

Constitution of Aspen Property Trust

Dated 2003

Aspen Funds Management Limited ("**Manager**")
(ACN 104 322 278)

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Constitution of Aspen Property Trust

This deed poll is declared by Aspen Funds Management Limited ACN 104 332 278 to be the constitution of the Aspen Property Trust.

1 Name of Trust

1.1 Name

The Trust is called the Aspen Property Trust or by such other name as the Manager determines from time to time.

1.2 If Manager retires

If a Manager retires or is removed, its successor as Manager must, unless otherwise approved by the former Manager, change the name of the Trust to a name that does not imply an association with the former Manager or its business.

2 Assets held on trust

2.1 Assets held on trust

The Manager must hold the Assets on trust for Members.

2.2 Assets vest in Manager

The Assets vest in the Manager, but must be clearly identified as property of the Trust and held separately from the assets of the Manager and any other managed investment scheme if and to the extent that the Corporations Act so requires.

3 Units and Options

3.1 Beneficial interest divided into Units

The beneficial interest in the Trust is divided into Units.

3.2 Units confer equal undivided interest

Each Fully Paid Unit confers an equal undivided interest and, unless this constitution states otherwise, a Partly Paid Unit confers an interest of the same nature which is proportionate according to the amount paid up on the Unit.

3.3 Interest in Assets

A Unit confers an interest in the Assets as a whole, subject to the Liabilities. It does not confer an interest in a particular Asset.

3.4 Stapling provisions

The provisions of this constitution relating to Stapling take effect on and from the Stapling Commencement Date and apply subject to all other provisions of this constitution which may suspend, abrogate or terminate Stapling.

3.5 Creation of Options

The Manager may create and issue Options on such terms and conditions as the Manager determines. Options may be issued with Units or separately.

3.6 Issue of Options

Subject to this constitution, the Corporations Act (and the conditions of any applicable ASIC relief from it) and, if relevant, the Listing Rules, the Manager may determine that Options will be issued:

- (a) for consideration or no consideration;
- (b) on the basis that the exercise price for a Unit to be issued on exercise of the Option is the price determined by the Manager, provided that the exercise price is less than the price that would otherwise apply under this constitution by a percentage not exceeding 50%; and
- (c) conferring on the holder of the Option such other entitlements under this constitution as the Manager determines,

and otherwise on terms and conditions and with such entitlements as determined by the Manager. The terms of issue of the Option may allow the Manager to buy back the Options.

3.7 Offers of Options

Subject to the Listing Rules and the Corporations Act (and the conditions of any applicable ASIC relief from it), if the Manager is making an offer of Options to Members which is otherwise in proportion to their existing holdings of Units, the Manager is not required to offer Options under this clause to persons whose address on the Register is in a place other than Australia and New Zealand.

3.8 Exercise of Options

- (a) On exercise of an Option, the holder of the Option is entitled to subscribe for and be allotted such number of Units as the terms and conditions of issue of the Option contemplate.
- (b) While Stapling applies, an Option may only be exercised if, at the same time as Units are acquired pursuant to the Option, the same person acquires an identical number of Attached Securities, which are then Stapled to the Units.

3.9 Rights attaching to Units and Options

A Member holds a Unit subject to the rights, restrictions and obligations attaching to that Unit. The holder of an Option holds the Option subject to the terms and conditions attaching to that Option.

3.10 No fractions of Units

Fractions of a Unit may not be issued by the Manager.

3.11 Rounding of fractions

Where any calculation performed under this constitution or the terms of a withdrawal offer would otherwise result in the issue or redemption of a fraction of one Unit, the number of Units to be issued or redeemed is, subject to this constitution, to be rounded down to the nearest whole Unit.

3.12 Rounding

Any excess application or other money or property which results from rounding under any provision of this constitution becomes an Asset of the Trust.

3.13 Consolidation and division of Units and Options

Subject to the Listing Rules and the Corporations Act, Units and Options may be consolidated or divided as determined by the Manager.

3.14 Consolidation and division while stapling applies

While Stapling applies, Units may only be consolidated or divided if the related Attached Securities are also consolidated or divided at the same time and to the same extent.

3.15 Transfer of Units and Options if Officially Quoted

If the Units and/or Options are Officially Quoted, Units and/or Options may be transferred in any manner permitted by the CHES System. The Manager may require before registration of any such transfer that there be provided to the Manager any documents which the rules of the uncertificated system require or permit the Manager to require be provided to it to authorise registration. This clause 3.15 prevails over any other provision of this constitution that may be inconsistent with it but it does not permit the Manager to refuse to register a proper SCH transfer.

3.16 Form of transfer

Subject to this constitution, a Unit or Option may be transferred in any form approved by the Manager, accompanied by any evidence reasonably required by the Manager to show the right of the transferor to make the transfer and (if the Manager requires) be presented for Registration duly stamped.

3.17 Registration

A transfer is not effective until Registered.

3.18 Manager may request holding lock or refuse to register transfer

If Units or Options are Officially Quoted, and if permitted to do so by the Listing Rules, the Manager may:

- (a) request SCH to apply a holding lock to prevent a transfer of CHESSE Approved Securities registered on the CHESSE subregister; or
- (b) refuse to register a transfer of other Units in the Trust.

3.19 Manager must request holding lock or refuse to register transfer

The Manager must:

- (a) request SCH to apply a holding lock to prevent a transfer of CHESSE Approved Securities registered on the CHESSE subregister; or
 - (b) refuse to register any transfer of other Units in the Trust;
- if:
- (c) the Listing Rules require the Trust to do so;
 - (d) registration of the transfer is prohibited by clause 3.23(b);
 - (e) clause 3.31(a) requires the Manager not to register the transfer; or
 - (f) the transfer is in breach of the Listing Rules or Restriction Agreement.

3.20 Notice of holding locks and refusal to register transfer

If in the exercise of its rights under clause 3.18 and 3.19 the Manager requests application of a holding lock to prevent a transfer of CHESSE Approved Securities or refuse to register a transfer of a security they must give written notice of the request to the holder of the Units, to the transferee and the broker lodging the transfer, if any. Failure to give such notice does not invalidate the decision of the Manager.

3.21 Manager must retain instruments of transfer

The Trust must retain every instrument of transfer which is registered for such period as the Manager determines.

3.22 Return of refused transfers

If the Manager refuses to register a transfer, the transfer must be returned to the person who deposited it if demand is made within 12 months of the giving of notice of refusal to register unless there has been an allegation of fraud concerning the transfer or the transaction to which it relates.

3.23 Proportional takeover offers

Notwithstanding clauses 3.15, 3.16 and 3.17, if offers are made under a proportional takeover bid for Units of the Trust in accordance with the Corporations Act:

- (a) clauses 3.23 to 3.28 apply;
- (b) the registration of a transfer giving effect to takeover contract resulting from acceptance of an offer made under the takeover bid is prohibited unless and until a resolution to approve the bid is passed in accordance with clauses 3.24 and 3.25; and
- (c) the Manager must ensure that a resolution to approve the bid is voted on in accordance with clause 3.24 to 3.27 before the fourteenth day before the last day of the bid period.

3.24 Approval of takeover bids

The Manager may determine whether the approving resolution is voted on:

- (a) at a meeting of persons entitled to vote on the resolution convened and conducted, subject to the provisions of clause 3.26, as if it were a meeting of Members convened and conducted in accordance with this constitution and the Corporations Act with such modifications as the Manager determines the circumstances require; or
- (b) by means of a postal ballot conducted in accordance with the following procedures:
 - (i) a notice of postal ballot and ballot paper must be sent to all persons entitled to vote on the resolution not less than 14 days before the date specified in the notice for closing of the postal ballot, or such less period as the Manager determines the circumstances require;
 - (ii) the non-receipt of a notice of postal ballot or ballot paper by, or the accidental omission to give a notice of postal ballot or ballot paper to, a person entitled to receive them does not invalidate the postal ballot or any resolution passed under the postal ballot;
 - (iii) the notice of postal ballot must contain the text of the resolution and the date for closing of the ballot and may contain any other information the Manager considers appropriate;
 - (iv) each ballot paper must specify the name of the person entitled to vote;
 - (v) a postal ballot is only valid if the ballot paper is duly completed and:
 - (A) if the person entitled to vote is an individual, signed by the individual or a duly authorised attorney; or
 - (B) if the person entitled to vote is a corporation, executed under seal or as permitted in the Corporations Act or under the hand of a duly authorised officer or duly authorised attorney;

- (vi) a postal ballot is only valid if the ballot paper and the power of attorney or other authority, if any, under which the ballot paper is signed or a copy of that power of attorney certified as a true copy by statutory declaration is or are received by the Trust before close of business on the date specified in the notice of postal ballot for closing of all postal ballot at the office of the Manager or unit registry of the Trust or at such other place as specified for that purpose in the notice of postal ballot; and
- (vii) a person may revoke a postal ballot vote by notice in writing to be received by the Manager before the close of business on the date for closing of the postal ballot.

3.25 Entitlement to vote on approving resolution

The only persons entitled to vote on the approving resolution are those persons who, as at the end of the day on which the first offer under the bid was made, held bid class securities. Each person who is entitled to vote is entitled to one vote for each bid class security held by that person at that time.

Neither the bidder nor any associate of the bidder is entitled to vote on the resolution.

3.26 When approving resolution passed

If the resolution is voted on in accordance with clauses 3.23 to 3.25 then it is to be taken to have been passed if the proportion that the number of votes in favour of the resolution bears to the total number of votes on the resolution is greater than one-half, and otherwise is taken to have been rejected.

3.27 If approving resolution has not been voted on

If a resolution to approve the bid has not been voted on as at the end of the day before the fourteenth day before the last day of the offer period, then a resolution to approve the bid is taken to have been passed in accordance with clauses 3.24 to 3.26.

3.28 Cessation of clauses 3.23 to 3.27

Clauses 3.23 to 3.27 cease to have effect on the day three years after the later of their adoption or last renewal.

3.29 Transfers if Units or Options not Officially Quoted

If Units or Options are not Officially Quoted, the Manager may only refuse to record any transfer in the Register if, in the opinion of the Manager:

- (a) the transfer does not comply with clause 3.16;
- (b) the creditworthiness of the proposed transferee suggests that the transfer would be materially prejudicial to the interests of the balance of the other Members or the Manager;

- (c) the transferee is not an investor who has the financial ability and willingness to accept the risks and lack of liquidity inherent in an investment in the Trust; or
- (d) there are material legal, tax or regulatory reasons which mean the transfer would be prejudicial to the balance of the other Members or the Manager.

3.30 Restricted Securities

The Manager must refuse to acknowledge, deal with, accept or register any sale, assignment or transfer of any Restricted Securities on issue which is or might be in breach of the Listing Rules or any escrow agreement entered into by the Manager under the Listing Rules in relation to the Restricted Securities. During a breach of the Listing Rules relating to Restricted Securities, or a breach of a Restriction Agreement, the holder of the Restricted Securities is not entitled to any distribution or voting rights in respect of the Restricted Securities.

3.31 Single instrument of transfer for Stapled Securities

While Stapling applies and subject to the Corporations Act and the Listing Rules if the Listing Rules apply:

- (a) the Manager must not register any transfer of Units unless it is a single instrument of transfer of Stapled Securities and any provision of clauses 3.15 to 3.19 of this constitution inclusive referring to a transfer of Units will be deemed to be a reference to such a transfer; and
- (b) a reference in clauses 3.15 to 3.19 inclusive and clause 3.23 to a Unit will be deemed to be a reference to a Stapled Security.

3.32 Joint tenancy

Persons Registered jointly as the holder of a Unit or Option hold as joint tenants and not as tenants in common unless the Manager otherwise agrees.

3.33 Death, legal disability of Member

If a Member dies or becomes subject to a legal disability such as bankruptcy or insanity, only the survivor (where the deceased was a joint holder) or the legal personal representative (in any other case) will be recognised as having any claim to Units or Options Registered in the Member's name.

3.34 Number of Units

While Stapling applies, the number of issued Units at any time must equal the number of issued Attached Securities of each category.

4 Partly Paid Units

4.1 Payment of Application Price by instalments

The Application Price of Units may be payable by instalments as set out in this clause 4.

4.2 Must also issue partly paid Attached Securities

While Stapling applies, Units may not be issued on the basis that they are Partly Paid Units unless there is a contemporaneous and corresponding issue of Attached Securities which are to be partly paid. While Stapling applies any issue of Partly Paid Units shall be upon the basis that a call will not be regarded as having been validly paid unless any amount payable at the same time in relation to the partly paid Attached Securities is also paid.

4.3 Determination of amount and timing of instalments

The Manager may determine at any time that Units to be offered for sale or subscription are to be offered on terms that the Application Price is payable by instalments of such amounts and at such times as the Manager determines or, if the Manager so determines, by a single instalment payable at such time as the Manager determines.

4.4 Variation or waiver of terms and conditions

Subject to any applicable statutory duty requiring the Manager to treat Members of the same class equally and those of different classes fairly, where Units are offered for sale or subscription on terms and conditions determined and set out in accordance with clause 4.3, those terms and conditions may be varied or compliance therewith waived only with the consent of the Manager. The variation or waiver must not take effect during the currency of the offering document pursuant to which the Units were offered for sale or subscription.

4.5 Notice of instalments

The Manager must give Members:

- (a) if the Trust is not Listed, at least 3 Business Day's notice; or
- (b) if the Trust is Listed, at least 30 Business Days' notice (but not more than 40 Business Days' notice),

of the time and date each instalment is due to be paid (the First Notice).

If the Trust is Listed:

- (c) the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules); and
- (d) at least 4 Business Days before the date each instalment is due to be paid, the Manager must send a second notice to all new Members and those Members whose holding has changed since the First Notice

which must include any changes that have occurred in the information given in the First Notice because of a change in the holding.

4.6 Interest on instalments

If a Member does not pay an instalment by the due time and date then interest is payable on the sum due from the date payment was due to the time of payment at such rate as the Manager determines not exceeding BBSW plus 3% per annum. Interest is calculated daily and payable monthly in arrears. The Manager may waive payment of that interest in whole or part.

- (a) The Manager may revoke or postpone the payment of an instalment.
- (b) Subject to the Listing Rules, an instalment shall be deemed to be due on the date determined by the Manager.
- (c) Subject to the Listing Rules, the non-receipt of a notice that an instalment is due by, or the accidental omission to give a notice that an instalment is due to, a Member, shall not invalidate the instalment being due.
- (d) Subject to the Corporations Act and the Listing Rules, the Manager may extinguish in full or in part any liability of Members in respect of any moneys unpaid on Members' Units and such extinguishment shall extend to any moneys unpaid on Attached Securities.
- (e) Subject to the Listing Rules, any instalment which, by the terms of issue of the Unit, becomes payable on issue of the Unit or at any date fixed by or in accordance with such terms of issue shall be deemed to be an instalment which the Manager has given Members notice of in accordance with clause 4.4. In the case of non-payment, all the provisions of this constitution as to payment of interest, forfeiture or otherwise shall apply as if such notice had been given.

4.7 Failure to pay instalments

If a Member fails to pay in full any instalment due on any Partly Paid Unit or Units on or by the day specified for payment, the Manager may, during such time as the instalment or any part of the instalment remains unpaid, serve a notice on that Member requiring payment of so much of the instalment as is unpaid, any interest owing and all reasonable expenses incurred by the Manager as a result of the non-payment. The notice must specify a further time and day (not earlier than 10 days from the date of the notice) on or by which the payment as required by the notice is to be made. The notice must also state that in the event of non payment on or by that specified time and day, the Partly Paid Units in respect of which the instalment or part instalment remains unpaid will be liable to be forfeited and an equal number of Stapled Shares will also be liable to be forfeited. If Units are Officially Quoted, the notice must contain such other information as is required by the Listing Rules (or ASX under the Listing Rules).

4.8 If requirements of any notice not complied with

If the requirements of any notice issued under clause 4.5 are not complied with:

- (a) any Partly Paid Unit in respect of which the notice has been given (together with the Attached Securities) may at any time after the date specified in the notice for payment of the amount required by the notice (and before payment of the instalment and any interest and expenses owing), be forfeited on the Manager so determining; and
- (b) subject to the Listing Rules, the Corporations Act and this constitution, all voting rights, entitlements to the distribution of income and other rights in connection with any Partly Paid Unit and the Attached Securities in respect of which the notice has been given are suspended until reinstated by the Manager.

4.9 Disposal of forfeited Units

Subject to the Listing Rules if Units are Officially Quoted, a forfeited Unit (together with the Attached Securities) may be sold or otherwise disposed of as a Fully Paid Unit (together with the Attached Securities), either:

- (a) subject to any necessary relief from ASIC, at a price equal to that received from the sale of the Stapled Security in the normal course of business on the Australian Stock Exchange less the sum of 2 cents or the fair value as determined by the Manager for the Stapled Share and the fair value of any other Attached Securities as determined by the Manager; or
- (b) by private treaty or public auction, if ASIC has given any necessary relief from the provisions of the Corporations Act and if the Manager complies with the conditions of that relief.

At any time before a sale or disposition the forfeiture may be cancelled upon such terms as the Manager thinks fit.

4.10 Holder of forfeited Units

The holder of Partly Paid Units and Attached Securities which have been forfeited ceases to be a Member in respect of the forfeited Units and ceases to be a member of each Stapled Entity in respect of the Attached Securities (and has no claims or demands against the Manager or the Trust in respect of the forfeited Units and the forfeited Attached Securities) but remains liable to pay to the Manager all moneys which at the date of forfeiture were payable by the former Member to the Manager in respect of the forfeited Units (including interest owing under 4.6 and expenses) but the former Member's liability ceases if and when the Manager receives payment in full of all such money and, if applicable, interest in respect of the forfeited Units.

4.11 Evidence of forfeiture

A statement signed by a duly authorised officer of the Manager that a Partly Paid Unit and the Attached Securities have been duly forfeited on a date stated therein is conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the forfeited Units and the Attached Securities.

4.12 Consideration for forfeited Units

Where a Partly Paid Unit and relevant Attached Securities are forfeited pursuant to this clause 4 the Manager may receive the consideration, if any, given for a forfeited Unit and forfeited relevant Attached Securities on the sale or disposal, and the Manager may execute a transfer of such Unit and relevant Attached Securities in favour of the person to whom the Unit and relevant Attached Securities is sold or disposed of and that person must then be registered as the holder of that Unit and relevant Attached Securities and is not obliged to ensure that any part of the money which the person has paid for the Unit and relevant Attached Securities is paid to the former holder of the Unit nor shall the person's title to that Unit or the Attached Securities be affected by any irregularity or invalidity in the proceedings in relation to the forfeiture, sale or disposal of that Unit or the relevant Attached Securities.

4.13 Deductions from consideration for forfeited Units

Where forfeited Units are sold or disposed of for cash, the Manager must deduct from the amount of the consideration the amount of the instalment owing at the date of forfeiture together with interest (if any) payable thereon and a sum representing an amount which has been or will be incurred for commissions, stamp duties, transfer fees and other usual charges, if any, on the sale or disposal of the Unit and any expenses associated with the forfeiture or any proceedings brought against the Member to recover the instalment or part thereof owing. The Manager may retain the amounts so deducted, but the balance remaining must be paid to the Member whose Units were forfeited.

4.14 Joint holders

Joint holders of Partly Paid Units are jointly and severally liable to pay all amounts due and payable on the Partly Paid Units held by them.

4.15 Rights and obligations attaching to a Partly Paid Unit are proportionate

Subject to the Corporations Act and the provisions of this constitution, the rights and obligations attaching to a Partly Paid Unit will be in proportion to the extent to which that Unit is paid up.

5 Classes of Units

Subject to the Corporations Act and any other provisions of this constitution that may be inconsistent with this clause 5, the Manager may issue different classes of Units with different rights, obligations and restrictions attaching to them as to:

- (a) the calculation of the management fee;
- (b) the Application Price;
- (c) the Distributable Income;
- (d) the amount payable on termination of the Trust; and

- (e) any other matter the Manager determines.

6 Application Price for Units

6.1 Units issued on or before First Closing Date

- (a) The first 129,066,098 Units (“Initial Units”) to be issued on the initial settlement of the Trust in accordance with clause 22.1 will be issued at an aggregate Application Price of \$100, or approximately 0.000077 cents per Unit.
- (b) If, between the date of initial settlement of the Trust and the First Closing Date, the number of shares in the Stapled Company increases beyond 129,066,098 (whether due to the exercise of options or otherwise), a number of Units equal to that increase in the number of shares will be issued to the Stapled Company at the same Application Price per Unit as the Units issued under clause 6.1(a).
- (c) Subject to clauses 6.1(a) and (b), all Units to be issued on or before the First Closing Date will be issued at an Application Price of approximately \$0.17 per Unit.

6.2 While Units are not Officially Quoted

While Units are not Officially Quoted the Application Price for a Unit issued in respect of an application accepted after the First Closing Date shall be calculated as:

$$\frac{\text{Net Asset Value} + \text{Transaction Costs} + \text{Aggregate Unpaid Amount}}{\text{number of Units in issue}}$$

6.3 Determination of variables in clause 6.2

Each of the variables in clause 6.2 must be determined as at the next Valuation Time after:

- (a) the Manager receives the application for Units; or
- (b) the Manager receives the application money, or the property against which Units are to be issued or vested in the Manager,

whichever happens later.

6.4 While Units are Officially Quoted

While Units are Officially Quoted, the application price for any Unit will be equal to the Market Price for the Units or, where Stapling applies, the Market Price of Stapled Securities minus the application price of the Attached Securities, or the amount determined by the Manager in accordance with clause 6.5. However, the Manager may determine a different Application Price in relation to the issue of any Units to the extent permitted by and in accordance with ASIC relief and the Listing Rules which in the case of:

- (a) offers made at substantially the same time to only and all the then Members (whether or not the right to acquire those Units is renounceable) but not including persons whose address on the Register is in a place other than Australia or New Zealand, is not less than 50% of the Market Price for the Units or, where Stapling applies, the Market Price of Stapled Securities minus the application price of Attached Securities on the Business Day preceding the date on which the intention to make the offer or issue is announced on the ASX;
- (b) a distribution reinvestment at the Application Price determined in accordance with clause 11.14;
- (c) Units issued upon the exercise of an Option will be issued at an Application Price determined in accordance with clause 3.6(b);
- (d) a placement at a price determined by the Manager.

6.5 Determination of Application Price where Stapled Securities are issued

Where:

- (a) Stapling applies;
- (b) as a consequence, a Unit is to be issued as part of a Stapled Security; and
- (c) this constitution contains a provision for the calculation or determination of the application price for the Stapled Security but not for the Unit,

the Manager must determine what part of the application price of a Stapled Security is to represent the Application Price of a Unit for the purposes of this constitution.

Unless otherwise agreed between the Manager and the Stapled Company the application price of a Stapled Security will be allocated between the Application Price of the Unit and the application price of the Stapled Share in the ratio that the net assets (adjusted for the net market value of their investments) of each of the Trust and the Stapled Company at the end of the relevant period immediately prior to the issue bears to the amount of the aggregate net assets (adjusted for the net market value of their investments) of both the Trust and the Company at that time.

7 Application procedure

7.1 Application form

An applicant for Units must complete a form approved by the Manager if the Manager so requires. The form may be transmitted electronically if approved by the Manager.

7.2 Application for identical number of Attached Securities

While Stapling applies, an applicant for Units must at the same time make an application for an identical number of Attached Securities.

7.3 Payment

Payment in a form acceptable to the Manager, or a transfer of property of a kind acceptable to the Manager and able to be vested in the Manager or a custodian appointed by it (accompanied by a recent valuation of the property, if the Manager requires), must:

- (a) accompany the application;
- (b) be received by or made available to the Manager or the custodian within such period before or after the Manager receives the application form as the Manager determines from time to time or as the terms of issue of the relevant Partly Paid Unit contemplate; or
- (c) comprise a reinvestment of a distribution in accordance with this constitution.

If the Manager accepts a transfer of property other than cash, any costs associated with the valuation or transfer of the property must be paid by the Member either directly or by deducting them from the market value of the property before the number of Units to be issued is calculated, as the Manager decides.

7.4 Manager may reject

The Manager may reject an application in whole or in part without giving any reason for the rejection.

7.5 Minimum amounts

The Manager may set a minimum application amount and a minimum holding for the Trust and alter or waive those amounts at any time.

7.6 Manager must reject application

While Stapling applies, the Manager must reject an application for Units if the applicant does not apply at the same time for an identical number of Attached Securities or if an identical number of Attached Securities will not be issued to the applicant at the same time as the issue of Units to the applicant.

7.7 Issue Date

Except in the case of a reinvestment of distribution in accordance with this constitution, Units are taken to be issued when:

- (a) the Manager accepts the application; or
- (b) the Manager receives the application money, or the property against which Units are to be issued is vested in the Manager,

whichever happens later.

Units which are issued on a reinvestment of distribution in accordance with this constitution are taken to be issued on the day the distribution is applied in payment for the Units. The Manager may hold applications without accepting them for such period as it determines and, in particular, may hold applications received prior to the First Closing Date until the First Closing Date.

7.8 Uncleared funds

Units issued against application money paid other than in cleared funds, or in consideration of a transfer of property, are void if the funds are not subsequently cleared or the property does not vest in the Manager within 1 month of receipt of the application.

7.9 Register

Subject to the Corporations Act, a single register may be kept in which details of the holders of Units and the holders of Attached Securities are recorded.

7.10 Holding statements

Subject to the Corporations Act, while the Trust is admitted to an uncertificated trading system, a joint holding statement may be issued to evidence the holding of Stapled Securities comprising Units and Attached Securities.

7.11 Income Entitlement of Units

Except as otherwise expressly provided in this constitution, the Manager may in its discretion issue Units on terms that such Units:

- (a) participate fully for Income of the Trust in respect of the Distribution Period in which they are issued;
- (b) do not entitle the holder of such Units to receive a distribution of Income of the Trust in respect of the Distribution Period in which such Units are issued; or
- (c) entitle the holder of such Units to receive a distribution of Income of the Trust in respect of the Distribution Period in which such Units are issued which is not greater than the proportion of the Income of the Trust to which a Member holding a Unit during the whole of that Distribution Period is entitled multiplied by the number of days from and including the date of allotment of those Units to the end of that Distribution Period divided by the total number of days in that Distribution Period.

8 Redemption Price of Units

8.1 Redemption Price

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

$$\frac{\text{Net Asset Value} - \text{Transaction Costs} + \text{Aggregate Unpaid Amount}}{\text{number of Units in issue}}$$

less:

- (a) in the case of a Partly Paid Unit, the amount of the Application Price which has not been paid; and
- (b) the Accrued Income Entitlement attributable to the Unit.

8.2 Determination of variables

Each of the variables in clause 8.1 must be determined:

- (a) while the Trust is Liquid, as at the next Valuation Time after the Manager receives the redemption request, or determines that the Units are to be redeemed, whichever is the earlier; or
- (b) while the Trust is not Liquid, at the time the withdrawal offer closes.

8.3 Rounding

The Redemption Price may be rounded as the Manager determines. The amount of the rounding must not be more than 1 cent.

8.4 Distribution of Accrued Income Entitlement

Immediately prior to the redemption of the Unit the Manager is to distribute to the Member and the Member becomes presently entitled to the Accrued Income Entitlement in respect of the Unit. The Accrued Income Entitlement is to be paid at the time of payment of the Redemption Price.

8.5 If Accrued Income Entitlement not an income distribution

If the right of a Member to receive at the time of redemption of Units the Accrued Income Entitlement in relation to the Units would in the opinion of the Manager not be fully recognised as being an income distribution for the purposes of any Tax, the Manager may determine that the right shall not apply and in that event paragraph (b) in clause 8.1 and clause 8.4 will not operate.

9 Redemption procedures

9.1 While Officially Quoted

While Units are Officially Quoted, none of the provisions of this clause apply, except clause 9.17.

9.2 Request for redemption

A Member may make a request for the redemption of some or all of their Units in any manner approved by the Manager and, while the Trust is Liquid, the Manager may (but is not required to) give effect to that request at the time and in the manner set out in this clause 9.

9.3 Where the Trust is Liquid - Manager may redeem

While the Trust is Liquid, the Manager may decide to satisfy a redemption request either in relation to all or some of the Units which are the subject of the request.

9.4 Where the Trust is Liquid - time for payment of Redemption Price

While the Trust is Liquid, if the Manager decides to satisfy a redemption request in respect of a Unit it must pay from the Assets the Redemption Price calculated in accordance with this constitution. The payment must be made within 60 days of the Manager's decision.

9.5 Manager not obliged to pay Redemption Price out of own funds

The Manager is not obliged to pay any part of the Redemption Price out of its own funds.

9.6 Aggregate Redemption Price less than minimum holding amount

While the Trust is Liquid, if compliance with a redemption request would result in the Member holding Units with an aggregate Redemption Price which is less than the then current minimum holding amount, the Manager may treat the redemption request as relating to the balance of the Member's holding.

9.7 Increase of minimum holding amount

While the Trust is Liquid, if the Manager increases the minimum holding amount, the Manager may after giving 30 days' notice to a Member who holds Units with an aggregate Redemption Price less than the then current minimum holding amount redeem that Member's holding without the need for a redemption request.

9.8 When Trust is not Liquid

While the Trust is not Liquid, a Member may withdraw from the Trust in accordance with the terms of any current withdrawal offer made by the Manager, which if the Trust is a registered scheme is in accordance with the provisions of the Corporations Act and, if Units are Officially Quoted is in accordance with the Listing Rules. If there is no withdrawal offer currently open for acceptance by Members, a Member has no right to withdraw from the Trust.

9.9 Manager not obliged to make a withdrawal offer

The Manager is not at any time obliged to make a withdrawal offer.

9.10 Redemption request received before withdrawal offer

If the Manager receives a redemption request before it makes a withdrawal offer, it may treat the request as an acceptance of the offer effective as at the time the offer is made.

9.11 Clauses applicable whether or not the Trust is Liquid

Clauses 9.12 and 9.13 apply whether or not the Trust is Liquid.

9.12 Sums owed to Manager

The Manager may deduct from the proceeds of redemption or money paid pursuant to a withdrawal offer (if applicable) any money due to it by the Member.

9.13 Transfer of Assets

The Manager may transfer Assets to a Member rather than pay cash in satisfaction of all or part of a redemption request, pursuant to a withdrawal offer (if applicable) or in payment of a distribution. These Assets with any cash paid must be of equal value to the total amount due to the Member pursuant to the redemption request, withdrawal offer or distribution (based on a valuation done within one month before the date of the proposed transfer). If the Manager requires, the costs involved in transfer of these Assets must be paid by the Member or deducted from the amount due to the Member.

9.14 Manager's power of compulsory redemption

Subject to the Listing Rules the Manager may redeem the Units of any Member without the need for a redemption request if the Member holds less than the Minimum Holding.

9.15 Buy-back of Units

While the Trust is Listed, the Manager may, subject to and in accordance with the Corporations Act (including any modifications thereof) and any requirements under the Listing Rules, purchase Units or where Stapling applies, Stapled Securities and cause the Units which in part comprise those Stapled Securities to be cancelled. No Redemption Price is payable upon cancellation of the Units. Where the Units comprise part of Stapled Securities the Manager may only buy back and cancel the Units if the Attached Securities are also the subject of contemporaneous buy-back and cancellation. Where Units are purchased as part of a Stapled Security pursuant to a buy-back arrangement, the Manager must determine what proportion of the price paid for the Stapled Security is to be paid from the Assets of the Trust.

9.16 Redemption while Stapling applies

While Stapling applies the Manager may not redeem a Unit unless each Stapled Entity also redeems or buys back and cancels the corresponding Attached Securities or the Attached Securities are unstapled from the Unit to be redeemed.

9.17 Discretionary redemption

Subject to the Corporations Act and the Listing Rules, if the Manager is not obliged to give effect to a redemption request, it may redeem some or all of the Units which are the subject of the request.

10 Valuation of Assets

10.1 Manager may value

The Manager may cause an Asset to be valued at any time, and must do so as and when required by the Corporations Act.

10.2 Determination of Net Asset Value

The Manager may determine Net Asset Value at any time, including more than once on each day.

10.3 Valuation methods and policies

The Manager may determine valuation methods and policies for each category of Asset and change them from time to time. Unless the Manager determines otherwise, the value of an Asset for the purpose of calculating Net Asset Value will be its market value. Where the Manager values an Asset at other than its market value, or where there is no market value, the valuation methods and policies applied by the Manager must be capable of resulting in a calculation of the Application Price or Redemption Price that is independently verifiable.

11 Income and distributions to Members

11.1 Manager must determine distributable income

The Manager must determine the distributable income of the Trust for each Financial Year.

11.2 Distributable income

Unless the Manager determines otherwise prior to the end of the Financial Year, the distributable income of the Trust will be the net income of the Trust calculated in accordance with the Tax Act reduced by any amount which would be included in the assessable income of the Trust in accordance with section 6AC or section 160AQT of the Tax Act.

11.3 Trust accounts

Notwithstanding that the distributable income of the Trust may, in accordance with this clause 11, be calculated in the same manner as the taxable income, the accounts of the Trust may be prepared in accordance with applicable accounting standards and generally accepted accounting principles. The preparation of the accounts in this manner is not to be regarded as a determination of the method for calculating the distributable income of the Trust pursuant to clauses 11.1 and 11.2. The Manager may decide the classification of any item as being on income or capital account and the extent to which reserves or provisions need to be made.

11.4 Distributable account

The distributable income of the Trust in respect of a Distribution Period is to be transferred to a special account in the name of the Manager and designated

a distributable account. Any amount in the distribution account does not form part of the Assets but must be held by the Manager, on trust for distribution among the Members entitled to that distributable income. The Manager may invest any moneys standing to the credit of the distribution account pending disbursement and the Manager shall have the same powers and responsibilities in relation to the management of such moneys as it has in relation to the Assets. Income earned from the investment is deemed to be income of the Trust and must be dealt with accordingly.

11.5 Present entitlement

A person who at any time during the Financial Year is or has been a Member, is presently entitled as at midnight on the last day of the Financial Year to the distributable income of the Trust for the Financial Year, in the proportion that the Income Distributions made (or allocated under the clause next following) to the Member in respect of the Financial Year bear to the sum of the Income Distributions made (or allocated under the clause next following) to all persons who are or have been Members at any time during the Financial Year.

11.6 Income Distributions

An Income Distribution in respect of a Member means an amount calculated by the Manager as follows:

- (a) subject to the terms of issue of any Units, in respect of a Distribution Period ending on a Distribution Calculation Date other than 30 June in any year, an amount calculated as follows:

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

where

- A is the aggregate of the number of Units held by the Member as at the close of business on the last Business Day of that Distribution Period which are entitled to a full income distribution for the relevant Distribution Period plus, if the Member holds at the close of business on the last Business Day of the Distribution Period Units issued during that Distribution Period which have a proportionate income entitlement in accordance with clause 7.11, the aggregate number of such Units by that Member multiplied by the relevant proportion;
- B is the aggregate of the total number of Units entitled to a full income distribution for the relevant Distribution Period plus, if Units have been issued during the relevant Distribution Period which have a proportionate income entitlement in accordance with clause 7.11, the aggregate of the total number of such Units multiplied by the relevant proportion in each case calculated as at the close of business on that last Business Day of that Distribution Period; and

C is an estimate of the distributable income for the Distribution Period calculated as if the Distribution Period were a year of income but after deducting all distributions of Accrued Income Entitlements arising during the Distribution Period; and

(b) subject to the terms of issue of any Units, in respect of a Distribution Period ending on 30 June in any year, an amount calculated as follows:

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

where

A is the aggregate of the number of Units held by the Member as at the close of business on the last Business Day of that Distribution Period which are entitled to a full income distribution for the relevant Distribution Period plus, if the Member holds at the close of business on the last Business Day of the Distribution Period Units issued during that Distribution Period which have a proportionate income entitlement in accordance with clause 7.11, the aggregate number of such Units by that Member multiplied by the relevant proportion;

B is the aggregate of the total number of Units entitled to a full income distribution for the relevant Distribution Period plus, if Units have been issued during the relevant Distribution Period which have a proportionate income entitlement in accordance with clause 7.11, the aggregate of the total number of such Units multiplied by the relevant proportion in each case calculated as at the close of business on that last Business Day of that Distribution Period; and

C is the amount (if any) by which the distributable income for the Financial Year exceeds the aggregate of the estimates of distributable income calculated for the purposes of variable C in paragraph (a) above in respect of the previous Distribution Periods of the Financial Year but after deducting all distributions of Accrued Income Entitlements arising during the Financial Year; and

(c) in respect of a redemption, any Accrued Income Entitlement arising during the Financial Year.

11.7 Satisfaction of present entitlement

The present entitlement of a Member to distributable income of the Trust for a Financial Year will be satisfied by the payment of the Income Distributions to the Member in respect of the Financial Year. Income Distributions must be paid to a Member within two months after the Distribution Calculation Date or in accordance with clause 8.4. The Manager must have distributed all

of the distributable income of the Trust for the Financial Year within two months after the end of the Financial Year.

11.8 Minimum distribution

The Manager may transfer capital to enable distribution to Members of the minimum amount necessary to avoid the Manager as trustee of the Trust becoming assessable to pay tax under the Tax Act.

11.9 Other distributions

The Manager may at any time distribute any amount of capital to Members pro rata according to the number of Units held as at a time decided by the Manager (including a distribution pursuant to clause 11.18) or distribute income to Members in accordance with the proportions in clause 11.6. The distribution may be in cash or by way of additional Units.

11.10 Manager may permit or require reinvestment

The Manager may decide whether to permit or require the Members to reinvest some or all of any distribution to acquire Units.

11.11 Notification of reinvestment procedures

If the Manager decides to permit or require reinvestment, it must notify Members of the procedure for reinvestment and any change in the procedure.

11.12 Deemed application if reinvestment applies

If reinvestment applies, the Manager is deemed to have received and accepted an application to reinvest the distribution after the deduction of any Tax which the Manager is required to deduct on the date upon which the distribution is to be paid.

11.13 Acquisition of identical number of Attached Securities

While Stapling applies no reinvestment may occur unless contemporaneously with the reinvestment in additional Units the Member subscribes for or purchases an identical number of Attached Securities which when issued or acquired (respectively) are then Stapled to the additional Units. The Manager may make provision for and make payment of the subscription or purchase price for such Attached Securities out of the distribution or income (as applicable) which is otherwise available for reinvestment.

11.14 Application Price while listed if reinvestment applies

If reinvestment applies, while the Units in the Trust are Listed the aggregate of the Application Price for each additional Unit and the application price for the Attached Securities upon reinvestment is the weighted average of all sales of Stapled Securities recorded on the ASX during the first 5 Trading Days following the end of the Period to which the distribution relates (unless the Manager believes that this calculation does not provide a fair reflection of the market price of the Stapled Securities during this period in which event there shall be substituted for the amount so calculated the market price of the Stapled Security as determined by an expert independent of the Manager

whose identity and instructions will be determined by the Manager) less such discount, if any, not exceeding 10% as the Manager may determine. The allocation of the application price for a Stapled Security between the Application Price for each Unit and the application price for the Attached Securities is to be determined in accordance with clause 6.5. If the amount to be reinvested in additional Stapled Securities results in a fraction of a Stapled Security, the money representing the fraction will be held for future reinvestment in the Trust and the Stapled Entities at the next time that reinvestment is to occur, in such proportions as the Manager and the Stapled Entities may determine on behalf of the relevant Stapled Security Holder. If Stapling ceases to apply the Application Price for each Unit is to be calculated in the manner above but based on the sale price of the Units.

11.15 Money held for future reinvestment

Whenever under this constitution or by law money is held on behalf of a Member for future reinvestment the money so held may in the discretion of the Manager be aggregated and on each occasion on which the aggregated amount reaches the Application Price of a Unit and the application price of a Stapled Share be applied in the subscription for a new Unit and new Attached Securities for issue to the Member.

11.16 Units issued on reinvestment

Units issued under clauses 11.10 to 11.15 inclusive are to participate fully for income in respect of the Distribution Period in which they are issued.

11.17 Position on transfer of Units

Income to which a Member is presently entitled when a transfer or transmission of Units is Registered remains credited to the transferor.

11.18 Position on transfer of Assets

The Manager may effect a distribution to Members by transferring Assets to all Members rather than paying in cash or issuing additional Units. If the Manager wishes to do so, it must effect the distribution to all Members in the same way. The Assets transferred to each Member must be of the same type, have the same rights and be fully paid. The Assets transferred may comprise solely a beneficial interest in tangible or intangible property. In each case, where Assets other than cash are to be transferred to Members (or a nominee on behalf of a Member), each Member authorises the Manager:

- (a) to act as their agent to agree to obtain the Assets; and
- (b) where the Assets comprise shares or an interest in shares or interests in a company or managed investment scheme, to agree to become a member of that company or managed investment scheme.

The Assets transferred, together with any cash paid, must be of equal value to the total amount due to the Member pursuant to the distribution (based on a valuation done within one month before the date of the proposed transfer). If the Manager requires, the costs involved in transfer of those Assets must be paid by the Member or deducted from the distribution due to the Member.

11.19 Deductions from distributable income

The Manager may deduct from any distributable income or other distribution payable to a Member any sums of money presently payable by the Member to the Manager on account of an instalment due in respect of Units or otherwise.

12 Payments

12.1 Manner of payment to Members

Money payable by the Manager to a Member may be paid in any manner the Manager decides.

12.2 Unpresented cheques

Cheques issued by the Manager that are not presented within 6 months may be cancelled. Where a cheque which is cancelled was drawn in favour of a Member, the money is to be held by the Manager for the Member or paid by the Manager in accordance with the legislation relating to unclaimed money unless the Manager in its discretion decides to reinvest the money in Units and Attached Securities in which event the provisions of clauses 11.10 to 11.16 will apply.

12.3 Unsuccessful transfers

Where the Manager attempts to make a payment to a Member by electronic transfer of funds or any other means and the transfer is unsuccessful, the money may be held for the Member as a non-interest bearing deposit until it is claimed or required to be dealt with in accordance with applicable laws relating to unclaimed moneys.

12.4 Only whole cents to be paid

Only whole cents are to be paid, and any remaining fraction of a cent becomes an Asset.

12.5 Payment to joint Members

A payment to any one of joint Members will discharge the Manager in respect of the payment.

12.6 Manager may deduct amounts

The Manager may deduct from any amount to be paid to a person who is or has been a Member, or received from a person who is or has been a Member:

- (a) any amount of Tax (or an estimate of it); or
- (b) any other amount owed by the Member to the Manager or any other person,

which the Manager is required or authorised to deduct in respect of that payment or receipt by law or by this constitution or which the Manager considers should be deducted.

13 Powers of the Manager

13.1 General powers

Subject to this constitution, the Manager has all the powers in respect of the Trust that it is possible under the law to confer on a trustee as though it were the absolute owner of the Assets and acting in its personal capacity.

13.2 Contracting powers

Without limiting the effect of clause 13.1, the Manager in its capacity as trustee of the Trust has power to:

- (a) incur all types of obligations and liabilities including guarantees; and
- (b) enter into an arrangement with a person to underwrite the subscription or purchase of Units or Options on such terms as the Manager determines. Unless the agreement between the Manager and the underwriter expressly states the contrary, the underwriter will not be an agent or delegate of the Manager.

13.3 Borrowing powers

The Manager may borrow or raise money whether or not on security over the Assets.

13.4 Investment powers

Without limiting the effect of clause 13.1, the Manager may in its capacity as trustee of the Trust invest in, dispose of or otherwise deal with property and rights in its absolute discretion.

For the purpose of giving effect to the investment policy specified in clause 13.5 but without limiting any other provision of this constitution the Manager may:

- (a) invest the Assets in cash and cash equivalents, interests, securities or other instruments issued by the Stapled Company (except Stapled Shares) or any other Stapled Entity;
- (b) make loans to or provide any other financial accommodation to the Stapled Company or any other Stapled Entity; and
- (c) enter into hedging contracts in connection with any actual or prospective investment of the Trust or any borrowing by the Trust.

13.5 Principal Investment Policy

The principal investment policy of the Manager in relation to the Trust is investment either directly or indirectly (for example through the purchase of interests in a managed investment scheme, equities or debentures if and to the extent that the terms of the Manager's Australian Financial Service Licence allow) in real property and the making of such other investments with the Assets of the Trust Fund which in the Manager's opinion are not from time to time required for that purpose. The Manager may vary the principal

investment policy, provided reasonable notice is given to Members in order that Members may, if they see fit, dispose of their Units prior to the variation taking effect.

13.6 Power of delegation

The Manager may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Manager's power, including the power to appoint in turn its own agent or delegate.

13.7 Protection and assistance for those dealing with agents and delegates

The Manager may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Manager thinks fit.

13.8 Agents and delegates may be associates

The agent or delegate may be an associate of the Manager.

13.9 Exercise of discretion

The Manager may in its absolute discretion decide how and when to exercise its powers.

13.10 Instructions from Members with respect to voting rights attached to Assets

The Manager may in its absolute discretion seek, and act on, instructions from Members on how the Manager should exercise voting rights attached to Assets.

13.11 Registration and Listing of the Trust

Without limiting the effect of clause 13.1, the Manager may in its capacity as trustee of the Trust apply for registration of the Trust as a registered scheme and for this purpose the Manager is authorised on its own behalf and on behalf of each Member to do all things necessary to effect registration.

13.12 Timing of Listing of the Trust

The Manager may apply for the Trust to be Listed and Units to be Officially Quoted, including as Stapled Securities, at any time after the First Closing Date and for this purpose the Manager is authorised on its own behalf and on behalf of each Member to do all things necessary to effect a Listing.

13.13 Power to unstack Units

If Units comprise part of Stapled Securities, subject to the Corporations Act and, while the Units are Officially Quoted, the Listing Rules and approval by Resolution, the Manager may at any time apply to have the Stapled Securities unstacked and, if the Stapled Securities are Officially Quoted, removed from quotation.

13.14 Power to staple additional Securities

The Manager may, subject to the Corporations Act and, while the Units are Officially Quoted, the Listing Rules, cause the Stapling of any other security or securities to the Units.

13.15 Investment Manager

Without limiting the generality of any other provision of this constitution:

- (a) the Manager will appoint a responsible officer as the Investment Manager of the Trust, to act in relation to the investments of the Trust or any part of the Trust, on the terms determined by the Manager;
- (b) the Manager may also appoint an external manager to provide investment services to the Trust, to act in relation to the investments of the Trust or any part of the Trust, on the terms determined by the Manager and contained in an Investment Management Agreement, and under the control of the Investment Manager;
- (c) an Investment Manager of the Trust has the powers in relation to the investments of the Trust determined by the Manager, which may include the power to delegate all or any of the powers granted to the Investment Manager by the Manager as described in the Investment Management Agreement;
- (d) the Manager has the power to revoke the appointment of an Investment Manager of the Trust; and
- (e) the remuneration of the Investment Manager and all expenses properly incurred in connection with acting as Investment Manager of the Trust are payable as an expense of the Trust out of the Assets of the Trust and do not reduce the remuneration payable to the Manager.

14 Retirement of Manager

14.1 Voluntary retirement

The Manager may retire as the responsible entity of the Trust as permitted by law. If permitted by law or by any relief from the Corporations Act granted by the ASIC, the Manager may appoint its successor by deed.

14.2 Compulsory retirement

The Manager must retire as the responsible entity of the Trust when required by law.

14.3 Release

When it retires or is removed, the Manager is released from all obligations in relation to the Trust arising after the time it retires or is removed.

14.4 Retirement benefit

The Manager is entitled to agree with the incoming manager to be remunerated by, or to receive a benefit from, the incoming manager in relation to:

- (a) entering into an agreement to submit a proposal for its retirement to a meeting of Members, and nominating to the Members the incoming manager as its replacement, or
- (b) its retirement as Manager,

and is not required to account to Members for such remuneration or benefit.

15 Notices to Members

15.1 Form of notices

Subject to the Corporations Act, a notice or other communication required under this constitution to be given to a Member must be given in writing (which includes a fax) or in such other manner as the Manager determines, and be delivered or sent to the Member at the Member's physical or electronic address last advised to the Manager for delivery of notices.

15.2 Cheques payable to Members

A cheque payable to a Member may be posted to the Member's physical address or handed to the Member or a person authorised in writing by the Member.

15.3 Joint Members

In the case of joint Members, the physical or electronic address of the Member means the physical or electronic address of the Member first named in the Register.

15.4 Receipt of communications

A notice, cheque or other communication sent by post is taken to be received on the Business Day after it is posted and a fax (except a fax containing a notice of meeting of Members) is taken to be received 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine. Proof of actual receipt is not required. Subject to the Corporations Act, the Manager may determine the time at which other forms of communication will be taken to be received.

16 Notices to the Manager

16.1 Form of notices

A notice required under this constitution to be given to the Manager must be given in writing (which includes a fax), or in such other manner as the Manager determines.

16.2 When notice effective

The notice is effective only at the time of receipt.

16.3 Signing of notices

The notice must bear the actual, facsimile or electronic signature of the Member or a duly authorised officer or representative of the Member unless the Manager dispenses with this requirement.

17 Meetings of Members

17.1 Convening of meetings

The Manager may at any time convene a meeting of Members, and must do so if the Corporations Act requires.

17.2 Manager may determine

Subject to the specific provisions of this constitution relating to meetings of Members and to the Corporations Act, the Manager may determine the time and place at which a meeting of Members will be convened and the manner in which the meeting will be conducted.

17.3 Notice of meeting

Notice of a meeting of Members must be given in accordance with the Corporations Act.

17.4 Quorum

The quorum for a meeting of Members is at least 2 Members present in person or by representative or proxy holding or representing the holders of at least 10% of the Units on issue unless the Trust has only one Member who may vote on a Resolution, in which case that one Member constitutes a quorum.

17.5 No quorum

If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:

- (a) if convened on the requisition of Members - dissolved; or
- (b) otherwise - adjourned to the same day in the next week and same time and place, or to such other day, time and place as the Manager decides by notice to the Members and others entitled to notice of the meeting.

At any adjourned meeting, those Members present in person or by proxy constitute a quorum. If a quorum is not present within 15 minutes after the time appointed for the adjourned meeting, the meeting is dissolved.

17.6 Chairman

Subject to the Corporations Act the Manager may appoint a person to chair a meeting of Members.

17.7 Role of chairman

The chairman of a meeting of Members:

- (a) has charge of the general conduct of the meeting and of the procedures to be adopted at the meeting;
- (b) may require the adoption of any procedure which is in the chairman's opinion necessary or desirable for proper and orderly debate or discussion and the proper and orderly casting or recording of votes at the general meeting; and
- (c) may, having regard where necessary to the Corporations Act, terminate discussion or debate on any matter whenever the chairman considers it necessary or desirable for the proper conduct of the meeting,

and a decision by the chairman under this clause 17.7 is final.

17.8 Postponement or cancellation

The chairman has power to cancel a meeting or postpone a meeting for any reason to such place and time as the chairman thinks fit.

17.9 Notice of Cancellation or postponement of meeting

Notice of cancellation or postponement of a meeting of Members must state the reason for cancellation or postponement and be given:

- (a) to each Member individually; and
- (b) to each other person entitled to be given notice of a meeting of Members under the Corporations Act.

17.10 Contents of notice or postponement of meeting

A notice of postponement of a meeting of Members must specify:

- (a) the postponed date and time for the holding of the meeting;
- (b) a place for the holding of the meeting which may be either the same as or different from the place specified in the notice convening the meeting; and
- (c) if the meeting is to be held in two or more places, the technology that will be used to facilitate the holding of the meeting in that manner.

17.11 Number of clear days for postponement of meeting

The number of clear days from the giving of a notice postponing the holding of a meeting of Members to the date specified in that notice for the holding of

the postponed meeting must not be less than the number of clear days notice of the general meeting required to be given by this constitution or the Corporations Act.

17.12 Business at postponed meeting

The only business that may be transacted at a meeting of Members the holding of which is postponed is the business specified in the notice convening the meeting.

17.13 Proxy, attorney or representative at postponed meeting

Where:

- (a) by the terms of an instrument appointing a proxy or attorney or of an appointment of a representative, a proxy or an attorney or a representative is authorised to attend and vote at a meeting of Members to be held on a specified date or at a meeting of Members to be held on or before a specified date; and
- (b) the date for holding the meeting is postponed to a date later than the date specified in the instrument of proxy, power of attorney or appointment of representative,

then, by force of this clause, that later date is substituted for and applies to the exclusion of the date specified in the instrument of proxy, power of attorney or appointment of a representative unless the Member appointing the proxy, attorney or representative gives to the Manager notice in writing to the contrary not less than 48 hours before the time to which the holding of the meeting has been postponed.

17.14 Proxies and voting

The provisions of the Corporations Act governing proxies and voting for meetings of members of registered schemes apply to the Trust.

17.15 Proxies containing some of the required information

The Manager may determine that the appointment of a proxy is valid even if it contains only some of the information required by the Corporations Act.

17.16 Adjournment of meeting

The chairman of a meeting of Members may at any time during the meeting adjourn the meeting or any business, motion, question, resolution, debate or discussion being considered or remaining to be considered by the meeting either to a later time at the same meeting or to an adjourned meeting at any time and any place.

In exercising this discretion, the chairman may, but need not, seek the approval of the Members present. Unless required by the chairman, no vote may be taken or demanded by the Members present in respect of any adjournment.

Only unfinished business is to be transacted at a meeting resumed after an adjournment.

17.17 Notice of adjourned meeting

It is not necessary to give any notice of an adjournment or of the business to be transacted at any adjourned meeting unless a meeting is adjourned for one month or more. In that case, notice of the adjourned meeting must be given as in the case of an original meeting.

17.18 Demand for a poll

A poll may be demanded by at least 5 Members entitled to vote on the resolution, Members with at least 5% of the votes that may be cast on the resolution on a poll or by the chairman. A demand for a poll does not prevent the continuance of the meeting for the transaction of any business other than the question on which the poll has been demanded.

17.19 Declaration of poll

Unless a poll is properly demanded and the demand is not withdrawn, a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book containing the minutes of the proceedings of the Trust, is conclusive evidence of the fact. Neither the chairman nor the minutes need state and it is not necessary to prove the number or proportion of the votes recorded in favour of or against the resolution.

17.20 Questions decided by majority

Subject to the requirements of the Corporations Act, a resolution is taken to be carried if a simple majority of the votes cast on the resolution are in favour of it.

17.21 Poll

If a poll is properly demanded, it must be taken in the manner and at the date and time directed by the chairman and the result of the poll is the resolution of the meeting at which the poll was demanded.

A poll demanded on the election of a chairman or on a question of adjournment must be taken immediately.

A demand for a poll may be withdrawn.

17.22 Equality of votes - no casting vote for chairman

If there is an equality of votes, either on a show of hands or on a poll, the chairman of the meeting is not entitled to a casting vote in addition to any votes to which the chairman is entitled as a Member or proxy or attorney or representative.

17.23 Entitlement to vote

Subject to any rights or restrictions for the time being attached to any class or classes of Units and to this constitution:

- (a) on a show of hands, each Member present in person and each other person present as a proxy, attorney or representative of a Member has one vote; and
- (b) on a poll, each Member present in person has one vote for each one dollar of the value of the Units held by the Member and each person present as proxy, attorney or representative of a Member has one vote for each one dollar of the value of the Units held by the Member that the person represents.

A Member is not entitled to vote at a general meeting in respect of Units which are the subject of a current Restriction Agreement for so long as any breach of that agreement subsists.

17.24 Voting on a poll for Partly Paid Units

If a Member holds Partly Paid Units, the number of votes the Member has in respect of those Units on a poll is one dollar of the value of the Partly Paid Units.

17.25 Joint Unitholders' vote

If a Unit is held jointly and more than one Member votes in respect of that Unit, only the vote of the Member whose name appears first in the Register counts.

17.26 Vote of shareholder of unsound mind

If a Member is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, then the Member's committee or trustee or any other person who properly has the management of the Member's estate may exercise any rights of the Member in relation to a meeting of Members as if the committee, trustee or other person were the Member.

17.27 Objection to voting qualification

An objection to the right of a person to attend or vote at the meeting or adjourned meeting:

- (a) may not be raised except at that meeting or adjourned meeting; and
- (b) must be referred to the chairman of the meeting, whose decision is final.

A vote not disallowed under the objection is valid for all purposes.

17.28 Validity of vote in certain circumstances

A vote cast by a person as a proxy, attorney or representative is valid even if:

- (a) the previous revocation of that person's authority by the death of the holder of the Units in respect of which the vote is cast or otherwise;
or
- (b) the execution of a transfer of those Units by that holder,

unless a notice in writing of the revocation or transfer has been received by the Manager or by the chairman of the meeting before the vote is cast.

17.29 Proxy form while Stapling applies

While Stapling applies, subject to the Corporations Act, the form of proxy used may be the same form as the Member uses to appoint a proxy to vote on their behalf in respect of the Attached Securities which they hold.

17.30 Meetings by technology

A meeting of Members or any class of Members may be held by means of such telephone, electronic or other communication facilities as permit all persons in the meeting to communicate with each other simultaneously and instantaneously and participation in such a meeting shall constitute presence in person at such meeting.

17.31 Other attendees

While Stapling applies, the Manager, the auditor of the Trust and the representatives of each Stapled Entity may attend and speak at any meeting, or invite any other person to attend and speak.

17.32 Joint meetings

While Stapling applies, meetings of Members may be held in conjunction with meetings of the holders of Attached Securities and, subject to the Corporations Act, the Manager may make such rules for the conduct of such meetings as the Manager determines.

17.33 Meetings of Option holders

If any meeting of Option holders is required to be held the foregoing provisions of this clause 17 will apply with any necessary amendments.

18 Rights and liabilities of Manager

18.1 Holding Units

The Manager and its associates may hold Units in the Trust in any capacity.

18.2 Other capabilities

Subject to the Corporations Act, nothing in this constitution restricts the Manager (or its associates) from:

- (a) dealing with itself (as trustee of the Trust or in another capacity), the Stapled Company and any other Stapled Entity, an associate or with any Member;

- (b) being interested in any contract or transaction with itself (as trustee of the Trust or in another capacity), the Stapled Company or any other Stapled Entity, an associate or with any Member or retaining for its own benefit any profits or benefits derived from any such contract or transaction; or
- (c) acting in the same or a similar capacity in relation to any other managed investment scheme.

18.3 Manager may rely

The Manager may take and may act upon:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Manager, in relation to the interpretation of this constitution or any other document (whether statutory or otherwise) or generally in connection with the Trust;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, valuers and other persons consulted by the Manager who are in each case believed by the Manager in good faith to be expert in relation to the matters upon which they are consulted;
- (c) a document which the Manager believes in good faith to be the original or a copy of an appointment by a Member of a person to act as their agent for any purpose connected with the Trust; and
- (d) any other document provided to the Manager in connection with the Trust upon which it is reasonable for the Manager to rely;

and the Manager will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statement, information or document.

18.4 Manager's duties in relation to Stapling

Notwithstanding any other provision of this constitution, or any rule of law or equity to the contrary, in exercising any power or discretion conferred on it, the Manager may, subject to the Corporations Act, while Stapling applies, have regard to the interests of the Members of the Trust and the members of the Stapled Entities as a whole and not only to the interests of the Members of the Trust alone.

18.5 Reference to exercising power or discretion

The reference to exercising any power or discretion includes carrying out the Manager's functions and duties and identifying Members' rights and interests.

19 Limitation of liability and indemnity in favour of Manager

19.1 Manager not liable except to the extent Corporations Act imposes liability

The Manager is not liable in contract, tort or otherwise to Members for any loss suffered in any way relating to the Trust except to the extent that the Corporations Act imposes such liability.

19.2 Limitation on Manager's liability

Subject to the Corporations Act, the liability of the Manager to any person other than a Member in respect of the Trust (including in respect of any contracts entered into as trustee of the Trust or in relation to any Assets) is limited to the Manager's ability to be indemnified from the Assets.

19.3 Indemnity in favour of Manager

The Manager is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties in relation to the Trust.

19.4 Indemnity includes acts and omissions of an agent or delegate

To the extent permitted by the Corporations Act, the indemnity under clause 19.3 includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Manager.

19.5 Indemnity in addition to indemnity allowed by law

This indemnity is in addition to any indemnity allowed by law. It continues to apply after the Manager retires or is removed from the office it holds in relation to the Trust.

20 Liability of Members

20.1 Liability limited

Subject to clauses 20.2 and 20.3, the liability of a Member is limited to the amount if any which remains unpaid in relation to the Member's subscription for their Units.

20.2 Recourse limited to the Assets

In the absence of separate agreement with a Member, the recourse of the Manager and any creditor is limited to the Assets.

20.3 Tax and User Pays Fees

The Manager is entitled to be indemnified by a Member or former Member to the extent that the Manager incurs any liability for Tax or User Pays Fees as a result of the Member's action or inaction, or as a result of an act or omission requested by the Member or former Member. The Manager may redeem

some or all of the Units held by a Member to satisfy any amount of money due to it by the Member.

20.4 Joint Members

Joint Members and former joint Members are jointly and severally immediately liable in respect of all payments including payments of Tax to which clause 20.3 applies, and User Pays Fees.

20.5 Deficiency in the Assets

A Member need not indemnify the Manager if there is a deficiency in the Assets or meet the claim of any creditor of the Manager in respect of the Trust.

20.6 Restrictions on Members

Except as otherwise set out in this constitution, a Member:

- (a) must not interfere with any rights or powers of the Manager under this constitution;
- (b) must not exercise a right in respect of an Asset or lodge a caveat or other notice affecting an Asset or otherwise claim any interest in an Asset; or
- (c) may not require an Asset to be transferred to the Member.

20.7 Power of Attorney

Each Member, by execution of an application form, and each transferee by the instrument of transfer by which that Member acquired its Unit, irrevocably appoints the Manager and any director, attorney or substitute nominated by the Manager for the purpose to be its attorney to execute and deliver on its behalf any notice, election, document or form which, in the reasonable opinion of the Manager, is necessary or desirable in relation to or in connection with:

- (a) the formation of the Trust;
- (b) the death, bankruptcy, legal disability, liquidation, admission or retirement of the Member;
- (c) any transfer of Units in the Trust; and
- (d) any other matter specified in the application form or the instrument of transfer by which the Member acquired its Unit.

21 Remuneration and expenses of the Manager

21.1 Management fee

Subject to the Corporations Act, the Manager is entitled to a maximum annual management fee made up of:

- (a) in respect of that part of the value of the Assets of the Trust that is less than \$10 million, a fee of 0.5% of the value of the Assets of the Trust; and
- (b) in respect of that part of the value of the Assets of the Trust that exceeds \$10 million, a fee of 0.25% of the value of the Assets of the Trust,

calculated daily and payable quarterly in arrears from the date the Trust commences to the date of final distribution in accordance with clause 23.3.

21.2 Investment Management Fee

Subject to the Corporations Act and clause 21.3(b), the Manager is entitled to a maximum annual investment management fee of 0.5% of the value of the Assets of the Trust, calculated monthly at the rate of one twelfth of 0.5% of the value of the Assets of the Trust as at the last day of each month and payable in arrears within 5 Business Days after the last day of the relevant month, from the date the Trust commences to the date of final distribution in accordance with clause 23.3.

21.3 Waiver of fees

- (a) The Manager may accept lower fees than it is entitled to receive under this constitution, or may defer payment for any period. Where payment is deferred, the fee accrues daily until paid.
- (b) For so long as the Manager engages an external party as Investment Manager under clause 13.15:
 - (i) the Manager waives the investment management fee in clause 21.2; but
 - (ii) that fee is payable as an expense of the Trust under clause 21.4.

21.4 Expenses

All expenses incurred by the Manager in relation to the proper performance of its duties in respect of the Trust are payable or reimbursable out of the Assets to the extent that such reimbursement is not prohibited by the Corporations Act. This includes expenses connected with:

- (a) this constitution and the formation of the Trust and registration of the Trust as a registered scheme;
- (b) the preparation, review, distribution and promotion of any prospectus or offering memorandum in respect of Units and/or Stapled Securities and other promotion of the Trust or the Stapled Entities;
- (c) the acquisition, disposal, insurance, custody and any other dealing with Assets;
- (d) any proposed acquisition, disposal or other dealing with an investment;

- (e) the administration or management of the Trust or its Assets and Liabilities including expenses in connection with the Register or the valuation of any Asset or the Trust as a whole;
- (f) borrowing arrangements on behalf of the Trust or guarantees in connection with the Trust, including hedging costs;
- (g) underwriting of any subscription or purchase of Units and/or Stapled Securities including underwriting fees, handling fees, costs and expenses (including marketing and roadshow costs, travel and accommodation expenses and legal fees), amounts payable under indemnity or reimbursement provisions in the underwriting agreement and any amounts becoming payable in respect of any breach (other than for negligence, fraud or breach of duty) by the Manager of its obligations, representations or warranties under any such underwriting agreement;
- (h) convening and holding meetings of Members, the implementation of any Resolutions and communications with Members and attending any meeting of the Stapled Entities;
- (i) Tax, including any amount charged by a supplier of goods or services, or both, to the Manager by way of or as a reimbursement for GST;
- (j) financial institution fees;
- (k) the engagement of agents (including real estate agents and managing agents), valuers, contractors and advisers (including legal advisers) whether or not the agents, valuers, contractors or advisers are associates of the Manager;
- (l) preparation and audit of the taxation returns, accounting records and accounts of the Trust;
- (m) termination of the Trust and the retirement or removal of the Manager and the appointment of a replacement;
- (n) any court proceedings, arbitration or other dispute concerning the Trust including proceedings against the Manager, except to the extent that the Manager is found by a court to be in breach of trust or to have been grossly negligent, in which case any expenses paid or reimbursed under this clause 21.4(n) must be repaid;
- (o) all damages, expenses, payments, legal and other costs and disbursements incurred by the Manager in relation to or in connection with any claim, dispute or litigation (*Claim*) arising as a result of or in connection with any untrue representation or warranty contained in any document relating to any investment by the Trust including any project document in connection with the investment and any offering document or borrowing document in connection with the Trust except where the Claim arises out of the fraud or wilful default of the Manager;

- (p) the compliance committee established by the Manager in connection with the Trust (if any), including any fees paid to, or insurance premiums in respect of, compliance committee members;
- (q) while there is no compliance committee, any costs and expenses associated with the board of directors of the Manager carrying out the functions which would otherwise be carried out by a compliance committee, including any fees paid to or insurance premiums in respect of external directors appointed to satisfy the requirements of Chapter 5C of the Corporations Act;
- (r) the preparation, implementation, amendment and audit of the compliance plan;
- (s) the appointment of any compliance officer to undertake compliance work for the Trust;
- (t) the preparation of reports including compliance reports;
- (u) the promotion of the Trust generally;
- (v) recording, responding to and dealing with any complaints from Members in connection with the Trust;
- (w) complying with any law, and any request or requirement of the ASIC; and
- (x) the admission of the Trust to any stock exchange, the Official Quotation of Units or Stapled Securities and compliance with the rules of such an exchange.

21.5 GST

The User Pays Fees and the fees payable out of the Assets to the Manager under this constitution do not include any amount referable to GST. If the Manager is or becomes liable to pay GST in respect of any supply under or in connection with this constitution (including, without limitation, the supply of any goods, services, rights, benefits or things), then, in addition to any fee or other amount or consideration payable to the Manager in respect of the supply, the Manager is entitled to be paid an additional amount on account of GST, such amount to be calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST, and the Manager shall be entitled to be reimbursed or indemnified for such amount of GST out of the Assets.

22 Duration of the Trust

22.1 Initial settlement

The Trust commences when the Manager's nominee subscribes \$100 for Units in the Trust. The Manager's nominee must be issued with 129,066,098 fully paid Units in return for that payment.

22.2 Termination

The Trust terminates on the earliest of:

- (a) the date specified by the Manager as the date of termination of the Trust in a notice given to Members;
- (b) the 80th anniversary of the day before the Trust commenced; and
- (c) the date on which the Trust terminates in accordance with another provision of this constitution or by law.

23 Procedure on termination

23.1 Realisation of Assets

Following termination, the Manager must realise the Assets. This must be completed in 180 days if practical and in any event as soon as possible after that.

23.2 Audit of winding up

If and to the extent that ASIC policy so requires, the Manager must arrange for independent review or audit of the final accounts of the Trust by a registered company auditor.

23.3 Distribution following termination

The net proceeds of realisation, after making allowance for all Liabilities of the Trust (actual and anticipated) and meeting the expenses (including anticipated expenses) of the termination, must be distributed to Members in accordance with the following formula:

$$\frac{(A + X) \times B}{C} - Y$$

Where:

- A = the amount remaining in the Trust after deduction of the Liabilities and expenses referred to in this clause 23.3;
- B = the aggregate of the number of Units held by the Member as at termination, including both Fully Paid Units and Partly Paid Units; and
- C = the aggregate of the total number of Units in issue as at termination, including both Fully Paid Units and Partly Paid Units;
- X = the aggregate of the amounts remaining unpaid on all Partly Paid Units in issue (if any); and
- Y = the aggregate of the amounts remaining unpaid on all Partly Paid Units held by the Member (if any) as at termination.

If the calculation of the entitlement to distribution of capital in respect of a particular Member in accordance with the formula in this clause 23.3 results in a negative dollar amount, then that Member must pay to the Manager within 30 days of the date of a written request to do so that dollar amount, and the amount so required to be paid will become an Asset available for distribution on the winding up of the Trust.

The Manager may distribute proceeds of realisation in instalments.

23.4 Constitution applies until date of final distribution

Subject to the Corporations Act, the provisions of this constitution continue to apply from the date of termination until the date of final distribution under clause 23.3, but during that period the Manager may not accept any applications for Units from a person who is not an existing Member.

23.5 Manager may buy in

At any realisation of Assets in accordance with this clause 23, the Manager or any associate, related body corporate, director or other officer of the Manager may “buy in” provided that they do so on arms-length terms and must act with utmost good faith to all Members.

24 Amendments to this constitution

24.1 Manager may amend

If the Corporations Act allows, this constitution may be amended:

- (a) by Resolution; or
- (b) by deed executed by the Manager.

If the constitution is amended by Resolution, the Manager may give effect to the amendments by executing a supplemental deed.

24.2 Statutory requirements

If the Corporations Act or any relief from the provisions of the Corporations Act granted by the ASIC requires that this constitution contain certain provisions, then those provisions are deemed to be incorporated into this constitution at all times at which they are required to be included and prevail over any other provisions of this constitution to the extent of any inconsistency. Clause 24.1 does not apply to provisions deemed by this clause 24.2 to be incorporated in the constitution.

25 Compliance committee

If any Compliance Committee Member incurs a liability in that capacity in good faith, the Compliance Committee Member is entitled to be indemnified out of the Assets in respect of that liability to the extent permitted by the Corporations Act.

26 Complaints

26.1 Complaint by a Member

If a Member:

- (a) considers that it has been adversely affected by a breach of the Corporations Act or this constitution or by a breach of trust on the part of the Manager in its administration or management of the Trust; or
- (b) has a complaint or grievance which arises in respect of the relationship between the Member and the Manager, its officers, employees and agents;

the Member may submit a written complaint to the Manager.

26.2 Dealing with a Complaint

If the Manager receives a complaint from a Member under clause 26.1, it must be dealt with as follows:

- (a) the Manager must acknowledge the complaint in writing and provide to the Member a Complaints Form as soon as practicable and, in any event, within 14 days after receipt of the complaint;
- (b) the Member must complete the Complaints Form and return it to the Compliance Officer, together with any documents the Compliance Officer requires;
- (c) the Manager must ensure that the complaint receives proper consideration by the Compliance Officer and, if appropriate, by the board of the Manager or some other person or body designated by the Manager as appropriate to handle complaints;
- (d) the Manager must ensure that the consideration of the complaint results in a determination;
- (e) the Manager must act in good faith and deal with the complaint by endeavouring to correct any error that is capable of correction without affecting the rights of third parties;
- (f) the Manager may, in its discretion, give any of the following remedies to the complainant:
 - (i) information and explanation regarding the circumstances giving rise to the complaint;
 - (ii) an apology; or
 - (iii) compensation for loss incurred by the Member as a direct result of the breach of duty, if any; and

- (g) the Manager must communicate to the complainant as soon as practicable and, in any event, not later than 45 days after receipt by the Manager of the complaint:
 - (i) the determination in relation to the complaint;
 - (ii) the remedies, if any, available to the Member; and
 - (iii) information regarding any further avenue for complaint, if any.
- (h) If the complaint cannot be resolved in this manner by that time, the complaint must be referred to the External Disputes Service of which the Manager is a member.

27 Listing rules

27.1 While Units Officially Quoted

While the Trust is admitted to the official list of the ASX, the following applies.

- (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.

27.2 Change in the text of the Constitution due to clause 27.1

In accordance with ASIC Class Order 98/1808 or its equivalent and for so long as it applies to the Trust, a change in the text of this constitution because of the operation of clause 27.1 is not a modification of, or the repeal or replacement of the constitution for the purposes of subsection 601GC(1) and (2) of the Corporations Act. Clause 24.1 does not apply to changes in the text of the constitution because of the operation of clause 27.1.

28 Small Holdings

28.1 Manager may sell or redeem holdings less than a marketable parcel

Subject to the provisions of this clause 28, while the Trust is Listed, the Manager may in its discretion from time to time sell or redeem any Units held by a Member which comprise less than a marketable parcel as provided in the Listing Rules without request by the Member.

28.2 Limitations on clause 28.1

The Manager may only sell or redeem Units pursuant to this clause 28 on one occasion in any 12 month period. The Manager must notify the Member of its intention to sell or redeem Units under this clause 28.

28.3 Notice period

The Manager will not sell or redeem the relevant Units:

- (a) before the expiry of 6 weeks from the date of the notice given under this clause 28; or
- (b) if, within the 6 weeks allowed under clause 28.3(a) the Member advises the Manager that the Member wishes to retain the Units.

28.4 Power lapses on announcement of full takeover

The Manager's power to sell or redeem the Units lapses following the announcement of a full takeover but the procedure may be started again after the close of the offers made under the takeover.

28.5 Costs of the sale

The Manager or the purchaser of the Units must pay the costs of the sale as the Manager decides. The proceeds of the sale or redemption will not be sent until the Manager has received the certificate (if any) relating to the Units, or is satisfied that it has been lost or destroyed.

28.6 While Stapling applies

While Stapling applies, no redemption or sale under this clause 28 may occur unless, at the same time as Units are redeemed or sold, an identical number of Attached Securities are also redeemed or sold.

29 Stapling

29.1 Paramountcy of Stapling provisions

Subject to clauses 24.2 and 27.1, the provisions of this constitution relating to Stapling prevail over all other provisions of this constitution including any that are expressed to prevail over others, except where this would result in a breach of the Corporations Act, the Listing Rules (if the Listing Rules apply) or any other law.

29.2 Maintenance of Listing and Consistency with Constitutions of the Stapled Entities

The Manager must use every reasonable endeavour to procure that if the Stapled Securities are and continue to be Listed as one joint security, that the Stapled Securities are dealt with under this constitution in a manner consistent with the provisions relating to the Attached Securities in the constitutions of the Stapled Entities.

29.3 Stapling - general information

The Units are intended to be stapled to the Stapled Shares in the ratio of one Unit to one Stapled Share as from the Stapling Commencement Date. The intention is that, so far as the law permits, a Unit and a Stapled Share which are Stapled together shall be treated as one security. If further Attached Securities are from time to time Stapled to the Units the intention is that, so far as the law permits, a Unit and one of each of the Attached Securities which are Stapled together shall be treated as one Security.

30 References to Corporations Act

Any provision of this constitution which is expressed to apply subject to the Corporations Act shall only be read as subject to the Corporations Act while the Trust is a registered scheme.

31 Interpretation

31.1 Definitions

In this constitution these words and phrases have the following meaning unless the contrary intention appears:

Accrued Income Entitlement: in relation to a Unit means the Manager's estimate of the appropriate share of the distributable income of the Trust accrued from the commencement of the Distribution Period to the date for redemption of the Unit.

Aggregate Unpaid Amount: the aggregate of the amounts of the Application Prices of all Partly Paid Units which have not been paid.

Application Price: the application price for a Unit calculated in accordance with this constitution.

Approved Valuer: any person, independent of the Manager, who is duly qualified to value any Assets of the Trust.

ASIC: the Australian Securities and Investments Commission or any regulatory body which replaces it or performs its functions.

Assets: all the property, rights and income of the Trust, but not application money or property in respect of which Units have not yet been issued, proceeds of redemption which have not yet been paid or any amount in the distribution account.

ASX: the Australian Stock Exchange Limited or the market operated by it as the context requires.

Attached Securities: means a Stapled Share and any other security or securities which are from time to time Stapled or to be Stapled to a Unit.

BBSW for a period:

- (a) the rate determined by the Manager to be the arithmetic mean (rounded up, if necessary, to the nearest 0.01%) of the bid rates displayed at or about 10.30am Sydney time on the first day of that period on the Reuters screen BBSW page for a term of one month after eliminating one of the highest and one of the lowest of those rates; or
- (b) if for any reason there are no rates displayed for a term then BBSW will be the rate determined by the Manager to be the average of the buying rates quoted to the Manager by 3 Australian banks selected by the Manager at or about that time on that day. The buying rates must be for bills of exchange which are accepted by an Australian bank and which have a term equivalent to one month.

Business Day: a day other than a Saturday or Sunday on which banks are open for general banking business in Sydney and Melbourne but if the Units are Officially Quoted has the meaning given to that term in the Listing Rules.

CHESS System: a system for the transfer of securities in respect of which approval has been given by the ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532 (or such other body corporate approved by under section 779B(1) of the Corporations Act) in accordance with the SCH Business Rules.

Complaints Officer: an employee of the Manager appointed to liaise with Members and investigate any complaints made by Members.

Complaints Form: the document in such form as the Manager determines from time to time, that must be completed by a Member who has a complaint of the nature referred to in clause 26.1.

Compliance Committee Member: a member of a compliance committee established by the Manager in connection with the Trust.

Corporations Act: the Corporations Act 2001 (Cth).

Distribution Calculation Date: the last day of each Financial Year or such other days as the Manager designates.

Distribution Period:

- (a) for the first distribution period, the period from the establishment of the Trust to the next Distribution Calculation Date;
- (b) for the last distribution period, the period from the day after the preceding Distribution Calculation Date to the date of distribution on winding up of the Trust; and

- (c) in all other circumstances, the period from the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date.

Financial Year:

- (a) for the first financial year, the period from the establishment of the Trust to the next 30 June;
- (b) for the last financial year, the period from 1 July before the date the Trust terminates to the date of distribution on winding up of the Trust; and
- (c) in all other circumstances, the 12 month period ending on 30 June in each year.

First Closing Date: means the date of issue of Stapled Securities pursuant to the first offering document pursuant to which Stapled Securities are offered to the public or such other date as is determined by the Manager.

Fully Paid Unit: a Unit on which the Application Price has been fully paid.

GST: a goods and services tax, value added tax, consumption tax or a similar tax or a tax on services only.

Income: the distributable income of the Trust determined pursuant to clause 11.

Income Distribution: in respect of a Member and a Distribution Period, the amount calculated in respect of the Member under clause 11.6.

Investment Manager: a party engaged by the Manager in accordance with clause 13.15.

Investment Management Agreement: an investment management agreement entered into by the Manager with an external party for the management of the Trust Assets.

Liabilities: all present liabilities of the Trust including any provision which the Manager decides should be taken into account in determining the liabilities of the Trust.

Liquid: has the same meaning as in the Corporations Act.

Listed:

- (a) in the case of the Trust, the trust being listed on the ASX; and
- (b) in the case of Securities, the Units or the Stapled Securities being Officially Quoted,
- (c) and **Listing** has a corresponding meaning.
- (d) **Listing Date** the date on which the Trust is first Listed.

Listing Rules: the listing rules of the ASX and any other rules of the ASX 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.

Manager:

- (a) until the Trust is registered with ASIC as a managed investment scheme, Aspen Funds Management Limited ACN 104 322 278; and
- (b) from the time the Trust is registered with ASIC as a managed investment scheme, the company which is registered with the ASIC as the single responsible entity for the Trust under the Corporations Act.

Market Price: of a Security on a particular day:

- (a) the weighted average price per Security for sales on the ASX (excluding any special crossings) for the period of 15 Trading Days immediately prior to the relevant day (whether or not a sale was recorded on any particular day); or
- (b) if Securities:
 - (i) have not been Officially Quoted for at least 15 consecutive Trading Days before the relevant day; or
 - (ii) in the Manager's opinion a determination under paragraph (a) of this definition would not provide a fair reflection of the current market value of the Security,

the price per Security that an independent valuer determines to be the market price of the Security on the relevant day.

However, if the Manager believes that the calculation under paragraph (a) or (b) does not provide a fair reflection of the market price, the Market Price will be an amount calculated in a manner which complies with the Corporations Act, as set out in the offer document for the Securities and which in the opinion of an Approved Valuer will approximate the fair market price of the Security.

Member: the person Registered as the holder of a Unit (including persons jointly Registered) and where required by the Corporations Act or the context includes the holder of an Option.

Minimum Holding: means the amount from time to time determined by the Manager pursuant to clause 7.5.

Net Asset Value: the value of the Assets calculated in accordance with clause 10 less the Liabilities.

Officially Quoted: quotation on the official list of the ASX, including when quotation is suspended for a continuous period of not more than 60 days.

Option: an option granted by the Manager in respect of an unissued Unit.

Paid-up Proportion: the number obtained by adding each Partly Paid Unit multiplied by its Relevant Percentage.

Partly Paid Unit: a Unit on which the Application Price has not been paid in full.

Quarter: each 3 month period ending on the Quarter End Date or such shorter period of time if the period ends on the date of Termination of this Trust or the date of retirement of the Manager or commences on the date of commencement of the Trust.

Quarterly: is to be interpreted accordingly.

Quarter End Date: each 31 March, 30 June, 30 September and 31 December and if the effective date of termination of the Trust or retirement of the Manager is another date, that date.

Redemption Price: the redemption price of a Unit calculated in accordance with this constitution.

Redemption Request: a written request to the Manager to redeem Units and, while Stapling applies, to redeem the Attached Securities Stapled to the Units to be redeemed.

Register: the register of Members kept by the Manager under the Corporations Act.

Registered: recorded in the Register.

Registration: recording in the Register.

Relevant Percentage: in the case of a Partly Paid Unit the percentage calculated in accordance with the following formula at the relevant time:

$$\frac{A - B}{A} \times \frac{100}{1}$$

where

A means the sum determined by dividing Net Asset Value plus the Aggregate Unpaid Amount by the number of Units in issue;

B means the amount of the Application Price of the Unit which is unpaid.

Resolution:

- (a) a resolution passed at a meeting of Members in the Trust:
 - (i) on a show of hands, by the required majority of Members present in person or by proxy and voting on the show of hands; or
 - (ii) on a poll, by the required majority of votes cast by Members present in person or by proxy and voting on the poll; or

- (b) where the law allows, a resolution in writing signed by Members holding the required majority of the Units in the Trust.

Except where this constitution or any applicable law provides otherwise, the “required majority” is a simple majority.

Restriction Agreement: means a restriction agreement within the meaning and for the purposes of the Listing Rules.

Restricted Securities: has the same meaning as in the Listing Rules.

SCH Business Rules: has the meaning given by the Corporations Act.

Security: means while the Units are Stapled a Stapled Security and while the Units are not Stapled a Unit.

Shareholders: means the shareholders in the Stapled Company.

Stapled: means the linking together of Units and Attached Securities so that one may not be transferred, or otherwise dealt with, without the other or others and which are quoted on the ASX jointly as a “stapled security” or such other term as the ASX permits.

Stapled Company: means Aspen Group Limited ABN 50 004 160 927.

Stapled Entity: means the Stapled Company and any other trust, corporation or managed investment scheme whose securities are Stapled to the Units.

Stapled Security: means a Unit and each Attached Security which are Stapled together and registered in the name of the Member.

Stapled Security Holder: means the Member under this constitution and the holder of Attached Securities.

Stapled Share: means an ordinary share in the Stapled Company.

Stapling: means the process that results in Units and Attached Securities being and remaining Stapled to each other.

Stapling Commencement Date: means the date upon which Stapling of the Units to Stapled Shares is to commence as determined by the Manager.

Tax: means all kinds of taxes, duties, imposts, deductions and charges imposed by a government including GST or any amount recovered from the Manager by way of reimbursement of GST or any amount included either expressly or impliedly in an amount paid or payable by the Manager on account of GST, together with interest and penalties.

Tax Act: means the Income Tax Assessment Act 1936 (*1936 Act*), the Income Tax Assessment Act 1997 (*1997 Act*) or both the 1936 Act and the 1997 Act, as appropriate.

Trading Day: those Business Days on which buying and selling occurs through the Stock Exchange Automated Trading System.

Transaction Costs:

- (a) when calculating the Application Price of a Unit, the Manager's estimate of the total cost of acquiring the Assets; and
- (b) when calculating the Redemption Price of a Unit, the Manager's estimate of the total cost of selling the Assets;

provided that subject to the Corporations Act the Manager may in connection with any particular application or request for redemption of Units deem these costs to be a lesser sum or zero.

Trust: the trust constituted under or governed by this constitution.

Unit: an undivided share in the beneficial interest in the Trust as provided in this constitution.

User Pays Fees: any cost incurred in relation to:

- (a) an entitlement to a payment or a payment to or from the Trust in respect of a Member; or
- (b) any act or omission requested by a Member,

which the Manager considers should be borne by that Member.

Valuation Time: a time at which the Manager calculates Net Asset Value.

31.2 Interpretation

Unless the contrary intention appears, in this constitution:

- (a) terms defined in the Corporations Act are used with their defined meaning;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
- (c) the singular includes the plural and vice versa;
- (d) the words "includes" or "including", "for example" or "such as" when introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not;
- (e) amend includes delete or replace;
- (f) person includes a firm, a body corporate, an unincorporated association or an authority;
- (g) the cover page, contents, headings (except in so far as they are used as a means of cross reference), footnotes, marginal notes and finding lists are for convenience only and do not affect interpretation of this constitution;

- (h) a reference to a year (other than a Financial Year) or month means a calendar year or calendar month respectively;
- (i) a reference to dollars or \$ is a reference to the currency of Australia.

31.3 Other documents

A document does not become part of this constitution by reason only of that document referring to this constitution or vice versa, or any electronic link between them.

31.4 Constitution legally binding

This constitution binds the Manager and each present and future Member and any person claiming through any of them in accordance with its terms (as amended from time to time) as if each of them had been a party to this constitution.

31.5 Severance

If all or part of any provision contained in this constitution is void or invalid or would otherwise result in all or part of this constitution being void or invalid for any reason, then such part is to be severed from this constitution without affecting the validity or operation of any other provision of this constitution.

31.6 Governing law

This constitution is governed by the law of Western Australia.

31.7 Other obligations excluded

Except as required by the Corporations Act all obligations of the Manager which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including without limitation any obligation of the Manager in its capacity as trustee of the Trust arising under any statute.

EXECUTED as a deed

Constitution of Aspen Property Trust

Signing Page

DATED: _____

EXECUTED by **ASPEN FUNDS**)
MANAGEMENT LTD in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cwlth) by)
authority of its directors:)
)
)
Signature of director/company)
secretary*)
*delete whichever is not applicable)
.....)
Signature of director)
)
)
.....)
Name of director/company secretary*)
(block letters))
*delete whichever is not applicable)
Name of director (block letters))