Docusign Envelope ID: A12721AA-E8E3-465E-AD28-8735E16655D6

Deed of Amendment

Vital Healthcare Properties Management Limited

Manager

and

Trustees Executors Limited

Trustee

Date 31 December 2025

Docusign Envelope ID: A12721AA-E8E3-465E-AD28-8735E16655D6

Bell Gully

This **Deed of Amendment** is made on 31 December 2025

between (1) **Vital Healthcare Properties Management Limited** (**Manager**)

and (2) **Trustees Executors Limited** (**Trustee**)

Introduction

A. The Manager and the Trustee are party to a Trust Deed dated 11 February 1994, as amended, restated and/or replaced by deeds dated 1 September 1999, 10 November 2003, 12 November 2007, 12 December 2007, 5 August 2008, 1 October 2010,1 November 2012, 29 November 2016, 7 November 2019, 17 October 2022, and 25 June 2024 (the **Trust Deed**).

B. Clause 32 of the Trust Deed provides that the Trust Deed may be varied by a deed executed by the Trustee and the Manager if the amendment is authorised pursuant to section 139 of the Financial Markets Conduct Act 2013 (**FMCA**).

C. The Supervisor has, for the purposes of section 139(2)(a)(ii) of the FMCA, certified that the amendment and restatement of the Trust Deed does not have a material adverse effect on the Unit Holders (as that term is defined in the Trust Deed) and that the amended and restated Trust Deed will comply with the requirements of the FMCA on the basis set out in the certificate.

It is agreed

1. Amendment

With effect from the date of this deed, the Trust Deed is amended by the revocation of the Trust Deed in its present form, and the substitution of a deed in the form attached to this deed.

Bell Gully

Execution

Executed as a deed of amendment.

Vital Healthcare Properties Management Limited by:

DocuSigned by:
3B807D7C69A64BC...
Graham Stuart
Director

Signed by:
Angela Bull
C005EB596BD0406...
Angela Bull
Director

Trustees Executors Limited by:

_____
Paul Cassidy
Authorised Signatory

_____
Shahazad Contractor
Authorised Signatory

_____
Witness to both signatures (if not signed by two directors)

Name: Raveen Kaur

Address: Auckland

Occupation: Operational Risk Analyst

Docusign Envelope ID: 58ED9F89-6815-44D7-A38C-88B65F1B7AFA

Execution

Executed as a deed of amendment.

Vital Healthcare Properties Management Limited by:

Graham Stuart
Director

Angela Bull
Director

Trustees Executors Limited by:

Signed by:
3645D40700C9489...
Stuart Howard
Authorised Signatory

Signed by:
93427528CE604AB...
Shahazad Contractor
Authorised Signatory

Signed by:
210A5CC65E17403...
Witness to both signatures (if not signed by two directors)

Name: Raveen Kaur

Address: Auckland

Occupation: Operational Risk Analyst

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Schedule: Amended and Restated Trust Deed

Docusign Envelope ID: A12721AA-E8E3-465E-AD28-8735E16655D6

Trust Deed

relating to

the Vital Healthcare Property Trust

~~NorthWest~~ Vital **Healthcare Properties Management Limited**

as Manager

and

Trustees Executors Limited

as Supervisor

Docusign Envelope ID: A12721AA-E8E3-465E-AD28-8735E16655D6

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This **Trust Deed** is made on 1 September 1999

between (1) ~~NorthWest~~ Vital **Healthcare Properties Management Limited** (the **Manager**)

and (2) **Trustees Executors Limited** (the **Supervisor**)

Introduction

A. The Trust was established as a unit trust under the Unit Trusts Act 1960 by a trust deed dated 11 February 1994, amended, restated and/or replaced by deeds dated 1 September 1999, 10 November 2003, 12 November 2007, 12 December 2007, 5 August 2008, 1 October 2010, 1 November 2012, 29 November 2016, 7 November 2019, ~~and~~ 17 October 2022 and 25 June 2024.

B. This deed was further amended by a deed of amendment dated 202~~5~~4.

It is agreed

1. Interpretation

1.1 Definitions

Activity ~~Fees~~ Services ~~Costs~~ means the Manager Group's costs from operations attributable to, or arising as a result of, the provision of Activity Services (excluding any costs of operations reflected in Base Costs; Additional Services Costs or Third Party Services, or attributable to Property Management Services), as determined by the Manager acting reasonably~~fees for Activity Services set out in Schedule 3~~.

Activity Services Fee means the fee calculated in accordance with clause 22.4.

Activity Services means the services set out in Schedule ~~3~~2.

Additional Services Costs means the Manager Group's costs from operations attributable to, or arising as a result of, the provision of Additional Services (excluding any costs of operations reflected in Base Costs; Activity Services Costs or Third Party Services, or attributable to Property Management Services), as determined by the Manager acting reasonably~~the remuneration for Additional Services set out in Schedule 2~~.

Additional Services Fee means the fee calculated in accordance with clause 27.5.

Additional Services means the services set out in Schedule ~~2~~1.

Associated Person has the meaning given to that term in the Listing Rules.

Auditor means the auditor of the Trust Fund for the time being appointed pursuant to clause 28.9.

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Authorised Investments means at any time any investment authorised by the SIPO at that time.

Base Costs means the Manager Group's costs from operations (excluding any costs of operations reflected in Additional Services Costs; Activity Services Costs or Third Party Services, or attributable to Property Management Services), as determined by the Manager acting reasonably.

Base Fee means the fee calculated in accordance with clause 22.3.

Board means the board of ~~d~~Directors of the Manager.

Borrow means to borrow money, including to raise money by way of the drawing, acceptance, discount or sale of bills of exchange or promissory notes or other financial instruments that represent money borrowed, or otherwise howsoever, and **Borrowing** and **Borrowed** have a corresponding meaning. For the avoidance of doubt, money raised from the issue of Convertible Obligations that are mandatorily convertible (that is, they are issued on the condition that they shall not be redeemed in cash, other than in default, but shall be satisfied by the issue of Units) will not constitute Borrowing.

Business Day means a day on which NZX is open for trading.

Certificate means a certificate evidencing that the person named on the certificate is the holder of the Units referred to on the certificate.

Class means a class of Units having identical rights, privileges, limitations and conditions, and includes or excludes Units which NZX in its discretion deems to be of or not of that Class.

Commencement Date means 7 September 1999.

Convertible Obligations means notes, options, debt instruments or other obligations and Financial Products, whether secured or unsecured, which are issued on the condition that they shall not be redeemed in cash (otherwise than on default) or may not be so redeemed, but shall, or may, be satisfied by the issue of Units.

Custodian means a person contracted to hold any of the Investments who meets the external custodianship requirements in section 156 of the FMC Act.

~~**Independent** **Director** means a director of the Manager, from time to time elected or appointed or deemed elected or appointed pursuant to clause .~~

Distribution means:

(a) the direct or indirect transfer of money or property, other than Units, to or for the benefit of a Unit Holder; or

(b) the incurring of a debt to or for the benefit of a Unit Holder,

in relation to Units held by that Unit Holder, whether by means of a purchase of property, the redemption or other acquisition of Units, a distribution of indebtedness or by some other means.

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Distribution Period means, subject to clause 38, each period of three months ending on a Quarterly Date.

Financial Product has the meaning given to that term in the Listing Rules.

Financial Reporting Act means the Financial Reporting Act 2013.

Financial Year in relation to the Trust means, subject to clause 38, the period of twelve months ending on 30 June in each year.

FMA means the Financial Markets Authority.

FMC Act means the Financial Markets Conduct Act 2013.

FMC Regulations means the Financial Markets Conduct Regulations 2014.

Fund Security has the meaning given to that term in the Listing Rules and **Fund Securities** has a corresponding meaning.

Gross Income in relation to a Financial Year means the gross income of the Trust Fund in respect of that Financial Year, taking account of all income accrued or accruing due, but for the avoidance of doubt excluding adjustments required under generally accepted accounting practice requiring lease payments to be recognised on a straight-line basis over the term of the lease.

Gross Value of the Trust Fund in respect of any Business Day means such sum as is ascertained and fixed by the Manager in respect of that Business Day as being the greater of:

(a) the book value of the tangible assets of the Trust and its Subsidiaries as disclosed by the most recently published consolidated annual financial statements of the Trust; and

(b) the aggregate of:

  (i) the Market Value of all of the Investments other than Cash;

  (ii) any income accrued or payable but not included in such Market Value; and

  (iii) the amount of Cash forming part of the Trust Fund,

(in both cases irrespective of and ignoring any liabilities attributable to the assets or of any Subsidiaries or other entities through which the assets are held).

~~**High Watermark Net Tangible Assets** means, in respect of a Financial Year, an amount equal to the higher of:~~

~~(a) the Net Tangible Assets as at the last Business Day of the previous Financial Year (**FY-1**);~~

~~(b) the Net Tangible Assets as at the last Business Day of the Financial Year immediately before FY-1 (**FY-2**); and~~

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~~(c) the Net Tangible Assets as at the last Business Day of the Financial Year immediately before FY-2 (**FY-3**).~~

~~**Incentive Fee** means the fee calculated in accordance with clause 22.4.~~

Independent in relation to an expert advisor or such advice as may be obtained from the same means such an advisor who has no connection with or interest in either the Manager or the Supervisor.

~~**Independent Director** means a director of the Manager elected or appointed or deemed elected or appointed pursuant to clause 30.~~

Field Code Changed

Interest Group, in relation to any action or proposal affecting rights attached to Units, Convertible Obligations or other Financial Products issued by the Trust, means a group of holders of Units, Convertible Obligations or other Financial Products issued by the Trust:

(a) whose affected rights are identical; and

(b) whose rights are affected by the action or proposal in the same way; and

(c) who comprise holders of Units, Convertible Obligations or other Financial Products of one or more classes, except where action is taken in relation to some holders of Units, Convertible Obligations or other Financial Products in a class and not others, or a proposal expressly distinguishes between some holders of Units, Convertible Obligations or other Financial Products in a class and other holders of Units, Convertible Obligations or other Financial Products in that class, in which case the holders of Units, Convertible Obligations or other Financial Products in that class may fall into two or more interest groups.

Investment means any investment, asset, right, or property of any nature at any time forming part of the Trust Fund.

Issuer has the meaning given to that term in the Listing Rules.

Land means land and real estate of every estate or description and every interest therein or relating thereto and includes without limitation:

(a) estates and interests in freehold and leasehold or other tenure;

(b) estates and interest in any stratum estate created (in relation to New Zealand pursuant to the Unit Titles Act 2010) or in relation to Australia or elsewhere in the world pursuant to any similar legislation;

(c) any purchase agreement, licence, easement, option, joint venture agreement, building contract or other agreement or right of any type attaching to or relating to land, real estate or any interest therein; and

(d) all buildings, improvements, plant, machinery, fixtures and fittings erected or installed on or relating to land, real estate or any interest therein.

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Liabilities means all liabilities of every nature of the Trust (including liabilities accrued but not yet paid and any unpaid amounts due and payable to Unit Holders, the Manager or the Supervisor) and any provision which the Manager, having due regard to the most recent audited financial statements available for the Trust, decides should be taken into account in determining the liabilities of the Trust. The term Liabilities does not include contingent liabilities.

Listed has the meaning given to that term in the Listing Rules.

Listing Rules means the NZX Listing Rules in force from time to time.

Manager Group means the Manager together with its Related Companies.

Manager Shares means the shares in the Manager from time to time.

Margin means, in respect of the total aggregate costs associated with the provision of particular services provided by the Manager Group, a percentage of those costs determined by the Manager, acting reasonably, of between 0% and 20%.

Market Value of any Investment as at any Business Day means:

(a) where the Investment is Land that is not under development or construction, means the value determined: (i) pursuant to clause 12.6 by a Qualified Advisor (which could include an employee of the Manager who is a registered valuer with valuation experience) at intervals of not more than 18 months; and (ii) quarterly at fair value by the Manager, and with consideration to any valuations from Qualified Advisors (which could include an employee of the Manager who is a registered valuer with valuation experience). Valuations by the Manager must be signed off by its board and, following an audit, the auditors of the Trust; or

(b) where the Investment is Land that is under development or construction, the value determined in accordance with the requirements of New Zealand International Accounting Standards (NZ IAS) 40 - Investment property or any replacement standards which have equivalent application,

or in any case an amount agreed upon, or determined in a manner agreed upon, between the Manager and the Supervisor, or failing such agreement an amount determined by a Qualified Advisor in its most recent valuation of that Investment for the purposes of the Trust.

Minimum Number in relation to any class of Units means such number of Units of that class as the Manager may from time to time designate as the minimum number which may be held by a Unit Holder, provided that, for so long as the Trust is Listed, the Minimum Number shall mean a Minimum Holding of those Units as that term is defined in the Listing Rules.

Net Income means the net income earned by the Trust Fund, determined in accordance with clauses 13.6 and 13.7.

~~**Net Tangible Assets** or **NTA** in respect of any Business Day means such sum as is ascertained and fixed by the Manager in respect of that Business Day using the following formula:~~

~~NTA = A – L~~

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~~where:~~

~~A = the Total Tangible Assets of the Trust; and~~

~~L = all Liabilities and any other amounts which, in the opinion of the Manager, should be included in such aggregate for the purposes of making a fair and reasonable determination of the total net tangible assets of the Trust, having due regard to generally accepted accounting practice.~~

New Zealand Dollars means the lawful currency of New Zealand and references to **dollars, cents** or **$** shall have a corresponding meaning.

NZX means NZX Limited and includes its successors and assigns and, as the context permits, includes any duly authorised delegate of NZX (including the NZ Markets Disciplinary Tribunal).

NZX Main Board means the main board Financial Product market operated by NZX.

Office means the registered office from time to time of the Manager.

Ordinary Resolution means a resolution passed by a simple majority of Votes of Unit Holders and those holders of Convertible Obligations (if any) which carry Votes, that are entitled to vote and voting.

Person includes an individual, a trust, partnership, firm, association, company, government or government agency or department, municipal or local authority and any body of persons or entity (whether incorporated or unincorporated and whether or not having a separate legal personality).

Personal Representative means:

(a) in relation to a deceased individual Unit Holder, the executor, administrator or trustee of the estate of that Unit Holder;

(b) in relation to a bankrupt individual Unit Holder, the assignee in bankruptcy of that Unit Holder; and

(c) in relation to any other individual Unit Holder, a person appointed or deemed to have been appointed to administer property under the Protection of Personal and Property Rights Act 1988, a manager appointed or deemed to have been appointed thereunder, or a donee of an enduring power of attorney complying with that Act.

Property Management Services means the services set out in Schedule 3.

Property Management Services Fees means the remuneration for Property Management Services described in Schedule 3.

Qualified Advisor means an appropriately qualified independent Person (who may be an employee of the Supervisor or the Manager) appointed by the Supervisor (or appointed by the Manager and approved by the Supervisor) for the purpose of determining the value of any of the Investments of the Trust Fund.

Quarterly Date means the last days of September, December, March and June.

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Quoted has the meaning given to that term in the Listing Rules, and **Quote** and **Quotation** have corresponding meanings.

Register means the Register described in clause 8.

Registrar means the person appointed pursuant to clause 8.2.

Related Company has the meaning given in section 2(3) of the Companies Act 1993 and in relation to the Trust, has the same meaning as if the Trust were a company, and includes an associated person as defined in the FMC Act.

Representative means a person appointed as a proxy or representative under clause 11 of Schedule 4 or a Personal Representative;

Ruling has the meaning given to that term in the Listing Rules.

Shareholder means at any time ~~a~~ the person that holds ~~greater than 50% of~~ the ~~ordinary~~ Manager ~~s~~Shares ~~of the Manager~~.

Shareholding Deed means the deed or other document entered into between the Manager, the Supervisor and the Shareholder recording (amongst other things) the terms on which the Manager Shares are held by the Shareholder for and on behalf of Unit Holders.

SIPO means a statement of investment policy and objectives prepared by the Manager under the FMC Act and clause 12.2.

Special Resolution means a resolution approved by Unit Holders holding Units with a combined value of not less than 75% of the value of Units held by those persons who are entitled to vote and who vote on the question.

Statement has the meaning set out in clause 9.2.

Subsidiary means:

(a) a company if, but only if,-

(i) the Trust:

(A) controls the composition of the board of the company;

(B) is in a position to exercise, or control the exercise of, more than one-half the maximum number of votes that can be exercised at a meeting of the company;

(C) holds more than one-half of the issued shares of the company, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; or

(D) is entitled to receive more than one-half of every dividend paid on shares issued by the company, other than shares that carry no right to participate beyond a specified amount in a distribution of either profits or capital; or

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(ii) the company is a subsidiary of a company that is the Trust's subsidiary; or

(b) an entity treated as a subsidiary or in substance subsidiary within the meaning of any financial reporting standard approved in terms of the Financial Reporting Act with such necessary modifications to reflect the fact that the "Issuer" for the purposes of the Financial Reporting Act is the Trust.

~~**Total Tangible Assets** means the consolidated total market value of the assets of the Trust and its Subsidiaries that are considered by generally accepted accounting practice to be tangible assets including, without limitation, the amount of Cash and receivables, but excluding:~~

~~(a) any unrealised movements in currency reserves and derivatives (including derivatives relating to interest rates or currency) during the relevant Financial Year;~~

~~(b) any increase in the tangible assets of the Trust arising solely from subscriptions received for new Units (net of any fees incurred relating to such subscriptions); and~~

~~(c) any decrease in tangible assets arising solely from distributions of any kind paid to Unit Holders other than normal course recurring distribution payments.~~

Third Party Costs means the Manager Group's costs from operations attributable to, or arising as a result of, the provision of Third Party Services (excluding any costs of operations reflected in Base Costs; Activity Services Costs or Additional Services Costs, or attributable to Property Management Services), as determined by the Manager acting reasonably;

Third Party Services means services provided by the Manager Group to a Person which is not wholly owned by the Trust.

Trust means the Trust constituted by a Trust Deed dated 11 February 1994 known as Vital Healthcare Property Trust.

Trust Fund means the trust fund described in clause 3.5.

Unit means an undivided part or share in the Trust Fund.

Unit Holder means the Person for the time being entered on the Register either alone or jointly with others as the holder of a Unit.

Unit Holders' Funds means the amount disclosed as equity (whether described as equity, Unit Holders' funds, or otherwise) by the most recently published annual financial statements of the Trust, or if the Trust has Subsidiaries, the most recent published group financial statements of the Trust and its Subsidiaries, provided that if at any time at which Unit Holders' Funds are required to be determined:

(a) there has been a material decline in the equity of the Trust, or if the Trust has Subsidiaries, of the consolidated equity of the Trust and its Subsidiaries, since the date of the most recent published financial statements; or

(b) the Trust has not published any financial statements,

then Unit Holders' Funds at that time shall be determined by a reference to the position which would be disclosed if financial statements were prepared at that time.

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Vote means a right to vote at Unit Holders' meetings other than:

(a) a right to vote solely upon matters of a nature immaterial or inconsequential to the control of the Trust, or to the control of any material part of the business or operations of the Trust;

(b) a right to vote only when a payment in respect of the Unit in question is in arrears or some other default exists, or on a proposal to change the rights attaching to that Unit, or in other circumstances of a special or remote nature; or

(c) a right to vote attaching to Units which are not Fund Securities, exercisable only at meetings of holders of those Units.

1.2 Construction of certain references

In this deed, unless the context otherwise requires, any reference to:

(a) **Cash** includes a cheque;

(b) the table of contents and headings are inserted for convenience only and shall be ignored in construing this deed;

(c) the singular includes the plural and vice versa;

(d) one gender includes the other genders;

(e) reference to any legislation or to any provision of any legislation (including regulations and orders) includes:

(i) that legislation or provision as from time to time amended, re-enacted or substituted;

(ii) any statutory instruments, regulations, rules and orders issued under that legislation or provision;

(f) "written" and "in writing" include any means of reproducing words, figures and symbols in a tangible and visible form, including by electronic means such as electronic mail;

(g) references to clauses and sections are references to clauses and sections in this deed, unless stated otherwise;

(h) the expression "generally accepted accounting practice" has the same meaning as that term in the Financial Reporting Act; and

(i) words and expressions cognate with words or expressions defined in this deed have meanings corresponding to those of the defined words and expressions.

1.3 Business days

Where under or pursuant to this deed or anything done under this deed the day on or by which any act, matter or thing is to be done is not a Business Day such act, matter or thing shall be done on the following Business Day.

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1.4 Conversion into dollars

If it shall be necessary for any of the purposes of this deed to determine the equivalent at any date in New Zealand dollars of any amount denominated in any other currency, that equivalent shall be determined by the Manager on the basis of the selling rate quoted for that other currency on that day by any registered bank in New Zealand.

1.5 Supervisor's approvals

Where this deed provides for the approval of the Supervisor to be obtained, in determining whether or not to give its approval, the Supervisor shall have due regard to the best interests of the Unit Holders.

1.6 Listing Rules – Definitions

Any terms that are used in this deed and which are defined in the Listing Rules shall be given in this deed the meaning that the relevant term has under the Listing Rules, except where otherwise indicated, and notwithstanding whether this deed expressly notes or not that a Listing Rule definition applies.

1.7 Listing Rules – Amendments

A reference in this deed to a specific Listing Rule includes that Listing Rule as it may be amended from time to time and any Listing Rule which may be substituted for that Listing Rule.

1.8 FMC Act – Application

The provisions of this deed are subject to the FMC Act, and:

(a) pursuant to section 16(1) of the FMC Act, the provisions of the FMC Act have effect despite anything to the contrary in this deed; and

(b) pursuant to section 138 of the FMC Act, this deed has no effect to the extent that it contravenes, or is inconsistent with, the FMC Act or the FMC Regulations.

1.9 FMC Act – Definitions

Expressions defined in the FMC Act and not otherwise defined in this deed or the Listing Rules have the same meaning as in the FMC Act.

1.10 Frameworks or methodologies

Where the FMA has published frameworks or methodologies that require certain matters to be calculated, determined, fixed, or carried out in a particular way, the Manager and the Supervisor (as applicable) shall comply with the requirements of those frameworks or methodologies. Any such frameworks or methodologies shall apply notwithstanding, and prevail over, anything to the contrary in this deed and the provisions of this deed shall be construed accordingly.

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2. Listing Rules - Compliance with NZX requirements

2.1 Compliance with Rules

Subject to:

(a) the terms of any Ruling from time to time given by NZX; and

(b) the requirements of the FMC Act and any other applicable legislative or regulatory requirement,

while the Trust is Listed, the Manager, the Supervisor (in its capacity as Supervisor of the Trust) and the Trust shall comply with the Listing Rules where required of each of them as and to the extent that the Listing Rules apply to an Issuer of Fund Securities. In particular, in clauses of this deed which reflect or incorporate provisions of the Listing Rules, references to "Units" shall be deemed to be references to "Financial Products", "Fund Securities", "Quoted Fund Securities" or “Quoted Financial Products” as the case may be, to the extent necessary to ensure that the relevant clause of this deed appropriately reflects or incorporates the provisions of the relevant Listing Rule.

In determining the appropriateness of any particular reference, regard must be had to the purpose and intent of the Listing Rules, and the scope of the Manager’s and Supervisor’s roles as provided for in the FMC Act and FMC Regulations.

2.2 Incorporation by reference

While the Trust is Listed on the NZX Main Board, any provisions of the Listing Rules which are required by the Listing Rules to be contained or incorporated by reference in this deed (as they may be modified by any Ruling relevant to the Trust) will be deemed to be incorporated in this deed and have the same effect as though they were set out in full in this deed with any necessary modification.

2.3 Listing Rules prevail

While the Trust is Listed, but subject to compliance with the FMC Act and clause 2.4, if there is any provision in this deed that is inconsistent with the Listing Rules applicable to the Trust, the Listing Rules shall prevail.

2.4 Ruling

If NZX has granted a Ruling in relation to the Trust authorising any act or omission which, in the absence of that Ruling, would be in breach of this deed, that act or omission shall, subject to compliance with the FMC Act and unless a contrary intention appears in this deed, be deemed to be authorised by this deed.

2.5 Failure to Comply with Listing Rules

Failure to comply with:

(a) the Listing Rules; or

(b) a provision of this deed corresponding with a provision of the Listing Rules (whether such provision is set out in full in this deed or incorporated in it pursuant to clause 2.2),

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does not affect the validity or enforceability of any transaction, contract, action, decision or vote taken at a meeting of Unit Holders or other matter entered into by, or affecting, the Manager, the Supervisor or the Trust, except that a party to a transaction or contract who knew of the non-compliance is not entitled to enforce that transaction or contract. This clause does not limit the rights of Unit Holders against the Trust, the Supervisor, the Manager or the directors of the Manager.

3. Commencement of this Deed and Constitution of the Trust Fund

3.1 Commencement of this deed

This deed shall take effect and replace the Trust Deed dated 11 February 1994 on the Commencement Date.

3.2 Appointment of Supervisor

The Supervisor has been appointed as the trustee of the Trust and agrees to continue to act as trustee for the Unit Holders to hold the Trust Fund in trust for the Unit Holders, upon and subject to the terms and conditions expressed or implied in this deed.

3.3 Appointment of manager

The Manager has been appointed as the Manager of the Trust and agrees to continue to act as the Manager on the terms and conditions contained or implied in this deed.

3.4 Name of trust

The Trust is known as the "Vital Healthcare Property Trust". The name of the Trust may be changed to such other name as the Supervisor and the Manager may from time to time agree.

3.5 Constitution of the Fund

The Trust Fund shall consist of all the Cash, Investments, assets, rights, and other property for the time being held by the Supervisor upon the trusts of this deed including:

(a) the proceeds of subscriptions for Units;

(b) the proceeds of sale of any Investments;

(c) all additions or accretions thereto; and

(d) all income and gains held pending distribution or reinvestment.

3.6 Custodian

The Supervisor shall be entitled in accordance with section 156 of the FMC Act to contract to another person who meets the external custodianship requirements (as defined in that section) the holding of all or part of the Investments of the Trust.

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4. Units

4.1 Fund divided into Units

The beneficial interest in the Trust Fund shall be divided into Units. Subject to the rights attaching to unpaid or partly paid Units and other Units with special rights, and to clause 13.13, each Unit shall confer an equal interest in the Trust Fund.

4.2 Units undivided share of the Fund

Subject always to the provisions of the FMC Act, no Unit shall confer any interest in any particular part of the Trust Fund and no Unit Holder shall be entitled to require the transfer to that Unit Holder of any of the Investments nor (subject to the rights of Unit Holders created by this deed and by law) shall any Unit Holder be entitled to interfere with or question the exercise or non-exercise by the Manager or the Supervisor of any of the trusts, powers, authorities or discretions conferred upon them or either of them by this deed or in respect of the Trust Fund or any part or parts thereof. Except where expressly provided to the contrary in this deed or where the context does not so permit, all the benefits and provisions (including but not limited to those expressed to enure for the benefit of and bind the Unit Holders of any class or classes) contained in this deed enure for the benefit of and bind each Unit Holder of the relevant class or classes.

4.3 Quotation of Units

The Manager may at its discretion at any time apply to NZX or any other stock exchange for quotation of the Units of any class.

5. Issue of Units

5.1 Offers

The Manager may, subject to the Listing Rules and clause 5.2, invite offers, subscriptions or applications for Units, may issue rights or options to subscribe for Units, Convertible Obligations, and Units of any Class (including unpaid and partly paid Units) upon and subject to the terms and conditions contained in this deed and otherwise in such manner and upon such terms and conditions as the Manager shall determine.

5.2 Offers to comply with law

The Manager shall in inviting offers in terms of this clause 5 comply with all of the relevant provisions of the FMC Act.

5.3 Underwritten offers

Any proposed issue of Units may (subject to the Listing Rules) in the Manager's discretion be underwritten. The Manager shall have power to:

(a) appoint underwriters, organising brokers and brokers in respect of any issue of Units and enter into agreements to give effect to such appointments on such terms and conditions as the Manager may determine; and

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(b) pay out of the Trust Fund such management fees, underwriting fees, brokerage, or other similar fees as the Manager may agree with any such underwriters, organising brokers, brokers or others.

5.4 Maximum number of units

There is no maximum number of Units which may be issued.

6. Issue Price

6.1 Price

The price at which Units may be offered and issued shall be determined by the Manager, except as provided ~~in clause 22.6(b) or~~ in any distribution reinvestment scheme established under clause 14.

6.2 Entry fees

The Manager may require any applicant for Units (excluding Units issued pursuant to clause 13.11 or clause 14) to pay, in addition to the basic issue price of those Units, such fee as the Manager may fix as a condition of issue of those Units provided that, in respect of any particular issue of Units, each applicant shall be required to pay the same fee as each other applicant. The Manager may deduct and retain such fee from the subscription moneys received by the Manager in respect of those Units. In this event, the number of Units issued shall be that number which has an aggregate issue price equal to the subscription moneys received or receivable by the Manager less the amount of such fees.

6.3 Subscription moneys

All subscription moneys received by the Manager upon an issue of Units (other than any amounts deducted in accordance with clause 6.2) shall, pending payment to the Supervisor pursuant to clause 27.10(a), be held in trust in accordance with section 87 of the FMC Act and regulation 49 of the FMC Regulations.

7. Purchase or Redemption of Units by the Manager

7.1 Purchase or Redemption

The Manager may, subject to the Listing Rules, repurchase, or cause the Supervisor to redeem, Units at a purchase or redemption price determined by the Manager.

7.2 Purchase on own account

The Manager may purchase Units on its own account out of its own funds and shall be at liberty to deal with those Units as a Unit Holder as the Manager thinks fit. The Trust shall not have the power to finance the purchase of Units other than in accordance with the provisions of the Listing Rules.

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8. Register

8.1 Manager to maintain Register

The Manager shall keep and maintain, or cause to be kept and maintained, an up-to-date register of Unit Holders and shall comply with all of the provisions of the FMC Act in respect of that register.

8.2 Manager may appoint registrar

The Manager may, from time to time, appoint a registrar acceptable to the Supervisor to keep and maintain the Register on the Manager's behalf upon such terms and conditions as the Manager thinks fit, and shall have the power to remove such Registrar at any time.

8.3 Joint holders

Joint Unit Holders shall be jointly and severally liable in respect of all payments required to be made in respect of the relevant Units. Only the Person whose name stands first in the Register as one of the joint Unit Holders of any Unit shall be entitled to delivery of any Certificate, notice, cheque or other communication from the Manager or the Supervisor, and any Certificate, notice, cheque or other communication given to any such Person shall be deemed to have been given to all the joint Unit Holders. The Manager may amend the name of the Person standing first in the Register with the consent of all joint Unit Holders of a relevant Unit.

8.4 Register to be audited

The Manager shall cause the Register to be audited in accordance with section 218 of the FMC Act and regulations 108 to 110 of the FMC Regulations.

8.5 Changes of address to be notified

Any change of name or address of a Unit Holder shall be notified by such Unit Holder in writing to the Manager (including to the Registrar on the Manager's behalf), who shall alter the Register accordingly.

8.6 Inspection of the Register

The Manager shall make the Register available for inspection in accordance with sections 221, 222 and 223 of the FMC Act and regulations 111 and 112 of the FMC Regulations.

8.7 Reliance on Register

Each of the Manager and the Supervisor shall be entitled:

(a) to rely absolutely on the Register as being correct except, in respect of the Manager, in the case of an error in the Register which has been caused by the Manager;

(b) for all purposes to treat a Person whom it believes to be the Person entered on the Register as the holder of any Units as the legal and beneficial owner of those Units; and

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(c) to effect transfers or other dealings of any nature with Units on the basis of the information recorded in the Register without requiring production or surrender of any Certificate relating to those Units.

8.8 Evidence of ownership

Notwithstanding clause 8.7, the Manager shall be entitled, in its absolute discretion before giving effect to any transfer, conversion or other dealing with any Units, to require the production to the Manager, of evidence satisfactory to it that the Person seeking to effect such dealing is the Person named in the Register as the holder of the Units in question or is otherwise entitled to effect the dealing (for example, a Personal Representative).

8.9 No recognition of trusts

Except as required by law or provided by clause 15.7, neither the Manager nor the Supervisor shall be bound to recognise or see to the performance of any trust (express, implied or constructive) or any charge, pledge, or equity to which any of the Units or any interest therein are or may be subject, or to recognise any Person as having any interest in any Unit except for the Person recorded in the Register as the Unit Holder, and accordingly no notice of any trust (whether express, implied or constructive), charge, pledge or equity shall be entered upon the Register.

9. Certificates, Subdivision, Consolidation

9.1 No certificates

Subject to compliance with any requirements of the Listing Rules and law the issue of Certificates by the Trust is not required, and no Unit Holder shall be entitled to a Certificate.

9.2 Statements

A Statement shall be a statement issued by the Registrar specifying the number of Units held by a Unit Holder and the other matters required under Listing Rule 8.3.1 and, where applicable, Listing Rule 8.3.4.

9.3 Issuing of confirmation information and statements

(a) The Manager shall provide a Unit Holder with the confirmation information required by the FMC Act and FMC Regulations following the issue, redemption, or purchase of a Unit, or otherwise in the circumstances required by the FMC Act.

(b) Except insofar as the information required in a Statement has already been provided as confirmation information, a Statement shall be issued by the Registrar upon request by the Unit Holder or otherwise in the circumstances required by the Listing Rules.

9.4 Evidence of security

Except as may be required by law, a Statement shall not be a document of title nor negotiable, nor shall it be prima facie evidence of a Unit Holder’s interest in the Trust Fund at the date it is issued.

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9.5 No obligation to issue in respect of certain units

The Registrar shall not be obliged to issue a Statement in connection with Units redeemed or transferred before the date of issue of the Statement.

9.6 Statement may form part of other document

Without limitation, a Statement may be issued with, or including, a form of transfer, a notice of dividend or other distribution, a certificate evidencing ownership of any other Financial Product and/or a form for varying any payment.

9.7 Consolidation and subdivision of units

The Manager may, at any time, by notice in writing to the Unit Holders and the Supervisor, cause all of the Units in existence at the date of that notice to be consolidated or subdivided. Each such notice shall:

(a) specify the date on which such consolidation or subdivision is to take place ("**Operative Date**"); and

(b) specify the ratio ("**Ratio**") which the number of Units in existence after the consolidation or subdivision will bear to the number of Units in existence before the consolidation or subdivision.

9.8 Number of Units

As from the Operative Date, each Unit Holder shall be deemed to hold a number of Units equivalent to the number held by that Unit Holder before the Operative Date multiplied or divided (as the case may be) by the Ratio. For this purpose parts of a Unit beyond 2 decimal places shall be rounded down and ignored.

9.9 Cancellation of certificates

Subject to the Listing Rules, the Manager may make such arrangements as it deems appropriate following a consolidation or subdivision for the cancellation of existing Certificates and the issue of new Certificates.

10. Calls on Units

10.1 Manager may make calls

The Manager may make such calls as it thinks fit upon Unit Holders in respect of any money unpaid on any Units held by them and not by the conditions of the allotment made payable at fixed times. Each Unit Holder shall pay to the Manager at the times and places appointed by the Manager the amount of every call so made on such Unit Holder. Fourteen days' notice of any call shall be given specifying the time and place of payment. A call may be revoked or postponed as the Manager may determine.

10.2 Interest on unpaid calls

If a sum called in respect of a Unit is not paid on the due date for payment, the Person from whom the sum is due shall pay interest on the sum from the due date for payment to the time

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of actual payment at such rate as the Manager may reasonably determine. The Manager shall be at liberty to waive payment of that interest wholly or in part.

10.3 Proof of call

On the hearing of any action for the recovery of any money due for any call, it shall be sufficient to prove that the name of the Unit Holder sued is entered in the Register as the holder or one of the holders of the Units in respect of which such debt accrued and that the call and notice of such call was duly given to that Unit Holder in terms of this deed. Proof of the matters referred to above shall be conclusive evidence of the debt, and it shall not be necessary to prove any other matter whatsoever.

10.4 Cancellation of unpaid amounts

The Manager may, in its discretion, cancel, reduce or defer any obligation to pay amounts unpaid of the issue price of any Unit provided that the Manager shall not agree to do so unless the cancellation, reduction or deferral is approved by Ordinary Resolution.

10.5 Deemed calls

Any sum which by the terms of issue of a Unit becomes payable on allotment or at any fixed date, shall be deemed to be a call duly made and payable on the date on which, by the terms of issue, the same becomes payable. In the case of non-payment, all the relevant provisions of this deed as to payment of interest and expenses, forfeiture or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.

10.6 Subscriptions paid by instalments

If by the conditions of allotment of any Unit, the whole or part of the amount of the issue price shall be payable by instalments, every such instalment shall, when due, be paid to the Manager by the Unit Holder for the time being or, if applicable, the Personal Representatives of the Unit Holder.

10.7 Differential calls

The Manager may, on the issue of Units, differentiate between the Unit Holders as to the amounts to be paid in respect of the Units and the times of payment of such amounts.

10.8 Joint Unit Holders

Joint Unit Holders are joint and severally liable to pay all calls in respect of Units registered in their names.

11. Forfeiture and Lien

11.1 Demand for payment

If a Unit Holder fails to pay any call or instalment on the due date for payment, the Manager may, at any time during such time as any part of the call or instalment remains unpaid, serve a notice on the Unit Holder requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued and all expenses that may have been incurred by the Manager or the Trust by reason of such non-payment.

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11.2 Notice of non-payment

The notice shall name a further day (not earlier than 10 Business Days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the Units in respect of which the call was made or instalment is payable will be liable to be forfeited.

11.3 Forfeiture

If the requirements of any such notice are not complied with, any Unit in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by the Manager. Such forfeiture shall include all Distributions in respect of the forfeited Units not actually paid before the forfeiture.

11.4 Notice and entry of forfeiture in Register

When any Unit has been so forfeited, notice of the forfeiture shall be given to the Unit Holder in whose name it stood immediately prior to the forfeiture or, if applicable, to the Personal Representatives of that Unit Holder. An entry of the forfeiture, with the date thereof, shall be made in the Register. At any time before a sale or disposition of the relevant Unit the forfeiture may be cancelled on such terms as the Manager thinks fit.

11.5 Unit Holder remains liable to pay

Each Person whose Units have been forfeited shall cease to be a Unit Holder in respect of the forfeited Units, but shall notwithstanding such forfeiture remain liable to pay all money which, at the date of forfeiture, was payable by such Person in respect of the Units. Such liability shall cease if and when the Manager receives payment in full of all such money in respect of the Units.

11.6 Manager has a lien

The Manager shall have a first and paramount lien upon every Unit registered in the name of any Unit Holder (whether solely or jointly with others) which is not a fully paid Unit and upon the proceeds of sale for any unpaid calls, instalments, premiums or other amounts owing in respect of such Unit, any interest payable on such amounts, and for such amounts (if any) as the Supervisor or the Manager may be called upon to pay under any statute or legislative enactment in respect of Units of a deceased or other Unit Holder, whether the period for the payment, fulfilment or discharge shall have actually arrived or not. Such lien shall extend to all Distributions from time to time in respect of the relevant Unit. Unless otherwise determined by the Manager, the registration of a transfer of Units shall operate as a waiver of the lien, if any, on such Units.

11.7 Manager may sell forfeited Units

The Manager may sell any forfeited Unit, or any Unit on which the Manager has a lien, but shall not sell any Unit:

(a) unless the amount in respect of which a lien exists is due and payable; and

(b) unless the notice referred to in clause 11.2, or in the case of a lien at least 5 Business Days written notice demanding payment of the amount in respect of which the lien exists, has been given to the Unit Holder.

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11.8 Manager has absolute discretion to sell

Subject to clause 11.7, the Manager may sell any forfeited Unit, or any Unit on which the Manager has a lien, in such manner, at such price, and to such Person, as the Manager in its absolute discretion sees fit. All Unit Holders and former Unit Holders shall be bound absolutely by the Manager's decision as to the sale of any such Unit, and no Unit Holder or former Unit Holder shall be entitled to claim or commence any action against the Manager, the Supervisor, or any other Person, or to resist or contest payment of the unpaid balance of any call, instalment, or other amount, on the grounds that the best price was not obtained for any such Unit, or on the grounds that the sale or manner of sale of any such Unit was for any other reason detrimental to the interests of that Unit Holder or former Unit Holder.

11.9 Manager may enter into arrangements for purchase of forfeited Units

Without limiting clause 11.8, the Manager may at any time, whether before or after any call or instalment becomes due, and the powers of the Manager under this clause 11 become exercisable, enter into an agreement with any Person or Persons to the effect that that Person or those Persons will purchase Units which the Manager sells under this clause 11, on such terms and at such price as may be recorded in that agreement, or otherwise agreed between the Manager and that Person or those Persons, and none of the Manager, the Supervisor or any other Person shall in any circumstances be liable for any loss caused to any Unit Holder or former Unit Holder by reason of the performance of any such agreement.

11.10 Proceeds of sale

The net proceeds of the sale of any forfeited Unit or of Units sold for the purpose of enforcing a lien shall be applied in or towards satisfaction of any unpaid calls, instalments, expenses or other amounts and any interest on those amounts. Subject to clause 13.14, the residue, if any, shall be paid to the former Unit Holder or, if applicable, the Personal Representatives or assigns of the former Unit Holder.

11.11 Conclusive evidence

A certificate signed by the Manager that the power of sale has arisen and is exercisable by the Manager under this deed, or that a Unit has been duly forfeited, shall be conclusive evidence of those matters for all purposes.

11.12 Purchaser need not enquire

For giving effect to any sale after forfeiture of any Unit, or for enforcing a lien over any Unit, the Manager may authorise any person to transfer any Unit to the purchaser. The purchaser shall be registered as the holder of the Unit and shall not be concerned to see to the application of the purchase money or as to whether or not the power of sale contained in this clause 11 has been properly exercised, and the title of the purchaser shall not be affected by any irregularity or invalidity in relation to the sale. The remedy of any person having a cause of action in relation to the sale is in damages only and solely against the Manager.

11.13 Unit Holder remains liable

The forfeiture or sale of a Unit shall not relieve the former holder of that Unit, or any other Person, from the obligation to pay all calls, instalments or interest payable in respect of that Unit, so that, after credit has been given for the actual net proceeds of sale in accordance with clause 11.10, the former holder of that Unit and every other Person who may be liable to make payment in respect of that Unit shall remain liable to pay the balance of the calls,

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instalments and interest (whether falling due before or after the date of forfeiture or sale) in respect of that Unit.

12. Investments

12.1 Manager's power to invest

Subject to the following provisions of this clause 12, to the provisions of clause 27.2, and to the Listing Rules, the Manager (or, if applicable, any attorney or subagent appointed pursuant to clause 27.3) shall have absolute and uncontrolled discretion as to the investment and expenditure of any sums forming part of the Trust Fund and as to the purchase, sale, transfer, exchange or alteration of any Investments from time to time. The Manager alone shall be entitled to effect any transactions which it may consider to be in the interests of Unit Holders. The Supervisor shall to the extent of the Trust Fund held by it or by any person contracted to hold Investments pursuant to clause 3.6, effect and pay for such Investments and expenditures or purchases, sales, transfers, exchanges or alterations of Investments as may be directed in writing by the Manager and shall do all things necessary on its part to give effect to any such direction.

12.2 SIPO

The Manager shall develop, in consultation with the Supervisor, a SIPO which complies with section 164 of the FMC Act, and shall in respect of that SIPO comply with sections 165 and 166 of the FMC Act. The Manager must provide a copy of the SIPO (or any alteration to the SIPO) to the Supervisor at least 14 days prior to the SIPO (or alteration) taking effect. If the Manager proposes to alter the definition of Authorised Investments in the SIPO, the Manager must comply with the provisions of the SIPO in that respect. If the Manager proposes to alter the SIPO in any other manner which materially affects existing Unit Holders (including incremental alterations that together materially affect existing Unit Holders) the Manager shall, prior to effecting any such alteration, give at least 30 days' written notice to Unit Holders. Notwithstanding any of the above, the Manager may not amend or supplement the process for altering Authorised Investments as set out in the SIPO without the prior written consent of the Supervisor.

12.3 Authorised investments

The Trust Fund shall be invested only in Authorised Investments, and in accordance with the SIPO.

12.4 Refusal by Supervisor

The Supervisor shall refuse, and must direct any Custodian to refuse, to act on a direction of the Manager that relates to the acquisition or disposal of Investments if the Supervisor considers that the proposed acquisition or disposal would be:

(a) in breach of this deed, any rule of law, or any enactment; or

(b) manifestly not in the interests of Unit Holders.

The Supervisor and any Custodian are not liable to Unit Holders or the Manager for refusing, or directing any Custodian to refuse, to act on direction of the Manager in accordance with this clause. The Supervisor and Custodian must comply with section 160 of the FMC Act in relation to any direction given in accordance with this clause.

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12.5 Notice to Supervisor

The Manager shall give the Supervisor at least two Business Days' notice prior to directing the Supervisor to purchase, sell, transfer, exchange or alter any Authorised Investment and shall supply the Supervisor forthwith with such information as the Supervisor may request in relation to such direction before entering into any contract or deed whereby the Supervisor shall be required to enter into any such transaction.

12.6 Valuation by Qualified Advisor

The Manager shall ensure that all Investments (other than those in respect of which the Manager and the Supervisor have agreed on the then Market Value) are valued by a Qualified Advisor at intervals of not more than 18 months. Valuations of Land shall be carried out in accordance with clause 12.9. If at any time the Manager shall be of the opinion that the determination of the value of an Investment does not accurately reflect the current value of that Investment, the Manager may, with the approval of the Supervisor, assess the current value of that Investment as at any day and in such manner the Manager sees fit having regard to the most recent determination of the value of that Investment, or the cost of that Investment, as the case may be, and to the time which has elapsed since that determination or the acquisition of that Investment. The value of any Investment determined by the Manager pursuant to this clause 12.6 shall be deemed to be the Market Value of that Investment for all purposes of this deed until such time as a new value is determined pursuant to the definition of "Market Value" or pursuant to this clause 12.6. Notwithstanding the foregoing, the Supervisor may at any time require that any Investment be valued, at the expense of the Trust, by an independent appropriately qualified person appointed by the Supervisor, and the Manager shall send a copy of the valuation report to the Auditor.

12.7 Investments registered in name of Supervisor

All Investments shall be held by the Supervisor or a Custodian in accordance with section 156 of the FMC Act. Where ownership documentation relating to Investments is relevant, as soon as reasonably practicable after receipt of the necessary documents by the Supervisor such Investments shall be registered (if registrable in nature) in the name of the Supervisor or any person contracted to hold Investments pursuant to clause 3.6, and be held in safe custody by the Supervisor or by some person selected by the Supervisor in accordance with clause 25.5(g), and shall remain so registered and held until the same shall be sold or disposed of pursuant to the provisions hereof.

12.8 Acquisition or disposal of Land

The Supervisor shall be under no obligation to acquire or dispose of any Land until the Manager has delivered to the Supervisor a valuation report on the relevant Land carried out by an Independent registered valuer.

12.9 Valuation of Land

The Manager will, in relation to each valuation of Land:

(a) instruct a Person as a Qualified Advisor who:

(i) is suitably registered and qualified to carry out such valuations having at least five (5) years' relevant experience; and

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(ii) has no pecuniary or other interest that could reasonably be regarded as being capable of affecting the Person's ability to give an unbiased opinion;

(b) ensure that such Person receives all necessary instructions and information for the purpose of the valuation including particulars of leases and current rent receipts and will send a copy of all such instructions and information as sent to such Person to the Supervisor;

(c) ensure that the valuation is prepared on the basis of market value subject to all existing leases and occupancies, encumbrances and potential benefits. "Market value" means the price at which an interest in a property might reasonably be expected to be sold by private treaty at the date of valuation assuming:

(i) a willing seller;

(ii) a reasonable period within which to negotiate the sale taking into account the nature of the property and the state of the market;

(iii) values will remain static throughout the period;

(iv) the property will be freely exposed to the market with reasonable publicity; and

(v) no account is taken of an additional bid by a special purchaser;

(d) ensure that the same Valuer does not value any property for more than two consecutive Financial Years. For this purpose, members or employees of the same valuation firm or company are deemed to be the same valuer; and

(e) it will incorporate the new valuation in the books of the Trust (with such adjustments as are appropriate to comply with generally accepted accounting practice) as the value of the property as soon as practicable after receipt of the report by the Manager.

12.10 Supervisor's Right to Limit Liability

The Supervisor may, before entering into any transaction, security or liability of the Trust require that its liability is restricted or limited to its satisfaction to the Investments for the time being of the Trust.

12.11 Manager to Keep Records

The Manager must keep complete, accurate and separate records of all Investments.

12.12 Inspection by Supervisor

The records of Investments must be available for inspection by the Supervisor or its agents without charge at any time on any Business Day.

12.13 Reliance on Records

The Supervisor is entitled to assume that the Manager's records of Investments are complete and accurate and may rely upon them accordingly.

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13. Distributions

13.1 Net income retained or distributed

All Net Income shall, at the discretion of the Manager, be either:

(a) retained by the Supervisor and invested in accordance with the provisions of clause 12; or

(b) distributed by the Supervisor to Unit Holders in accordance with the provisions of clause 13.3.

13.2 Directions as to investment or distribution

The Manager may from time to time by notice in writing to the Supervisor direct the Supervisor:

(a) either to reinvest or distribute Net Income received; or

(b) to distribute all or any part of the capital of the Trust Fund to Unit Holders and if necessary to realise Investments in order to produce Cash to make any such distribution.

The Supervisor shall (subject to clause 12.4 in respect of any direction to realise Investments) act in accordance with any such direction.

13.3 Distributions in cash

All distributions pursuant to clauses 13.1 or 13.2 shall be distributed in Cash to the Unit Holders in respect of each Distribution Period as soon as practical after the end of each Distribution Period. All distributions shall (subject to clauses 13.4 and 13.12 and to the rights attaching to unpaid or partly paid Units and other Units with special rights) be distributed amongst the Unit Holders in proportion to the number of Units held by them and according to the amounts paid or credited as paid on the Units in respect of which the distribution is paid but no amount paid or credited and paid on a Unit in advance of calls shall be treated for the purposes of this clause as paid on that Unit.

13.4 Deductions from distributions

The Supervisor or the Manager may deduct from any distribution payable to any Unit Holder all sums of money, if any, presently payable by such Unit Holder on account of calls or instalments on the Units in respect of which the distribution is payable, but subject thereto, and save as expressly permitted by the terms of this deed, or as required by law, no deduction or retention shall be made from any distribution.

13.5 Rights to distributions

The Manager may as a condition of issue of any Units provide that those Units shall not participate in full in any distribution or distributions, or shall participate in distributions on a basis calculated by reference to the period for which they have been held by a particular Unit Holder or the amount of the issue price paid or payable thereon. The Supervisor shall take all necessary steps to give effect to any such condition.

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13.6 Determination of Net Income

In determining Net Income of the Trust Fund for any Distribution Period there shall be deducted from Gross Income for such period all costs, charges and expenses accrued or accruing, including, without limiting the generality of the foregoing:

(a) all fees, costs and disbursements payable to the Manager and the Supervisor (except to the extent that the Manager determines, acting reasonably, that such fees, costs and/or disbursements should be capitalised under generally accepted accounting practice);

(b) all costs and expenses incurred in respect of Investments (including, without limitation, the costs and expenses incurred in connection with the insurance, valuation, repair, maintenance, acquisition or sale of Investments);

(c) all depreciation of Investments of an amount determined by the Manager;

(d) all costs and disbursements incurred in connection with this deed or in connection with the Trust Fund or the administration thereof (including the costs of valuations);

(e) due allowance for prepayments, doubtful debts and bad debts;

(f) all taxes (including without limitation income taxes) or duties paid or payable by or in respect of the Trust Fund;

(g) the fees and expenses of the Auditor in connection with the audit of the Trust Fund;

(h) all contingencies which it may be necessary to bring to account in order that the net income for the particular period may fairly represent the results of the Trust for that period;

(i) any amount considered necessary to provide for the amortisation of the cost of any leasehold property forming part of the Investments;

(j) interest and other costs and expenses incurred in borrowing or raising money;

(k) valuation fees payable in respect of any valuation made pursuant to this deed;

(l) unrealised development margins; and

(m) such other provisions as the Manager deems necessary to bring to account in order that the net income for the particular period may fairly represent the results of the Trust for that period;

provided that the Manager may determine that any particular cost, charge or expense shall be charged against capital rather than against Gross Income.

13.7 Manager to determine Net Income

If any question shall arise as to whether any money or property constitutes Net Income (or Gross Income) such question shall be determined by the Manager in consultation with the Auditor.

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13.8 Payments of distributions

A Unit Holder may elect to have any moneys payable to such Unit Holder pursuant to this clause 13 or to any other provision of this deed made by:

(a) post; or

(b) payment to a nominated account with a bank.

Payment shall be effected when the Supervisor, or the Manager on behalf of the Supervisor, deposits the payment either:

(c) with the Trust's bank; or

(d) with a branch of the nominated bank

(the choice being the Manager's) for transmission to the Unit Holder's nominated account.

If the Manager does not have a valid nominated bank account in respect of a Unit Holder, payment will be made to the Trust's bank account where it will be retained until a bank account has been nominated by the Unit Holder or an alternative method of payment has been determined by the Manager.

13.9 Capital gains and losses

Unless taken into account in determining Net Income in accordance with clause 13.6, all capital gains or losses whether on revaluation or realisation of Investments will be credited or debited, as the case may be, to a capital reserve account in the accounts of the Trust. Such capital reserve account shall be maintained in two parts:

(a) a realisation account into which gains or losses on realisation shall be entered; and

(b) a revaluation account which gains or losses on revaluation shall be entered.

13.10 Distributions of capital

The Supervisor may at the request of the Manager distribute in Cash to Unit Holders, as at a date and on a basis determined by the Manager such of the net realised capital gains of the Trust after provision for taxes on capital gains (if any) as the Manager may recommend. Unless taken into account in determining Net Income in accordance with clause 13.6 all amounts so distributed shall be debited to the capital reserve account referred to in clause 13.9. The amount of net realised capital gains available for distribution at any time in accordance with this clause 13.10 is the amount of realised capital gains standing to the credit of the relevant part of the capital reserve account referred to in clause 13.9 less:

(a) all capital losses then realised; and

(b) the amount (if any) by which all unrealised losses on revaluation at that time exceed all unrealised gains on revaluation at that time.

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13.11 Capitalisation of reserves and undistributed profits

The Manager may resolve to capitalise any sum standing to the credit of the capital reserve account referred to in clause 13.9, and any undistributed Net Income, to the extent that the relevant sum be set free for distribution amongst the Unit Holders who would have been entitled thereto if the relevant sum were distributed in Cash, and in the same proportions, on condition that the same be not paid in Cash but be applied either in or towards paying up any amounts unpaid on any Units held by those Unit Holders respectively or paying up in full Units to be allotted and distributed, credited as fully paid up to and amongst those Unit Holders in such proportion, or partly in one way and partly in the other. Such Units shall, when issued, rank pari passu in all respects with all other fully paid Units with full participation rights then on issue, and all amounts so capitalised shall be treated as funds subscribed by Unit Holders.

13.12 Holders of Convertible Obligations

Where the holders of any Convertible Obligations are entitled to participate in any Distribution, such Persons shall be entitled to participate in any such Distribution to the extent, and in the manner, authorised by the terms of issue of the Convertible Obligations held by them.

13.13 Supplementary distributions

Notwithstanding any other provision of this deed, the Manager may direct the Supervisor to pay such supplementary distributions to Unit Holders resident outside New Zealand as may be provided for by section LP2 of the Income Tax Act 2007 and as may be determined by the Manager as being fair and equitable.

13.14 Unclaimed money

Subject to the provisions of the Unclaimed Money Act 1971, any distribution or any other money payable to any Unit Holder or former Unit Holder remaining unclaimed for five years from the date upon which the amount became payable, shall, at the expiry of such period of five years, be forfeited to the Trust Fund. After forfeiture, the Person or Persons who would have been entitled to payment of such amount if it had not been forfeited shall be entitled to payment thereof upon producing to the satisfaction of the Manager sufficient evidence that such Person or Persons would have been entitled to such amount had it not been forfeited.

13.15 Distribution statements

The Manager shall, upon the making of a distribution, send a distribution statement to each Unit Holder in respect of the period to which the distribution relates (including by electronic means). Each distribution statement shall contain such information as the Manager considers appropriate.

14. Distribution Reinvestment Scheme

14.1 Election of Unit Holders

The Manager in its discretion may, in accordance with this clause 14, give to Unit Holders the right to elect to receive, in lieu of distributions in Cash (such distributions being in this clause 14 called **Cash Distributions**) an allotment of fully paid Units.

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14.2 Terms of scheme

The terms of any scheme by which Units may be allotted to Unit Holders under this clause 14 ("**Scheme**") shall be such as the Manager determines subject to this clause 14 and the Listing Rules.

14.3 Notice of scheme

The Manager may give written notice to the Unit Holders specifying the terms of a Scheme and advising that any Unit Holder who wishes to elect to receive Units in lieu of Cash Distributions may do so upon giving prior written notice to the Manager (**Election Notice**). The Manager may change the terms of any Scheme by giving notice of such change to Unit Holders (which may be given by way of an announcement to NZX). No such change shall be made during the period commencing on the date seven days before the Record Date (as described in the Listing Rules) and ending on the date of payment of that Cash Distribution.

14.4 Effectiveness of election notice

An Election Notice shall be effective in respect of any Cash Distribution so long as it is received on or before the date and at the address set for that purpose in accordance with the terms of the Scheme at the Office, or at such other address as the Manager may from time to time determine, provided that Election Notices received whilst the Register is closed shall not take effect until the day upon which the Register is re-opened.

14.5 Issue of new Units

Subject to the Manager having given notice pursuant to clause 14.3, the following provisions shall apply in respect of each Cash Distribution made after the date of giving of that notice, other than any Cash Distribution in respect of which the Manager has determined that this clause shall not apply:

(a) the amount of the Cash Distribution shall be limited to the aggregate amount actually required to be paid to Unit Holders after taking into account the Unit Holders who have elected to receive fully paid Units in accordance with this clause 14;

(b) at the same time as the Cash Distribution is made, the Manager shall issue and allot to the Unit Holders who have given and have not revoked an Election Notice (but to no others) such number of fully paid Units as such Holders are entitled to receive pursuant to the terms of the Scheme;

(c) the Manager shall capitalise out of the amount for the time being standing to the credit of the Trust's reserve accounts or to the credit of the statement of financial performance or otherwise available for distribution a sum equal to the aggregate issue price of the additional Units to be so allotted and issued and such sum in paying up in full the issue price of such Units; and

(d) the additional Units to be so allotted shall rank pari passu in all respects with the then existing fully paid Units with full participation rights, and shall have the right to participate in full in all Distributions declared or made after the date of allotment.

14.6 Revocation of election notice

An Election Notice may be revoked by written notice from the Unit Holder concerned in accordance with the terms of the Scheme. If such notice of revocation is not received on or

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before the date set for that purpose in respect of a Cash Distribution it shall not be effective in respect of that Cash Distribution, but shall be effective in respect of all subsequent Cash Distributions.

14.7 Transfers cancel existing election notices

An Election Notice shall not attach to the Units in respect of which it has been given but shall be personal to the Unit Holder concerned and shall in respect of any Units transferred be automatically revoked upon registration of the transfer of the Units. The Manager shall upon registration of the transfer of any Units or the allotment of new Units to a new Unit Holder advise such new Unit Holder in writing of such Unit Holder's rights under any scheme then in force.

14.8 Existing Election Notices

If any Unit Holder has given an Election Notice (**Existing Election Notice**) prior to the Commencement Date in respect of the Trust's Distribution reinvestment scheme in effect immediately prior to the Commencement Date, the Existing Election Notice shall be deemed to apply to the Scheme to take effect after the Commencement Date provided that the terms of such Scheme have been notified to all Unit Holders and Unit Holders have been given not less than 14 days to revoke their Existing Election Notice if they wish to do so.

15. Transfer and Transmission of Units

15.1 Units transferable

Subject to such of the restrictions in clauses 8.8 and 15.6 as may be applicable, any Unit Holder may transfer all or any of the Units held by such Unit Holder in accordance with this clause 15.

15.2 Transfers

Subject to any restrictions contained in this deed, Units may be transferred:

(a) under a system of transfer approved under sections 376 to 378 of the FMC Act or in accordance with the rules of a "designated settlement system" under the Reserve Bank of New Zealand Act 1989 which is applicable to the Trust;

(b) under any other securities transfer system which operates in relation to the trading of securities on any stock exchange outside New Zealand on which Units are listed and which is applicable to the Trust; or

(c) by an instrument of transfer which complies with this deed.

15.3 Method of transfer

A Unit which is disposed of in a transaction which complies with the requirements of a system of transfer referred to in clause 15.2(a) or 15.2(b) may be transferred in accordance with the requirements of that system. Where an instrument of transfer would have complied with the provisions of the FMC Act if it had been executed by the transferor in New Zealand, the Manager may nevertheless procure that it be registered by the Registrar if it is executed in a manner acceptable to the Manager or the Registrar.

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15.4 Forms of transfer

An instrument of transfer to which the provisions of clause 15.3 are not applicable shall comply with the following provisions:

(a) the form of the instrument of transfer shall comply with the requirements of the FMC Act (and any other applicable laws), as well as any other reasonable requirements prescribed by the Manager, the Supervisor or the Registrar;

(b) the instrument of transfer must be signed or executed by or on behalf of the transferor; and

(c) where the Units being transferred are not fully paid up, the instrument of transfer must also be signed or executed by or on behalf of the transferee.

15.5 Entry in register

The transferor of a Unit shall be deemed to remain the holder of the Unit until the name of the transferee is entered in the Register in respect thereof.

15.6 Manager may decline to register

The Manager may decline to register any transfer of a Unit where:

(a) the Manager has a lien on such Unit;

(b) the instrument of transfer is not accompanied by the Certificate (if any) relating to such Units, and/or such other evidence as the Manager or the Registrar may reasonably require to show the right of the transferor to make the transfer;

(c) the provisions of clauses 15.3 or 15.4 (as applicable), any other permitted restriction on transfer or any applicable statutory provisions have not been complied with; or

(d) the registration of the transfer (together with registration of any further transfers then held by or on behalf of the Manager and awaiting registration) would result in the proposed transferee or a transferor having a holding below a Minimum Number.

15.7 Separate registered parcels

The Manager, or the Registrar on behalf of the Manager, subject to section 217(2) of the FMC Act:

(a) may in its discretion, if so requested by a Unit Holder or a transferee of Units; and

(b) shall, if so requested by a Unit Holder who produces satisfactory evidence that Units held by that Unit Holder are held as a bare trustee or nominee and two or more other persons are separate beneficial owners of parcels of those Units or have other separate Relevant Interests in parcels of those Units,

register the Units held or acquired by that Unit Holder or transferee in two or more separately identifiable parcels. The Manager may thereafter, so far as it considers convenient or appropriate, communicate with that Unit Holder, make Distributions and otherwise act, as if the separate registered parcels were each held by different Unit Holders.

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15.8 Manager may sell small holdings

(a) The Manager may at any time give notice to a Unit Holder holding less than the Minimum Number of Units that if, at the expiration of three months after the date the notice is given, the Units then registered in the name of the Unit Holder are less than the Minimum Number of Units, the Manager may sell those Units through NZX or in some other manner approved by NZX.

(b) If the power of sale under clause 15.8(a) is exercised:

(i) The Manager may authorise the transfer of the relevant Units to the purchaser of the Units;

(ii) The Unit Holder shall be deemed to have authorised the Manager to act on behalf of the Unit Holder in relation to the sale of the relevant Units, and to sign all necessary documents relating to such sale;

(iii) The proceeds of sale of the Units must be applied as follows:

(A) first, in payment of any reasonable sale expenses;

(B) second, in satisfaction of any unpaid calls or any other amounts owing to the Trust in respect of the Units (including any interest payable on such amounts); and

(C) the balance, if any, must be paid to the Unit Holder (or his or her executors, administrators and assigns);

(iv) The title of the purchaser of any Units sold pursuant to this clause shall not be affected by any irregularity or invalidity in the exercise or purported exercise of the power of sale or the sale itself; and

(v) the remedy of any person aggrieved by the sale shall be in damages only and against the Trust only.

(c) A certificate, signed by the Manager, that records that a power of sale under this clause has arisen and is exercisable by the Manager is conclusive evidence of the facts stated in that certificate.

15.9 Transfer documents

All instruments of transfer which have been registered may be retained by the Manager. If the Manager, pursuant to the powers contained in this deed, refuses to register a transfer, it shall promptly send to the transferor and proposed transferee notice of the refusal and shall return the transfer to the transferor together with such documents of title which may have been left with the transfer.

15.10 Suspension of transfers

Registration of transfers may be suspended at such times and for such periods as the Manager may from time to time determine provided that the Manager may not suspend registration of transfers for a period exceeding 30 Business Days in any calendar year without the approval of the Supervisor.

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15.11 Transmission of Units

The Personal Representatives of a deceased Unit Holder (not being one of several joint Unit Holders) and in the case of the death of one or more of several joint Unit Holders, the survivor or survivors, shall be the only persons recognised by the Manager as having any title or interest in the Units held by such Unit Holder or Unit Holders. Nothing contained in this clause 15.11 shall release the estate of a deceased joint Unit Holder from any liability in respect of any Unit which had been jointly held by that Unit Holder with other Persons.

15.12 Managers of incapable persons

Any Personal Representative of a mentally disordered Unit Holder or a bankrupt Unit Holder shall, upon such evidence being produced as may from time to time be properly required by the Manager, have the right either to be registered as a Unit Holder in respect of the Unit or, instead of being so registered to make such transfer of the Unit as the mentally disordered, deceased or bankrupt Unit Holder could have made. The Manager shall in either case have the same right to decline or suspend registration as it would have had in the case of a transfer of the Unit by the mentally disordered, deceased or bankrupt Unit Holder before such event.

15.13 Registration by Personal Representative

If the Personal Representative so becoming entitled elects to be registered personally, the Personal Representative shall deliver or send to the Manager a notice in writing signed by the Personal Representative stating that they so elect. If the Personal Representative elects to have another Person registered, the Personal Representative shall execute in favour of such other Person a transfer of the relevant Unit. All the limitations, restrictions and provisions of this deed relating to the right to transfer and the registration of transfers of Units shall be applicable to any such notice or transfer as if the mental disorder, death or bankruptcy of the Unit Holder had not occurred and the notice or transfer were a transfer signed by that Unit Holder.

15.14 Rights of Personal Representatives

A Unit Holder's Personal Representative:

(a) is entitled to exercise all rights (including, without limitation, the rights to receive distributions, to attend meetings and to vote in person or otherwise), and is subject to all limitations, restrictions and provisions of this deed applicable to the Units held by that Unit Holder; and

(b) is entitled to be registered as the Unit Holder of the relevant Units, but such registration shall not operate as a release of any rights (including any lien) to which the Trust was entitled to prior to the registration of the Personal Representative pursuant to this clause 15.14(b).

15.15 Joint Personal Representatives

Where a Unit is subject to the control of two or more persons as Personal Representatives, they shall, for the purposes of this deed be deemed to be joint holders of the Unit.

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16. Takeover Restrictions

16.1 Definitions

In clauses 16 to 19, unless the context otherwise requires:

Acquisition Notice means a notice given pursuant to clause 18.1;

Affected Group means:

(a) in respect of a Restricted Transfer effected otherwise than by trades matched through NZX's order matching market each of:

(i) the group comprised of persons who are not recipients (disregarding inadvertent non-receipt) of the offer or invitation which would implement the proposed Transfers;

(ii) if the Transfers are not of an equal proportion of all holdings which are offered for disposal, the groups comprised of Transferors whose Transfers represent substantially identical proportionate parts of the holdings offered by them; and

(iii) the group comprised of persons who are not Unit Holders of the groups described in (i) and (ii) and who are not the Transferees and other persons whose Relevant Interests would be taken into account in determining whether the Transfer is a Restricted Transfer, but disregarding the proviso to the definition of Restricted Transfer;

(b) in respect of a Restricted Transfer effected by trades matched through NZX's order matching market, the group comprised of those other than:

(i) the persons whose control of Votes would in aggregate determine whether the Transfer is a Restricted Transfer; and

(ii) insiders;

Affected Units means those Units in a given Class of Units not held by a Majority Holder;

Appraisal Report has the meaning given to that term in the Listing Rules;

Compulsory Acquisition Provisions means provisions in clause 18;

Default means non-compliance with the requirements of clause 16;

Defaulter means a person who has a Relevant Interest in Quoted Units who has acquired that Relevant Interest in breach of the requirements of clauses 16.3 to 16.5 (inclusive) (other than a breach committed by the Supervisor);

Defaulter's Units means in relation to a Defaulter, Units in which the Defaulter has a Relevant Interest;

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Differential Offer means an offer, or invitation to agree on Transfers which:

(a) is made to some but not all holders of a Class of Units or entitles any person other than NZX to the benefit of, or to exercise, the rights and powers provided in Listing Rule 9.12;

(b) would result in different prices or other terms applying among holders of the same Class of Units; or

(c) would result in the Transfer of different proportions of those portions of holdings of Units of the same Class which are offered for disposal.

Disinterested Directors means the directors of the Manager who are not involved as prospective Transferors (in relation to a proposal for a Differential Offer) or as Transferees, and who are not Associated Persons of any such Transferors or Transferees;

Enforcement Provisions means the provisions of clause 17 of this deed;

Expert means an independent, appropriately qualified person, who has been previously approved by NZX for the purposes of clause 18.3(a) or (c) as the case may be;

Majority Holder means a person or group of Associated Persons who acquire beneficial ownership of, 90% or more of a Class of Units or Options;

Notice and Pause Provisions means the provisions of clause 16.3;

Remaining Holders means the holders of the Affected Units;

Relevant Interest has the meaning given to that term in the FMC Act;

Restricted Transfer means:

(a) the Transfer which would result in the Votes controlled by any person or group of persons who are Associated Persons of each other, of any Class of Quoted Units of an Issuer:

    (i) exceeding 20% of the Votes attached to that Class; or

    (ii) if the person or group of persons controls 20% or more of the Votes attached to that Class, increasing by more than 5% in any period of 12 months excluding increases as a result of Transfers pursuant to a Restricted Transfer notice previously given by the person or group of persons; together with,

(b) any other Transfer which is likely to be contemporaneous with, or subsequent to, the Transfer in sub-paragraph (a) of this definition and comprises with that Transfer part of a scheme or linked series of transactions:

provided that for the purposes of this definition acquisition of interests in Units of an Issuer may be disregarded:

(c) where it is determined by NZX that the acquisition was involuntary and occasioned by the action of another party over which the acquiring party had no effective control or influence in the matter; or

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(d) where, and to the extent that, it is determined by NZX that the aggregation of holdings among Associated Persons would include holdings of persons who have no practical likelihood of acting in concert, or exercising Votes or otherwise acting in collusion, with each other or any common party:

provided also that this definition shall not apply:

(e) where the Transfer is between two entities, one of which is directly or indirectly wholly owned beneficially by the other, or both of which are directly or indirectly wholly owned beneficially by the same entity; or

(f) where the Transfer is in performance of the obligations of an underwriter pursuant to an underwriting agreement disclosed in a product disclosure statement or register entry relating to an offering of the relevant Class of Quoted Units;

Right has the meaning given to that term in the Listing Rules;

Transfer in relation to a Unit includes sale of that Unit, and the grant of rights or interests, whether conditional or not, which are intended to create for the recipient benefits which are substantially equivalent to ownership of that Unit (or of an interest in that Unit). In particular it includes:

(a) a transaction whereby one party disposes of, alienates or proposes to dispose of or alienate (temporarily or permanently) any interest or right of title to any Unit or in the Votes, dividends or income arising in respect of any Unit;

(b) any agreement arrangement or understanding in respect of Units under which the Votes attaching to them may be exercised by a person other than the registered holder, alone or jointly with the registered holder, or with other persons acting in concert, other than by reason of a bona fide appointment of a proxy or other representative for voting purposes under which the appointment may be terminated at will, and the appointer is entitled, if the appointer so wishes, to direct the proxy as to the manner in which Votes are to be cast;

(c) any transaction whereby the holder of the Unit enters into a commitment (whether conditional or unconditional) to sell Units, or to grant an option over them or any part thereof, or at any future time to grant any of the rights referred to above;

(d) the creation of a charge or other security interest enforceable by a right of possession or a power of sale or other disposition which would fall within parts of this definition of "Transfer"; or

(e) any transaction, agreement or arrangement that has substantially the same effect as (a), (b), (c) or (d) above;

but excludes:

(f) the issue of Units, or the acquisition of Units by the Manager or Supervisor on behalf of the Trust, in accordance with the Listing Rules; and

(g) the creation of a charge or other security interest enforceable by a right of possession or a power of sale or other disposition for bona fide financing purposes, or the enforcement of such an interest; and

Transferor and Transferee have corresponding meanings.

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16.2 Application of NZX Listing Rules

To the extent that clauses 16 to 19 of this deed refer to provisions of Appendix 3 of the Listing Rules, those references are to assist in the interpretation of the provisions of those clauses and will not be read as meaning that Appendix applies to the Trust.

16.3 Notice and Pause

(a) **Notice of Takeover:** No Restricted Transfer of Units shall take place unless:

(i) a notice is given to the Manager and the NZX, not later than the time specified in clause 16.3(b), containing the particulars specified in paragraphs 1.4.1(a) to (h) of Appendix 3 to the Listing Rules; or

(ii) a notice of any change in, or addition to, the particulars notified under clause 16.3(a)(i) is given to the Manager and NZX not later than the time specified in clause 16.3(c).

(b) **Time for Initial Notice:** A notice under clause 16.3(a)(i) must be given:

(i) if any Transferee under the Transfer in question is an Insider, at least 15 Business Days before the Transfer; or

(ii) if no Transferee is an Insider, and subject to clause 16.3(d), at least three Business Days before the Transfer.

(c) **Time for Notice of Change:** A notice under clause 16.3(a)(ii) must be given:

(i) if any Transferee under the Transfer in question is an Insider, at least two Business Days before the change takes effect in the case of a change to price or amount of consideration, and at least 15 Business Days before the change takes effect in the case of a change to any other particulars, including without limitation the nature of the consideration; or

(ii) if no Transferee is an Insider:

(A) at least two hours during which NZX is open for business if the Restricted Transfer complies with clause 16.3(d), and at least one Business Day in any other case, before the change takes effect, in the case of a change to price or amount of consideration; and

(B) at least one Business Day if the Restricted Transfer complies with clause 16.3(d), and at least three Business Days in any other case, before the change takes effect, in the case of a change to any other particulars, including without limitation the nature of the consideration.

(d) Modification of Time for Initial Notice in some instances: If:

(i) a Restricted Transfer is effected solely by trades matched through NZX's order matching market;

(ii) no Transferee is an Insider; and

(iii) the conditions specified in the next sentence are satisfied,

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the period of notice referred to in clause 16.3(b)(ii) shall be one Business Day, and the periods of notice referred to in clause 16.3(c)(ii)(A) shall be two hours during which NZX is open for business, and one Business Day, respectively. The conditions referred to above are:

(iv) before notice is given, the Trading Participant instructed to make the offers must be satisfied that the entire offer in the notice has been the subject of instructions accepted by Trading Participants;

(v) the consideration must be readily capable of settlement through the Settlement System;

(vi) the Transferee must have previously undertaken to the Trading Participant through whom its orders are placed, for the benefit of holders of the relevant Units, to complete the transaction in accordance with the notice given, if offers or acceptances are sufficient to enable it to do so;

(vii) the instructions must be in terms that orders will be matched and completed by NZX's order matching system even if the entire offer is not accepted completely; and

(viii) the period during which transactions will be effected does not end before one Business Day after it begins or until Transfers have been agreed to complete the maximum number of Units to which the Transfer proposal relates, whichever is the earlier.

For the purposes of this clause, **Trading Participant** has the meaning given to it in the Participant Rules issued by NZX (from time to time) and **Settlement System** has the meaning given to it in the Listing Rules.

(e) **Response Requirements:** If any Units are the subject of a notice given under clause 16.3(a)(i), or where the Manager becomes aware that a Restricted Transfer proposal is more likely than not in the immediate future, the Manager must**:**

(i) give a notice, as soon as can be achieved, and before the expiry of the relevant notice period referred to in clause 16.3(b), containing the particulars required by paragraphs 1.4.3(a) to (d) of Appendix 3 to the Listing Rules; and

(ii) comply (so far as is applicable) with paragraphs 1.4.4(a) to (d) of Appendix 3 to the Listing Rules,

as if that Appendix applied to the Trust.

(f) **Appraisal Report:** If any Transferee under a Restricted Transfer is an Insider, the Manager must (unless the requirements of clause 16.3(g) are met) forthwith upon a notice being given under clause 16.3(a)(i) in respect of that Restricted Transfer or notice being given under clause 16.3(a)(ii) in respect of that Restricted Transfer where the change relates to a change in the nature of the consideration offered, commission an Appraisal Report in the manner contemplated by paragraph 1.4.5 of Appendix 3 of the Listing Rules.

(g) The requirement for an Appraisal Report under clause 16.3(f) shall not apply if:

(i) all Transferors consent to waive that requirement; or

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(ii) a majority of the Disinterested Directors certify that in their opinion the cost and difficulty of providing the Appraisal Report will outweigh the benefit, because prospective Transferors are not at an information disadvantage in relation to prospective Transferees and their Associated Persons or because the Appraisal Report would not materially remedy any such information prejudice.

(h) **Notice to Comply:** Any notice given under clauses 16.3(a)(i) and (a)(ii) must be provided to the Supervisor in accordance with the time frames specified within those clauses and additional market information must be provided as required by clause 16.3(i).

(i) **Restricted Transfer Status Report:** If a Restricted Transfer is not completed within three months of the date on which the required notice was given under clause 16.3(a)(i), or any status report given under this clause 16.3(i) then, before continuing with the Restricted Transfer, additional market information on the status of the Restricted Transfer must be provided to the Manager and NZX for release to the market. The additional market information must include:

(i) when the Restricted Transfer is intended to be completed; and

(ii) details of the Transfer(s) that comprise the Restricted Transfer which has/have not been completed.

(j) **Response to Restricted Transfer Status Report:** On receipt of the information provided under clause 16.3(i), the Manager shall promptly advise NZX:

(i) of any change in circumstances (and the implications of the change) which would affect the continuing relevance and currency of any Appraisal Report or the response initially provided under clause 16.3(d); and

(ii) that the Manager is complying with Listing Rule 3.1.

16.4 Additional requirements

Subject to clause 16.5, no Restricted Transfer of Quoted Units may take place unless:

(a) all Transfers involved in that Restricted Transfer are pursuant to:

(i) an offer in writing to all holders of Units of the class or classes which are the subject of the Restricted Transfer, on the same terms; or

(ii) orders placed through a Trading Participant for execution in and through NZX's order matching market and in accordance with any applicable Listing Rules; and

(b) those Transfers do not result from Differential Offers, other than differences which arise from a change in the price of an on-market offer authorised under paragraph (a)(ii) of this clause.

16.5 Exception from additional requirements

Clause 16.4 shall not apply to the extent that any departure from the requirements of that clause is authorised by a resolution of each Affected Group (passed by an Ordinary Resolution).

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17. Enforcement of Takeover Restrictions

17.1 Breach of restricted takeover provisions

In the event of a Default, the Manager may determine that in respect of any or all of the Defaulter's Units:

(a) no vote may be cast in respect of the Defaulter's Units on a poll (and any vote cast shall be disregarded) while the Default is un-remedied; and/or

(b) the Defaulter's Units may be sold by the Manager in accordance with clause 17.2 but this power may not be exercised:

(i) until one month after the Manager has given notice to the Defaulter (and if the Defaulter is not the registered holder of the Defaulter's Units, to the registered holder) of its intention to exercise this power; and

(ii) if, during that month the Defaulter has remedied the Default (if capable of being remedied), or has transferred the Defaulter's Relevant Interest in the Defaulter's Units to a person who is not a Defaulter.

17.2 Sale of Defaulter's Units

If the power of sale specified in clause 17.1(b) becomes exercisable and is exercised:

(a) the Manager shall arrange for the sale of the Defaulter's Units through the NZX Main Board or in some other manner approved by NZX;

(b) each holder of Defaulter's Units is deemed to have authorised the Manager to act on behalf of that holder in relation to the sale of the relevant Units, and to sign all documents relating to such sale which may be required to give effect thereto;

(c) the net proceeds of sale shall be held on trust by the Manager for, and paid (after deduction of amounts referred to in sub-clause (d)) to holders of the relevant Units on surrender of the certificate (if any) relating to the relevant Units; and

(d) the Manager shall have a lien on the Defaulter's Units for, and may deduct from the proceeds of sale any costs of sale, and any costs to the Manager of determining whether a person is a Defaulter and exercising powers permitted by this clause 17, and any amounts which the Manager may choose to pay to members of any Affected Group acting pursuant to clause 17.4 in reimbursement of expenses incurred by those members.

17.3 Purchaser need not enquire

No purchaser or other person dealing with the Manager shall be concerned to enquire whether the power of sale specified in clause 17.1(b) has become properly exercisable, or as to the propriety or regularity of a sale made in purported exercise of that power, or as to the application of the proceeds of sale received by the Manager. The receipt of the Manager is a good discharge to the purchaser for the purchase price, and no question may be raised as to the title of the purchaser to Units sold in purported exercise of the power of sale specified in clause 17.1(b).

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17.4 Powers of Affected Group

The Manager shall, if so directed by an Ordinary Resolution of an Affected Group, exercise the power referred to in clause 17.1(b), if that power has become exercisable. The holders of 5% or more of the Units of an Affected Group may by notice to the Manager require the Manager to convene a meeting of the Affected Group for the purpose of considering such a resolution.

17.5 No liability to Defaulter

None of the Manager, the Supervisor, or any officer of the Manager or the Supervisor shall be under any liability whatsoever to any Defaulter, any holder of Defaulter's Units, or any person whom the Manager believes to be a Defaulter or holder of Defaulter's Units, for or in connection with the exercise or purported exercise of the powers specified in this clause 17.

17.6 Remedies limited

The sole remedy of the Manager, the Supervisor, a Unit Holder or any other person, in respect of a breach or alleged breach of clauses 16, 17 or 18, shall be to exercise, or require the Manager to exercise, the powers referred to in clause 17.1. Without limiting the preceding sentence, no person is entitled to seek any injunction or other remedy to prevent a transaction alleged to be in breach of 16, 17 or 18. Nothing in this clause affects the remedies of a Unit Holder against the Manager in respect of a breach of clauses 16, 17 or 18 by the Manager.

17.7 Voting restrictions

The Manager shall use reasonable endeavours to ascertain for the purposes of clause 17.1(a) whether any Units are Defaulter's Units and, accordingly, whether a holder of those Units is entitled to vote. If any Unit Holder, or NZX, alleges that any Units are Defaulter's Units, the Manager shall properly consider and investigate that allegation. The ruling of the chairperson of any meeting as to whether any person is or is not entitled to vote at that meeting pursuant to clause 17.1(a) shall, for the purposes of proceedings at that meeting, be conclusive, and the proceedings of, or any resolution passed at, any meeting shall not be impugned by reason of a breach of clause 17.1(a), but this provision shall not prejudice any action which any person may have against any Unit Holder by reason of that holder having cast a vote at any meeting in breach of clause 17.1(a).

17.8 Special Provisions as to Rulings

NZX (in this clause 17.8 an "*Arbiter*") may, for the purposes of making a Ruling as to whether any person is a Defaulter, give notice to any person who the Arbiter believes may be a Defaulter. That notice shall:

(a) set out in general terms the grounds on which the Arbiter believes that person to be a Defaulter; and

(b) require that person, within a reasonable time specified in the notice, to produce evidence to rebut the Arbiter's belief that that person is a Defaulter.

If the person to whom the notice is given fails within the time specified in that notice to produce to the Arbiter evidence satisfactory to the Arbiter that that person is not a Defaulter, then the Arbiter shall be entitled to assume without further evidence that that person is a Defaulter, and to make a Ruling to that effect.

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18. Compulsory Acquisition Provisions

18.1 Acquisition Notice

A Majority Holder must, within 20 Business Days after becoming a Majority Holder, give an Acquisition Notice to the Remaining Holders and at the same time to the Manager, the Supervisor and NZX, specifying:

(a) that the Majority Holder has beneficial ownership of 90% or more of the Affected Units; and

(b) either:

(i) that the Majority Holder intends to acquire all Affected Units held by the Remaining Holders; or

(ii) that any Remaining Holder may require the Majority Holder to acquire the Affected Units held by that Remaining Holder by giving notice to that effect to the Majority Holder within one month after the date of the Acquisition Notice; and

(c) the consideration which the Majority Holder is prepared to provide for Affected Units.

18.2 Majority holders' obligations

Upon giving an Acquisition Notice, the Majority Holder shall be entitled and bound:

(a) if the Acquisition Notice contains the statement in clause 18.1(b)(i), to acquire all Affected Units held by the Remaining Holders; or

(b) if the Acquisition Notice contains the statement in clause 18.1(b)(ii), to acquire all Affected Units held by Remaining Holders in respect of which the holder, within one month after the date of the Acquisition Notice, gives notice requiring the Majority Holder to acquire.

18.3 Consideration

The consideration to be provided for Affected Units which the Majority Holder is entitled and bound to acquire shall be determined as follows:

(a) The Acquisition Notice shall specify the consideration which the Majority Holder is prepared to provide. The Majority Holder shall, before giving the Acquisition Notice, provide to NZX a report from an Expert, confirming that that consideration is fair to the Remaining Holders using the same criteria set out in clause 18.3(c)(iv);

(b) If, within 10 Business Days after the date of the Acquisition Notice, the Manager receives written objections to the consideration specified in the Acquisition Notice from the holders of 10% or more of the Affected Units held by the Remaining Holders then the consideration shall be determined in accordance with sub-clauses (c) and (d). If objections are received, the Manager shall forthwith notify the Majority Holder, the Supervisor and NZX of that fact. If such objections are not received, the consideration shall be as specified in the Acquisition Notice;

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(c) If objections of the nature referred to in sub-clause (b) are received by the Manager, the consideration shall be determined by an Expert (acting as an expert and not as an arbitrator) and shall in the opinion of such Expert be fair to the Remaining Holders. The Expert shall:

(i) be appointed by the Disinterested Directors (if any, and otherwise by all directors of the Manager) after approval by NZX;

(ii) be a different Expert from the one referred to in sub-clause (a);

(iii) be directed to provide a decision within 20 Business Days after being appointed; and

(iv) be directed to determine the consideration on the basis that it is fair to the Remaining Holders and is the pro-rated value of the Affected Units based on the value of the Trust Fund as a whole and the rights and obligations attached to those Affected Units without taking into account any strategic or hold out value of the Affected Units or any other factors relating to the Remaining Holders, the Majority Holder, their respective holdings in the Issuer or the relative extent of those holdings; and

(d) If the consideration determined by the Expert appointed in accordance with sub-clause (c):

(i) is less than, or the same as, the consideration specified in the Acquisition Notice, the fee and expenses of the Expert shall be borne by the Remaining Holders who made the objections referred to in sub-clause (b) and the Majority Holder shall deduct that amount from the consideration payable by the Majority Holder to the objectors, in proportion to their holdings (and may, if the consideration is not cash, deduct and sell sufficient of that consideration to produce sufficient cash); and

(ii) is more than the consideration specified in the Acquisition Notice, the fee and expenses of the Expert shall be borne by the Majority Holder.

18.4 Payment of consideration

The Majority Holder shall pay or provide to each holder of Affected Units which are to be acquired the consideration for those Affected Units as follows:

(a) within 12 Business Days after the Majority Holder becomes bound to acquire the Affected Units; or

(b) if the consideration is required to be determined in terms of clause 18.3, it shall be paid or provided within 2 Business Days after it has been determined.

18.5 Holders who cannot be located

If any holder of Affected Units which are to be acquired cannot be located by the Majority Holder, the Majority Holder shall pay or provide the consideration due to that holder to the Manager. The Manager shall hold that consideration upon trust for that holder for a period of five years from the date of its receipt by the Manager. Any consideration which is not claimed by that holder within that period shall be forfeited by the Manager and paid to the Supervisor for the benefit of the Trust. The Manager shall, nevertheless, annul the forfeiture and pay

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any such holder who subsequently produces evidence of entitlement. Clause 13.14 does not apply to any such consideration.

18.6 Execution of transfers

Upon payment or provision by the Majority Holder of the consideration for Affected Units in accordance with clauses 18.4 and 18.5, the Manager shall forthwith execute on behalf of all the holders of those Affected Units transfers of those Affected Units in favour of the Majority Holder or its nominee, and shall cause the name of the Majority Holder or its nominee to be entered in the relevant register in respect of those Affected Units. If the Manager fails to execute any such transfer, the Majority Holder may do so.

18.7 Consequences of default

If a Majority Holder fails to give an Acquisition Notice when required to do so by this clause 18, or, after having become bound to acquire the Affected Units of Remaining Holders in accordance with the provisions of this clause 18, fails to do so, then the provisions of clauses 17.1 to 17.5 and 17.7 shall apply with the following modifications:

(a) the Affected Units held by the Majority Holder shall be deemed to be Defaulter's Securities;

(b) the failure to comply with this clause 18 shall be deemed to be a Default; and

(c) the Remaining Holders shall be deemed to be an Affected Group.

19. Takeovers Code and Holding by Bare Trustee

19.1 Takeovers code

If the Takeovers Code becomes applicable to managed investment schemes, then clauses 16, 17 and 18, shall cease to apply with effect from the date upon which the Takeovers Code becomes applicable to managed investment schemes.

19.2 Holding by bare trustee

(a) For all purposes of clauses 16 to 18, and notwithstanding anything in clauses 16 to 18 or the Listing Rules:

(i) the transfer of Units, or of any interest in Units, to a bare trustee shall be deemed to be a transfer to the person or persons for whom that bare trustee holds those Units or that interest as trustee (the "Beneficial Owners");

(ii) Units, or any interest in Units, held by a bare trustee shall be deemed to be held by the Beneficial Owners; and

(iii) a trustee may be a bare trustee notwithstanding that that trustee is entitled as a trustee to be remunerated out of the income or property of the relevant trust.

(b) Without limiting clause 19.2(a):

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(i) a bare trustee and a Beneficial Owner shall not, by reason solely of their relationship as bare trustee and Beneficial Owner, be Associated Persons;

(ii) a bare trustee of Units shall not, solely by reason of its position as bare trustee for the Beneficial Owner, have a Relevant Interest in those Units; and

(iii) a Beneficial Owner of Units shall not have a Relevant Interest in the Units of another Beneficial Owner solely because the same bare trustee acts as trustee for both of those Beneficial Owners.

(c) In the event of a Default, if any Quoted Units held by a person as bare trustee on behalf of different Beneficial Owners include any Defaulter's Units:

(i) the bare trustee shall, on request by the Manager or NZX, provide to the Manager and NZX details of the Beneficial Owners of those Defaulter's Units; and

(ii) the Manager may at any time, and shall upon request by the bare trustee or any Beneficial Owner, take appropriate steps to ensure that those Defaulter's Units are separately designated in the Register.

20. Remuneration of Supervisor

20.1 Supervisor's Fees

The Supervisor shall be entitled to receive and retain for its own use and benefit out of the Trust Fund, by way of remuneration for its services as Supervisor, the following fees:

(a) in respect of each year, a fee determined on the basis previously agreed between the Supervisor and the Manager calculated daily and paid monthly; and

(b) in addition to the fees stipulated above, such fee for convening and attending meetings of Unit Holders and in respect of any other non-routine or abnormal matters as shall from time to time be agreed between the Manager and the Supervisor.

20.2 Fee on termination

On the termination of the Trust, the Supervisor shall be entitled to receive and retain for its own use and benefit out the Trust Fund a reasonable fee agreed by the Manager and the Supervisor and based on time spent by the Supervisor on matters relating to the termination of the Trust.

20.3 Arbitration

If the Manager and the Supervisor shall fail to reach agreement on any amounts payable to the Supervisor under this clause such difference or dispute shall be referred to a single arbitrator if the parties can agree on one and otherwise to two arbitrators, one to be appointed by the Manager and one by the Supervisor in accordance with and subject to the provisions of the Arbitration Act 1996 and its amendments.

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20.4 GST

The Supervisor shall be entitled, to the extent that it is applicable, to receive goods and services tax (as that term is defined in the Goods and Services Tax Act 1985), in addition to the fees under clause 20.1 and 20.2.

20.5 Custodian Fees

If a Custodian is appointed, that Custodian shall be paid out of the Trust Fund remuneration agreed between the Custodian and the Manager, and approved by the Supervisor.

21. Removal and Retirement of Supervisor

21.1 Removal

The Supervisor may be removed from office:

(a) in the manner provided for in section 193 of the FMC Act; or

(b) subject to section 193(2) of the FMC Act, (including, for the avoidance of doubt, the requirement for the Manager to obtain the FMA's consent) by the Manager if the Supervisor shall have a receiver appointed or if an order is made or resolution passed for the liquidation of the Supervisor or if the Supervisor otherwise becomes insolvent.

21.2 Retirement

The Supervisor may retire at any time without assigning any reason upon giving 90 days' notice in writing to the Manager of its intention to do so, subject to the due appointment of a new Supervisor and the transfer to such new Supervisor of all of the Investments and all other property or assets of any nature of the Trust Fund.

21.3 Appointment of new Supervisor

The power of appointing a new Supervisor (in place of a Supervisor which has retired pursuant to clause 21.2 or been removed from office pursuant to clause 21.1) shall be vested in the Manager. No person shall be appointed as a new Supervisor unless licensed under the Financial Markets Supervisors Act 2011. If the Manager fails or refuses to appoint a new Supervisor, the new Supervisor may be appointed by a Special Resolution.

22. Remuneration of Manager

22.1 Maximum fee

The Manager may charge and shall be paid out of the Trust Fund, in respect of its management services, the Base Fee, ~~Incentive Fee and~~ Activity Services Fees and Property Management Services Fees pursuant to this clause 22, which, in aggregate, shall not exceed an amount equal to 1.~~75~~50% per annum of the Gross Value of the Trust Fund (the **Maximum Fee**). The Maximum Fee will be assessed each Financial Year:

(a) as at the last day of that Financial Year;

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(b) in respect of the Base Fees~~, Incentive Fee~~ and any Activity Services Fees and Property Management Services Fees attributable to that Financial Year (regardless of when or whether they have been demanded or paid); and

(c) with reference to the Gross Value of the Trust Fund as at the last day of that Financial Year.

In the event that, notwithstanding this clause 22.1, the aggregate of the Base Fee~~, Incentive Fee and~~ Activity Services Fees and Property Management Services Fees paid to the Manager for a Financial Year exceeds the Maximum Fee, the amount of that excess (the **Excess**) will be carried forward into the following Financial Year such that the aggregate of the Excess (from the prior Financial Year), and the Base Fee, ~~Incentive Fee and~~ Activity Services Fees and Property Management Services Fees (for that next Financial Year), will not exceed the Maximum Fee.

22.2 Composition of fee

The Manager's fee for performing the functions of manager contemplated by section 142 of the FMC Act shall be comprised of:

(a) in respect of each ~~calendar month~~Financial Year, the Base Fee;

~~(b) in respect of each Financial Year, the Incentive Fee; and~~

(b) in respect of each Financial Year during which Activity Services are provided, Activity Services Fees in respect of those Activity Services; and

(c) in respect of each Financial Year during which Property Management Services are provided, Property Management Services Fees in respect of those Property Management Services. ~~.~~

22.3 Base F~~f~~ee

(a) ~~The Base Fee will be calculated each calendar month on the basis described in 22.3(b).~~ The Manager's Base Fee for a Financial Year will be equal to the Base Costs plus a Margin. The Manager may, acting in good faith, apply different Margins to different Base Costs. For example, but without limitation, the Manager may apply a different Margin to Base Costs incurred in Australia to those incurred in New Zealand.

(b) The Manager will charge a portion of its Base Fee on a monthly basis based on its reasonably prepared budgeted Base Costs for the applicable Financial Year divided by 12 plus the applicable Margin(s). If, during a Financial Year, the Manager makes reasonable revisions to its budgeted Base Costs, the monthly Base Fee will be amended accordingly. At the end of a Financial Year there will be an adjustment to reflect any differences between budgeted Base Costs and actual Base Costs, with the intention being that the Base Fee is calculated with reference to actual Base Costs.

~~(a) For these purposes the "Gross Value of the Trust Fund" will be the monthly average of the Gross Value of the Trust Fund for the three calendar month period ended on the last day of that month (calculated by aggregating the Gross Value of the Trust Fund at the end of each calendar month during that period and dividing such sum by three).~~

~~(b) The Base Fee for any calendar month shall be calculated as the amount below divided by 12:~~

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(i) if the Gross Value of the Trust Fund is less than or equal to $1 billion, 0.65% per annum of such value;

(ii) if the Gross Value of the Trust Fund is greater than $1 billion, but less than or equal to $2 billion, the aggregate of:

(A) $6.5 million (being 0.65% of the first $1 billion); and

(B) 0.55% per annum of the amount by which such value exceeds $1 billion;

(iii) if the Gross Value of the Trust Fund is greater than $2 billion, but less than or equal to $3 billion, the aggregate of:

(A) $6.5 million (being 0.65% of the first $1 billion);

(B) $5.5 million (being 0.55% of the second $1 billion); and

(C) 0.45% per annum of the amount by which such value exceeds $2 billion; and

(iv) if the Gross Value of the Trust Fund is greater than $3 billion, the aggregate of:

(A) $6.5 million (being 0.65% of the first $1 billion);

(B) $5.5 million (being 0.55% of the second $1 billion);

(C) $4.5 million (being 0.45% of the third $1 billion); and

(D) 0.40% per annum of the amount by which such value exceeds $3 billion.

22.4 Incentive Fee

The Manager shall be entitled to an annual incentive fee of an amount equal to 10% of the average annual increase in the Net Tangible Assets of the Trust over the relevant Financial Year and the two preceding Financial Years (in each case as adjusted pursuant to this clause 22.4). For the purposes of determining the increase in the Net Tangible Assets for a Financial Year, the actual Net Tangible Assets on the last day of that Financial Year shall be measured against the High Watermark Net Tangible Assets applicable to that Financial Year such that the increase in the Net Tangible Assets for the Financial Year will reduce to zero if the actual Net Tangible Assets does not exceed the High Watermark Net Tangible Assets applicable to that Financial Year. Where an Investment is acquired at any time during a Financial Year it shall be deemed to have been purchased on the first day of that Financial Year. By way of example only, an indicative example of the calculation of the Incentive Fee under this clause 22.4 is set out in Schedule 1.

22.522.4 Activity Services Fees

The Manager's Activity Services Fees for a Financial Year will be equal to the Activity Services Costs plus a Margin. The Manager may, acting in good faith, apply different Margins to different Activity Services Costs. For example, but without limitation, the Manager may apply a different Margin to Activity Services Costs incurred in Australia to those incurred in New Zealand.

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~~(a) Activity Fees in respect of Activity Services will be calculated on the basis set out in Schedule 3.~~

22.5 Property Management Services Fees

Property Management Services Fees in respect of Property Management Services will be calculated on the basis set out in Schedule 3.

22.6 Payment

(a) The Base Fee, Activity Services Fees and Property Management Services Fees shall be paid before the fifteenth day of the calendar month immediately following the calendar month to which it relates.

~~(b) The Incentive Fee shall be paid within 60 days from the last day of the relevant Financial Year (or, if such day is not a Business Day, the immediately succeeding Business Day) and, subject to this clause, immediately after receipt by the Manager shall be applied in full by the Manager in subscribing for new Units. The issue price for each such new Unit shall be the weighted average of the prices at which Units of that class were sold through the NZX Main Board during the period of seven days immediately preceding the last day of the immediately preceding Financial Year (subject to adjustment to allow for rounding to the nearest whole Unit). Such Units when issued shall rank pari passu with all other Units. The Manager will not be required to apply the Incentive Fee to the subscription of new Units pursuant to this clause to the extent that the issue of such new Units to the Manager would:~~

~~(i) be inconsistent with the Listing Rules or other applicable laws; or~~

~~(ii) in the opinion of the Manager, acting reasonably, have an adverse effect on Unit Holders other than the Manager and its Associated Persons.~~

~~(c) Activity Fees will be paid on the basis set out in Schedule 3.~~

~~(d)~~(b) The Manager may, subject to compliance with sections 172 to 175 of the FMC Act, direct that all or any part of any fee payable to the Manager be paid:

(i) to any Related Company of the Manager which provides services related to the Trust; and/or

(ii) by any Subsidiary, which payment shall be deemed to be a payment out of the Trust Fund.

For clarity, this sub-clause (b) does not authorise the payment of any greater amount in aggregate than is otherwise payable to the Manager under this Deed.

22.7 Additional provisions regarding Manager's fees

(a) For clarity, the Manager will be entitled to provide Third Party Services, and charge fees and seek reimbursement for its expenses, from the parties it provides Third Party Services to, with the intention of making a profit.

(b) If, at any time, the Manager holds money surplus to its requirements for operating its business (including its estimated future requirements over the next 12 months) the Manager will pay that surplus money to the Supervisor for the benefit of the Trust, by way of refund of the amounts received by the Manager under clause 25.4 or as a

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distribution of any profit made by the Manager through the provision of services to third parties, as contemplated by clause 22.7(a) (as applicable).

~~(c)~~ The Manager and the Supervisor may, at any time, agree a process for the provision of funding support from the Trust Fund to the Manager (in addition to reimbursement under clause 25.4), if and only to the extent such funding support is reasonably required by the Manager to ensure the Manager is able to carry on its business in a solvent manner, in accordance with the requirements under the Companies Act 1993.

(c)

~~22.7~~22.8 **GST**

The Manager shall be entitled to receive, in addition to any fees payable pursuant to clause 22.7~~22.2~~, any value added tax or duty or similar tax or duty payable in respect of such fee.

23. Removal and Retirement of Manager

23.1 Removal

The Manager shall cease to hold office as Manager of the Trust if removed or substituted in accordance with the provisions of section 185 of the FMC Act. Subject to the FMC Act (including the Supervisor's duty to act in the best interests of the Unit Holders), the Supervisor shall, when deciding whether to exercise its powers of removal pursuant to section 185(1)(a) of the FMC Act:

(a) give written notice to the Manager specifying the reasons why the Supervisor considers that it is in the best interests of Unit Holders that the Manager be removed;

(b) allow the Manager 10 Business Days to respond; and

(c) give due consideration to the Manager's response before taking any further action.

~~23.2 **Fee on removal**~~

~~If NorthWest Healthcare Properties Management Limited is removed as manager by a Special Resolution of Unit Holders pursuant to section 185(1)(b) of the FMC Act, the Supervisor shall pay out of the Trust Fund to NorthWest Healthcare Properties Management Limited a fee being an amount equal to the Base Fee paid to the Manager under clause 22.2(a) for the Financial Year (i.e. the aggregate of the monthly Base Fees for the Financial Year) immediately preceding the date that NorthWest Healthcare Properties Management Limited ceases to be the Manager.~~

~~23.3~~23.2 **Default by manager**

Without limiting anything in clause 23.1, the Supervisor may, by notice to the Manager, remove the Manager from office if:

(a) the Manager is in breach of its obligations under this deed, and fails to remedy that breach within 10 Business Days after notice from the Supervisor requiring the Manager to do so; or

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(b) the Manager fails to carry out its duties to the satisfaction of the Supervisor; or

(c) the Manager or Shareholder is in material breach of its obligations under the Shareholding Deed or agrees to amend the Shareholding Deed or waive any breach of the Shareholding Deed, without the prior written approval of the Supervisor; or

~~(c)~~(d) the Manager is wound up (except for the purposes of an amalgamation or reconstruction while solvent) or a receiver is appointed in respect of the Manager.

~~23.4~~23.3 Cessation of activities

If the Manager ceases to hold office pursuant to clauses 23.1, 23.2 or 23.4, the Manager shall immediately desist from all activities related to the Trust, unless the Supervisor agrees to the contrary. The Manager shall be entitled to all fees accrued to the date upon which it ceases to hold office ~~and if clause 22.2 applies to the fee provided for in that clause~~. If the Manager ceases to hold office on a day other than the last day of a Financial Year the Manager's entitlement to remuneration under clause 22.1 for the then current period shall be calculated by reference to the date upon which it ceased to hold office.

~~23.5~~23.4 Retirement

The Manager may retire at any time without assigning any reason upon giving 90 days' notice in writing~~.~~, or such shorter period as the Supervisor approves, to the Supervisor of its intention to do so. No such retirement shall take effect until a new Manager has been appointed and has executed the deed referred to in clause 23.7.

~~23.6~~23.5 Temporary Manager

The Supervisor shall have power in accordance with section 186 of the FMC Act to appoint a temporary Manager of the Trust in place of a Manager which has retired or been removed from office. The temporary Manager will continue in office until replaced by the Supervisor under this clause or a new Manager is appointed under clause 23.6.

~~23.7~~23.6 Appointment of replacement

The Supervisor shall, upon a vacancy in the office of Manager occurring, summon a meeting of Unit Holders at which the Unit Holders may by Ordinary Resolution appoint as new Manager of the Trust:

(a) a temporary manager appointed by the Supervisor pursuant to clause 23.5 or the FMC Act; or

(b) some other person licensed pursuant to the FMC Act.

The Supervisor will be empowered to take such steps as that meeting or any subsequent meeting of Unit Holders may by Ordinary Resolution require to give effect to the appointment of the new Manager.

~~23.8~~23.7 Execution of deed

A new or temporary Manager appointed pursuant to the FMC Act or clause 23.6 shall forthwith upon such appointment execute a deed in such form as the Supervisor may require whereby the new or temporary Manager undertakes to the Supervisor and the Unit Holders

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to be bound by all the covenants on the part of the Manager under this deed from the date of such appointment. On and from such date the retiring Manager shall be absolved and released from all such covenants (except in respect of any prior breach of this deed) and the new or temporary Manager shall exercise all the powers and enjoy and exercise all the rights and shall be subject to all the duties and obligations of the Manager in all respects as if such new or temporary Manager had been originally named as a party to this deed.

24. Borrowing, Guarantees and Security

24.1 Supervisor's powers

The Supervisor shall have power, if so directed by the Manager pursuant to clause 24.2 to:

(a) Borrow, subject to clause 24.3;

(b) enter into or become liable under any guarantee, underwrite, indemnity or similar arrangement with respect to the obligations of any Person, whether or not wholly owned by the Trust (**guarantee**); and

(c) enter into any arrangement in such manner as the Manager sees fit (**security**) which has the effect of granting security to any Person over all or any part or parts of the Trust Fund to secure any or all liabilities or obligations (including obligations under (b) above) incurred or undertaken by the Supervisor for the purposes of the Trust.

24.2 Manager to direct Supervisor

The Manager may, subject to clause 24.3, by notice in writing to the Supervisor require the Supervisor to Borrow, give a guarantee or security in such manner as the Manager thinks fit. Any such notice shall specify such details concerning the Borrowing, guarantee or security as the Supervisor may reasonably request.

24.3 Limitation

The Supervisor shall on receipt of a direction by the Manager pursuant to clause 24.2 take all necessary steps to give effect to that direction provided however that:

(a) no Borrowing shall be made if the effect of that Borrowing would be that immediately after that Borrowing the total of money Borrowed by the Supervisor on behalf of the Trust Fund and outstanding would exceed 50% of the gross value of the Trust Fund at that date (calculated in accordance with paragraph (b) of the definition of "Gross Value of the Trust Fund" and taking into account the proceeds of the Borrowing); and

(b) the Supervisor shall not be required to execute any agreement, or other document in respect of any Borrowing, guarantee or security if the Supervisor considers it should not comply with such direction, or, which, in the opinion of the Supervisor, would render the Supervisor personally liable in respect of such Borrowing, guarantee or security, and unless the liability of the Supervisor thereunder is to the satisfaction of the Supervisor limited to the assets for the time being of the Trust

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24.4 Lender need not enquire

No person lending money to or otherwise dealing with the Supervisor shall be bound to inquire as to whether the limit in clause 24.3(a) has been exceeded, and no breach of such limit shall affect the validity or enforceability of any loan or any other transaction.

25. Supervisor's and Manager's Liabilities and Indemnities

25.1 No personal liability for Trust's debts

The Supervisor and the Manager, in incurring any debts, liabilities or obligations, or in taking or omitting any other action for or in connection with the affairs of the Trust, are each, and shall each be deemed to be, acting for and on behalf of the Trust and not in their own respective capacities. Neither the Supervisor nor the Manager shall be under any personal liability, nor shall resort be had to their private property, for the satisfaction of any obligation or claim arising out of or in connection with any contract or other obligation of the Trust, but the Trust Fund only shall be liable or subject to levy or execution.

25.2 Indemnity

If contrary to clause 25.1 either the Supervisor or the Manager is held personally liable to any other Person in respect of any debt, liability or obligation incurred by or on behalf of the Trust or any action taken or omitted in connection with the Trust, then (subject to clauses 25.3 and 25.6) the Supervisor or the Manager (as the case may be) shall be entitled to indemnity and reimbursement out of the Trust Fund to the full extent of such liability and the costs of any litigation or other proceedings in which such liability shall have been determined including, without limitation, legal fees and disbursements. The Manager shall, in consultation with the Auditor, determine whether any such amount should be charged against Gross Income or capital.

25.3 Liability for breach of trust or default

The Supervisor and the Manager shall each be liable to the Trust Fund for any loss arising out of wilful default or wilful breach of trust but subject thereto neither the Supervisor nor the Manager shall be liable to the Trust Fund or to any Unit Holder for any act or omission or be subject to any liability whatsoever at law or in equity in connection with the affairs of the Trust or as a result of acting as Supervisor or Manager (as the case may be) under this deed.

25.4 Reimbursement of expenses

Subject to clause 25.6, the Supervisor and the Manager shall each be entitled to be reimbursed, and may reimburse themselves, out of the Trust Fund for all expenses, costs or liabilities incurred by them or their Related Companies respectively in or about acting as Supervisor or Manager (as the case may be) under this deed. Without prejudice to the generality of the foregoing, the Supervisor and the Manager shall be entitled to be indemnified against:

(a) all costs, charges, disbursements and expenses incurred in connection with the investigation, negotiation, acquisition, registration, custody and the appointment and remuneration of a Custodian, disposal of or other dealing with an Authorised Investment, including, without limitation, commission, bank charges and stamp duty;

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(b) all income tax, capital gains tax, stamp duties, and all other duty, tax or impost properly charged to or payable by the Supervisor or Manager (whether by any trading authority or any other person) in connection with and for the account of the Trust;

(c) interest on Borrowings, discounts and acceptance and other fees in respect of bill facilities;

(d) costs of postage in respect of all cheques, accounts, Certificates, distribution statements, notices, reports and other documents sent to all or any Unit Holders in accordance with the provisions of this deed;

(e) costs of convening and holding any meeting of Unit Holders;

(f) all costs, fees and expenses incurred in respect of the appointment and engagement of the ~~Independent~~ Directors, including (without limitation):

(i) director fees for the ~~Independent~~ Directors;

(ii) associated insurance premiums for the ~~Independent~~ Directors; ~~and~~

(iii) costs in connection with attendance at meetings (including associated travel and accommodation costs); and

~~(iii)~~(iv) costs incurred in indemnifying the Directors in accordance with the constitution of the Manager;

(g) costs of preparing and printing cheques, accounts, Certificates, distribution statements, notices, reports and other documents required to be prepared in connection with the Trust, pursuant to this deed, the rules or requirements of any stock exchange on which the Units are listed, or any relevant law;

(h) all costs, charges and expenses of and incidental to the preparation, execution and stamping of this deed and any supplemental deeds, the preparation and registration of any product disclosure statement or register entry, the acquisition, registration, custody and the appointment and remuneration of a Custodian, disposal or other dealing with Investments, including bank charges and stamp duty, and the expenses of any agents or nominated company of the Supervisor or the manager but excluding any incidental expense which is not an out-of-pocket expense or disbursement incurred (by deduction or otherwise) by the Manager or the Supervisor;

(i) fees and expenses of any valuer, auditor, solicitor, barrister, property manager, agent or consultant, computer expert or other expert from time to time engaged by the Manager or by the Supervisor in the discharge of their respective duties and exercise of powers under this deed;

(j) expenses in connection with the establishment and maintenance of accounting systems and the keeping of accounting records and the Register;

(k) all costs, charges and expenses incurred in the advertising and promotion of the Trust;

(l) all costs, charges and expenses incurred in connection with or which are incidental to the application for the listing of the Units on any stock exchange and the costs of the maintenance of such listing,

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(m) any expense or liability which may be incurred by the Supervisor or the Manager (as the case may be) in bringing or defending any action or suit in the Trust or the provisions of this deed; and

(n) all costs or expenses of any nature (including without limitation amounts payable to contractors and professional consultants) in respect of the acquisition of any Land;

(o) the cost of the preparation and lodgement of returns pursuant to any law;

(p) all costs, fees, disbursements and expenses incurred by the Manager in connection with the appointment and remuneration of the Shareholder (including, without limitation, any costs associated with providing directions to the Shareholder in accordance with the Shareholding Deed, and the costs of removing and replacing the Shareholder);

(q) any other costs, expenses and disbursements properly and reasonably incurred by a member of the Manager Group in connection with carrying out its duties under this deed and incidental to the management of the Trust, including (without limitation) in relation to:

(i) the employment and remuneration of any employee or independent contractor of a member of the Manager Group;

(ii) travel and accommodation; and

~~(i)~~(iii) communications and administration; and

~~(o)~~(r) any other expenses properly and reasonably incurred by the Supervisor ~~or the Manager~~ in connection with carrying out ~~their~~ its ~~respective~~ duties under this deed.

All such items (other than those referred to in sub-paragraph (m)) shall unless the Manager determines otherwise, be chargeable against the Gross Income.

The Supervisor or the Manager may at any time elect not to seek reimbursement from the Trust Fund for any expense, cost or liability without prejudicing the right of the Supervisor or the Manager to be reimbursed for any other expense, cost or liability (whether or not of a similar nature).

25.5 Further provisions relating to liability

Without prejudice to the generality of clauses 25.1 to 25.4, and subject always to clauses 25.9 and 25.10:

(a) the Supervisor shall not, subject to the provisions of the Trustee Act 1956, be responsible for any loss incurred as a result of any act, omission, deceit, neglect, mistake, or default of the Manager or any agent of the Manager nor shall the Supervisor be responsible to check any information, document, form or list supplied to it by the Manager except to the extent that the loss is attributable to the Supervisor's own gross negligence or wilful default;

(b) the Manager shall not be responsible for any loss incurred as a result of any act, deceit, neglect, mistake, or default of the Supervisor or any agent of the Supervisor nor shall the Manager be responsible to check any information, document, form or list supplied to it by the Supervisor;

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(c) the Supervisor and the Manager may each act upon the opinion or advice of, or upon statements of or information in relation to the Trust obtained from, any solicitor, barrister, banker, accountant, broker, valuer or other Person believed by the Supervisor or the Manager to be expert in relation to the matters on which advice was obtained, and neither the Supervisor nor the Manager shall be liable for anything done or suffered by it in good faith in reliance upon such opinion, advice, statements or information;

(d) whenever pursuant to any provision of this deed any certificate, notice, direction or other communication is to be given by the Manager to the Supervisor, the Supervisor may accept as sufficient evidence thereof a document signed on behalf of the Manager by any director, secretary, officer or responsible employee of the Manager or by any other Person or Persons appearing to be authorised by the Manager;

(e) except insofar as otherwise expressly provided, the Manager and the Supervisor as regards all the trusts, powers authorities and discretions vested in each of them by this deed have absolute and uncontrolled discretion as to their exercise whether in relation to the manner or as to the mode of or time for their exercise;

(f) subject to the provisions of this deed and to applicable law, nothing in this deed is deemed to prohibit the Supervisor or any Related Company of the Supervisor or any shareholder or officer of either (in this clause included in the expression "the Supervisor") from being a Unit Holder or from acting in any representative capacity for a Unit Holder and in particular and without prejudice to the generality of the foregoing from acting on its own account or as executor, administrator, Supervisor, receiver, attorney or agent or in any other fiduciary, vicarious or other professional capacity. Nor shall the acting in any such capacity be deemed a breach of any of the obligations arising out of the fiduciary relationship between the Supervisor and the Manager on the one hand or the Supervisor and the Unit Holders on the other established by this deed or otherwise imposed or implied by law. The Supervisor shall not by reason of its fiduciary capacity be in any way precluded from making any contract or entering into any transaction with the Manager, or with itself as Supervisor, in the ordinary course of the business of the Supervisor or from undertaking any banking, financial or agency services for the Manager or for itself as Supervisor. Without prejudice to the generality of these provisions such contracts and transactions include any contract or transaction in relation to the subscription or placing of, or any dealing with, any stock, shares, debenture stock, debentures or other security of the Manager or of any other company in which any of them is interested and include the acceptance of any office of profit from the Manager or any contract of loan or deposit or other contract or transaction which any Person (not being the Supervisor) could or might have entered into with the Manager or any such other company or with itself as Supervisor including the customary share of brokerage and usual banker's profit. The Supervisor shall not be accountable either to the Manager, any such other Person or the Unit Holders for any profits arising from any such contracts, transactions or offices; and

(g) the Supervisor shall be at liberty to deposit all documents evidencing any Investments, or evidencing title to any Investments, with any Person considered by the Supervisor to be of good repute and the Supervisor shall not be responsible for any loss incurred by the Trust Fund as a result of any such documents being held by any such Person.

25.6 Limitation of indemnity

The indemnities in clause 25.2 and 25.4 are available to the Manager and the Supervisor only in relation to the proper performance of the duties of the Manager and Supervisor under sections 143(1), 144, 153(1) and 154 of the FMC Act.

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25.7 Unit Holders recourse to Trust Fund

Notwithstanding anything contained in this deed, except in the case of fraud or of dishonesty or unless the Supervisor has failed to show the degree of care and diligence required of a Supervisor having regard to the powers, authorities and discretions conferred on the Supervisor by this deed and by the Trusts Act 2019, in no event is the Supervisor bound to make any payment to Unit Holders except out of the Trust or be liable to the Unit Holders to any greater extent than the Investments vested in or received by the Supervisor in accordance with this deed.

25.8 Reliance on documents

Neither the Manager nor the Supervisor is liable for any action taken or thing suffered by the Manager or Supervisor in reliance upon any document or writing of any type reasonably believed by the Manager or the Supervisor to be genuine.

25.9 Supervisor's duty of care

Nothing in this deed limits the Supervisor's duty of care, diligence and skill under section 154 of the FMC Act in carrying out its duties under this deed or prevents or restricts any determination as to whether there has been a breach of trust or affects the operation of the provisions of any statute prescribing the circumstances under which the Supervisor may obtain relief from breach of trust.

25.10 No exemption for breach of trust

No provision of clauses 25.1 to 25.5 shall have the effect of exempting the Supervisor or Manager or any director or officer of the Supervisor or Manager from, or indemnifying any such Person against, any liability for breach of trust where the requisite degree of care, diligence and skill has not been shown, having regard to the provisions of this deed and the powers, authorities and discretions conferred hereby.

25.11 Investment Manager indemnity

If an investment manager is appointed in respect of the Trust, the Manager may, in the contract between the investment manager and the Manager, provide for the investment manager to be indemnified out of the Trust Fund for liabilities or expenses incurred in relation to the performance of the investment manager's contracted functions, but only in relation to the proper performance of the investment manager's duty under section 144 of the FMC Act.

25.12 Additional Manager entitlements

In addition to the entitlements to reimbursement and indemnity under clauses 25.2 and 25.4, the Manager is entitled to:

(a) seek and obtain, in accordance with a process from time to time agreed with the Supervisor, including (without limitation), as to accounting, verification, receipting and invoicing and in lieu of reimbursement under clauses 25.2 and 25.4, funds from the property or assets of the Trust Fund to enable the Manager to meet the Manager Group's costs, charges, disbursements, expenses and liabilities as they fall due and to ensure that each member of the Manager Group is able to carry on business in a solvent manner;

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(b) pay and obtain reimbursement of, and shall take all responsibility for approving, such amounts (whether in the nature of remuneration, reimbursement of expenses, payments due on any indemnification or otherwise) as are from time to time payable by the Manager to the Shareholder under the Shareholding Deed; and

(c) in the event that the Manager ceases to hold office as manager of the Trust, all costs, charges, disbursements and expenses incurred by the Manager Group in facilitating an orderly wind-up or dissolution of its activities,

and the Supervisor shall be entitled to (but shall not be required to) enquire as to or verify or approve, the payment of any such amounts.

25.13 Payments due to Shareholder under Shareholding Deed

If the Manager does not pay to the Shareholder any amount payable by the Manager to the Shareholder under the Shareholding Deed, the Supervisor shall, on being satisfied that any such amount is properly payable to the Shareholder under the Shareholding Deed, pay that amount to the Shareholder from the Trust Fund.

26. Supervisor's Powers and Covenants

26.1 Supervisor's Powers

The Supervisor shall have the power to settle and complete all transactions in respect of the Trust. Subject to the provisions in this deed and the powers, rights and discretions given to the Manager by this deed, the Supervisor shall have all powers, authorities, and discretions which it could exercise if it were the absolute and beneficial owner of the Trust Fund and all the powers, authorities, and discretions necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this deed.

26.2 Waivers and applications to court

The Supervisor may whenever it thinks expedient in the interest of the Unit Holders exercise any of the following powers:

(a) To waive at any time and on any terms or conditions any breach of the covenants or obligations binding on the Manager under this deed where such waiver will not, in the opinion of the Supervisor, have a material adverse effect on the interests of the Unit Holders; and

(b) To apply to the Court for directions in relation to any question and assent to and approve of or oppose any application to the Court made by or at the instance of the Manager or any Unit Holder.

26.3 Supervisor's covenants

The Supervisor covenants with the Manager (with the intent that the benefit of such covenant shall enure not only to the Manager but to the Unit Holders jointly and to each of them severally) that:

(a) the Supervisor has power to act continuously as trustee under the trusts herein set forth and will not do or cause to be done or omit to do any act, matter or thing which would or might cause it to be disqualified from acting as trustee under this deed or

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which might prevent it from so acting and will act continuously as trustee under the trusts herein set forth until such trusts are determined as herein provided or until it has retired or been removed from office;

(b) the Supervisor will exercise due diligence in carrying out its functions and duties hereunder;

(c) the Supervisor will ensure that any documents of title relating to the Investments are held in safe custody;

(d) the Supervisor will keep the Trust Fund separate from all other assets, investments and other property vested in or held by the Supervisor;

(e) except as herein provided or as authorised by law the Supervisor will not sell, mortgage, charge or otherwise part with the possession or ownership of any of the Investments; and

(f) the Supervisor without delay will forward to the Manager all notices and other information relevant to the Manager and received by or on behalf of the Supervisor in connection with the Trust Fund.

26.4 Supervisor's right to appoint Valuer

The Supervisor shall be entitled at any time to appoint an independent valuer to value, at the expense of the Trust, the Assets.

26.5 Supervisor's power to remove Shareholder

(a) The Supervisor shall have the power to remove the Shareholder if:

(i) the Shareholder or the Manager is in material breach of their respective obligations under the Shareholding Deed; and

(ii) the Shareholder or the Manager (as the case may be) has failed to remedy that breach in accordance with its obligations under the Shareholding Deed; and

(iii) the Manager has not removed the Shareholder (or communicated its intention to do so to the Supervisor).

(b) If the Supervisor removes the Shareholder pursuant to clause 26.5(a), the Supervisor must appoint a replacement shareholder, provided that the replacement shareholder satisfies the requirements set out in clause 27.6(a).

~~26.5~~26.6 Other

In addition to the matters recorded above, the Supervisor has the functions, duties, and powers recorded in sections 152 to 155 of the FMC Act.

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27. Manager's Powers, Duties and Covenants

27.1 Manager's powers of management

The Trust shall be managed by the Manager (with full power to delegate to its officers, and employees all acts, matters and things whether or not requiring or involving the Manager's judgement or discretion) which hereby agrees to carry out and perform the duties and obligations on its part contained in this deed during the period of the Trust. The Manager shall have the functions recorded in section 142 of the FMC Act and this deed, and all powers, authorities, and discretions set out in the FMC Act or necessary to enable it to carry out the purposes of the Trust or otherwise to perform and comply with the obligations and duties under this deed. Nothing contained in this deed shall be construed to prevent the Manager and the Supervisor in conjunction or the Manager or the Supervisor separately from establishing or acting as manager or trustee for trusts whether of a nature similar to or different from the trusts of this deed.

27.2 Manager's duty

The Manager shall have the duties set out in sections 143 to 151 of the FMC Act.

27.3 Appointment of agents

Without in any way affecting the generality of the foregoing, or without in any way releasing the Manager from its obligations under this deed, but subject to section 146 of the FMC Act, the Manager may in carrying out and performing its duties and obligations:

(a) by Power of Attorney appoint any Person to be the attorney or agent of the Manager for such purposes and with such powers, authorities and discretions (not exceeding those vested in the Manager) as it thinks fit with power for the attorney or agent to sub-delegate any such powers, authorities or discretions; and

(b) appoint by writing or otherwise any Person to be an agent or sub-manager in respect of the Trust or the investments or any part thereof, and confer upon and delegate to such Person all or any of the powers, authorities or discretions of the Manager under this deed or in respect of the Trust (including power for such Person to sub-delegate). Any such appointment shall be upon such terms as the Manager may in its discretion determine, and the Manager may enter into agreements or deeds on such terms as it determines recording terms of any such appointment.

27.4 Manager may engage related persons

The Manager may, subject to the Listing Rules and sections 146 and 172 to 175 of the FMC Act, on behalf of the Trust engage any Person who is a Related Company of the Manager, or who is otherwise associated with the Manager, to provide services to the Trust (including, without limitation, as a property manager, agent or consultant) provided that the fees to be charged do not exceed then prevailing market rates.

27.5 Additional Services

(a) The Manager may be engaged on behalf of the Trust to provide Additional Services, being services that are additional to those contemplated by section 142 of the FMC Act as set out in Schedule 1. If it is engaged to provide an Additional Service, the

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Manager will be paid ~~the~~ an ~~applicable~~ Additional Services Cost in respect of that service~~, as set out in Schedule 2.~~.

~~(a)~~(b) Additional Services Costs will be paid before the fifteenth day of the calendar month immediately following the calendar month to which it relates.

27.6 Appointment of Shareholder

Without limiting the generality of clause 27.1, the Manager shall have the power to:

(a) appoint, remove and replace a shareholder of the Manager, provided that no person may be appointed as shareholder:

(i) unless that person holds all requisite licences and authorisations to act in such capacity in accordance with applicable laws, and enters into a Shareholding Deed; or

(ii) unless the Manager holds a relevant exemption from the relevant restrictions in the FMC Act and the Supervisor consents in writing, if that appointment would cause the Manager and the Supervisor to be "associated persons" (as that term is defined in the FMC Act); or

(iii) unless the Manager holds a relevant exemption from the relevant restrictions in the FMC Act and the Supervisor consents in writing, if that person is "associated" (as that term is defined in the FMC Act) with the Manager; and

(b) execute, on behalf of a retiring Shareholder, a share transfer form transferring the Manager Shares from the retiring Shareholder to a replacement shareholder of the Manager.

The Manager will provide the Supervisor with prior written notice of any change.

~~27.6~~27.7 Information to Supervisor

The Manager shall:

(a) make available or provide to the Supervisor the documents, records or reports which the Manager is required to provide under sections 147 and 148 of the FMC Act (including the quarterly report relating to related party transaction certificates required by section 147 of the FMC Act); and

(b) give to the Supervisor a copy of each report commissioned under clause 16.3(f).

~~27.7~~27.8 Maintaining listing

Subject to any resolution to the contrary passed at a meeting of Unit Holders, the Manager shall use its best endeavours to maintain the Quotation of the Units on the NZX Main Board.

~~27.8~~27.9 Voting rights

Except as otherwise expressly provided in this deed and subject to the provisions of the Trustee Act 1956 all rights of voting conferred by the Investments shall be exercised in such manner as the Manager may determine. The Supervisor shall from time to time execute and

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deliver or cause to be executed or delivered to the Manager or its nominee such proxies or powers of attorney as the Manager may request. Neither the Manager nor the Supervisor shall be under any liability or responsibility in respect of the management of any company or body nor in respect of any vote or action taken or consent given by the Supervisor or the Manager. Neither the Supervisor nor the Manager nor the holder of any proxy or power of attorney given by the Supervisor or the Manager shall incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval given or withheld by the Supervisor or the Manager or by the holder of such proxy or power of attorney and neither the Supervisor or the Manager shall be under no obligation to anyone with respect to any action taken or caused to be taken or omitted by the Manager or by any such holder of a proxy or power of attorney except to the extent that such obligation may be attributable to the Supervisor's or the Manager's (as the case may be) own negligent or wilful act or default.

~~27.9~~27.10 Manager's covenants

Without limiting any duty or obligation of the Manager elsewhere in this deed, the Manager covenants with the Supervisor (with the intent that the benefit of such covenant shall enure not only to the Supervisor but to the Unit Holders jointly and to each of them severally) that:

(a) the Manager will pay to the Supervisor or a person contracted under clause 3.6, within 7 days after their receipt by the Manager, any moneys that under this deed, are payable by the Manager to the Supervisor;

(b) the Manager will prepare or cause to be prepared all distributions, cheques and notices which are to be issued pursuant to this deed and stamp them as required by law and produce them to the Supervisor or a person authorised by the Supervisor for this purpose so as to afford the Supervisor or such authorised person reasonable time to examine and check the same and to sign those cheques for despatch on the day on which they ought to be despatched, and the Supervisor may rely on the report of the Auditor or the Manager given in respect of the accuracy of the particulars of such cheques if such reliance is based upon a reasonable belief that the report is genuine;

(c) the Manager will pay all moneys belonging to the Trust coming to the hands of the Manager to the Supervisor;

(d) the Manager will retain in safe keeping all applications for Units and instruments of transfer and transmission, or copies or reproductions thereof, and will make those documents available for inspection by or on behalf of the Supervisor at any time during normal business hours, but on the expiration of 7 years from the date of any such document the Manager may in its discretion (subject to any law to the contrary (including without limitation the FMC Act) and first obtaining the Supervisor's approval) destroy such documents;

(e) the Manager without delay will forward to the Supervisor all notices and other information relevant to the Supervisor and received by or on behalf of the Manager in connection with the Trust Fund;

(f) the Manager will consult with the Supervisor in relation to the preparation of, or amendment to, any product disclosure statement or register entry relating to offering Units, provided that such consultation shall in no way affect the liability of the Manager for any omissions or misstatements under the FMC Act;

(g) unless the Supervisor in writing is satisfied with reference to particular part of the Investments that insurance is unnecessary or commercially undesirable having regard to the risk and cost involved, the Manager will at all times insure and keep insured

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against loss or damage by fire, war, earthquake and such other risks as shall be commercially desirable (including public risk and property damage) to insure against in an office or offices to be nominated by the Manager and approved by the Supervisor (such approval not to be unreasonably withheld) all of the Investments which are of an insurable nature in such manner and to such extent as is prudent in accordance with the best commercial practice having regard to the premium payable and the risk involved and at all times duly and punctually pay all premiums and other sums (if any) payable in respect thereof and when so required by the Supervisor produce to the Supervisor all receipts for the same. All such insurances shall be effected in the name of the Supervisor with the proceeds payable to the Supervisor. All moneys to be received by virtue of any insurance as aforesaid shall be deemed to be part of the Investments and shall be paid to the Supervisor;

(h) the Manager will at the request of the Supervisor (which request shall only be made when the Supervisor considers that special circumstances warrant such request and so certifies in writing to the Manager) with all due expedition furnish (or cause to be furnished directly by the Auditor) to the Supervisor a copy of the statements of financial position and financial performance of the Trust Fund duly audited and made up in the case of the statement of financial position at such date as may be required by the Supervisor but being a date not less than twenty-one nor more than forty-two days subsequent to the date of the request and in the case of the statement of financial performance covering the period from the end of the immediately preceding Financial Year or half year up to the date as at which audited statement of financial position is made up together with all documents and reports required by the Companies Act 1993 and/or the Financial Reporting Act to be annexed to or to accompany such statements of financial position and financial performance as if the Trust were a company (but with such adaptations as may be necessary) and duly signed by the persons as would be required to sign the same by the Companies Act 1993 and/or the Financial Reporting Act (but with such adaptations as aforesaid) together with a report of the Auditor stating whether or not the Manager has done or omitted to do any act which in the opinion of the Auditor contravenes any of the provisions of this deed;

(i) the Manager will ensure that at all times the liability of the Supervisor in relation to any contract or agreement or any Borrowing entered into by the Supervisor at the direction of the Manager, is limited to the Investments; and

(j) the Manager shall at all times comply with the FMC Act and other applicable law.

28. Accounts and Auditor

28.1 Preparation of accounts

(a) The Manager and the Supervisor shall, having regard to their separate functions and obligations, keep or cause to be kept true and proper accounts of all sums of money received and expended by or on behalf of the Trust and the matters in respect of which such receipt and expenditure takes place and of the issue of Units and of all other matters for which accounts should properly be kept.

(b) The Manager shall, in particular, keep or cause to be kept such accounts and prepare financial statements for the Trust as may be necessary to enable it to comply with its obligations pursuant to the FMC Act and the Financial Reporting Act and such accounts as may be necessary to ensure that moneys received, expended or distributed by the Trust are credited or, as the case may be, debited to the appropriate funds available for distribution to the Unit Holders and so as to ensure that the entitlement of any Unit Holder to participate in the Trust Fund at any particular time

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may readily be ascertained. The Manager and the Supervisor shall provide to each other from time to time any information necessary for this purpose.

28.2 Semi-annual and annual accounts

The Manager shall cause to be prepared semi-annual accounts in respect of the Trust Fund for each financial half-year and annual accounts in respect of the Trust Fund for each Financial Year. The Manager shall in respect of the annual accounts comply with sections 460 to 461H of the FMC Act.

28.3 Records

The Manager shall keep or cause to be kept records of all sums of money paid in accordance with clauses 25.2 and 25.4. The records kept by the Manager pursuant to this clause shall contain such details as the Manager considers appropriate, having regard to its obligations under this deed. The Supervisor may require the records to be audited by the Auditor and reported on to the Supervisor on such terms as the Supervisor reasonably requests.

~~28.3~~28.4 Audit

The annual accounts prepared in accordance with clause 28.2 shall be audited by the Auditor who shall report to the Manager and to the Supervisor in the terms set out in any agreement referred to in clause 31.1.

~~28.4~~28.5 Auditor's rights to request information

The Auditor shall be entitled to require from the Manager and the Supervisor such information, explanations, documents, certificates and accounts as the Auditor considers necessary, and the Manager or the Supervisor (as the case may be) shall provide the same to the Auditor.

~~28.5~~28.6 Distribution of accounts

(a) The Manager shall make available a copy of the annual accounts of the Trust Fund together with the Auditor's report, within three months after the end of the relevant Financial Year, to each Person who is a Unit Holder at the date upon which they are made available, and also to each Person who was a Unit Holder on the date as at which such accounts are made up, and shall send to the Supervisor a copy of those annual accounts and the Auditor's report within three months after the end of the relevant Financial Year.

(b) The Manager shall make available, by way of an announcement to NZX, a copy of the semi-annual accounts of the Trust Fund, within three months after the end of the first six months of each Financial Year, to each Person who is a Unit Holder at the date upon which they are made available, and also to each Person who was a Unit Holder on the date as at which such accounts are made up, and send to the Supervisor a copy of the semi-annual accounts of the Trust Fund, within three months after the end of the first six months of each Financial Year.

~~28.6~~28.7 Announcements through NZX

The Manager shall cause an announcement to be made pursuant to the Listing Rules through NZX:

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(a) before the release of each set of annual accounts and not later than 75 days after the end of the Financial Year to which those accounts relate; and

(b) before the release of each set of semi-annual accounts and not later than 75 days after the end of the period to which those accounts relate.

~~28.7~~28.8 Financial Reporting Act

The accounts to be prepared pursuant to this clause 28 shall be prepared in compliance with the Financial Reporting Act.

~~28.8~~28.9 Appointment of Auditor

The Manager shall after consultation with the Supervisor in accordance with clause 28.14 appoint an auditor or auditors of the Trust Fund and the Manager who shall be a person qualified in terms of clause 28.12.

~~28.9~~28.10 Removal and retirement of Auditor

The Auditor may at any time be removed from office by the Manager with the approval of the Supervisor or by the Supervisor. The Auditor may retire upon the expiration of not less than 90 days' notice in writing to the Supervisor.

~~28.10~~28.11 Replacement Auditor

The power of appointing a new Auditor (in place of an Auditor which has been removed from office or which has retired pursuant to clause 28.10) shall be vested in the Manager (with the approval of the Supervisor, which will not be unreasonably withheld).

~~28.11~~28.12 Qualification of Auditor

The Auditor must be a person qualified for appointment pursuant to section 461E of the FMC Act.

~~28.12~~28.13 Remuneration of Auditor

The remuneration of the Auditor shall be fixed by the Manager and shall be paid out of the Trust Fund.

~~28.13~~28.14 Implied terms

The Manager shall to the extent relevant comply with the provisions implied in this deed by regulation 84 and schedule 13 of the FMC Regulations.

29. Meetings of Unit Holders

29.1 Convening of meetings

The Manager shall summon a meeting of Unit Holders upon request made in accordance with section 161(1) of the FMC Act.

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29.2 Annual Meetings

The Manager shall convene an annual meeting of Unit Holders to be held no later than 6 months after the end of each Financial Year and no later than 15 months after the last annual meeting for the purposes of tabling the annual financial statements for the most recently completed Financial Year and considering any other business which may lawfully be undertaken by the meeting.

29.3 Attendance

Unit Holders of all classes and holders of Convertible Obligations are entitled to attend meetings of Unit Holders and to receive copies of all notices, reports and financial statements issued generally to Unit Holders entitled to vote at meetings of Unit Holders but are not entitled to vote at any such meeting unless the terms of the relevant Units or Convertible Obligations so provide.

29.4 Meeting procedure

All meetings of Unit Holders shall be convened and held in accordance with the provisions set out in Schedule 4. The provisions in Schedule 4 shall, subject to regulation 89(2) of the FMC Regulations, prevail over schedule 11 of the FMC Regulations.

29.5 Interest Group meetings

A meeting of the Unit Holders in an Interest Group or an Affected Group (as that term is defined in clause 16.1) may be called by the Manager at any time, and shall be called on the written request of holders of Quoted Units carrying together not less than 5% of the votes entitled to be exercised on any of the questions to be considered at the meeting of the group in question. All the provisions of this deed relating to meetings of Unit Holders apply, with all necessary modifications, to a meeting of an Interest Group or an Affected Group, except that:

(a) the necessary quorum is Unit Holders (or their Representatives) who hold no less than 25% of the value of the Units held by Unit Holders in the group or, if there is only one Unit Holder in the group, that Unit Holder (or their Representative);

(b) if the Manager so elects, one meeting may be held of Unit Holders constituting more than one group, so long as voting at that meeting is by way of a poll, and proper arrangements are made to distinguish between the votes of members of each group; and

(c) any Unit Holder in the group, present in person or by Representative, may demand a poll.

29.6 Unit Holder Participation

(a) The chairperson of a meeting of Unit Holders must allow a reasonable opportunity for Unit Holders at the meeting to question, discuss or comment on the management of the Trust.

(b) A resolution relating to the management of the Trust proposed by the Supervisor or the Unit Holders at any meeting may be passed, but no such resolution shall be binding on the Supervisor or the Manager.

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30. ~~Independent~~ Directors of the Manager

30.1 Principle

Unit Holders shall have the right to appoint and remove ~~two~~ the directors of the Manager in accordance with this clause 30.

30.2 Number of Directors

The number of Directors to hold office shall be fixed from time to time by the Board, provided that the number of Directors must not at any time be less than three.

~~30.2 Existing Directors~~

~~Two persons who are directors of the Manager at the date on which this clause 30 comes into effect, who are eligible under clause 30.6 and who have been selected by the Board as Independent Directors are deemed to be Independent Directors as at the date on which this clause 30 comes into effect.~~

30.3 Shareholding Deed

The parties record that the Shareholding Deed provides that the Shareholder shall:

(a) exercise its rights to appoint and remove Directors in accordance with the directions of Unit Holders by Ordinary Resolution; and

(b) not otherwise exercise a right to remove or appoint directors of the Manager.

~~30.3~~30.4 Appointment by Board

~~If at any time there are less than two Independent Directors, t~~The Board may appoint a person or persons as ~~Independent~~ Director(s) (provided any such person is not a person who sought election as a~~n Independent~~ Director at the immediately preceding annual meeting and at that meeting received more votes against than in favour of his or her election, or has previously been removed as a~~n Independent~~ Director under clause 30.10) ~~so that there are not more than two Independent Directors~~to fill a causal vacancy or as an addition to existing Directors. ~~Any person so appointed by the Board shall hold office only until the next annual meeting, but shall be eligible for re-election at that meeting.~~

~~30.4~~30.5 Retirement by rotation

A Director must not hold office (without re-election) past the third annual meeting following the Director's appointment or three years, whichever is longer. However, a Director appointed by the Board pursuant to clause 30.4 must not hold office (without re-election) past the next annual meeting following the Director's appointment.

~~At the time of each annual meeting, one Independent Director shall retire from office as a director of the Manager. The Independent Director to retire shall be the person who has been longest in office since he or she was last elected or appointed. In the case of Independent Directors who were last elected or appointed on the same day, the Independent Director to retire shall be determined by agreement between those Independent Directors, or if they cannot agree, by lot.~~

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~~30.5~~30.6 Persons eligible

No person shall be elected as a~~n Independent~~ Director at an annual meeting other than:

(a) a person appointed as a~~n Independent~~ Director under clause 30.4~~30.3~~;

(b) a person retiring as a~~n Independent~~ Director under clause 30.5; or

(c) a person validly nominated as a~~n Independent~~ Director under clause 30.8.

~~30.6~~30.7 Independence

No person may be appointed by the Board under clause 30.4~~30.3~~, or nominated under clause 30.8, unless the composition of the Board will, at all times, include at least two Directors ~~that who person would on appointment~~ can each be categorised as an "independent director" under the Listing Rules. The decision of the Board in respect of that matter shall be final and conclusive.

~~30.7~~30.8 Nominations

Any Unit Holder may nominate a person for election as a~~n Independent~~ Director at an annual meeting. Nominations must be accompanied by the consent of the person nominated, and be received by the Manager before the closing date for nominations fixed by the Manager. The Manager shall make an announcement to NZX, in respect of each annual meeting, of the closing date for nominations and contact details for making nominations, not less than 10 Business Days before the closing date for nominations. The closing date for nominations shall be fixed by the Manager, but shall be not more than two months before the date of the annual meeting. Notice of every valid nomination received by the Manager before the closing date shall be given by the Manager to Unit Holders together with, or as part of, the notice of meeting.

~~30.8~~30.9 Election procedure

If the number of persons eligible under clause 30.6 and seeking election at an annual meeting is equal to or less than the number of ~~Independent~~ Director~~s~~ vacancies available~~who may be elected at the meeting~~, any person who receives more votes in favour than against shall be elected as a~~n Independent~~ Director. If the number of persons eligible under clause 30.6 and seeking election at an annual meeting is greater than the number of ~~Independent~~ Director~~s~~ vacancies available ~~who may be elected at the meeting~~, the persons elected shall be those persons corresponding to the number of vacancies available who receive the greatest number of votes of Unit Holders in favour at the annual meeting.

~~30.9~~30.10 Removal

Unit Holders may by Ordinary Resolution direct the removal from office of any ~~Independent~~ Director.

~~30.10~~30.11 Effect

If, in accordance with this clause 30, Unit Holders vote to elect any person as a~~n Independent~~ Director, or to remove any person from office as a~~n Independent~~ Director, the Manager shall ~~give notice of that to~~direct the Shareholder~~, and shall request the Shareholder~~

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to appoint or remove that person as a~~n Independent~~ Director in accordance with the Shareholding Deed.

30.12 Resolutions

The Manager will cause resolutions to be put to Unit Holders, to be considered as Ordinary Resolutions, at each Annual Meeting:

(a) to direct the Shareholder to reappoint as a Director any person who is required to retire at the time of that Annual General Meting and who wishes to be re-appointed, in accordance with clause 30.5; and

~~(a)~~ to direct the Shareholder to appoint as a Director any person who is nominated as a Director in accordance with clause 30.8.

31. Reporting to Supervisor

31.1 Reporting

The Manager shall provide, or cause to be provided, to the Supervisor the reports provided for in any agreement between the Manager and the Supervisor from time to time.

32. Amendments to Deed

32.1 Authority to amend

This deed may be amended by a deed signed by the Manager and the Supervisor if the amendment is authorised pursuant to section 139 of the FMC Act, or by a deed signed by the Manager if the amendment is authorised pursuant to section 140 of the FMC Act.

32.2 Notice of amendments

In addition to its requirements under section 141 of the FMC Act, the Manager shall, each time it makes the annual accounts available to Unit Holders in accordance with clause 28.6, also give notice to the Unit Holders of all amendments to this deed (if any) which have been made since the date of the last such notification. The Manager may give that notice by making the amendments available on a website of the Manager or the Trust, and by notifying Unit Holders that amendments have been made, and may be viewed on that website.

33. Winding Up

33.1 Period of trust

The Trust shall determine and be wound up upon the occurrence of the earliest of the following dates:

(a) the date on which the Manager certifies in writing that in the opinion of the Manager it is in the interests of Unit Holders that the Trust should be wound up;

(b) the date on which a Special Resolution is passed resolving to wind up the Trust;

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(c) the date on which the Trust is wound up by operation of law; or

(d) two months after the date on which the office of Supervisor becomes vacant, if a new Supervisor is not appointed in accordance with clause 21.3 within that period,

or if the High Court orders that the Trust be wound up under section 211 of the FMC Act.

33.2 Perpetuity period

The perpetuity period for the purposes of the Perpetuities Act 1964 is the period commencing on the 10 February 1994 and ending on 10 February 2074. Notwithstanding any other provision of this deed, no Units may be issued or redeemed after 10 February 2074, unless that issue or redemption would not offend the rule against perpetuities, or any other rule or law of equity. The specification of a perpetuity period in this clause 33.2 does not require the termination of the Trust on 10 February 2074 or limit its life to 80 years.

33.3 Notice of distribution

The Supervisor shall within 14 days after the occurrence of any event referred to in clause 33.1, give to each Unit Holder notice of the occurrence of that event and of the intention of the Supervisor to distribute the Trust Fund.

33.4 Conversion to cash

The Supervisor shall as soon as practicable after the occurrence of an event referred to in clause 33.1:

(a) sell, call in and convert into Cash the whole of the Trust Fund;

(b) pay out, discharge, or otherwise make proper provision for all liabilities of the Trust Fund (including any contingent liabilities);

(c) subject to clause 13.13, distribute all undistributed Net Income then existing to the Unit Holders in accordance with their rights to such Net Income; and

(d) subject to clause 13.13, distribute the remainder of the Trust Fund (less all costs and expenses incurred by the Supervisor or the Manager in respect of the winding up of the Trust) amongst the Unit Holders in proportion to the numbers of Units held by them, subject to the particular rights of any Unit Holders to participate in any such distribution including in particular the rights attaching to unpaid or partly paid Units and other Units with special rights.

33.5 Compliance with FMC Act

The Supervisor shall in respect of any winding up of the Trust comply with sections 212 and 213 of the FMC Act.

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34. Notices

34.1 Form and deemed delivery

(a) Any notice, communication or other information (a "**notice**") required by this deed to be given to any Unit Holder by the Manager shall be in writing and, subject to any election made by a Unit Holder pursuant to clause 34.1(b), shall be given:

(i) in the case of the following notices, by electronic means to the electronic address of the Unit Holder on the Register:

(A) the annual accounts of the Trust Fund, together with the Auditor's report, distributed by the Manager pursuant to clause 28.6(a);

(B) the semi-annual accounts of the Trust Fund distributed by the Manager pursuant to clause 28.6(b); and

(C) the annual reports of the Trust Fund prepared by the Manager in accordance with regulation 62(1)(a) of the FMC Regulations, provided that where the Unit Holder has not provided an electronic address for the giving of notices, the Manager will send this document by post to the postal address of the Unit Holder instead; and

(ii) in all other cases, either by post to the postal address of the Unit Holder on the Register or by electronic means to the electronic address of the Unit Holder on the Register.

(b) A Unit Holder may, at any time, notify the Manager, in writing, that the Unit Holder elects to receive all notices by post. If a Unit Holder makes an election pursuant to this clause 34.1(b), then the relevant notice(s) must be sent to the Unit Holder by post in accordance with that election, whether or not the relevant notices are also sent by electronic means.

(c) Where a notice is sent:

(i) by post, service of the notice by properly addressing, prepaying and posting a letter containing the notice shall be deemed to have been effected on the day following the day of posting; and

(ii) by electronic means, service of the notice by sending it to the electronic address of the Unit Holder shall be deemed to have been effected on the Business Day on which it was despatched or, if despatched after 5.00pm on a Business Day, on the next Business Day after the date of despatch, provided that the computer system used to transmit the notice has not generated a record that the notice has failed to be transmitted.

34.2 Overseas address

If any Unit Holder has no registered address within New Zealand and has not supplied to the Manager a postal address within New Zealand or an electronic address for the giving of notices, but has supplied an address outside New Zealand, then any notice to be given to such Unit Holder shall be posted to such Unit Holder at such address and shall be deemed to have been received by such Unit Holder three days following the day of posting.

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34.3 Notices to managers and representatives of unit holders

A notice may be given by the Manager to a Personal Representative by sending it to the address, if any, supplied for that purpose by the Personal Representative, or (until such an address has been supplied) by giving the notice in any manner in which it might have been given if the mental disorder, death or bankruptcy had not occurred.

34.4 No address

If any Unit Holder has no registered address and has not supplied to the Manager a postal address or electronic address for the giving of notices, or if any two notices posted or sent to a Unit Holder are returned to the Manager on consecutive occasions, then, notwithstanding anything contained elsewhere in this deed, until the Unit Holder shall give notice in writing to the Manager of some other address, the address of the Unit Holder for all purposes of this deed shall be deemed to be the Office.

34.5 Holders of Convertible Obligations

Any notices given to the holders of Convertible Obligations may be given to them in the manner provided for in this clause 34 as if such persons were Unit Holders.

34.6 Determination of period of notice

Where a specified number of days' notice is required to be given, the day on which it is served or deemed to be served and, in the case of a notice of meeting, the day for which it is given, shall be excluded in calculating such number of days.

34.7 Notice to be in writing

Any notice required by this deed to be given to the Supervisor by the Manager, or to the Manager by the Supervisor, shall be in writing and be from a duly authorised officer or signatory of the party giving the notice.

35. Governing Law

This deed shall be governed by and construed in accordance with the law of New Zealand.

36. Limitation of Liability

Notwithstanding anything contained in this deed (but subject to clause 37) or any rule of law:

(a) no Unit Holder shall be or become personally liable in respect of any debt or liability of the Trust;

(b) no Unit Holder shall in any circumstances be liable to indemnify the Supervisor or the Manager in respect of any debt or liability incurred in respect of the Trust Fund;

(c) nothing in this deed or in the relationship between the Unit Holders shall be deemed to create a partnership amongst Unit Holders; and

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(d) neither the Supervisor nor the Manager shall be or act as agent for the Unit Holders, and neither shall have power to incur liabilities on behalf of any Unit Holder or pledge the credit of any Unit Holder.

37. Taxation Liability

37.1 Definitions

In this clause:

Relevant Person means a Unit Holder and the Personal Representatives or successors of a Unit Holder;

Tax includes all taxes, duties, levies and other charges including penalties and interest;

Taxation Amount means, in relation to a Relevant Person:

(a) any Tax payable by or on account of that Person or in respect of that Person's Units; or

(b) any withholding tax or similar amounts required to be withheld or deducted by the Manager or the Supervisor in respect of a Unit Holder.

37.2 Deduction of tax

The Supervisor or the Manager may deduct or require to be deducted from any amount otherwise payable to or to be applied in respect of a Relevant Person, an amount equal to the Taxation Amount of that Relevant Person where such amount is payable or anticipated to become payable by the Supervisor or the Manager or from the Trust Fund.

37.3 Sale of units

If any Distribution (including a redemption of Units pursuant to clause 7) is to be effected by way of the transfer or delivery to Unit Holders of Units or other Financial Products, the Supervisor or the Manager may satisfy the Taxation Amount of any Relevant Person by arranging for the sale (in such manner as the Supervisor or the Manager may determine) of sufficient of those Units or other Financial Products to satisfy the Taxation Amount of that Relevant Person, and shall transfer or deliver the balance of those Units or other Financial Products to the Relevant Person.

37.4 Application of deductions

Amounts deducted under clause 37.2 or arising from a sale pursuant to clause 37.3 shall be applied in:

(a) payment of the Taxation Amount to the Person or authority entitled thereto; or

(b) reimbursement of the Supervisor or the Manager for any corresponding amount paid from their own funds;

and any balance shall be refunded to the Relevant Person.

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37.5 Indemnity

Each Relevant Person shall indemnify the Supervisor and the Manager in respect of any Taxation Amount paid or payable by the Manager or the Supervisor in respect of that Person.

37.6 Interest

Any Taxation Amounts paid on behalf of a Relevant Person shall carry interest calculated on a daily basis at such rate as the Manager may determine and such interest shall be paid on demand by the Relevant Person to the Supervisor or the Manager as the case requires.

38. Changes to Dates

Notwithstanding clause 32, the Manager may at any time, giving not less than 2 months' notice to the Unit Holders and the Supervisor, alter the Distribution Periods (both as to length and commencement and expiry dates), the closing date of the Financial Year and the Quarterly Dates. In the event of any such alteration, any calculations required under this deed that are based on a Distribution Period or Financial Year will be adjusted on a pro rata basis to reflect the shorter or longer period so as to ensure that the alteration does not have an unintended economic impact.

39. Contracts Privity

This deed is intended to confer a benefit on the Unit Holders (for the purposes of the Contract and Commercial Law Act 2017 and, subject to the terms hereof, shall be legally enforceable as between the Supervisor, the Manager and the Unit Holders.

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Execution

Executed as a trust deed.

Trustees Executors Limited

Director	Director/Authorised Signatory
Print Name	Print Name

Witness to both signatures
(if not signed by two directors)

Print Name

Occupation

Address

Address of Trustees Executors Limited

Address Level 11~~7~~, 51 Shortland Street
Auckland

Attention **Telephone** 09 308 7100

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Vital~~NorthWest~~ Healthcare Properties Management Limited
by

Director	Director
Print Name	Print Name

Address of ~~NorthWest~~ Vital Healthcare Properties Management Limited

Address	Level 1~~7~~6, HSBC Tower~~AIG Building~~ 188 Quay Street~~41 Shortland Street~~ Auckland	**~~Facsimile~~**	~~09 377 2776~~
Attention	General Counsel	**~~Telephone~~** **Email**	~~09 973 7300~~enquiry@vhpt.co.nz

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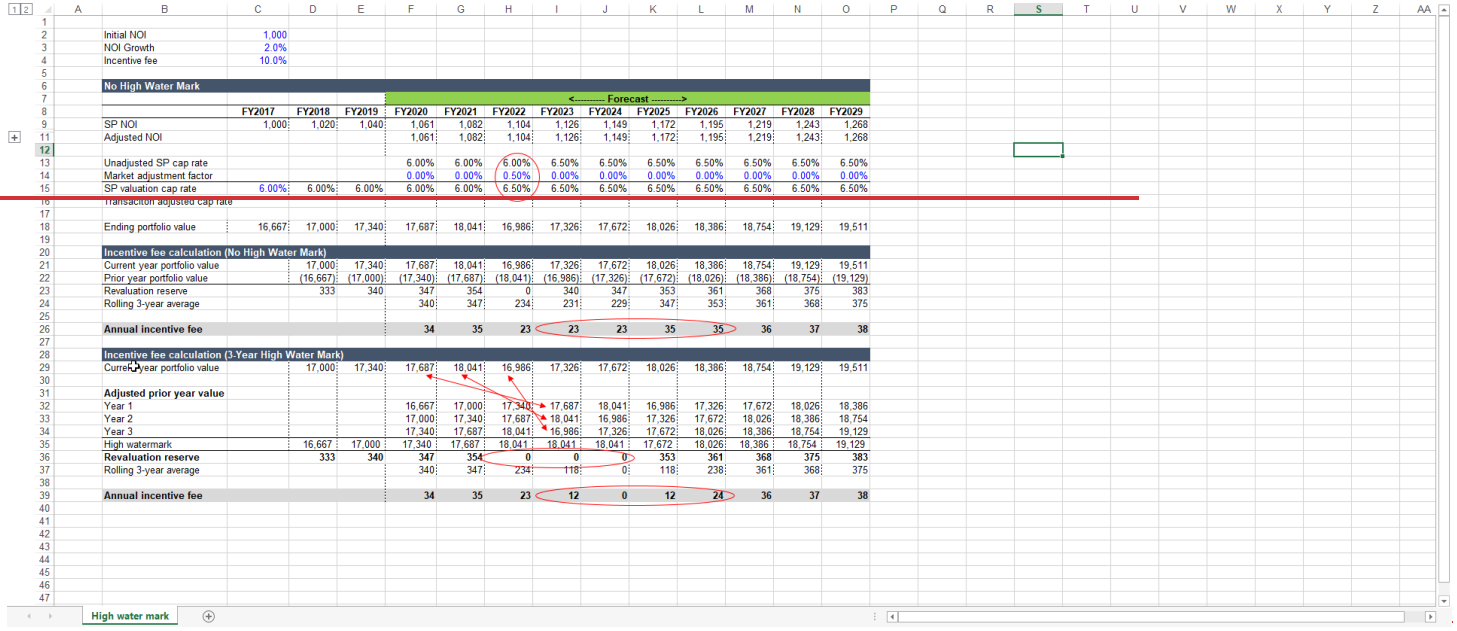
~~Schedule 1: Worked example of Incentive Fee~~

~~Set out below is a worked example of the calculation of the Incentive Fee for example purpose only.~~



Initial NOI	1,000													
NOI Growth	2.0%													
Incentive fee	10.0%													
No High Water Mark														
					<---------- Forecast ---------->									
	FY2017	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	
SP NOI	1,000	1,020	1,040	1,061	1,082	1,104	1,126	1,149	1,172	1,195	1,219	1,243	1,268	
Adjusted NOI				1,061	1,082	1,104	1,126	1,149	1,172	1,195	1,219	1,243	1,268	
Unadjusted SP cap rate				6.00%	6.00%	6.00%	6.50%	6.50%	6.50%	6.50%	6.50%	6.50%	6.50%	
Market adjustment factor				0.00%	0.00%	0.50%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	
SP valuation cap rate	6.00%	6.00%	6.00%	6.00%	6.00%	6.50%	6.50%	6.50%	6.50%	6.50%	6.50%	6.50%	6.50%	
Transaction adjusted cap rate														
Ending portfolio value	16,667	17,000	17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	18,754	19,129	19,511	
Incentive fee calculation (No High Water Mark)														
Current year portfolio value		17,000	17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	18,754	19,129	19,511	
Prior year portfolio value		(16,667)	(17,000)	(17,340)	(17,687)	(18,041)	(16,986)	(17,326)	(17,672)	(18,026)	(18,386)	(18,754)	(19,129)	
Revaluation reserve		333	340	347	354	0	340	347	353	361	368	375	383	
Rolling 3-year average				340	347	234	231	229	347	353	361	368	375	
Annual incentive fee				**34**	**35**	**23**	**23**	**23**	**35**	**35**	**36**	**37**	**38**	
Incentive fee calculation (3-Year High Water Mark)														
Current year portfolio value		17,000	17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	18,754	19,129	19,511	
Adjusted prior year value														
Year 1				16,667	17,000	17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	
Year 2				17,000	17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	18,754	
Year 3				17,340	17,687	18,041	16,986	17,326	17,672	18,026	18,386	18,754	19,129	
High watermark		16,667	17,000	17,340	17,687	18,041	18,041	18,041	17,672	18,026	18,386	18,754	19,129	
Revaluation reserve		**333**	**340**	**347**	**354**	**0**	**0**	**0**	**353**	**361**	**368**	**375**	**383**	
Rolling 3-year average				340	347	234	118	0	118	238	361	368	375	
Annual incentive fee				**34**	**35**	**23**	**12**	**0**	**12**	**24**	**36**	**37**	**38**	

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Schedule 12: Additional Services ~~and Additional Costs~~

Description	Additional Services ~~Additional Costs~~ ~~Payment Terms~~
Acquisitions	Services in respect of acquisitions of new Investments, including but not limited to due diligence, structuring, arrangement of financing, negotiation of terms and other related services. ~~A fee equal to 1.5% of the capitalised cost of the relevant Investment, being the contracted price payable by the Supervisor (or the Subsidiary, as the case may be), excluding any deductions netted off the settlement price (such as rates), together with other related capitalised acquisition costs.~~ ~~In the case of an acquisition that involves the provision of a related party benefit in compliance with sections 172 - 175 of the FMC Act, the Manager must pay any costs reasonably and properly incurred by or on behalf of the Independent Directors in carrying out due diligence that is over and above the level of due diligence that would be consistent with standard market practice for a proposed acquisition that did not involve the provision of a related party benefit (for example, the cost of any market valuation of the relevant assets). Any such amounts may be set off against management fees otherwise payable.~~ ~~Payment to be due at the time of completion of the acquisition (and payment is conditional on completion occurring). Any post-completion adjustment to the purchase price (including, for example, as a result of a warranty claim or deferred consideration) will result in a corresponding amendment to the Additional Cost.~~
Disposals	Services in respect of disposals of Investments, including but not limited to coordinating the sales process, engaging with potential purchasers, negotiation of terms and other related services. ~~A fee equal to 1.0% of the contracted sale price of the relevant Investment actually received by the Supervisor (or the Subsidiary, as the case may be) (the **Disposal Fee**), provided that, if a third party agent has been engaged to provide services for the disposal, then the fee payable to the Manager will be an amount equal to the Disposal Fee less the third party agent's costs and commissions.~~ ~~In the case of a disposal that involves the provision of a related party benefit in compliance with sections 172 - 175 of the FMC Act, the Manager must pay any costs reasonably and properly incurred by or on behalf of the Independent Directors in carrying out due diligence that is over and above the level of due diligence that would be consistent with standard market practice for a disposal that did not involve the provision of a related party benefit (for example, the cost of any market valuation of the relevant assets). Any such amounts may be set off against management fees otherwise payable. For clarity, the fee payable to the Manager in respect of a disposal will not be reduced below zero.~~

	~~Payment to be due at the time of completion of the disposal (and payment is conditional on completion occurring). Any post-completion adjustment to the purchase price (including, for example, as a result of a warranty claim or deferred consideration) will result in a corresponding amendment to the Additional Cost.~~
Development ~~fee~~	Services which may be in respect of -any one or more of the following services in respect of a project: (i) Managing procurement of statutory authority consents. (ii) Negotiating principal agreements, such as building contracts and consultancy agreements. (iii) Ensuring compliance with statutory requirements. (iv) Keeping records in connection with the project. (v) Managing insurances. (vi) Managing legal disputes. (vii) Coordination of design, procurement and contractors. (viii) Managing construction process and timetable, commissioning of plant and equipment and rectification of defects. (ix) Managing project budgets. (x) Attending project control group meetings. (xi) Any other services which would usually be performed by a development or project manager. ~~A fee equal to 4% of the total project costs approved by the Board.~~ ~~However, if:~~ ~~(a) the Manager engages a third party external provider for the development management services; and~~ ~~(b) the fee payable to the third party external provider (**Relevant Amount**) is payable by the Manager and not re-charged to the tenant by way of rentalisation,~~ ~~the development fee of 4% must be reduced by the Relevant Amount.~~

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	Notwithstanding the foregoing, the Manager may, at its discretion, agree in writing to charge a fee lower than that which would be otherwise payable for particular projects. Payment to be due at the time of completion of identified trigger points of: Design development completion 15% Development application approval 15% Builder appointment 15% Construction start date 25% Midpoint of construction 10% Practical completion 15% Defects Liability period 5% The Manager is to present a request for payment to the Supervisor identifying that the respective trigger point has been reached. On receipt of the Supervisor's approval the payment is to be made. Any post-completion adjustment to the total development fee (including, for example, as a result of a warranty claim or deferred consideration) will result in a corresponding amendment to the final fee payable when presenting a request for the final fee payable as a result of the Defect Liability period trigger.

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Schedule 32: Activity Services ~~and Activity Fees~~

~~For the purposes of this Schedule 3, **Rental** means, in respect of a period: (1) in the case of a gross lease or licence, the actual rent (including, but not limited to, turnover rent) payable by the tenant under the lease or licence for that period; or (2) in the case of a net lease or licence, the aggregate of the actual rent (including, but not limited to, turnover rent), tenant recoveries and other outgoings payable by or charged by the landlord to the tenant under the lease or licence for that period, in any case ignoring any incentives or concessions.~~

Description	Activity Services ~~Activity Fee~~ ~~Payment Terms~~
New leases or licences	Services in relation to the negotiation of new leases or licence (which is a lease or licence to a new tenant or where agreed with a sitting tenant that a new lease or licence will be granted other than on substantially the same terms) over Investments that are real estate properties, including coordinating the letting process, engaging with potential and sitting tenants, negotiation of terms and other related services. ~~A fee calculated as follows for each new lease or licence:~~ ~~(a) if the term of the lease or licence is less than three years, an amount equal to 11% of the aggregate annual Rental;~~ ~~(b) if the term of the lease or licence is three years, an amount equal to 12% of the aggregate annual Rental;~~ ~~(c) if the term of the lease or licence is greater than three years, the aggregate of:~~ ~~(i) an amount equal to 12% of the aggregate annual Rental; and~~ ~~(ii) a further 1% of the annual Rental in respect of each full year by which the term of the lease or licence exceeds 3 years (adjusted pro rata for part years), up to a maximum of 20% of the aggregate annual Rental,~~ ~~provided that the fee shall not be less than $2,500 per new lease or licence.~~ ~~Payment to be due at the time the new agreement to lease or licence, or lease, or licence is executed by the tenant (whichever is the earlier).~~

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Lease or licence renewals	Services in relation to the negotiation of lease or licence renewals (whether by exercise of option or separate agreement to renew the lease or licence on substantially the same terms) in relation to Investments that are real estate properties, including engaging with tenants, negotiation of terms and other related services. ~~A fee equal to 50% of the amount that would have been payable if the lease or licence was a new lease or licence.~~ ~~Payment to be due at the time the lease or licence renewal is executed by the tenant.~~
Rent review fees	Services in relation to the negotiation of rent reviews in relation to Investments that are real estate properties, including engaging with tenants, negotiation of rent reviews and other related services. ~~In the case of a structured (non-market) rent review, or any market rent review which does not result in a Rental increase, an administration fee of $1,000.~~ ~~In the case of a market review, a fee equal to 10% of the amount that the Rental has increased by during the first year that such increase applies, provided that the fee shall not be less than $1,000.~~ ~~In respect of a structured rent review, payment will be due at the time the rent review takes effect.~~ ~~In respect of a market rent review, payment will be due at the time the rent review process has concluded.~~

~~**Property management fee**~~	~~Services in relation to the below and other services generally accepted as, or relating to, property management:~~ ~~(i) invoicing tenants;~~ ~~(ii)(i) managing bad debts;~~ ~~(iii)(i) managing collection of rental and outgoings payments;~~ ~~(iv)(i) preparation of annual operating and capital budgets;~~ ~~(v)(i) managing year end audit of operating expenses and issuing of annual statements to tenants (including recharge or reimbursement where applicable);~~ ~~(vi)(i) preparation of monthly reports including variance analysis against budgets;~~

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	(viii)(i) management of trust account; (viiii)(i) payments to creditors/suppliers; (ix)(i) assisting with conduct of property valuations; (x)(i) collecting and maintain security deposits, bank guarantees and any other security; (xi)(i) documenting, negotiating and administering tenancy agreements (including obtaining any necessary mortgagee's or third party consents); (xii)(i) maintaining full leasing and tenancy records; (xiii)(i) supervising compliance with leases including provision of tenant insurances; (xiv)(i) assisting with assignments and/or sub-leasing; (xv)(i) managing tenant defaults; and (xvi)(i) managing tenant make-good requirements. A fee equal to between 1% 2% of gross income depending on the number of tenants at the property. The fee percentage between 1% and 2% (each inclusive) will be determined based on the following: (i) 1% where the property has one principal tenant; (ii)(i) 1.5% where the property has between two and five tenants; and (iii)(i) 2% where the property has six or more tenants. Where a single property operator manages multiple sub-tenants at a property, it will be treated as a single tenant for these purposes. Where the property is compriced of a medical centre and hospital, the fee will be based on the number of tenants (excluding sub-tenants) in the medical centre and hospital. The Manager will deduct any amounts recovered by it by way of outgoings from amounts payable to it as a property management fee. Payment to be due monthly in advance.

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Facilities management ~~fee~~	Services in relation to: (i) inspecting the property regularly; (ii) managing the following: (A) car parking arrangements either directly or through a car park management company as required; (B) storage management; (C) presentation, cleaning, repairs and operations of a property; (D) repairs and maintenance including preparing service specifications and tendering services contracts (as and when deemed appropriate); (E) consultants for repairs and maintenance including ensuring contractor compliance; (F) procurement of annual certification statements (AESM, AFSS) and registrations (Cooling tower, Lift); and (G) insurances including putting in place the necessary policies and processing claims. ~~A fee equal to the market rate for similar services at similar properties and benchmarked by reference to a reputable and high quality service provider and which fee is recoverable from tenants through outgoings.~~ ~~This fee is payable unless there is a contract in place with a third party external provider to provide facilities management services.~~ ~~Recoverable through outgoings.~~
Project management ~~fee~~	Services in relation to: (i) programming major expenditure of base building and capital replacement; (ii) administering fit outs; and (iii) oversight of major capital works.

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	~~The Manager will be entitled to a project management fee in respect of any project with a budget of between $200,000 to $2,500,000, where the purpose of the project is to upgrade, repair or otherwise extend the life of the property, including but not limited to replacement or repair of major plant and equipment, structural items and building envelope.~~ ~~The project management fee will be an amount equal to:~~ ~~(a) if the Manager is the project lead (i.e., has a project management role), 2% of the committed spend; and~~ ~~(b) if the Manager is not the project lead (i.e., does not have a project management role), but has an oversight role, 1% of the committed spend.~~ ~~For these purposes 'committed spend' is the budget approved by the Board.~~ ~~Any project with a budget greater than $2,500,000 will be treated in the manner specified under (a) and (b) above provided, however, that the references to "2%" and "1%" will be replaced with "4%" and "2%" respectively.~~ ~~Payment to be due at the time of completion of the relevant project.~~ ~~The Manager is to present a request for payment to the Supervisor identifying that the respective project has been completed.~~ ~~On receipt of the Supervisor's approval the payment is to be made.~~ ~~Any post-completion adjustment to the total project management fee (including, for example, as a result of a warranty claim or deferred consideration) will result in a corresponding amendment to the final fee payable.~~

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Schedule 3 – Property Management Services

	Services	Fee	Payment terms
Property management	Services in relation to the below and other services generally accepted as, or relating to, property management: (i) invoicing tenants; (ii) managing bad debts; (iii) managing collection of rental and outgoings payments; (iv) preparation of annual operating and capital budgets; (v) managing year end audit of operating expenses and issuing of annual statements to tenants (including recharge or reimbursement where applicable); (vi) preparation of monthly reports including variance analysis against budgets; (vii) management of trust account; (viii) payments to creditors/suppliers; (ix) assisting with conduct of property valuations; (x) collecting and maintain security deposits, bank guarantees and any other security;	A fee equal to between 1%-2% of gross income depending on the number of tenants at the property. The fee percentage between 1% and 2% (each inclusive) will be determined based on the following: (i) 1% where the property has one principal tenant; (ii) 1.5% where the property has between two and five tenants; and (iii) 2% where the property has six or more tenants. Where a single property operator manages multiple sub-tenants at a property, it will be treated as a single tenant for those purposes. Where the property is comprised of a medical centre and hospital, the fee will be based on the number of tenants (excluding sub-tenants) in the medical centre and hospital. The Manager will deduct any amounts recovered by it by way of outgoings from amounts payable to it as a property management fee.	Payment to be due monthly in advance.

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	(xi) documenting, negotiating and administering tenancy agreements (including obtaining any necessary mortgagee's or third party consents); (xii) maintaining full leasing and tenancy records; (xiii) supervising compliance with leases including provision of tenant insurances; (xiv) assisting with assignments and/or sub-leasing; (xv) managing tenant defaults; and (xvi) managing tenant make-good requirements.		

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Schedule 4: Meetings of Unit Holders

1. Venue of Meetings

Meetings shall be held in such place in New Zealand, and at such time, as the Manager may determine.

2. Notice of Meetings

(a) Notice of every meeting shall be given in the manner provided in this deed to:

(i) every Unit Holder; and

(ii) every Personal Representative of a Unit Holder where the Unit Holder would otherwise be entitled to receive notice,

and all such Persons shall be entitled to attend meetings of Unit Holders.

(b) A copy of the notice shall be sent to the Supervisor and the Shareholder.

(c) Subject to clause 2(e), at least fourteen days' notice of every meeting shall be given. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice shall specify the place, date and time of the meeting and the general nature of the business to be transacted but it shall not be necessary to specify in the notice the terms of the resolutions to be proposed, unless required by the Listing Rules.

(d) The accidental omission to give notice to, or the failure to receive notice of a meeting by, any person entitled to that notice, does not invalidate the proceedings at that meeting.

(e) If the business of the meeting includes the approval of a Special Resolution, notice of the meeting shall be given in accordance with clauses 2 and 3 of schedule 11 of the FMC Regulations, which shall apply as if set out in full in this schedule.

3. Quorum

(a) No business shall be transacted at any meeting unless the requisite quorum is present.

(b) Subject to clauses 3(d) and (f), the quorum for meetings is present if Unit Holders are present who hold not less than 10% of the number of Units for the time being in existence.

(c) A Unit Holder is present at a meeting if the Unit Holder (or its Representative):

(i) in the case of a meeting held under clauses 4(a) or 4(b), attends the meeting in person;

(ii) in the case of a meeting held under clauses 4(b) or 4(c), participates in the meeting by the means of audio, audio and visual or electronic communication; or

(iii) cast votes by electronic means pursuant to clause 8(d).

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(d) If within fifteen minutes from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the request of Unit Holders, shall be dissolved. In any other case, it shall stand adjourned to such day and time not being less than fourteen (14) days thereafter, and to such place as may be appointed by the chairperson and at such adjourned meeting the Unit Holders or their Representatives present will constitute a quorum.

(e) Notice of any such adjourned meeting shall be given in the same manner (except in respect of the period of notice) as the notice for the original meeting and such notice shall state that the Unit Holders present at the adjourned meeting, whatever their number and whatever the number of Units held by them, shall form a quorum.

(f) If the business of the meeting includes the approval of a Special Resolution, a quorum shall be determined in accordance with clause 5 of schedule 11 of the FMC Regulations, which shall apply as if set out in full in this schedule.

4. Method of holding meetings

A meeting of Unit Holders may be held by a number of Unit Holders who constitute a quorum:

(a) being assembled together at the time and place appointed for the meeting; or

(b) by a combination of:

(i) being assembled together at the time and place appointed for the meeting; and

(ii) participating in the meeting by means of audio, audio and visual or electronic communication; or

(c) if approved by the Supervisor, participating in the meeting by means of audio, audio and visual or electronic communication.

The Manager is not required to hold meetings of Unit Holders in the manner specified in clauses 4(b) or (c). Meetings will be held in that manner only if the notice of meeting specifies, or the Manager otherwise decides to do so. In the case of a meeting held by the means specified in clause 4(c), Unit Holders and their Representatives must comply with any conditions imposed by the Supervisor in providing its approval of such means.

5. Attendance by Supervisor, ~~and~~ Manager and Shareholder~~may attend and speak~~

Any director, officer or solicitor of:

(a) the Supervisor;

(b) the Manager; and

(c) the Shareholder,

and any other person authorised in that behalf by the Supervisor, ~~and any director, officer or solicitor of the Manager or any other person authorised in that behalf by~~ the Manager or the Shareholder (as applicable) may attend any meeting and all such persons shall have the right to speak at the meeting.

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6. Chairperson

A person nominated in writing by the Supervisor (who may without limitation be a director of the Manager) shall act as chairperson of each meeting.

7. Adjournment of Meetings

(a) The chairperson may with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.

(b) No business shall be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

8. Voting Rights

(a) The only Persons entitled to vote at a meeting of Unit Holders shall be the Unit Holders registered in the Register at the date of the meeting (or if an adjourned meeting at the date the first meeting was first due to be held) or, to the extent applicable, their Representatives.

(b) In the case of a meeting of Unit Holders held under clause 4(a), voting shall be by whichever of the following methods is determined by the chairperson:

(i) voting by voice;

(ii) voting by show of hands; or

(iii) voting by poll,

unless a poll is demanded or required pursuant to clause 8 of Schedule 11 of the FMC Regulations, in which case voting will be by poll.

(c) In the case of a meeting of Unit Holders held under clauses 4(b) or 4(c), unless a poll is demanded or required pursuant to clause 8 of Schedule 11 of the FMC Regulations, voting at the meeting shall be by any method permitted by the chairperson of the meeting.

(d) The Manager may allow Unit Holders or their Representatives to vote by signifying their assent or dissent by electronic means (including, for clarity, voting on a personal computer or other electronic device, with such vote being transmitted to the meeting).

(e) Unit Holders may exercise their right to vote at a meeting by casting a postal vote in accordance with any procedures in relation to postal voting determined by the Manager. For clarity, a postal vote may be cast using electronic means permitted by the Manager.

(f) Subject to the Listing Rules, section 163 of the FMC Act, and to any rights or restrictions for the time being attached to any class or classes of Units:

(i) on a vote by voices or a show of hands, every Unit Holder present in person or by Representative shall have one vote; and

(ii) on a poll, every Unit Holder present in person or by Representative shall have:

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(A) in respect of each fully paid Unit held by such Unit Holder, one vote; and

(B) in respect of each Unit which is not fully paid held by such Unit Holder, a fraction of the Vote which would be exercisable if the Unit were fully paid. That fraction must be proportionate to the payment which has been made (excluding amounts credited and amounts paid in advance of a call).

(g) Where two or more Persons are registered as the holder of a Unit, the vote of the Person named first in the Register and voting on a matter will be accepted to the exclusion of the votes of the other joint Unit Holders.

9. Proxies

(a) Every notice convening a meeting of the Trust shall state that a Unit Holder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend and vote instead of him, and that a proxy need not be a Unit Holder. The Manager shall send a form of proxy to every Unit Holder entitled to attend and vote at a meeting of the Trust with the notice convening the meeting.

(b) Votes may be given either personally, by proxy, attorney and also in the case of a corporation by an authorised representative.

(c) An instrument of proxy shall be in such form as the Manager shall stipulate from time to time and need not be witnessed, provided that, to the extent that the subject and form of the resolutions reasonably permit, the instrument of proxy shall, as a minimum so far as the subject matter and form of the resolutions reasonably permit, provide for a binary voting choice (for and against) on all resolutions, enabling the Unit Holder to instruct the proxy as to the casting of the vote on each resolution. So far as reasonably practicable, the resolutions to be proposed at a meeting shall be framed in a way which facilitates the giving of two way voting instructions to proxies.

(d) No proxy form shall be issued with a proxy named therein, either by name or by reference to an office, but the proxy form may indicate in a footnote that certain persons are willing to act as a proxy if a Unit Holder desires to appoint them or any of them. The proxy form must contain a statement outlining who is subject to voting restrictions in relation to each resolution.

(e) Except where section 163 of the FMC Act applies, whenever the chairperson of the meeting or an officer of the Supervisor is appointed a proxy for a Unit Holder, and the Unit Holder has not indicated in the instrument of proxy or in any other way prior to the time for taking the poll the manner in which the Unit Holder's proxy is to vote upon any resolution coming before the meeting, the Unit Holder's vote shall be used in such manner as the proxy thinks fit.

(f) A proxy must be appointed by notice in writing signed by, or, in the case of an electronic notice, sent by the appointing Unit Holder or by the Unit Holder's attorney duly authorised in writing or, if the appointor is a corporation, signed, or, in the case of an electronic notice, sent by an officer or attorney so authorised. The notice must state whether the appointment is for a particular meeting or a specified term. A Unit Holder may appoint more than one proxy for a particular meeting, provided that more than one proxy is not appointed to exercise the votes relating to a particular Unit held by the Unit Holder.

(g) No proxy is effective in relation to a meeting unless the instrument of proxy is received by or on behalf of the Manager at the address specified for that purpose in the notice and by the time specified for that purpose.

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(h) An instrument or proxy in favour of the chairperson of the meeting or the chairperson (howsoever expressed) shall be valid and effective as though it were in favour of a named person and shall constitute the person who chairs the meeting for which the Instrument of proxy is used (whether on or not), the lawful proxy of the appointor.

(i) A person appointed as a proxy shall have the right to attend and speak at a meeting and to demand or join in demanding a poll and shall (except and to the extent to which the proxy is specifically directed to vote for or against any proposal) have power generally to act at the meeting for the Unit Holder concerned.

(j) A vote given in accordance with the terms of an instrument of proxy or power of attorney shall be valid notwithstanding the previous death or insanity of the principal or revocation of the instrument of proxy or power of attorney or of the authority under which the instrument of proxy was executed or the transfer of the Units in respect of which the vote is given if no intimation in writing of such death, insanity, revocation or transfer is received by the Manager at the Office before the commencement of the meeting or adjourned meeting at which the instrument of proxy or power of attorney is used.

10. Power of Attorney

Any Unit Holder may by power of attorney appoint an attorney (who need not be a Unit Holder) to vote and act on behalf of the Unit Holder at any meeting and such power of attorney or proof thereof to the satisfaction of the Manager shall (unless such power of attorney or such proof has previously been produced to the Manager) before the time of holding the meeting at which the attorney proposes to vote be produced for inspection at such place as the Manager may in the notice convening the meeting direct or (if no such place is appointed) then at the Office. Such attorney, if so empowered, may appoint a proxy for the Unit Holder granting the power of attorney.

11. Representatives of a Company

(a) A person authorised pursuant to a resolution of the directors or other governing body of a corporation which is a Unit Holder to act for it as its representative at any meeting shall be entitled to exercise the same powers on behalf of that corporation as that corporation could exercise if it were an individual Unit Holder. A person so authorised is in this schedule referred to as an “authorised representative.”

(b) An authorised representative shall be entitled to produce evidence of such representative’s appointment at any time before the time appointed for the holding of, or at, the meeting or adjourned meeting, or for the taking of a poll, at which such representative proposes to vote.

12. Procedure

(a) A resolution put to the vote of a meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or the Supervisor or any representative of the Supervisor or by one or more Unit Holders holding or representing not less than 5% of the number of Units in existence. Unless a poll is so demanded, a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(b) The demand for a poll may be withdrawn. If a poll is duly demanded it shall be taken in such manner as the chairperson may direct and the result of such poll shall be

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deemed to be the resolution of the meeting at which the poll was demanded. The Auditor, or if the Auditor is unable or unwilling to act, then such persons as the chairperson nominate, shall act as scrutineers for the purposes of the poll. The chairperson shall be entitled to declare the result of the poll upon receipt of a certificate from the Auditor setting out the number of votes which could be cast at the meeting, and upon receipt of a notice from the scrutineers that, in the light of the Auditor's certificate, sufficient votes to determine the result of the resolution have been counted.

(c) In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded shall not be entitled to a casting vote in addition to the votes (if any) to which the chairperson may be entitled as a Unit Holder or on behalf of Unit Holders.

(d) A poll demanded on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken either immediately or at such time (not being more than 14 days from the date of the meeting) and place as the chairperson may direct. No notice need be given of a poll not taken immediately.

(e) The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

(f) On a poll votes may be given either personally or by proxy or by attorney or by an authorised representative. On a poll a Person entitled to more than one vote need not use all that Person's votes or cast all the votes the Person uses in the same way.

(g) In the case of joint Unit Holders, the vote of the senior who tenders a vote whether in person by proxy, attorney or by authorised representative shall be accepted to the exclusion of the votes of the other joint Unit Holders, and for this purpose seniority shall be determined by the order in which the names stand in the Register in respect of the joint holding.

13. Powers exercisable by Special Resolutions

(a) Subject to the Listing Rules and the FMC Act, a meeting of Unit Holders shall have the following powers exercisable by Special Resolution:

(i) power to sanction the exchange of Units for, or the conversion of units into shares, stock, debentures, debenture stock or other obligations or Financial Products of any company formed or to be formed;

(ii) power to sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Unit Holders howsoever such rights shall arise;

(iii) power to assent to any alteration, modification of, variation, or addition to the provisions contained in this deed, or the conditions attaching to the Units and to authorise the Manager and Supervisor to concur in and execute any supplemental trust deed or other document embodying any such alteration or addition;

(iv) power to give any sanction, assent, release or waiver of any breach or default by the Manager or the Supervisor under any of the provisions of this deed;

(v) power to discharge, release or exonerate the Manager or the Supervisor from all liability in respect of any act of commission or omission for which the Manager or the Supervisor has or may become responsible under this deed;

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(vi) power to appoint a replacement Supervisor if the Manager fails to do so under clause 21.3; and

(vii) power to sanction the exchange of Units for or the conversion of Units into, units or interests in any other managed investment scheme or similar entity (whether established in New Zealand or elsewhere) on such basis as may be approved by the Special Resolution.

(b) A meeting of the Unit Holders of any class of Units shall have power by Special Resolution to vary the rights attaching to Units of that class provided that such variation does not adversely affect the rights attaching to any other class of Units, and provided further that any such meeting shall be convened and variation effected in accordance with the applicable provisions of the Listing Rules and this deed.

14. Powers of Unit Holders relating to Shareholder

(a) Subject to the Listing Rules, the FMC Act and clause 30, a meeting of Unit Holders shall have the power, exercisable by Ordinary Resolution, to direct the Shareholder as to:

(i) the individuals in respect of whom the Shareholder shall exercise its rights to appoint and remove as Directors under the constitution of the Manager; and

(ii) any other matter required to be approved by Unit Holders as an Ordinary Resolution pursuant to the NZX Listing Rules, FMC Act or this deed.

(b) Subject to the Listing Rules and the FMC Act, a meeting of Unit Holders shall have the following powers exercisable by Special Resolution:

(i) dispose of all or any of the Manager Shares (whether by sale, transfer or otherwise), and, where applicable, effect the appointment of a replacement shareholder of the Manager (provided such new shareholder holds the required licence or authorisation to act in such capacity in compliance with any applicable laws, including under the FMC Act);

(ii) enter into any reconstruction, reorganisation, amalgamation or liquidation of the Manager;

(iii) authorise any amendment to, direct the termination of, and/or the entry into by the Manager of a replacement or supplemental Shareholding Deed;

(iv) if not otherwise contemplated by this deed, direct how the Shareholder will vote the Manager Shares; and/or

(v) give effect to any other matter relating to the Shareholder or the Manager Shares on which direction from Unit Holders is sought by the Shareholder or Directors,

in each case, on such terms and subject to such conditions as are stated in the direction, provided that Unit Holders are not entitled to give any direction, and no direction shall be effective which purports, to transfer the Manager Shares to or for the benefit of the Supervisor or Unit Holders in their capacity as such or which would result in a breach of any applicable laws, including the FMC Act. Nothing in this paragraph 14 prevents the Shareholder voting or exercising its rights in respect of the Manager Shares on procedural or administrative matters.

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~~14.~~15. Special Resolution binds all Unit Holders

A Special Resolution passed at a meeting of the Unit Holders duly convened and held in accordance with this schedule shall be binding upon all Unit Holders whether present or not at the meeting and each of the Unit Holders, Supervisor and the Manager shall be bound to give effect to the Special Resolution accordingly. The passing of any such resolution shall as between the Manager, the Supervisor and the Unit Holders be conclusive evidence that the circumstances justify the passing of the Special Resolution, the intention being that it shall rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution. A resolution which affects a particular Unit Holder or a class of Unit Holders only, as opposed to the rights of the Unit Holders generally, shall not be binding on such Unit Holder or class of Unit Holders unless such Unit Holder agrees or (if more than one) a majority in number representing 75% in value of such Unit Holders agree to be bound by the terms of such Resolution.

~~15.~~16. Minutes to be kept

Minutes of all resolutions and proceedings at every meeting shall be made by the Manager, or if the Manager is not present at any meeting by some person appointed by the chairperson of such meeting, and duly entered in books from time to time provided for that purpose by the Manager. Any such minutes, if purporting to be signed by the chairperson of the meeting at which such resolutions were passed or proceedings had or by the chairperson of the next meeting of Unit Holders, shall be prima facie evidence of the matters therein stated. Until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed or proceedings to have been duly passed and had.

~~16.~~17. Unit Holder Proposals

A Unit Holder may give written notice to the Manager of a matter the Unit Holder proposes to raise for discussion or resolution (but which shall not be binding) at the next meeting of Unit Holders, at which the Unit Holder is entitled to vote on the following basis:

(a) if the notice is received by the Manager not less than 20 Business Days before the last day on which notice of the relevant meeting of Unit Holders is required to be given by the Manager, the Manager must, at the expense of the Trust, give notice of the Unit Holder proposal and the text of any proposed resolution to all Unit Holders entitled to receive notice of the meeting;

(b) if the notice is received by the Manager not less than 5 Business Days and not more than 20 Business Days before the last day on which notice of the relevant meeting of Unit Holders is required to be given by the Manager, the Manager must, at the expense of the Unit Holder, give notice of the Unit Holder proposal and the text of any proposed resolution to all Unit Holders entitled to receive notice of the meeting;

(c) if the notice is received by the Manager less than 5 Business Days before the last day on which notice of the relevant meeting of Unit Holders is required to be given by the Manager, the Manager must if practicable, and at the expense of the Unit Holder, give notice of the Unit Holder proposal and the text of any proposed resolution to all Unit Holders entitled to receive notice of the meeting;

(d) if the directors of the Manager intend that Unit Holders may vote on the proposal by proxy or by a vote under clause 8(b) or 8(c), they must give the proposing Unit Holder the right to include in or with the notice given by the Manager a statement of not more than 1,000 words prepared by the proposing Unit Holder in support of the proposal,

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together with the name and address of the proposing Unit Holder. Such resolutions shall not bind the Manager or the Trust;

(e) the Manager is not required to include in or with the notice given by the Manager:

(i) any part of the statement prepared by a Unit Holder that a majority of the directors of the Manager consider to be defamatory (within the meaning of the Defamation Act 1992), frivolous, or vexatious; or

(ii) any part of a proposal or resolution prepared by a Unit Holder that a majority of the directors of the Manager consider to be defamatory (within the meaning of the Defamation Act 1992); and

(f) where the costs of giving notice of the Unit Holder proposal and the text of any proposed resolution are required to be met by the proposing Unit Holder, the proposing Unit Holder must, on giving notice to the Manager, deposit with the Trust or tender to the Trust a sum sufficient to meet those costs that will reasonably be incurred in giving such notice.