee is not required to do anything for which it does not have a full right of indemnity out of Trust Property. Any indemnity to which the Trustee is entitled under this deed is in addition to any indemnity allowed by law.

21. Recoveries

21.1 Unitholder Liable for Taxes and Costs

The Trustee may recover from each Unitholder any Taxes and costs referable to their Unitholder Account or referable to any payment to, or any act requested by that Unitholder.

21.2 Withholding Payments to Unitholders

The Trustee may withhold payment of any money payable to a Unitholder until the liability referred to in clause 21.1 is discharged, or the Trustee may meet the liability and recover the amount from any money or property held for the Unitholder.

21.3 Deductions from Application Moneys

Without limiting the generality of this clause 21, the Trustee may deduct from Application Moneys received in relation to a Unitholder, or debit a Unitholder Account directly with, Taxes which in the opinion of the Trustee will be incurred on acceptance of the Application Moneys.

21.4 Deductions and Forfeiture

- (a) Subject to clause 21.4(b), the Trustee may deduct any amount which a Unitholder owes to the Trustee or the Trust from any amount payable in respect of the Unitholder.
- (b) Any amount deducted in accordance with clause 21.4(a) may be used as the Trustee considers appropriate.

22. Retirement of Trustee

22.1 Retirement of Trustee

- (a) The Trustee may retire as trustee of the Trust by giving 90 days written notice to the Unitholders of the Trust.
- (b) The Trustee must retire as trustee of the Trust if it becomes disqualified for the purposes of Relevant Law.
- (c) Whenever the Trustee retires, it must, by deed poll, appoint another Constitutional Corporation that satisfies the requirements of Relevant Law to take its place.
- (d) If no replacement trustee is appointed within 90 days after the Trustee's retirement under this clause 22.1, the Trust will be terminated.

22.2 Statutory Requirements

If at any time the Trustee is subject to any statutory or official requirement in relation to the Trust which is or may be materially prejudicial to the Trustee, the Trustee may:

- (a) terminate the Trust; or
- (b) retire as trustee of the Trust forthwith, and if no replacement trustee is appointed within 90 days, the Trust will be terminated.

23. Termination of Trust

23.1 Termination

The Trust will be terminated at such time as this deed provides or the Trustee determines.

23.2 Trustee's duties upon termination

Subject to clause 23.4, on termination of the Trust, the Trustee will realise all relevant Trust Property, pay or discharge all relevant Trust Liabilities and expenses of termination and distribute the net proceeds in accordance with the provisions in this deed governing termination of Unitholder Accounts.

23.3 Realisation

The Trustee may postpone realisation and will not be responsible for any resulting loss except as set out in clause 20.1.

23.4 Transfer of Trust Property

- (a) The Trustee may distribute any Trust Property to a Unitholder in lieu of the distribution to the Unitholder under clause 23.2.
- (b) Clause 10 applies to any distribution of Trust Property under clause 23.4 as if the distribution was a redemption request.

24. Amendment

24.1 Amendment of deed

Subject to clause 24.2, the Trustee may amend any provision of this deed by deed.

24.2 Effective date

Any amendment under clause 24.1 takes effect:

- (a) on any earlier or later effective date specified in the deed of amendment; or
- (b) if no effective date is specified, on the date the deed of amendment is executed.

25. Notices

25.1 Notices by the Trustee

Any notice or other document to be given by the Trustee to any Unitholder:

- (a) must be given in writing (or in such other manner as the Trustee determines);
- (b) is taken to be given by the Trustee and received by the Unitholder:
 - (i) if delivered by hand either personally to the Unitholder or to the Unitholder's physical address, upon that delivery;
 - (ii) if sent by prepaid post addressed to the Unitholder's address last known to the Trustee, in which case it will be deemed to have been received on the date when in the ordinary course of post it would normally have been delivered at such address;
 - (iii) If sent by email to the email address last known to the Trustee, unless the Trustee receives a notification of delivery failure within 24 hours of the email being sent, at the time recorded on the Trustee's computer as the time the communication was sent;
 - (iv) if the Unitholder has agreed to receive notices and documents through a secure on-line portal, when the notice or document is first made available through that portal; or
 - (v) where otherwise sent, distributed or communicated by any other method (including through electronic means) permitted by Relevant Law, at the time the Trustee determines; and
- (c) where at least one notice has been returned and unclaimed from the last known address of a Unitholder and the Trustee is satisfied on reasonable grounds that the address is incorrect or no address for the Unitholder can be obtained and the Trustee has taken reasonable steps to locate the Unitholder but has been unable to do so, then the Trustee will not be required to give the notice until the Trustee later becomes aware of the address or location of the Unitholder.

25.2 Notices to the Trustee

Any notice or other document to be given to the Trustee by a Unitholder:

- (a) must be in writing (or in any other form or manner determined by the Trustee);
- (b) must be signed personally or bear the facsimile or 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;
- (c) is taken to be given by the sender and received by the Trustee:

- (i) if delivered by hand either personally to the Trustee, or to the Trustee's office, upon that delivery;
- (ii) if sent by prepaid post to the office of the Trustee, in which case, it will be deemed to have been received on the date when, in the ordinary course of post, it would normally have been delivered at such address;
- (iii) if sent by email to the email address that the Trustee notifies from time to time, unless the sender receives a notification of delivery failure within 24 hours of the email being sent, at the time recorded on the sender's computer as the time the communication was sent.