

Consolidated Master Trust Deed

Funds Administration New Zealand Limited

Trustees Executors Limited

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Deed dated *1 November* 2016

Parties

- 1 Funds Administration New Zealand Limited at Invercargill ('Manager')
- 2 Trustees Executors Limited at Wellington ('Supervisor')

Background

- A The Manager and the Supervisor are parties to a Master Trust Deed dated 1 April 2002 ('Original Deed'). The Original Deed has subsequently been amended by Deeds of Amendment to the Master Trust Deed dated 30 September 2002 and 21 March 2007, and was further amended and consolidated on 21 September 2007 ('Master Deed'). A number of separate unit trusts within the suite of unit trusts known as the Lifestages Unit Trusts have been established pursuant to the Master Deed.
- B Clauses 29.1b and f of the Master Deed provide, amongst other things, that the Supervisor and the Manager may make any alteration, modification, variation or addition to the provisions of the Master Deed or any Establishment Deed if, in the opinion of the Supervisor, the same is necessary or desirable for the more convenient, economical or advantageous working, management or administration of a Trust or for safeguarding or enhancing the interest of Investors, or if the same is necessary or desirable to reflect any changes to the law governing unit trusts, including the duties and powers of supervisors and managers of unit trusts.
- C The Manager and the Supervisor wish to amend the Master Deed pursuant to clause 29 of the Master Deed in order to:
- a reflect the requirements of the Financial Markets Conduct Act 2013 ('Act') and the Financial Markets Conduct Regulations 2014 ('Regulations') in order to allow each Trust that is required to do so to become registered as a managed investment scheme under the Act; and
 - b make a number of other amendments that the Supervisor and the Manager consider appropriate in connection with the application of the Act, including in connection with those Trusts becoming registered as managed investment schemes under the Act.
- D The Supervisor is satisfied that the amendments recorded in this Deed are desirable for the more convenient, economical and advantageous working, management or administration of the Lifestages Unit Trusts, and the parties are also satisfied that these amendments are desirable to reflect changes to the laws governing the Lifestages Unit Trusts outlined above.

Covenants

In accordance with the power of amendment contained in clause 29 of the Master Deed, it is declared that with effect from the Effective Date, the Master Deed is amended by substituting all of its provisions in their entirety with the provisions of this Deed so that the Trusts established pursuant to the Master Deed continue in existence without interruption, but will be administered in accordance with this Deed with effect from the Effective Date.

1 Definitions

1.1 In this Deed unless the context otherwise requires:

'Act' means the Financial Markets Conduct Act 2013;

'AML/CFT Act' means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009;

'Applications Account' means a trust account in the name of the Manager, Supervisor, Custodian, or Sub-Custodian and maintained in accordance with the Act for the purposes of holding application moneys paid pursuant to this Deed and the relevant Establishment Deed;

'Associate' has the same meaning as 'Associated Person' in the Act;

'Auditor' means and includes each of the auditors appointed in relation to the Trusts pursuant to clause 32;

'Authorised Investments' in relation to any Trust means the investments which may be included as assets of the Trust Fund of that Trust as specified in the relevant Establishment Deed;

'Authorised Representative' in relation to any Trust means a Person authorised pursuant to a resolution of the directors or other governing body of a corporation which is an Investor to act for it as its representative at any meeting of Investors of that Trust as specified in paragraph 10 of the Second Schedule;

'Cash' includes a cheque and bank cheque;

'Chairperson' means in relation to any Trust a Person nominated in writing by the Supervisor to preside at a meeting of Investors of that Trust pursuant to paragraph 5.1 of the Second Schedule to this Deed;

'Commencement Date' in relation to any Trust means the date which the Manager by notice in writing to the Supervisor specifies as the date on which that Trust is to commence, or, if no such notice is given by the Manager to the Supervisor:

- a in the case of every Trust in existence as at the Effective Date, the date of the first investment statement (as defined in the Securities Act 1978 prior to its repeal) in respect of that Trust; and
- b in the case of any other Trust, the date on which any consideration for Units in that Trust is first accepted by or on behalf of the Manager;

'Custodian' means a Person appointed by the Supervisor to hold Scheme Property under clause 20.1;

'Deed' means this Master Trust Deed;

'Disclosure Document' has the meaning set out in the Act and includes any PDS, Register Entry or Fund Update;

'Distributable Income' in relation to a Trust means the income of that Trust determined under clause 17.2;

'Effective Date' means the date that the Manager elects under clause 19(1)(a) of Schedule 4 of the Act;

'Electronic Communication' means a transmission of an instruction, request, notice or information by telephone, facsimile, computer, videophone or other electronic medium approved by the Manager subject to such conditions as the Manager considers appropriate as to identification of the person making the communication or verification of the content of the communication;

'Entitlement' in relation to a Unit means the amount of Distributable Income to be distributed to an Investor in respect of that Unit calculated in the manner specified in the relevant Establishment Deed;

'Entry Fee' in relation to any Trust means the Manager's fee for selling or issuing Units in that Trust determined in accordance with clause 28.1;

'Establishment Deed' means a deed executed by the Supervisor and the Manager by which each Trust is established in or to the effect of the form set out in the Third Schedule or such other form as the Supervisor and the Manager shall agree;

'Exit Fee' in relation to any Trust means the Manager's fee for redeeming or repurchasing Units in that Trust determined in accordance with clause 28.2;

'Financial Markets Legislation' has the meaning given in the Act;

'Financial Statements' in relation to any Trust and the end of a Financial Year means:

- a the statement of financial position for the Trust at the end of the Financial Year;
- b the statement of financial performance for the Trust in relation to the Financial Year;
- c the statement of cash flows for the Trust in relation to the Financial Year;

together with any notes or documents giving information relating to these statements and each of which comply with the requirements of Relevant Law;

'Financial Year' in relation to any Trust means:

- a the period commencing on the Commencement Date of that Trust and ending on the next following 31 March;
- b each subsequent period of one year thereafter commencing on 1 April;
- c the period commencing on 1 April immediately preceding the date of termination of that Trust and ending on the date of termination of that Trust;

or such alternative period as the Supervisor and the Manager may agree;

'FMA' means the Financial Markets Authority;

'Fractional Unit' means that part of a Unit in respect of which there is contributed by the applicant for the Unit an amount which is less than the full Issue Price applicable to a Unit as described in clause 10.9;

'Fund Update' has the meaning given in regulation 5 of the Regulations;

'Gross Asset Value' subject to clause 2.8 in relation to any Trust and any Working Day means such sum as is ascertained and fixed by the Manager in respect of that Trust and that Working Day as being the current Market Value of all of the Investments of that Trust;

'Holding' in respect of any Investor means in relation to a Trust at any particular time the total number of Units registered in the name of the Investor;

'Investment' means an investment forming part of a Trust Fund;

'Investor' means in relation to a Trust the Person for the time being entered on the Register for the Trust as the holder of a Unit;

'Issue Price' in relation to a Unit means the price at which the Unit is issued determined under clause 11.1;

'Issuer Obligations' has the meaning given to that term in the Act;

'Liabilities' in relation to any Trust means debts and other obligations of the Supervisor acting in its capacity as supervisor and trustee of that Trust payable from the Trust Fund of that Trust (including in particular but without limitation all taxes or duties payable by or in respect of that Trust, but in respect of any Trust which is a PIE at the relevant time excluding any allowance for PIE Tax that may become payable in the future from that Trust in respect of any Investor, unless the Manager decides otherwise, in all cases having regard to clause 38 of this Deed and the Manager's power to redeem Units and hold amounts deducted to meet payment of any Taxation Amount as defined in that clause), and includes all costs, charges and other outgoings incurred or accrued in connection with that Trust which for the time being have not been paid, but excludes the aggregate amount of all Unit Values and contingent liabilities (except to the extent that the Manager decides that an allowance should be made for such liabilities) and such debts and other obligations of the Supervisor in respect of which the Supervisor is not entitled to be indemnified out of the Trust Fund of that Trust;

'Licensed Manager' means a Person who holds a licence under the Act to act as a manager of a managed investment scheme;

'Licensed Supervisor' means a Person who holds a licence to act as a supervisor of a managed investment scheme under the Financial Markets Supervisors Act 2011;

'Management Fee' means the fee for managing the Trusts as set out in the relevant Establishment Deed for the Trust;

'Manager' means the party to this Deed named as manager or such other Person for the time being appointed to act as manager of the Trusts pursuant to this Deed;

'Market Value' in relation to any Investment and any Unit Value Determination Day means the amount of the Investment on the relevant Unit Value Determination Day determined in a manner set out in the relevant Establishment Deed or agreed upon in writing between the Manager and the Supervisor;

'Master Trust' means the scheme established by this Deed whereby Persons by becoming Investors may acquire interests in a variety of different and independent Trusts;

'Minimum Amount' means in relation to any Trust the sum of \$1,000 or the number of Units equivalent to that amount calculated at the current Unit Value or such other sum as may be determined by the Manager from time to time;

'Minimum Holding' in relation to any Trust means the minimum Market Value of Investments other than cash or term deposits with a bank or banks required to be invested and maintained by that Trust as set out in the relevant Establishment Deed or otherwise as may be determined by the Manager from time to time;

'Minimum Initial Amount' means the minimum amount or amounts which may be invested by an Investor in each Trust (as regular contributions each month or irregular lump sum amounts) as may be determined from time to time by the Manager and set forth in the Establishment Deed, PDS and/or Register Entry for the relevant Trust;

'Minimum Number of Units' in relation to any Trust means such number of Units of that Trust as set out in the relevant Establishment Deed or otherwise as may be determined by the Manager from time to time as the minimum number of Units which may be held by an Investor or the dollar value that is the equivalent to that number of Units calculated at the current Unit Value;

'Month' means calendar month;

'Office' means the registered office from time to time of the Manager;

'Ordinary Resolution' means a resolution approved by a simple majority of the Investors in the relevant Trust who are entitled to vote and who vote on the question;

'PDS' has the meaning given to that term in the Act;

'Person' means and includes a natural person, a company, a corporation, a corporation sole, a unit trust, a government or a body of persons (whether corporate or unincorporated);

'PIE' means a portfolio investment entity as defined in the Income Tax Act 2007;

'PIE Tax' means any tax that is or may become payable from a Trust in respect of an Investor or Investors in accordance with the rules for taxation of PIEs under the Income Tax Act 2007;

'Rebalancing Benchmark' means in relation to any Trust the percentage of the value of an Investor's investment in the Trusts that the Investor has nominated in an application for Units to be held in Units of that Trust;

'Rebalancing Facility' means the facility described in clause 10.11 as made available by the Manager from time to time;

'Rebalancing Percentage' means five (5) per cent or such other percentage as the Manager may deem appropriate from time to time;

'Register' in relation to a Trust means the register of Investors for the Trust referred to in clause 16.1;

'Register Entry' has the meaning given to that term in the Act;

'Registrar' means the Registrar of Financial Service Providers;

'Regulated Offer' has the meaning given in the Act;

'Regulations' means the Financial Markets Conduct Regulations 2014;

'Related Party Benefit' has the meaning given to that term in the Act;

'Relevant Law' means, as appropriate, all laws applicable to the Manager (including compliance with the terms of its manager licence from the FMA), the Supervisor or a Trust at applicable points in time and which may include, without limitation, the Financial Markets Legislation, any methodologies or frameworks issued by the FMA under such legislation, and the Financial Reporting Act 2013;

'Scheme Property' has the meaning given in the Act;

'SIPO' means a statement of investment policy and objectives agreed with the Supervisor for a Trust pursuant to clause 18.1 and which complies with the Act;

'Special Resolution' means a resolution approved by no less than 75% of the number of Investors of the relevant Trust who are entitled to vote and who vote on the question;

'Standing Application' means an application for Units in respect of all moneys from whatever source paid to the Trust from time to time by or on account of an Investor until that Investor ceases to be such or withdraws such application by notice in writing to the Manager;

'Sub-Custodian' has the meaning given to that term in clause 20.2biii;

'Supervisor' means the Supervisor of each Trust for the time being appointed under the provisions of this Deed and where the context requires includes any Custodian or Sub-Custodian;

'Switching Fee' in relation to any Trust means the Manager's fee for issuing or selling Units as a result of a Switching Notice determined in accordance with clause 28.2;

'Switching Notice' has the meaning specified in clause 13.1;

'Switch Trust' has the meaning specified in clause 13.1;

'Trust' means each independent managed investment scheme created by an Establishment Deed;

'Trust Fund' in relation to any Trust means the aggregate of the Investments of that Trust as described in clause 4.3;

'Unit' means, in respect of a Trust, an undivided part or share in the beneficial interest in the relevant Trust and includes a Fractional Unit;

'Unit Value' in relation to any Trust and any Unit Value Determination Day means such amount as is ascertained by dividing the Withdrawal Value of the Trust by the number of Units in that Trust on issue as at that Unit Value Determination Day. The Unit Value so determined will remain in force until the next succeeding Unit Value Determination Day;

'Unit Value Determination Day' means, subject to clause 2.8, in relation to any Trust a specific time in a day determined by the Manager (except, in respect of the initial Unit Value Determination Day, it means a specific time on that day determined by the Manager):

a one (1) week from the previous Unit Value Determination Day; or

- b such other period from the previous Unit Value Determination Day as may be determined by the Manager from time to time and (in the case of a Trust offered as a Regulated Offer under the Act) as set out in the PDS or Register Entry for the relevant Trust;

provided that if that day is not a Working Day then the next Working Day;

'Withdrawal Amount' means;

- a where the Withdrawal Notice specifies a number of Units to be withdrawn, the amount specified in clause 12.5; or
- b where the Withdrawal Notice specifies a dollar value to be withdrawn, that dollar value divided by the Withdrawal Number of Units;

'Withdrawal Notice' means a notice given in accordance with clause 12.1a or b as applicable;

'Withdrawal Number of Units' means the number of Units specified in subclause 12.5b;

'Withdrawal Suspension Notice' means a notice given in accordance with clause 12.7;

'Withdrawal Trust' has the meaning specified in clause 12.1;

'Withdrawal Value' in relation to any Trust and any Unit Value Determination Day means, subject to clause 2.8, such sum as is ascertained and fixed by the Manager in respect of that Trust and that Unit Value Determination Day by deducting from the Gross Asset Value of that Trust the aggregate of:

- a the Liabilities of that Trust;
- b such sum as would have been incurred for brokerage, commission, stamp duty, transfer fees, legal fees, and other usual and direct costs on that Unit Value Determination Day if the Investments of that Trust had been sold or disposed of on that Unit Value Determination Day,

and the Withdrawal Value so determined will remain in force until the next succeeding Unit Value Determination Day. For the purposes of paragraph b above the Manager may estimate the amount of brokerage, commission, and other costs referred to therein on such basis as the Manager may reasonably consider to be appropriate, and the certificate of the Manager as to such amount shall be conclusive and binding upon the Supervisor and all Investors, except in the case of manifest error; and

'Working Day' means any day on which banks registered under the Reserve Bank of New Zealand Act 1989 are open for normal banking business in Auckland and Wellington, provided that, in clause 2.2 of Schedule 2 to this Deed, **Working Day** has the meaning given in the Interpretation Act 1999.

2 Interpretation

- 2.1 Words importing the singular number include the plural and vice versa and the masculine gender includes the feminine or neuter genders and vice versa.

- 2.2 Reference to statutes, regulations, and other legislative instruments includes all amendments, re-enactments and replacements thereof.
- 2.3 Reference to any statute includes statutory regulations or legislative instruments promulgated or otherwise made from time to time and in force under that statute and, in the case of the Act, includes any framework or methodology issued by FMA under the Act.
- 2.4 Headings to clauses and italicised annotation notes in this Deed are used for reference only and are not to be construed as in anyway affecting or qualifying the substance of any of the provisions of this Deed.
- 2.5 Where under or pursuant to this Deed or anything done hereunder the day on or by which any act, matter or thing is to be done is not a Working Day such act, matter or thing shall be done on the following Working Day.
- 2.6 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 such rate of exchange prevailing as at that date as the Manager may select and which accords with proper prudent principles of valuation.
- 2.7 Any statutory provisions or other terms implied in this Deed and/or an Establishment Deed under the Act or otherwise at law apply for so long as they are implied in this Deed and/or the relevant Establishment Deed despite anything to the contrary in this Deed or the relevant Establishment Deed, and any provision in this Deed or a relevant Establishment Deed that is contrary to any such implied term is void to the extent that it is contrary.
- 2.8 Where 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 or an Establishment Deed and the provisions of this Deed and each Establishment Deed shall be construed accordingly.

3 Purpose

- 3.1 The purpose of this Deed is to record the terms of a master trust arrangement whereby Persons may acquire interests in a variety of different and independent Trusts.

4 Creation of the Trusts

- 4.1 The appointment of the Supervisor as the supervisor and trustee of each Trust is hereby confirmed. The Supervisor agrees to act as supervisor for the Investors of each Trust and to hold the Trust Fund of each Trust in trust in accordance with the Act for those Investors, upon and subject to the terms and conditions contained or implied in this Deed and the Establishment Deed for each Trust.
- 4.2 The appointment of the Manager as manager of each Trust with effect from the date of this Deed is hereby confirmed. The Manager agrees to act as the manager of each Trust upon and subject to the terms and conditions contained in this Deed and the Establishment Deed for each Trust.

- 4.3 The Trust Fund of each Trust shall consist of all the Scheme Property of the relevant Trust for the time being held by the Supervisor, Custodian, or Sub-Custodian in respect of the Trust upon the trust of this Deed and the Establishment Deed for that Trust including:
- a the proceeds of sale or realisation of any Investments of that Trust pending distribution or reinvestment;
 - b all additions or accretions thereto;
 - c all Distributable Income therefrom held pending distribution or reinvestment.
- 4.4 The Establishment Deed for each Trust shall include the matters specified in the First Schedule and shall be in the form specified in the Third Schedule.
- 4.5 Each Trust shall commence on the Commencement Date for that Trust.
- 4.6 Subject to the obligation of the Supervisor under clause 21, the Manager shall cause separate records and accounts to be maintained in respect of each Trust in accordance with the Act.

5 Units

- 5.1 The beneficial interest in each Trust shall be divided into Units.
- 5.2 Each Unit (other than a Fractional Unit) shall confer an equal interest in the Trust to which it relates, but shall not confer any interest in any particular part of the Trust Fund of that Trust, and no Investor shall be entitled to require the transfer to him or her of any of the Investments of that Trust. A Fractional Unit shall confer an interest which is a proportion of that equal interest being the proportion specified in clause 10.9.
- 5.3 A Unit of one Trust shall not confer any right or interest in any other Trust or in the Scheme Property of any other Trust.

6 Investors

- 6.1 Subject to the rights of the Investors created by this Deed, the relevant Establishment Deed, or by Relevant Law, no Investor shall 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 any Trust Fund or any part or parts thereof or to exercise any right, power or privilege in respect of any Investment.
- 6.2 Except where expressly provided in this Deed or the relevant Establishment Deed to the contrary or where the context does not so permit, all the benefits and provisions (including but not limited to those benefits and provisions which are expressed to enure for the benefit of and bind Investors) contained in this Deed or the relevant Establishment Deed, enure for the benefit of and bind each Investor.

7 Issue of Units

- 7.1 Following the execution of this Deed the Manager may at any time and from time to time invite subscriptions for Units of any Trust to be created pursuant to this Deed and the relevant

Establishment Deed upon and subject to the terms and conditions contained in this Deed and the relevant Establishment Deed and otherwise in such manner and upon such terms and conditions as the Manager shall from time to time determine.

- 7.2 The Manager shall in inviting offers in terms of clause 7.1 comply with all of the relevant provisions of all Relevant Law. In particular, the Manager must not make a Regulated Offer of Units unless:
- a the relevant Trust is registered under the Act;
 - b a PDS has been prepared and lodged with the Registrar in respect of the relevant Trust; and
 - c all information that the Register Entry in respect of the relevant Trust is required by the Act to contain has been supplied to the Registrar.
- 7.3 The Manager must use reasonable commercial endeavours to ensure that the Disclosure Documents for each Trust at all times comply with the Financial Markets Legislation.
- 7.4 The Manager must provide the Supervisor with a draft of all Disclosure Documents (other than any Disclosure Document to be made available under subpart 4 of Part 3 of the FMC Act, drafts of which shall be provided to the Supervisor on request) so as to provide the Supervisor with a reasonably opportunity to provide comments on those draft Disclosure Documents (which the Supervisor will do in a timely manner or, if a reasonable timeframe for response has otherwise been agreed between the Manager and the Supervisor, within that timeframe).
- 7.5 The Manager will consider in good faith any comments received from the Supervisor on the draft Disclosure Documents provided under clause 7.4.
- 7.6 Subject to Relevant Law, the Manager may from time to time issue additional Units to any Investor without any specific application for those Units, whether pursuant to clause 38.3 or otherwise as the Manager determines.

8 Consolidation and Split of Units

- 8.1 The Manager may at any time, by notice in writing to the Investors of a Trust and to the Supervisor, cause the Units of that Trust 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**');
 - 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.
- 8.2 As from the Operative Date, each Investor of the relevant Trust shall be deemed to hold a number of Units equivalent to the number held by him or her before the Operative Date multiplied by the Ratio. For this purpose the number of Units shall be rounded on such basis as the Manager may determine from time to time, but pending determination to the contrary then to two decimal places, on the basis that where the third decimal place is less than or

equal to 4, the number shall be rounded down and where the third decimal place is greater than or equal to 5, the number shall be rounded up.

9 Cessation of Issue of Units

- 9.1 The Manager may at any time or times by notice in writing given to the Supervisor determine that no further Units shall be issued pursuant to this Deed or in respect of a specified Trust or Trusts after a date specified in the notice given to the Supervisor either for any specified period or until the relevant Trust is terminated. In such event, the Manager will not after the date specified in the notice issue any further Units under this Deed or in respect of such Trust or Trusts for the specified period or until the relevant Trust is terminated whichever situation applies.

10 Application for Units

- 10.1 Every applicant wanting to apply for Units from the Manager shall:
- a complete and lodge with the Manager an application for Units in a specified Trust or Trusts in such form or to such specification (including such evidence as to the identity of the applicant, or in the case of a corporate or trustee application such evidence as to the identity of the directors, shareholders, trustees and beneficiaries (as the case may be) to enable the Manager to comply with its obligations under the AML/CFT Act) as is from time to time prescribed by the Manager which application shall be signed, authorised or authenticated by or on behalf of the applicant in such manner as the Manager may from time to time prescribe, including by way of any means of Electronic Communication; and
 - b forward to the Manager for the credit of the applicant the application monies in respect of the Units applied for.
- 10.2 All application moneys received by the Manager shall:
- a be promptly paid upon receipt into the Applications Account; and
 - b held in trust and subsequently applied or repaid in accordance with the Act.
- 10.3 An application for Units may, at the option of the Manager, be treated as:
- a a subscription for Units to be issued from the relevant Trust or Trusts at the current Issue Price; or
 - b a request for the purchase from an Investor nominated by the Manager of Units in the relevant Trust or Trusts at the current Issue Price; and/or
 - c a Standing Application if so designated on the application for Units.
- 10.4 Upon the issue of Units to the applicant the Issue Price for those Units shall immediately be paid to the bank account maintained by the Supervisor in respect of the relevant Trust under clause 20.4.
- 10.5 The application moneys shall be deemed to constitute an Authorised Investment of the Trust on the same Working Day that the Units are issued or purchased, and shall become subject

to the trusts created by the relevant Establishment Deed and by this Deed upon payment to the bank account of the relevant Trust opened under clause 20.4.

- 10.6 The Manager may, subject to compliance with Relevant Law and in its absolute discretion accept or refuse to accept in whole or in part any application for Units and the Manager shall not be required to give any reason or ground for such refusal. The Manager shall make a decision on all applications within five Working Days of receipt. Once the Manager has made a decision to reject an application, the Manager must as soon as practicable (and in any event, no later than one month after the obligation to refund arises) refund or arrange to refund the relevant application monies in accordance with the Act (without interest).
- 10.7 If requested by the Supervisor the Manager shall promptly notify the Supervisor of the acceptance or rejection of each application in such manner as is from time to time agreed between the Supervisor and the Manager.
- 10.8 The Manager may from time to time determine, in respect of any Trust, a Minimum Number of Units and/or a Minimum Initial Amount in respect of applications for Units, and may at its discretion waive such requirements either generally or in a particular case or cases.
- 10.9 The Manager may issue Fractional Units where subscription or purchase amounts are not multiples of the Issue Price for complete Units. Upon the issue of a Fractional Unit the Manager shall cause to be calculated and recorded the price of that Fractional Unit as a proportion of the Issue Price of a Unit.
- 10.10 Where a Rebalancing Facility is available, any Person may in an application for Units in specified Trusts and any Investor may at any time select the Rebalancing Facility thereby authorising the Manager to purchase or redeem Units on behalf of the Person consistent with the Rebalancing Benchmarks selected by the Person under clause 10.12 in the event the Rebalancing Facility is activated in terms of clause 10.11.
- 10.11 If the Investor has selected the Rebalancing Facility option pursuant to clause 10.10 the Manager will, on a quarterly basis (as at 31 March, 30 June, 30 September and 31 December) or such other time or times as the Manager determines, rebalance all of that Investor's Holding in the event that the percentage of the aggregate of the Unit Values of all the Units held by the Investor in any specified Trust to the aggregate of the Unit Values of all the Units held by the Investor in all Trusts exceeds or falls below the Rebalancing Benchmark for that Trust by more than the Rebalancing Percentage.
- 10.12 Any Investor who selects the Rebalancing Facility shall specify the Rebalancing Benchmark applicable to them.
- 10.13 The Manager may at any time refrain, either generally or in respect of a particular Investor or Investors, from activating the Rebalancing Facility for any specified period by notice to the relevant Investors and may impose any such reasonable terms and conditions of reactivation as it sees fit.
- 10.14 Subject to clause 2.8:
 - a all applications which are received prior to 5.00pm on any Working Day will be processed for the day of receipt; and
 - b any application received on a day which is not a Working Day or after 5.00pm on a Working Day will be deemed to have been received on the next Working Day.

10.15 Subject to clause 19, the Manager is entitled to apply for and hold Units in its own right.

11 Issue Price of Units

11.1 Subject to clause 2.8, each Unit of any Trust shall be issued at an Issue Price determined by the Manager by:

- a calculating the Unit Value on the Unit Value Determination Day immediately preceding the Working Day on which an investment application is received by the Manager in accordance with the relevant Establishment Deed;
- b adding to the resulting amount such fee per Unit as the Manager may determine pursuant to clause 11.2; and
- c rounding the aggregate of the amounts referred to in a and b above in such manner as determined by the Manager from time to time and pending determination to the contrary then down to four decimal places.

11.2 The Manager may require any applicant for Units of any Trust to pay, in addition to the current Unit Value of those Units (determined in accordance with clause 11.1a) such Entry Fee as the Manager may fix as a condition of issue of those Units. The Manager may, in respect of any Trust, from time to time fix the Switching Fee payable by Persons who subscribe for Units as a result of having given a Switching Notice which is different from the Entry Fee determined as above. The Manager may at its sole discretion at any time waive or reduce any fee or fees described in this clause 11.2 either generally or in relation to a particular Trust or Trusts, or any Investor or transaction.

11.3 The number of Units (including Fractional Units) sold or issued in relation to a Trust pursuant to an application shall be that number of Units (rounded on such basis as the Manager and Supervisor agree from time to time and pending agreement to the contrary then to two decimal places where the third decimal place is less than or equal to four, the number shall be rounded down and where the third decimal place is greater than or equal to five, the number shall be rounded up) that can be issued or purchased at the current Issue Price with the application monies.

12 Withdrawal of Units

12.1 If any Investor shall desire to withdraw from a Trust he or she shall:

- a give notice in writing to the Manager to that effect; or
- b if the Investor has complied with any conditions for use of Electronic Communication specified by the Manager from time to time, give notice by a specified means of Electronic Communication to that effect.

Such Withdrawal Notice shall specify the number or dollar value of Units in respect of which the Investor desires to effect withdrawal, shall be in such form or comply with such specification (if any) as may be prescribed by the Manager from time to time, and shall not be able to be revoked by the Investor by whom it has been given unless the Manager in its discretion agrees otherwise. Where any Unit is to be redeemed under clause 38.2 in relation

to any Taxation Amount as defined at clause 38.1, the relevant Investor shall be deemed to have given a Withdrawal Notice to the Manager in relation to that Unit.

- 12.2 No Withdrawal Notice shall be given in respect of less than the lower of the Minimum Number of Units in the relevant Trust or the Minimum Amount and no Withdrawal Notice shall be given if the effect of giving the same would be that the Investor who gave the same would hold less than the Minimum Number of Units in the relevant Trust, (having regard amongst other things to the application of clause 38.2) unless in either case the Withdrawal Notice is given in respect of all the Units in the relevant Trust held by the relevant Investor. The Manager may at any time at its discretion waive the requirements of this clause 12.2, either generally or in a particular case or cases.
- 12.3 Subject to clause 12.7, clause 23.6 and clause 38.2 and the relevant Establishment Deed, the Manager shall:
- a upon receipt of a Withdrawal Notice that specifies a number of Units to be redeemed procure (by payment of cash held by the Fund, the proceeds of disposal of Investments, or borrowing), within the time period specified in the relevant Establishment Deed, that:
 - i the Units specified in that Withdrawal Notice are redeemed and the Withdrawal Amount in respect of each such Unit is paid in accordance with the direction of the Investor or failing direction, to the Investor; or
 - ii except in the case of a Trust which is a PIE at the relevant time, the Units specified in that Withdrawal Notice are purchased from the holder of those Units by the Manager at a price for each such Unit equal to the Withdrawal Amount;
 - b upon receipt of a Withdrawal Notice that specifies a dollar value of Units to be redeemed procure (by payment of cash held by the Fund, the proceeds of disposal of Investments, or borrowing) within the time period specified in the relevant Establishment Deed that:
 - i the Withdrawal Number of Units are redeemed and the Withdrawal Amount in respect of each Unit is paid in accordance with the direction of the Investor or failing direction, to the Investor; or
 - ii except in the case of a Trust which is a PIE at the relevant time, the Withdrawal Number of Units are purchased from the holder of those Units by the Manager at a price for each such Unit equal to the Withdrawal Amount.

For the avoidance of doubt, and without limiting the generality of clause 23.1 it is declared that the obligation of the Manager pursuant to clause 12.3 is not a personal obligation of the Manager, but is an obligation of the nature referred to in clause 23.1.

- 12.4 The Manager has no obligation to purchase Units and may in its sole discretion elect to redeem Units upon receipt of a Withdrawal Notice.
- 12.5 Subject to clause 2.8, where a Withdrawal Notice specifies:
- a a number of Units to be withdrawn, the Withdrawal Amount in respect of any Unit shall be a sum determined by the Manager by:
 - i dividing the Withdrawal Value of the relevant Trust on the Unit Value Determination Day immediately preceding the Working Day on which the Withdrawal Notice is

received by the Manager by the number of Units of the relevant Trust in existence as at that time;

- ii deducting from the resulting amount any Exit Fee determined by the Manager pursuant to clause 28.2 and the amount of any PIE Tax payable in relation to the Units to be withdrawn as considered appropriate by the Manager having regard to the application of clause 38.2 and Relevant Law; and
 - iii rounding the result of the amounts referred to in i and ii on such basis as the Manager determines from time to time and pending determination to the contrary then down to four decimal places.
- b a dollar value of Units to be withdrawn, the number of Units to be withdrawn ('Withdrawal Number of Units') shall be determined by the Manager, in a manner consistent with clause 12.5a.

12.6 Units redeemed pursuant to this clause 12 shall cease to exist and shall be deemed to be cancelled.

12.7 If by reason of:

- a the suspension of trading on any stock exchange (whether generally or in respect of any specific Investment); or
- b financial, political or economic conditions applying in respect of any financial market; or
- c the nature of any Investment; or
- d the Investments in the relevant Trust being (or becoming) less than the Minimum Holding; or
- e the occurrence or existence of any other circumstance or event relating to the relevant Trust or generally; or
- f the occurrence of a termination event under clause 36.1;
- g the receipt of a Withdrawal Notice which relates to a number of Units or a dollar value of Units representing 10% or more of the Withdrawal Value of the relevant Trust,

it would be materially prejudicial to the interests of any Investors for the Units specified in the Withdrawal Notice to be redeemed pursuant to clause 12.3ai above or 12.3b or, for the Manager to arrange the purchase of Units pursuant to clause 12.3aii above or clause 12.3bii, then the Manager will give notice ('**Withdrawal Suspension Notice**') to that effect to all Investors of the relevant Trust. A Withdrawal Suspension Notice in respect of any Trust shall have the effect of suspending the operation of all Withdrawal Notices and Switching Notices given in respect of that Trust until such time as the Manager gives to the Investors who gave those Withdrawal Notices or Switching Notices notice to the effect that the Withdrawal Suspension Notice is cancelled. For the purposes of this clause 12.7, a Switching Notice shall be deemed to be given in respect of a Trust only if the Switching Notice expresses a desire to withdraw from, rather than enter into, that Trust.

12.8 Notwithstanding the giving of any Withdrawal Suspension Notice pursuant to clause 12.7 and subject to the Manager's duty to treat the Investors equitably, the Manager may give effect to any Withdrawal Notice either in whole or in part, on prior notice to the Supervisor, if the

Manager determines in its discretion that special circumstances exist whereby failing to give effect to such a Withdrawal Notice would give rise to personal hardship for the Investor concerned. Such special circumstances may include (but are not limited to) situations where the Investor concerned has reasonably relied upon the obligation of the Manager to pay the Withdrawal Amount in accordance with clause 11.3 (but without reference to clause 12.7 above) to the Investor's detriment.

- 12.9 The Manager shall, after any period as may be specified in the relevant Establishment Deed or on prior notice to the Supervisor, give notice of cancellation of a Withdrawal Suspension Notice not later than three months after the date upon which that Withdrawal Suspension Notice is given or such other date as may be specified in the relevant Establishment Deed. The Manager, on prior notice to the Supervisor, may extend the operation of a Withdrawal Suspension Notice beyond that period of three months (or the period specified in the relevant Establishment Deed). Unless extended in accordance with the provisions hereof, a Withdrawal Suspension Notice shall be deemed to be automatically cancelled upon the expiration of that three month period (or such other period specified in an Establishment Deed).
- 12.10 If a Withdrawal Suspension Notice is given and is later cancelled, then, in respect of all Units specified in Withdrawal Notices or Switching Notices to which that Withdrawal Suspension Notice applied, the Withdrawal Amount shall be calculated as if the reference in clause 12.5 to the Working Day on which the Withdrawal Notice is received were a reference to the next Working Day following the cancellation of that Withdrawal Suspension Notice.
- 12.11 If an Investor of any Trust gives a Withdrawal Notice in respect of less than all of the Units held by him or her in that Trust, the Units which are first withdrawn by that Investor shall be deemed to be those which were earliest subscribed or purchased of the Units held by that Investor.
- 12.12 Subject to clause 2.8:
- a all Withdrawal Notices received prior to 5.00pm on any Working Day will be processed for the day of receipt; and
 - b any Withdrawal Notice received on a day that is not a Working Day or after 5.00pm on a Working Day will be deemed to have been received on the next Working Day.
- 12.13 Notwithstanding anything contained elsewhere in this Deed, where:
- a an Investor's Holding in any Trust is less than the Minimum Number of Units for the Trust; and
 - b the Manager gives to that Investor not less than one month's notice in writing that the Manager intends at the expiration of that period to redeem all of the Units to which that Investor is entitled; and
 - c at the expiration of that period the Investor's holding shall be still less than that prescribed in paragraph a above the Manager shall be entitled within seven days from the expiration of that period to redeem the Investor's holding at the expiration of that period as if a Withdrawal Notice had then been received from the Investor provided that:

- i the provisions of this clause 12.13 above may, subject to the Manager's duty to treat Investors equitably, at any time and from time to time be relaxed or suspended by the Manager in respect of Units held by an Investor in any particular Trust; and
- ii the Minimum Number of Units in any Trust in respect of any Investor for the purposes of this clause shall be no greater than the Minimum Number of Units (if any) notified to the Investor at the time of becoming an Investor of that Trust.

13 Switching of Trusts

- 13.1 Subject to the relevant Establishment Deed, any Investor may at any time give a notice ('**Switching Notice**') to the Manager to the effect that the Investor wishes to withdraw Units of a certain number or having a certain value from one Trust ('**Withdrawal Trust**') and invest the proceeds of such withdrawal in another Trust or Trusts ('**Switch Trust**' or '**Switch Trusts**').
- 13.2 A Switching Notice shall:
- a not be able to be revoked by the Investor by whom it has been given;
 - b specify the total number or value of the Units in the Withdrawal Trust in respect of which the Investor desires to effect withdrawal;
 - c not be for less than the lower of the Minimum Number of Units or the Minimum Amount, or for a number of Units that would reduce the Holding of the Investor in the Withdrawal Trust to less than the Minimum Number of Units applicable to that Trust unless in either case the Switching Notice is given in respect of all the Units in the Withdrawal Trust held by the Investor by whom it is given having regard (amongst other things) to the application of clause 38.2;
 - d specify the Switch Trust or Switch Trusts, and, if more than one Switch Trust is specified, specify the proportions in which it is desired to invest in those Switch Trusts;
 - e not provide for investment in a Switch Trust of less than the Minimum Initial Amount or the Minimum Number of Units applicable to that Trust unless the Investor's existing Holding in that Trust, combined with the further investment, complies with those minimums; and
 - f be in such form or comply with such specification as may be prescribed by the Manager from time to time.
- 13.3 Provided the Investor has complied with any conditions for use of Electronic Communications prescribed in accordance with clause 10.1 and subject to any conditions for communication by such means specified by the Manager from time to time, a Switching Notice may be made by a specified means of Electronic Communication.
- 13.4 If at any time there shall not be in existence a PDS and Register Entry, or other substitute disclosure document, in respect of any Trust for which such a document is required before Units in that Trust can be offered to Investors wishing to switch into that Trust, then it shall not be possible to give a Switching Notice nominating that Trust as a Switch Trust, and any such Switching Notice shall be of no effect.

- 13.5 The Manager shall, subject to clause 2.8, clause 12.7, clause 23.6 and clause 38.2 and the relevant Establishment Deed, within the time period specified in the relevant Establishment Deed, procure that the number of Units in the Withdrawal Trust specified in that Switching Notice are dealt with in accordance with clause 12 (as if the Switching Notice were a Withdrawal Notice in respect of those Units) and that the proceeds are applied in the acquisition of Units in the Switch Trust or Switch Trusts at the Issue Price and (if more than one Switch Trust is involved) in the proportions specified in the Switching Notice. For this purpose:
- a where a Switching Notice specifies a dollar value of Units the number of Units specified in a Switching Notice shall be deemed to be a number calculated by dividing the total value of Units in the Withdrawal Trust specified in that Switching Notice by the Withdrawal Amount in respect of those Units as at the Working Day following receipt of that Switching Notice (any amount representing a fraction of a Unit being ignored); and
 - b any fractional entitlement to Units in the Switch Trust or Switch Trusts shall be ignored.

14 Transfer and Transmission of Units

- 14.1 Any Investor may transfer all or any of the Units held by him or her by instrument in writing in accordance with clause 14.2.
- 14.2 Every instrument of transfer shall be in such form as the Manager may approve from time to time and shall be signed by the transferor and the transferee, unless the transfer is in a form under the Act not requiring such signature. The transferor shall be deemed to be the holder of a Unit until the transfer of a Unit is entered on the Register.
- 14.3 No transfer shall be made in respect of less than the Minimum Number of Units in the Trust and no transfer shall be made if the effect of giving the same would be that the transferor or the transferee Investor would hold less than the Minimum Number of Units in the relevant Trust having regard (amongst other things) to the application of clause 38.2, unless in either case the transfer is of all the Units in the relevant Trust held by the transferor Investor.
- 14.4 The instrument of transfer shall be left at the Office for registration. On being satisfied that the provisions of this clause 14 and all Relevant Law have been complied with and subject to clause 16.10, the Manager will:
- a register the transfer in the relevant Register; and
 - b comply with its obligations (if any) under clause 15.

The Manager may however decline to register any transfer in respect of the relevant Trust or if registration of the transfer would result in less than the Minimum Number of Units remaining in the name of the transferor or standing in the name of the transferee, having regard (amongst other things) to the application of clause 38.2.

- 14.5 Subject to Relevant Law, all instruments of transfer which shall be registered may be retained by the Manager but any instrument of transfer which the Manager may decline to register shall within 15 Working Days after the date on which the transfer is lodged with the Manager be returned to the Person lodging the same.

- 14.6 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 Working Days in any calendar year without prior notice to the Supervisor.
- 14.7 The executors or administrators of a deceased Investor (not being one of several joint Investors) and in the case of death of one or more of several joint Investors the survivor or survivors of such joint Investors shall be the only Persons recognised by the Manager as having any title or interest in the Units held by such Investor or Investors.
- 14.8 Any Person having authority to administer the estate of a mentally disordered Person and any Person becoming entitled to any Units in consequence of the death, bankruptcy or liquidation of any Investor may upon producing such evidence of capacity or of title as the Manager shall think sufficient, be registered himself or herself as the holder of such Units or, subject to the provisions as to transfer contained in this clause 14, may transfer such Units. This provision shall apply in the case of a Person who becomes entitled as a survivor of Persons registered as joint holders.

15 Confirmation Information

- 15.1 The Manager will provide an Investor with the confirmation information required by the Act following the issue, transfer, or redemption of a Unit, or otherwise in the circumstances required by the Act.

16 Registers of Investors

- 16.1 The Manager shall keep a register in New Zealand of all Units in each Trust which complies with Relevant Law and contains, in respect of each Unit:
- a the name and address and relevant tax details of the Investor;
 - b the date on which the Unit was issued or transferred to the Investor, as the case may be;
 - c the nature of the Unit;
 - d the amount of the Unit (if any);
 - e the due date of the Unit (if any);
 - f such other particulars as are required by Relevant Law to be entered in the Register.
- 16.2 Each Register may be:
- a an electronic register; or
 - b kept in any other reasonable manner the Manager thinks fit.
- 16.3 Each Register is prima facie evidence of the matters required by Relevant Law to be entered in it.
- 16.4 The Manager shall ensure each Register is audited in accordance with Relevant Law (being at least once a year or as otherwise required by the Act) by the Auditor. The Auditor, in

completing its audit of each Register, shall perform any other functions required by the Act, and comply with any obligations it has under the Act.

- 16.5 If the Auditor considers at any time that the provisions of the Act governing any Register are not being complied with, the Auditor shall forthwith as soon as practicable advise the Manager, FMA, and the Supervisor.
- 16.6 The Manager shall send a notice in accordance with the Act to the Registrar of Financial Service Providers of the place where each Register is kept and any change in that place.
- 16.7 Subject to the Act, and except as otherwise permitted under the Act, each Register shall be open to the inspection of any Investor without fee, and of any other person on payment of any fee prescribed by Relevant Law.
- 16.8 Any Person entitled to do so by the Act may require a copy of any Register, or any part of any Register, on written request to the Manager in accordance with the Act and payment of any fee permitted or prescribed by Relevant Law. Any such request may only be declined by the Manager where permitted to do so by the Act.
- 16.9 Notwithstanding clause 16.3, the Manager shall be entitled, at its absolute discretion before giving effect to any transfer, redemption or other dealing with any Units to require the production to the Manager of evidence satisfactory to it in its discretion that the Person seeking to effect such dealing is the Person named in the Register as the Investor.
- 16.10 Except as required by law neither the Manager nor the Supervisor shall be bound to see the performance of any trust (express, implied or constructive) or of 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 Investor, and accordingly, except in circumstances prescribed by Relevant Law, no notice of any trust (express, implied or constructive) shall be entered upon the Register.

17 Distributions of Income

- 17.1 The Manager shall, at the sole discretion of the Manager, be entitled to declare a distribution of Distributable Income of a Trust at any time. The Distributable Income of each Trust so declared shall be distributed by payment of Entitlements or otherwise applied (including, by way of reinvestment) in accordance with the Establishment Deed for that Trust and the direction of the Investor or, failing direction, to the Investor.
- 17.2 In determining the Distributable Income of any Trust for any period there shall be taken into account all Distributable Income due and receivable and all costs, charges and expenses due or accrued including without limiting the generality of the foregoing:
 - a the fees, costs and disbursements payable to the Supervisor and the Manager under this Deed;
 - b all costs and disbursements including legal costs and disbursements incurred in connection with the Establishment Deed for the relevant Trust or in connection with the relevant Trust or the administration thereof;
 - c all costs and expenses incurred in respect of the Investments of the relevant Trust including (without limitation) investment management, custody and registry fees;

- d if the Manager so determines, all or part of the costs and disbursements incurred in connection with the establishment or setting up of the relevant Trust including (without limitation) initial marketing expenses, which costs and disbursements may, at the discretion of the Manager, be amortised over a period of up to five years and shall be and be deemed to be chargeable against Distributable Income;
 - e the Supervisor's and the Manager's reasonable expenses in respect of work of an unusual or onerous nature outside the usual attendances of the Supervisor and the Manager reasonably contemplated by this Deed and the relevant Establishment Deed for or in connection with the relevant Trust including (without limitation) the convening of meetings of Investors (other than annual meetings of Investors);
 - f any taxes or duties paid or payable by or in respect of the relevant Trust or any Investor;
 - g 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 relevant Trust for that period; and
 - h the fees and expenses of the Auditor in connection with the audit of the relevant Trust.
- 17.3 If any question shall arise as to whether any money or property constitutes Distributable Income or not or whether any expense is chargeable against Distributable Income or not such question shall be determined by the Manager.
- 17.4 Any one of one or more joint Investors may give effectual receipts for any Entitlements payable to such joint Investors.

18 Investment of Trusts

- 18.1 The Manager will ensure that there is a SIPO agreed in writing with the Supervisor for each Trust. The Manager must give the Supervisor prior written notice of any proposed amendment or replacement of a SIPO.
- 18.2 Each Trust Fund shall be invested only in Authorised Investments for that Trust, and only in accordance with the relevant SIPO.
- 18.3 If the Manager proposes to alter the SIPO in relation to a Trust in a manner which materially affects existing Investors the Manager shall, prior to effecting any such alteration, give at least 30 days' written notice to the Investors of the relevant Trust.
- 18.4 The Manager shall have a duty and obligation to exercise the care, diligence and skill in managing the Investments of a Trust Fund to the extent required by the SIPO of the relevant Trust, by Relevant Law and by the terms of this Deed and the relevant Establishment Deed (and in particular, clause 27). The Manager shall have no duty or obligation to acquire, dispose of or diversify Investments of a Trust other than to the extent that those factors arise in giving effect to the SIPO of the Trust or as otherwise required by this Deed or by Relevant Law. This clause constitutes a 'contrary intention' for the purposes of sections 13D of the Trustee Act 1956.
- 18.5 Notwithstanding sections 13B and 13C of the Trustee Act 1956, the Supervisor shall not in carrying out its duties be required to exercise any care, diligence or skill in respect of the Investment of any Trust Fund, other than to supervise the performance by the Manager of its

Issuer Obligations and its functions under this Deed and Relevant Law. This clause constitutes a 'contrary intention' for the purposes of section 13D of the Trustee Act 1956.

- 18.6 Subject to the provisions of this Deed, neither the Supervisor nor the Manager shall be responsible to any Trust or to any Unit holder for the investment performance of a Trust arising as a result of the proper implementation of the SIPO of a Trust.
- 18.7 Notwithstanding clause 18.9 the Supervisor shall refuse, and shall direct any Custodian and Sub-Custodian to refuse, to act on the direction of the Manager that relates to the acquisition or disposal of any Scheme Property of a Trust if the Supervisor considers that the proposed acquisition or disposition would be:
- a in breach of this Deed or the relevant Establishment Deed, any rule of law, or any enactment; or
 - b manifestly not in the interests of Investors.
- 18.8 If in accordance with clause 18.7 the Supervisor refuses, or directs any Custodian or Sub-Custodian to refuse, to act on a direction of the Manager, then:
- a the Supervisor must notify the Manager and the FMA in writing of that fact and the Supervisor's reasons for the refusal or direction; and
 - b the Supervisor, Custodian, and Sub-Custodian shall not be liable to the Investors or to the Manager for refusing (and in the case of the Supervisor, for directing any Custodian or Sub-Custodian to refuse) to act on the Manager's direction.
- 18.9 Subject to the relevant Establishment Deed the Manager will manage each Trust and, as and when required, may direct the Supervisor to:
- a permit Cash in any Trust Fund to be invested in any Authorised Investments;
 - b invest in, purchase, acquire, realise, sell or dispose of the Investments of any Trust,
- and, subject to clause 18.7, the Supervisor will from time to time, to the extent of the Trust Fund of each Trust in its possession or control, act as directed in writing by the Manager.
- 18.10 The Supervisor, Custodian, or Sub-Custodian (as applicable) shall have vested in it the Investments of each Trust, which shall remain so vested until they are sold or disposed of pursuant to the provisions of this Deed.

19 Related party transactions

- 19.1 The Manager (or any other person to whom the Manager has contracted out some or all of its functions as Manager) must not enter into a transaction that provides for a Related Party Benefit to be given.
- 19.2 Clause 19.1 does not apply to a transaction or a series of transactions if the Manager notifies the Supervisor of the transaction or transactions, including the Related Party Benefits given under the transaction or transactions, and either:
- a the Manager obtains the Supervisor's consent to the transaction or transactions; or

- b section 174 of the Act applies (ie: the transaction is on arm's-length terms; or is an acquisition or disposal of a managed investment product in another registered scheme; or is a prescribed registered bank investment; or is another prescribed benefit or transaction under the Act), and the Manager certifies to that effect in accordance with the requirements of the Act; or
- c any other exemption under Relevant Law applies to the transaction or transactions or all Related Party Benefits to be given.

19.3 Where clause 19.2 applies, the Manager or other recipient of a Related Party Benefit is entitled to profit from the transaction or transactions concerned and is not liable to account to the relevant Trust or any Investor for the Related Party Benefit.

20 Custody

20.1 The Supervisor may from time to time, on prior notice to the Manager, appoint in writing a person ('Custodian') in which may be vested all or any of the Scheme Property where the Custodian:

- a is a body corporate that the Supervisor believes, on reasonable grounds, to be appropriate to hold, and safeguard, the Investments; and
- b is not the Manager or an Associate of the Manager.

20.2 If the Supervisor contracts the holding of the Scheme Property to a Custodian under clause 20.1, then the Supervisor:

- a must ensure that the contracting out of that function is pursuant to a written agreement between the Supervisor and the Custodian; and
- b must take all reasonable steps to:
 - i ensure that the function is performed by the Custodian in the same manner and subject to the same duties and restrictions as if that person had performed them directly;
 - ii monitor the performance of that function;
 - iii ensure that the Custodian does not sub-delegate the function to another Person ('Sub-Custodian') without the prior written consent of the Supervisor; and
 - iv ensure that the Custodian remains liable for the performance of that function by any Sub-Custodian; and
- c is jointly and severally liable with the Custodian (and any other person who has contracted out the function) for the performance of that function in accordance with clause 20.2b.

20.3 The fees and expenses of a Custodian or Sub-Custodian may be payable out of the Trust Fund of the relevant Trust and shall be as agreed between the Supervisor, Manager, and the Custodian or Sub-Custodian from time to time. The terms of appointment of a Custodian or Sub-Custodian may indemnify the Custodian or Sub-Custodian for liabilities or expenses incurred in relation to the performance of its contracted functions.

- 20.4 A bank account or accounts shall be opened in the name of the Supervisor, Custodian, or Sub-Custodian. The Supervisor shall determine the persons authorised to operate such bank accounts.

21 Investment Records

- 21.1 The Supervisor (and any Custodian or Sub-Custodian) shall keep, or arrange to be kept, complete and accurate records of all Investments constituting each Trust in accordance with the requirements of Relevant Law.
- 21.2 The Supervisor (and any Custodian or Sub-Custodian) shall keep the records required by clause 21.1, or ensure that they are kept, in a manner that enables those records to be conveniently inspected by the Manager and the Supervisor and conveniently and properly audited and reviewed without charge at any time on any Business Day and otherwise in accordance with the requirements of Relevant Law.
- 21.3 The Manager shall be entitled to assume that the Supervisor's, Custodian's, or Sub-Custodian's records of Investments are complete and accurate and to rely upon them accordingly.

22 Management

- 22.1 Subject to the powers reserved to the Supervisor under this Deed or by Relevant Law, the management of the Trusts under this Deed and the Establishment Deeds shall be exercised by the Manager and the Manager hereby agrees to carry out and perform the duties and obligations on its part contained in this Deed and the Establishment Deeds in accordance with its obligations under this Deed, the Establishment Deeds, and Relevant Law. Nothing contained in this Deed or the Establishment Deeds 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 Supervisor for trusts whether of a nature similar to or different from the Trusts of this Deed.
- 22.2 Without in any way affecting the generality of clause 22.1 the Manager may in carrying out and performing the duties and obligations on its part which are contained in this Deed or any Establishment Deed, or under Relevant Law and subject to the Manager remaining liable for the acts and omissions of any employee, officer, delegate, attorney, agent or sub-manager whether or not the employee, officer, delegate, attorney, agent or sub-manager is acting within the terms of its delegated authority:
- a delegate all or any of its powers, authorities, functions and discretions exercisable under this Deed, the relevant Establishment Deed and Relevant Law whether or not requiring the Manager's judgement and discretion, to its officers and employees or to any other Person (whether or not related to, or associated with, the Manager and/or the Supervisor) nominated by the Manager;
 - b by power of attorney appoint any Person in any part of the world to be 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;

- c appoint any Person whether or not an Associate of the Manager and/or the Supervisor in any part of the world to be an agent or sub-manager in respect of the Investments or any of them or of any Trust, 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 any Trust (including power for such Person to sub-delegate).

Except as provided below:

- a the fees and expenses of any such delegate or appointee may be payable out of the relevant Trust Fund;
- b the terms of appointment of any such delegate or appointee may indemnify the appointee for liabilities or expenses incurred in relation to its contracted functions; and
- c such delegation or 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 the terms of any such appointment.

The terms of appointment of an investment manager may indemnify the investment manager for liabilities or expenses incurred in relation to the performance of its contracted functions provided that the investment manager has, in exercising any powers or performing any duties, exercised the care, diligence, and skill that a prudent person engaged in that profession would exercise in the same circumstances.

22.3 Where the Manager delegates or contracts out any of its functions as manager pursuant to this Deed:

- a the delegation must be in writing; and
- b the Manager must comply with the requirements of Relevant Law when delegating or contracting out all or some of its functions as Manager; and
- c the Manager must take all reasonable steps to:
 - i ensure that the functions are performed in the same manner, and are subject to the same duties and restrictions, as if the Manager were performing them directly; and
 - ii monitor the performance of those functions; and
- d the Manager remains jointly and severally liable for the performance of the functions delegated or contracted out.

22.4 The Manager shall notify the Supervisor of any delegation or appointment under this clause 22, other than a delegation to, or appointment of, its officers or employees.

22.5 All rights of voting conferred by the Establishment Deed or the Investments of a Trust shall be exercised in such manner as the Manager may determine and neither the Supervisor nor any Investor shall have any right to interfere therein and the Supervisor shall from time to time execute and 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. Subject to the provisions of Relevant Law and this Deed the Manager shall not be under any liability or responsibility in respect of the management of any Trust nor in respect of any vote or action taken or consent given by the Manager in person or by proxy or attorney and neither the Manager nor the holder of any such proxy or power of attorney 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 Manager or by the holder of such proxy or power of attorney and 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.

23 Supervisor's and Manager's Powers and Indemnities

- 23.1 Except as otherwise expressly provided in this Deed, the Supervisor and the Manager, in incurring any debts, liabilities or obligations or in taking or omitting any other action pursuant to this Deed or any Establishment Deed, are each, and shall each be deemed to be, acting for and on behalf of the Investors in the relevant Trust in their respective capacities as supervisor and manager of each Trust and not in their own respective capacities.
- 23.2 Subject to Relevant Law and clauses 23.4 and 23.7 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 any Trust, but that Trust only shall be liable or subject to execution, to the extent of the Trust Fund.
- 23.3 Subject to clause 23.4, if contrary to the provisions of clauses 23.1 and 23.2 either the Supervisor or the Manager shall be held personally liable to any other Person in respect of any debt, liability or obligation incurred by or on behalf of a Trust or any action taken or omitted in connection with a Trust, then the Supervisor or the Manager (as the case may be) shall be entitled to indemnity and reimbursement out of that Trust 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.
- 23.4 No provision of this Deed (including, without limitation, the other provisions of this clause 23) shall have the effect of exempting the Supervisor or Manager from any liability or indemnifying the Supervisor or Manager against any liability where:
- a in the case of the Supervisor, it fails to comply with its duties under clauses 24.2 and 24.4; or
 - b in the case of the Manager, it fails to comply with its duties under clauses 27.2a to c or 27.3.
- 23.5 The Supervisor and the Manager shall each be liable for any loss arising out of their own wilful default or wilful breach of trust but subject thereto and to clause 23.4 and the provisions of Relevant Law neither the Supervisor nor the Manager shall be liable to any Trust or to any Investor as a result of acting as Supervisor or Manager (as the case may be) under this Deed or any Establishment Deed or for any act or omission or be subject to any liability whatsoever at law or in equity in connection with the affairs of any Trust.
- 23.6 Subject to clause 23.4, the Supervisor and the Manager shall each be entitled to be reimbursed for all expenses, costs or liabilities incurred by them respectively acting as Supervisor or Manager (as the case may be) under this Deed or any Establishment Deed. Without prejudice to the generality of the foregoing the Supervisor and the Manager shall be entitled to be indemnified against:

- a 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 respect of any Trust or the provisions of this Deed or the relevant Establishment Deed;
- b all costs, charges, disbursements and expenses incurred in connection with the acquisition, registration, custody, disposal of or other dealing with an Investment, including commission, bank charges and stamp duty;
- c all income tax, withholding tax, capital gains tax, stamp duties, financial institutions duties and bank account debit taxes, PIE Tax or any other duty, tax or impost properly charged to or payable by the Supervisor or Manager (whether by any taxing authority or any other Person);
- d costs of postage in respect of all cheques, accounts, distribution statements, confirmation information, notices, reports and other documents posted to any or all Investors;
- e costs of convening and holding any meeting of Investors;
- f costs of preparing and printing accounts, distribution statements, cheques, confirmation information, and all other documents required to be prepared in connection with any Trust, pursuant to the Establishment Deed or any Relevant Law;
- g all costs, charges and expenses of and incidental to the preparation and execution of this Trust Deed, any Establishment Deed and any deeds supplemental thereto;
- h fees and expenses of any solicitor, barrister, computer expert or other expert from time to time employed by the Manager or by the Supervisor in the discharge of their respective duties and exercise of powers under this Trust Deed or any Establishment Deed;
- i reasonable expenses in connection with the establishment and maintenance of accounting systems and the keeping of accounting records and the Registers; and
- j all reasonable costs, charges and expenses incurred in the advertising and promotion of the Trusts.

23.7 If any expense, cost or liability shall in the opinion of the Manager be incurred on account of several Trusts, then that expense, cost or liability shall be apportioned amongst those Trusts in such manner as the Manager may conclusively determine. The Supervisor or the Manager may at any time elect not to seek reimbursement from any Trust 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).

23.8 Without prejudice to the generality of clauses 23.1 to 23.3, but subject always to the provisions of Relevant Law and to clause 23.4:

- a the Supervisor shall not be responsible for any loss incurred as a result of any act, 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;
- 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;

- c the Supervisor and the Manager may each act upon the opinion or advice of, or upon statements of or information obtained from, any solicitor, banker, accountant, broker or other Person believed by the Supervisor or the Manager to be expert in relation to the matters on which he or she is consulted 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 hereof 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 as otherwise expressly provided in this Deed, the Manager and the Supervisor shall as regards all the trusts, powers, authorities and discretions vested in each of them by this Deed and any Establishment Deed have absolute and uncontrolled discretion as to the exercise thereof whether in relation to the manner or as to the mode of or time for the exercise thereof;
- f nothing in this Deed shall be deemed to prohibit the Supervisor or any Associate of the Supervisor or any shareholder or officer of the Supervisor or the Manager or any Associate of the Manager or any shareholder or officer of the Manager ("Relevant Persons") from being an Investor or from acting in any representative capacity for an Investor. In particular and without prejudice to the generality of the foregoing, any Relevant Person may so act on its own account or as executor, administrator, trustee, receiver, attorney or agent or in any other fiduciary, vicarious or other professional capacity for an Investor and acting in any such capacity shall not be deemed a breach of any of the obligations arising out of any fiduciary relationship created by this Deed or imposed or implied by Relevant Law; and
- g the Supervisor at its sole discretion may deposit all documents evidencing any Investments, or evidencing title to any Investments with any Person considered by the Supervisor to be of good repute.

23.9 The Manager shall use its best endeavours to ensure that the Trusts are carried on in a proper and efficient manner.

23.10 The Manager will:

- a make available to the Supervisor or to any Custodian or the Auditor the whole of the records of the Manager kept pursuant to or in relation to this Deed and whether kept at the Office or elsewhere;
- b without limiting sections 147 to 151 of the Act, give the Supervisor or any Custodian or the Auditor such oral or written information and such reports and certificates, comprised of such information and at such frequency, as may be agreed in writing from time to time between the Manager and the Supervisor or as required by Relevant Law or requested by the Supervisor under Relevant Law with respect to all matters relating to each Trust,

the Manager and the Investments and the management and administration of each Trust;

- c at the request of the Supervisor, give the Supervisor or any Custodian or the Auditor such oral or written information as may be required with respect to all matters relating to the Manager provided that the Supervisor shall only request such information in the following circumstances:
 - i after consultation with the Manager; and
 - ii if the Supervisor believes that the Manager is unable or is likely to become unable to carry out its Issuer Obligations and the Supervisor certifies its belief in writing to the Manager;
- d provide to the Supervisor on request such information or access to such employees and board members of, and service providers to, the Manager as the Supervisor reasonably requires; and
- e notify the Supervisor if it becomes aware of any issue or circumstance which a reasonable person would believe or anticipate may have a material adverse effect on the interests of Investors or on the reputation of the Manager or its licence under the Act.

23.11 Subject to the provisions of this Deed, a certificate signed by a director of the Manager or a duly authorised officer of the Manager on behalf of the Manager:

- a as to any fact or matter prima facie within their knowledge and which the Supervisor may, in the exercise of any of the trusts, powers, authorities and discretions and powers hereof, require to be satisfied; or
- b that any particular dealing, transaction, step or thing is expedient or commercially desirable and not detrimental or prejudicial to the interests of, or does not or is not likely to have a material adverse effect on, the Investors or any of them,

may be relied upon by the Supervisor as sufficient evidence of such fact or matter or the expediency or desirability of such dealing, transaction, step or thing and the statements contained in any certificate or certificates or in any report or reports pursuant to the provisions of this Deed, as conclusive evidence of the facts stated therein.

23.12 Subject to clause 18.7 and to clause 19, the Manager shall have the power by way of direction to the Supervisor for the purposes of a Trust to borrow or raise monies from any Person (including an Investor) by way of fixed loan or by way of bank overdraft or other running, continuing or fluctuating current account or by any other form of credit facility or accommodation and to sell, discount or otherwise pledge the Authorised Investments or any of them as security, for the purposes of acquiring further Authorised Investments or for providing funds for the redemption of Units or the distribution of Distributable Income so long as:

- a the total principal amount borrowed or raised by the Manager (whether secured or unsecured) does not exceed 25% of the Gross Asset Value of the Trust and is otherwise within the parameters set out in the SIPO; and
- b the Manager in good faith has determined that the borrowing is necessary or desirable in the general interests of Investors investing in the relevant Trust or for the purposes of

conducting any Investment or management or other operation of the relevant Trust including the repayment or redemption of any Units from time to time.

24 Supervisor's Responsibilities, Powers, and Duties

24.1 The Supervisor is responsible for the following functions:

- a acting on behalf of the Investors in relation to:
 - i the Manager;
 - ii any matter connected to this Deed, each Establishment Deed, or the terms of any Regulated Offer of Units;
 - iii any contravention or alleged contravention of the Manager's Issuer Obligations; and
 - iv any contravention or alleged contravention of the Act by any other person in connection with any Trust;
- b supervising:
 - i the Manager's performance of its functions under this Deed and each Establishment Deed and Relevant Law, and its Issuer Obligations; and
 - ii the financial position of the Manager and each Trust in respect of the Units to ascertain that it is adequate;
- c holding the Scheme Property of each Trust or ensuring that the Scheme Property of each Trust is held in accordance with the Act; and
- d performing or exercising any other functions, powers, and duties conferred or imposed on the Supervisor by or under the Act, the Financial Markets Supervisors Act 2011, this Deed, and each Establishment Deed.

The Supervisor must not delegate the functions under this clause 24.1, except as expressly permitted by the Act or as permitted by, and then subject to, conditions imposed under the Financial Markets Supervisors Act 2011.

24.2 The Supervisor must:

- a act honestly in acting as supervisor;
- b in exercising its powers and performing its duties as supervisor, act in the best interests of the Investors; and
- c exercise reasonable diligence in carrying out its functions as supervisor.

24.3 The Supervisor must:

- a do all the things it has the power to do to cause any contravention referred to in clause 24.1a to be remedied (unless it is satisfied that the contravention will not have a material adverse effect on the Investors); and

- b subject to any order of a court under section 210 of the Act, act in accordance with any direction given by a Special Resolution that is not inconsistent with any enactment, rule of law, this Deed, or an Establishment Deed in relation to:
 - i seeking a remedy to a contravention referred to in clause 24.1a; and
 - ii any other matter connected with the Supervisor's functions.

The Supervisor is not liable for anything done, or omitted to be done, in good faith in giving effect to a direction to it by Investors.

- 24.4 The Supervisor must, in exercising its powers and performing its duties as the Supervisor, exercise the care, diligence, and skill that a prudent person engaged in the business of acting as a licensed supervisor would exercise in the same circumstances.
- 24.5 The Supervisor has the same duties and liability in the performance of its functions as supervisor as it would if it performed those functions as a trustee (except to the extent that those duties are altered by or are inconsistent with the Act).
- 24.6 The Supervisor is entitled, in the performance of the Supervisor's functions, to engage an expert (for example, an auditor, investigating accountant, valuer, or actuary) if the Supervisor considers, on reasonable grounds, that it requires the assistance of the expert to:
- a determine the financial position of the Manager or a Trust; or
 - b review the business, operation, or management systems, or the governance, of the Manager or a Trust.
- 24.7 If the Supervisor engages an expert under clause 24.6:
- a the Manager must provide reasonable assistance to the expert to allow the expert to provide the assistance under clause 24.6;
 - b the Manager must pay the fees and expenses of the expert, which must be reasonable in the circumstances; and
 - c subject to clause 23.4, the Manager is entitled to be indemnified for those fees and expenses out of the Scheme Property of the relevant Trust.

25 Remuneration of the Supervisor

- 25.1 The Supervisor shall be paid a fee as agreed with the Manager from time to time out of each Trust Fund (pro rata in proportion to the Gross Asset Value of each Trust) in respect of its services hereunder, such fee to be stipulated in the relevant Establishment Deed for each Trust.
- 25.2 The Supervisor shall be entitled to receive, in addition to such fees, any value added tax or duty or similar tax or duty payable in respect of such fee. For the purposes of this clause 25.2 'value added tax' shall include, but not be limited to, goods and services tax as that term is defined in the Goods and Services Tax Act 1985.
- 25.3 The fees payable to the Supervisor under clause 25.1 shall be calculated on the basis of the aggregate Gross Asset Value of the Trusts from day to day (or on such other basis as the

Manager and Supervisor may agree in respect of any Trust) and shall be paid in arrears on the last Working Day of each month and on the date of termination of the Trusts or any of them, or at such other time as the Manager and Supervisor may agree from time to time.

- 25.4 The Supervisor may at any time and from time to time in its absolute discretion notify the Manager of the waiver or reduction of payment of fees, remuneration or reimbursement due to it.

26 Appointment, Removal and Retirement of Supervisor

- 26.1 Each Trust shall have one supervisor, who:

- a is a Licensed Supervisor whose licence covers supervision of the Trusts; and
- b must not be the Manager or an Associate of the Manager.

Trustees Executors Limited is the supervisor and trustee of each of the Trusts as at the Effective Date.

- 26.2 The Supervisor may be removed from office as supervisor:

- a by the FMA, if the FMA is satisfied that the Manager and the Supervisor no longer meet the requirements of section 127(1)(e) of the Act;
 - b by the FMA or the Manager under Part 2 of the Financial Markets Supervisors Act 2011; or
 - c by either:
 - i a Special Resolution of Investors of the Trust; or
 - ii the Manager, with the FMA's consent;
- if:
- iii all functions and duties of the position have been performed;
 - iv a new Licensed Supervisor has been appointed, and accepted the appointment, and all of the Scheme Property of the relevant Trust has been transferred to it; or
 - v the High Court consents.

- 26.3 The Supervisor may retire at any time without assigning any reason upon giving not less than three months' notice in writing to the Manager of its intention to do so (or such lesser period of notice as the Manager may in any particular case accept) if:

- a all functions and duties of the position have been performed;
- b a new Licensed Supervisor has been appointed, and accepted the appointment, in its place and all the Scheme Property of the relevant Trust has been transferred to it; or
- c the High Court consents.

The Supervisor shall not be entitled to retire as supervisor of only some of the Trusts, and if it elects to retire, shall do so in respect of all of the Trusts.

- 26.4 Subject to Relevant Law, the power of appointing a new Supervisor of the Trusts (in place of a Supervisor which has retired pursuant to clause 26.3 or been removed from office pursuant to clause 26.2) shall be vested in the Manager. No Person shall be appointed as a new Supervisor unless qualified to act as such pursuant to the Act. If the Manager fails or refuses to appoint a new Supervisor, such new Supervisor may be appointed by a Special Resolution.
- 26.5 Any new Supervisor must forthwith upon appointment execute a deed in such form as the Manager may require whereby the new Supervisor undertakes to the Manager and the Investors to be bound by all the covenants on the part of the former supervisor under this Deed from the date of such appointment.
- 26.6 Subject to all Relevant Law, from the date of execution by the new Supervisor of a deed in accordance with clause 26.5, the retiring Supervisor is absolved and released from all such covenants under this Deed (except in respect of prior breach) and the new Supervisor must thereafter exercise all powers and enjoy and exercise all the rights and is subject to all the duties and obligations of the Supervisor under this Deed in all respects as if such Supervisor had been originally named as a party to this Deed.
- 26.7 Subject to Relevant Law the Supervisor shall not be discharged or retire from the Trusts until a new Supervisor of the Trusts has been appointed to and assumed that office in accordance with the provisions of this Trust Deed and the Act.

27 Manager's Responsibilities, Powers, and Duties

- 27.1 The Manager is responsible for performing the following functions:
- a offering the Units;
 - b issuing the Units;
 - c managing the Scheme Property and Investments of each Trust; and
 - d administering each Trust.
- 27.2 The Manager must:
- a act honestly in acting as Manager;
 - b in exercising any powers or performing any duties as Manager:
 - i act in the best interests of the Investors; and
 - ii treat the Investors equitably; and
 - c not make use of information acquired through being the Manager, and ensure that no director or senior manager of the Manager makes use of information acquired through being a director or senior manager, in order to:
 - i gain an improper advantage for itself, himself, herself, or any other person; or
 - ii cause detriment to the Investors;
 - d not make improper use of its position as Manager and ensure that no director or senior manager of the Manager makes improper use of the position as a director or senior

manager of the Manager, to gain, directly or indirectly, an advantage for itself, himself, herself or any other person or to cause detriment to the Investors.

- 27.3 The Manager must, in exercising any powers, and performing any duties, exercise the care, diligence and skill that a prudent person engaged in the profession of a professional manager would exercise in the same circumstances.
- 27.4 The Manager must carry out its functions as manager of each Trust in accordance with this Deed, the relevant Establishment Deed, the relevant SIPO, all Relevant Law, and all other Issuer Obligations.
- 27.5 The Manager has the same duties and liability in the performance of its functions as manager as it would if it performed those functions as a trustee (except to the extent that those duties are altered by or inconsistent with the Act).
- 27.6 The Manager must take any action required by the Act if a limit break (within the meaning of section 167 of the Act) or material pricing error or non-compliance (in terms of section 168 of the Act) occurs. For the purposes of section 168 of the Act and regulation 99 of the Regulations, the minimum compensation level for pricing errors or non-compliance is an amount determined on a case-by-case basis by the Manager after consultation with the Supervisor based on relevant industry guidelines which take into account the size, type, and/or frequency of the issue and the costs of reimbursement or compensation.

28 Remuneration of the Manager

- 28.1 Upon the issue or purchase of any Units the Manager may charge the Investor an Entry Fee in respect of each Unit of up to 5% of the Unit Value as the Manager may fix as a condition of the issue or purchase of those Units and deduct and retain such Entry Fee from the application moneys received by the Manager in respect of those Units (this provision is subject to the Manager's right to waive or reduce any fee under clause 11.2).
- 28.2 Upon the redemption or repurchase of any Units, the Manager may charge the Investor and retain for its own benefit out of the Withdrawal Amount an Exit Fee in respect of each Unit of up to 5% of the Withdrawal Amount (as determined by the Manager from time to time). If the Investor has given a Switching Notice, a Switching Fee of up to 5% of the Withdrawal Amount (as determined by the Manager from time to time), which may differ as between different Trusts or different switch configurations shall be deducted by the Manager and retained for its own benefit out of any Withdrawal Amount calculated as part of the switch.
- 28.3 Any fees payable under clauses 28.1 and 28.2 shall be disclosed in a manner that complies with Relevant Law. In addition to the fees payable under clauses 28.1 and 28.2, the Manager shall be paid Management Fees as set out in the relevant Establishment Deed.
- 28.4 The Manager shall be entitled:
- a subject to any maximum fees set out in the relevant Establishment Deed and from time to time, to determine the minimum Management Fees and to alter such minimum Management Fees;
 - b from time to time, to alter (subject to any maximum fees set out in clauses 28.1, 28.2, and 28.3 and the relevant Establishment Deed) the amount of the Entry Fee, Exit Fee, Switching Fee or Management Fee by giving at least 30 days' prior notice of the changes

to the Investors affected by the changes provided that any such fees may be reduced at any time by the Manager without notice;

- c at its sole discretion at any time and from time to time to waive or reduce any fee or fees either generally or in relation to a particular Trust or Trusts, or any Investor or transaction; and
- d to receive, in addition to any such Entry Fee, Exit Fee, Switching Fee or Management Fee, any value added tax or duty or similar tax or duty payable in respect of such fee. For the purposes of this clause 28.4d, 'value added tax' shall include, but not be limited to, goods and services tax as that term is defined in the Goods and Services Tax Act 1985.

28.5 The Management Fees referred to in clause 28.3 shall be calculated on the basis of the Gross Asset Value of each Trust from day to day (or on such other basis as the Manager and the Supervisor may agree in respect of any Trust) and shall be paid in arrears on the last Working Day of each month and on the date of the termination of the relevant Trust, or at such other time as the Manager and Supervisor may agree from time to time.

28.6 The remuneration of the Manager pursuant to clause 28.3 shall be paid out of the Scheme Property of the Trusts (pro rata in proportion to the Gross Asset Value of each Trust). The Manager may determine the extent to which any remuneration of the Manager shall be appropriated or paid out of gross income, exempt or other Distributable Income, or capital of the relevant Trust, or any combination thereof, having regard to such factors as it sees fit in the context of the remuneration in question.

29 Appointment, Removal, and Retirement of Manager

29.1 Each Trust shall have one Manager, who:

- a must be a Licensed Manager whose licence covers management of the Trust; and
- b must not be the Supervisor or an Associate of the Supervisor,

Funds Administration New Zealand Limited is the manager of each Trust in existence as at the Effective Date.

29.2 The Manager shall cease to hold office as Manager of all Trusts if:

- a the Manager is removed from office as manager of any Trust by a written direction of the Supervisor after the Supervisor certifies that it is in the best interests of the Investors that the Manager be removed from office as manager;
- b the Manager is removed by a Special Resolution of Investors of any Trust;
- c the Manager is substituted by the High Court under section 209 of the Act; or
- d the Manager shall have a receiver appointed or if an order is made or a resolution passed for the liquidation of the Manager.

29.3 If the Manager is removed as manager of any Trust pursuant to clause 29.2b otherwise than for:

- a failure by the Manager to comply with its duties under clauses 27.2a to c or 27.3; or
- b the negligent or wilful failure of the Manager to perform any other of its duties and obligations under this Deed, the relevant Establishment Deed, or Relevant Law,

the Manager may require the Supervisor to arrange payment of compensation to the Manager for loss of office of an amount equal to the total fees received by the Manager in relation to all the Trusts pursuant to this Deed during the period of 24 months preceding the date of such removal. Such compensation shall be paid out of the Scheme Property of each relevant Trust.

- 29.4 Unless the Supervisor agrees to the contrary, if the Manager ceases to hold office pursuant to clause 29.2, the Manager and any delegate of the Manager shall immediately desist from all activities relating to any Trust.
- 29.5 The Manager may retire as Manager at any time without assigning any reason upon giving not less than three months' notice in writing to the Supervisor of its intention to do so (or such lesser period as the Supervisor may in any particular case accept). No such retirement shall take effect until a new Manager has been appointed under this Deed and has executed the deed referred to in clause 29.8.
- 29.6 The Supervisor or FMA shall have power in accordance with the Act to appoint a company qualified under the Act as a temporary Manager in place of a Manager which has retired pursuant to clause 29.5 or been removed from office pursuant to clause 29.1.
- 29.7 The Supervisor shall upon a vacancy in the office of Manager of any Trust occurring summon a meeting of Investors in accordance with the Act and this Deed, and shall take such steps as that meeting or any subsequent meeting of Investors may require to secure the appointment, as manager of that Trust, of any temporary Manager appointed pursuant to clause 29.6 or some other company qualified under the Act to act as manager of that Trust.
- 29.8 A new Manager appointed pursuant to clause 29.5 or clause 29.6 shall forthwith upon such appointment execute a deed in such form as the Supervisor may require whereby the new Manager undertakes to the Supervisor and Investors to be bound by all the covenants on the part of the Manager hereunder from the date of such appointment and from such date, subject to Relevant Law, the retiring Manager shall be absolved and released from all such covenants hereunder (save in respect of any antecedent breach hereof). The new Manager shall thereafter exercise all the powers and enjoy and exercise all the rights and shall be subject to all the duties and obligations of the Manager hereunder in all respects as if such new Manager had been originally named as a party hereto, but without prejudice to the right of the former Manager to receive any payment or other benefit which accrued to that Manager, or any other right, obligation or liability of the former Manager, pursuant to the terms of this Deed and Relevant Law prior to the date of or arising upon its retirement or removal from office.
- 29.9 The Supervisor may settle with the Manager the amount of any sums payable by the Manager to the Supervisor or by the Supervisor to the Manager and may give to or accept from the Manager a discharge in respect thereof and any such settlement or discharge shall be conclusive and binding.
- 29.10 Notwithstanding the foregoing provisions and the appointment of a Manager in respect of one or more of the Trusts and subject to Relevant Law, a different Manager may be appointed in

respect of any of the Trusts by agreement between each Manager already in office and the Supervisor.

30 Limitation of Liability

- 30.1 Notwithstanding anything contained in this Deed or any Relevant Law:
- a no Investor shall in any circumstances be liable to indemnify the Supervisor or the Manager in respect of any debt or liability incurred in respect of any Trust, subject to clause 38.4; and
 - b neither the Supervisor nor the Manager shall be or act as agent for the Investors, and neither shall have power to incur liabilities on behalf of any Investor or pledge the credit of any Investor.

31 Accounts

- 31.1 The Manager shall ensure that there are kept at all times in accordance with Relevant Law accounting records that:
- a correctly record and explain the transactions of the Manager and each Trust and any additional matters required by Relevant Law;
 - b will at any time enable the financial position of each Trust to be determined with reasonable accuracy;
 - c will enable the Manager to ensure that the Financial Statements of each Trust and the Manager comply with Relevant Law; and
 - d will enable the Financial Statements to be readily and properly audited.
- 31.2 Without limiting clause 31.1 or the requirement for the Supervisor to keep records of the Investments of each Trust under clause 21, accounting records kept under clause 31.1 shall contain in respect of each Trust:
- a entries of money received and spent each day and the matters to which those entries relate; and
 - b a record of the Investments and Liabilities.
- 31.3 The accounting records required by clause 31.1 shall be:
- a kept at the Office or at such other place as the directors of the Manager think fit (where permitted by Relevant Law);
 - b kept in written form in the English language or kept in a form and manner so as to enable them to be readily accessible and readily convertible into written form in the English language; and
 - c retained by the Manager for a period of at least seven years after the date they were made or the date of completion of the transaction to which they relate, whichever is the later.

- 31.4 The Manager shall make the accounting records required by clause 31.1 available, in written form in English at all reasonable times for inspection without charge, to the directors of the Manager, the FMA, the Supervisor and the Auditor. The Manager must have appropriate systems of control and oversight in respect of the accounting records, and the provisions of Part 7 of the Act must be complied with.
- 31.5 Within four months of the end of each Financial Year or such other period of time required by Relevant Law, the Manager shall in accordance with the Act:
- a prepare, date, and sign the Financial Statements for that Financial Year; and
 - b ensure that the Financial Statements are audited by the Auditor in accordance with all applicable auditing and assurance standards (within the meaning of the Act),
- and shall submit them to the Supervisor.
- 31.6 The Manager shall ensure that each Auditor's report on the Financial Statements complies with all applicable auditing and assurance standards (within the meaning of the Act) and all other requirements of Relevant Law.
- 31.7 The Manager shall, by the date required by Relevant Law:
- a file, lodge, or report or cause to be filed, lodged, or reported with or to the relevant authority; and
 - b send or otherwise make available to each Investor in relation to the relevant Trust, any information required by Relevant Law to be filed, lodged, reported, sent, or made available.

32 Auditor

- 32.1 The Manager shall, following consultation with the Supervisor in accordance with the Act, appoint an Auditor qualified in terms of clause 32.2 of each Trust. If not already completed, such appointments shall be made as soon as possible after the execution of this Deed and of each relevant Establishment Deed as the case may be.
- 32.2 Each Auditor shall be a qualified auditor in terms of the Act who is not precluded by the Act from acting as Auditor of the relevant Trust. An Auditor may also be auditor of the Manager or of the Supervisor, and the same Person may hold office as Auditor of all or any of the Trusts.
- 32.3 The Manager must consult with the Supervisor in relation to the nature and scope of the services to be performed by the Auditor, which services must:
- a include any matters required by Relevant Law; and
 - b require the Auditor to, in addition to its functions as set out in this Deed, perform any other functions required by Relevant Law and comply with any obligations it has under Relevant Law.
- 32.4 The terms of appointment of the Auditor must meet the requirements of the Regulations and other Relevant Law and, without limitation, must require the Auditor to, from time to time and at the request of the Supervisor, provide the Supervisor with any information relating to the

Manager or a Trust that the Supervisor requests and that is within the Auditor's knowledge and that, in the Auditor's opinion, is relevant to the exercise or performance of the Supervisor's powers or duties.

- 32.5 The Manager shall furnish to the Supervisor, at the same time as the Manager furnishes to the Supervisor the Financial Statements pursuant to clause 31.5, in relation to the end of the Financial Year a separate report by the relevant Auditor covering the matters as may be agreed from time to time between the Manager and the Supervisor.
- 32.6 The remuneration of the Auditor of each Trust shall be agreed by the Manager, in consultation with the Supervisor, and shall be paid out of the Scheme Property of the relevant Trust.
- 32.7 The Auditor of any Trust may at any time be removed from office by the Manager or the Supervisor after two months' notice (or such lesser period as may be agreed) has been given by the Manager or the Supervisor as the case may be.
- 32.8 An Auditor may retire upon the expiration of not less than three months' notice (or such other period as agreed by the Manager in consultation with the Supervisor) in writing both to the Manager and the Supervisor.
- 32.9 Any vacancy in the office of an Auditor occurring under clauses 32.7 or 32.8 shall be filled by the Manager (following consultation with the Supervisor in accordance with the Act) appointing an Auditor qualified for appointment in terms of clause 32.2.

33 Meetings of Investors

- 33.1 The Manager shall summon a meeting of the Investors of a Trust upon the request in writing of:
- a the Supervisor;
 - b Investors holding Units in that Trust that have a combined value of no less than 5% of the value of Units on issue in that Trust; or
 - c any other person entitled by Relevant Law to summon a meeting.
- 33.2 The Manager may at any time of its own volition convene a meeting of the Investors of any Trust.
- 33.3 All meetings of Investors shall be convened and held in accordance with the provisions set out in the Second Schedule to this Deed. Subject to regulation 89(2) of the Regulations, those provisions shall apply notwithstanding anything to the contrary in the Act.
- 33.4 Except where permitted by Relevant Law, the Manager and its Associates are not entitled to, and must not, vote their interest on a resolution of Investors if they have an interest in the resolution or matter other than as an Investor.

34 Notice to Investors

- 34.1 Subject to Relevant Law, any notice to be given to any Investor may be given:
- a personally;

- b by sending it by post to the address of the Investor shown in the relevant Register; or
 - c by electronic communication sent to the electronic address of the Investor last known to the Manager or Supervisor.
- 34.2 A notice may be given to Persons who are joint holders of a Unit by giving the notice to the joint holder first named in a Register. Subject to the Act, where a notice is sent by:
- a post, service of the notice shall be deemed to be effected by properly addressing, pre-paying, and posting a letter containing the notice, and to have been effected on the Working Day following the date of posting; and
 - b electronic communication, service of the notice shall be deemed to be effected by sending the notice to the electronic address of the Investor last known to the Manager or Supervisor, and to have been effected on the date and time at which it leaves the sender's information system.
- 34.3 A notice may be given to the manager of a mentally disordered Person, or the Persons entitled to a Unit in consequence of the death or bankruptcy of an Investor, by sending it by post in a prepaid letter addressed to them by name, or by the title of the manager of the mentally disordered Person, or the legal representatives of the deceased, or the assignee of the bankrupt, at the address, if any, supplied for the purpose by the Persons claiming to be so entitled, 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 If an Investor has no registered address and has not supplied to the Manager an address for the giving of notices, or if any two notices posted to an Investor are returned to the Manager on consecutive occasions, then, notwithstanding anything contained elsewhere in this Deed, until the Investor shall give notice in writing to the Manager of some other address, the address of the Investor for all the purposes of this Deed shall be deemed to be the Office.
- 34.5 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 case of a notice of meeting, the day for which it is given, shall be excluded in calculating such number of days.
- 34.6 Any notice, communication or information 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 signed by a duly authorised officer of the party giving the notice.
- 34.7 A copy of every notice given to Investors or any of them under this Deed shall be given, at the same time at which it is given to the Investors, to the Supervisor.

35 Amendments to Deed

- 35.1 The Supervisor and the Manager may at any time make any alteration, modification, variation or addition to the provisions of this Deed or any Establishment Deed (by means of a deed executed by the Supervisor and the Manager) if:
- a the Supervisor is satisfied that amendment does not have a material adverse effect on Investors; or

- b the amendment has been approved by (or is contingent on approval by) a Special Resolution of the relevant Investors.
- 35.2 This Deed or any Establishment Deed may also be rescinded, altered, modified or added to in any other manner permitted by Relevant Law.
- 35.3 Before any amendment is made to this Deed or an Establishment Deed, the Supervisor and the Manager (as applicable) shall comply with any procedural requirements of the Act.
- 35.4 Where any amendment has been made to this Deed or any Establishment Deed:
 - a the Manager will give written notice to all Investors of the relevant Trust, in summary form, of all amendments made to this Deed or the relevant Establishment Deed such notification to be forwarded to all such Investors no later than three months after the date the amendments are made;
 - b the Manager shall, if necessary and subject to clause 7.4, forthwith amend the relevant Disclosure Documents; and
 - c the Manager will lodge a copy of such amendment with the Registrar in accordance with the Act.

36 Winding Up

- 36.1 Each Trust shall determine and be wound up upon the occurrence of the earliest of the following events:
 - a if a Special Resolution of the Investors of that Trust is passed resolving to wind up that Trust;
 - b if the Minimum Holding has ceased to be maintained and the Manager in its sole discretion determines to wind up that Trust;
 - c three months after the Manager shall have given to the Supervisor and to each Investor of that Trust notice to wind up the Trust, it being acknowledged that the Manager may give such notice and at such time as the Manager in its sole discretion thinks fit; or
 - d the expiration of a period of 80 years less two days from the date of the relevant Establishment Deed.
- 36.2 If a Trust is to be wound up, the Supervisor must, as required by Relevant Law, give a copy of the relevant Special Resolution or order by the High Court to the FMA within the required timeframes.
- 36.3 If a Trust is to be wound up, the Supervisor must ensure that in accordance with Relevant Law:
 - a the final Financial Statements of the Trust are prepared and audited within the required timeframes;
 - b copies of the final audited Financial Statements are sent to the FMA and Investors within the required timeframes; and
 - c inform the FMA of the date on which the final distribution of the assets is completed.

- 36.4 The Supervisor shall within 14 days after the occurrence of any event referred to in clause 36.1 in respect of any Trust, give to each Investor of that Trust notice of the occurrence of that event and of the intention of the Supervisor to distribute the Trust Fund of that Trust. From the date of the occurrence of any event referred to in clause 36.1, no Withdrawal Notice or Switching Notice shall be given in respect of that Trust.
- 36.5 The Manager shall as soon as is practicable after the occurrence of an event referred to in clause 36.1:
- a sell, call in and convert into cash the whole of the Trust Fund of the relevant Trust;
 - b retain out of the Trust Fund such amount as the Manager, following consultation with the Supervisor, considers appropriate to meet all Liabilities and claims (including for this purpose contingent Liabilities) in connection with that Trust or arising out of the liquidation of that Trust including the Supervisor's and Manager's fees and the fees of any agents, solicitors, bankers, accountants or other Persons whom the Manager or Supervisor may employ or engage in connection with the winding up of that Trust; and
 - c distribute the net proceeds of realisation of the Trust Fund of that Trust amongst Investors of that Trust in proportion to the numbers of Units held by them, or as otherwise specified in the relevant Establishment Deed.
- 36.6 The Supervisor, following consultation with the Manager, may make interim distributions on account of the net proceeds of realisation of the Trust Fund.
- 36.7 Notwithstanding the above, the Supervisor will comply with its obligations as set out in Relevant Law in respect of the winding up of the relevant Trust.

37 Governing Law

- 37.1 This Deed shall be governed by and construed, interpreted, and administered in accordance with the law of New Zealand.

38 Taxation Liability

- 38.1 In this clause 38, the following terms shall have the meaning assigned to them:

'**Relevant Person**' means an Investor and the Investor's legal personal representatives or successors;

'**Tax**' includes all taxes, duties, levies, PIE Tax 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;
- b any withholding tax or similar amounts required to be withheld or deducted by the Manager or the Supervisor in respect of an Investor; and

- c any Tax refund, rebate or other payment received or receivable by the Manager or the Supervisor in respect of any Tax paid or payable by or on account of that person or in respect of that Person's Units;

and in relation to a Trust means any Tax payable by or on account of that Trust or any Tax refund, rebate or other payment received or receivable in respect of any Tax paid or payable or loss incurred by or in respect of that Trust.

- 38.2 The Supervisor or the Manager may deduct or credit, or require to be deducted from or credited to, any amount otherwise payable to or to be applied in respect of a Relevant Person, or from or to the Units of a Relevant Person (including by way of redemption of some or all of those Units) an amount equal to the Taxation Amount of that Relevant Person or the relevant Trust where such amount is payable or anticipated to become payable by or to the Supervisor or the Manager or from or to a Trust Fund.
- 38.3 Amounts deducted (whether by the way of redemption of Units or otherwise) or credited under clause 38.2 in relation to a Relevant Person shall be held by the Manager and applied:
- a When and to the extent required under the Income Tax Act 2007 in payment of the Taxation Amount in relation to that Relevant Person to the Person or authority entitled thereto; or
 - b Subject to paragraph a in reimbursement of the Supervisor or the Manager for any corresponding amount paid in relation to that Relevant Person from funds otherwise available to them in respect of that Person's Taxation Amount; and
 - c any amount received by the Supervisor or the Manager not applied under the foregoing provisions shall be credited to the Relevant Person, whether by way of issue of additional Units or otherwise, on such basis as the Supervisor and the Manager agree is appropriate; and
 - d any balance shall be refunded to the Relevant Person.
- 38.4 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 Relevant Person.
- 38.5 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 that Relevant Person to the Supervisor or the Manager as the case requires.

39 Notices

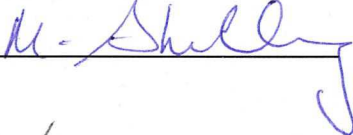
- 39.1 Any notice, requisition, demand or request under this Deed (a 'notice') may be signed by or on behalf of the Manager or the Supervisor by an officer, employee, agent, attorney or solicitor and may be given to the Manager or the Supervisor by delivery, facsimile or post to its registered office or principal place of business.

Execution

Signed on behalf of
Funds Administration New Zealand Limited by:



Director



Director

Signed by Trustees
Executors Limited by:

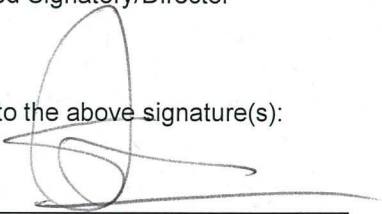


Robert P Russell
Authorised Signatory/Director



Stuart McLaren
Authorised Signatory/Director

Witness to the above signature(s):



Witness Signature

Name Sean Roberts
Client Services Manager
Wellington

Occupation

Address



CTS 2016-122 (1/2)

Schedule 1

Matters for Inclusion in Establishment Deed

(Clause 4.4)

- 1 A description of the Authorised Investments for the Trust.
- 2 A statement of the objectives of the Trust.
- 3 The methodology, or the rules applying to determining the methodology, and other rules applying to determining the Market Value of Investments.
- 4 The Minimum Initial Amount and the Minimum Number of Units and any other restrictions relating to the amount of application moneys for Units.
- 5 The Minimum Holding.
- 6 The provisions applicable to determination of Entitlements to Distributable Income and the distribution of Entitlements.
- 7 The provisions (if any) applicable to reinvestment of Entitlements.
- 8 The Manager's fees (including the Management Fee and any applicable Entry Fee, Exit Fee or Switching Fee).
- 9 The Supervisor's fees.
- 10 The time periods after notice has been given by the Investor, for Redemption of Units and Switching of Units.
- 11 Any variation of the Deed expressly applicable to the Trust.
- 12 Any other matters which the Manager and the Supervisor deem appropriate, which the Supervisor deems necessary, or which is required in order for the Trust to comply with those requirements of Relevant Law which apply to it.

Schedule 2

Meetings of Investors

(Clause 33)

1 Venue of Meetings

- 1.1 A meeting of the Investors of any Trust ('relevant Trust') shall be held in such place in the city or town in which the Office is situated and at such time as the Manager determines.

2 Notice of Meetings

- 2.1 Notice of every meeting shall be given in the manner provided in the Trust Deed to this Deed to every Investor entitled to receive notice of the meeting who is entered on the relevant Register and who has supplied to the Manager an address for the giving of notices to him or her.
- 2.2 At least 15 Working 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.
- 2.3 The notice shall specify:
- a the place, day, and hour of the meeting;
 - b the nature of the business to be transacted at the meeting in sufficient detail to enable an Investor to form a reasoned judgement in relation to it;
 - c the text of any Special Resolution to be submitted to the meeting (but it is not necessary to state the text of any Ordinary Resolution to be submitted to the meeting); and
 - d the right of an Investor to appoint a proxy.
- 2.4 An irregularity in a notice of meeting is waived if:
- a all the Investors entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Investors agree to the waiver; or
 - b the Supervisor indicates at the meeting that the Supervisor is satisfied that the irregularity has not resulted in and is unlikely to result in any material prejudice to the Investors.
- 2.5 A copy of the notice and any other communications that an Investor receives in connection with the meeting shall be sent to the Supervisor, the Manager, every director of the Manager, and an auditor of the Manager.
- 2.6 The accidental omission to give notice to, or the failure to receive notice of a meeting by, any Investor shall not invalidate proceedings at that meeting.

- 2.7 A notice of meeting that contains a Special Resolution to approve a Related Party Benefit must contain, and be accompanied by, the matters required by Relevant Law.
- 2.8 If a Special Resolution is to be submitted to the meeting:
- a A draft of the proposed notice of the meeting (including any explanatory memorandum required under the Act) must be given to the Supervisor at least 10 working days before the notice is given under clause 2.1 (or any lesser period approved by the Supervisor); and
 - b The notice of the meeting must be accompanied by a document containing the Supervisor's comments on the proposed Special Resolution (but only if the Supervisor has provided those comments in writing to the Manager at least 5 working days before the notice is given under clause 2.1, or any lesser period approved by the Manager).

3 Quorum

- 3.1 No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
- 3.2 The quorum necessary for a meeting at which:
- a a Special Resolution is to be submitted, shall be Investors holding Units in that Trust that have a combined value of no less than 25% of the value of the Units on issue in that Trust held by those Investors who are entitled to vote on the business to be transacted at the meeting present in person or by proxy or attorney; and
 - b any other resolution is to be submitted shall be at least ten Persons holding or representing by proxy or as attorney at least twenty per cent of the number of Units on issue at the date of the meeting carrying the right to vote at that meeting.
- 3.3 If within 30 minutes after the time appointed for the meeting a quorum is not present the meeting if convened upon the request of Investors shall be dissolved. In any other case it shall stand adjourned to the day that is 10 working days after the date appointed for the meeting at the same time and place, or to such other date, time, and place as the Supervisor may appoint and at such adjourned meeting if a quorum is not present within 30 minutes after the time appointed for the meeting the Investors of the relevant Trust present in person or by proxy or by attorney or by Authorised Representative appointed pursuant to paragraph 10 of this Schedule and entitled to vote shall be a quorum.
- 3.4 To avoid doubt, an Investor participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.
- 3.5 If a meeting of Investors is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting that is adjourned. Notice of any other adjourned meeting shall be given in the same manner (except in respect of the period of notice) as of an original meeting and such notice shall state that the Investors of the relevant Trust present at the adjourned meeting whatever their number and whatever the number of Units held by them shall form a quorum.

4 Supervisor and Manager may attend and speak

- 4.1 Any director, officer or solicitor of the Supervisor 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 may attend any meeting and all such Persons shall have the right to speak at the meeting.

5 Chairperson

- 5.1 A Person nominated in writing by the Supervisor ('Chairperson') shall preside at every meeting.

6 Adjournment of meetings

- 6.1 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.
- 6.2 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.

7 Voting rights

- 7.1 The only Persons entitled to vote in Person or by proxy or by attorney or by Authorised Representative shall be the Investors of the relevant Trust registered in the relevant Register at the date of the meeting (or if an adjourned meeting at the date the first meeting was first due to be held).

8 Proxies

- 8.1 Votes may be given either personally or by proxy or by attorney and also in the case of a corporation by an Authorised Representative. An instrument of proxy shall be in such form as the Manager shall stipulate from time to time and need not be witnessed.
- 8.2 Whenever the Chairperson of the meeting or an officer of the Supervisor is appointed a proxy for an Investor and the Investor has not indicated in the instrument of proxy or in any other way prior to the time for taking the poll or show of hands the manner in which his or her proxy is to vote upon any resolution coming before the meeting his or her vote shall be used in favour of the resolution.
- 8.3 The instrument appointing a proxy shall be in writing under the hand of the appointor or of his or her attorney duly authorised in writing or if the appointor is a corporation either under seal or under the hand of an officer or attorney so authorised.
- 8.4 A Person appointed to act as a proxy need not be an Investor.
- 8.5 The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority certified by a notary public or in such manner as the Manager shall approve shall be deposited at such place as the Manager may in the notice convening the meeting appoint or (if no such place is appointed) then at the Office not less than 48 hours before the time appointed for holding the meeting or adjourned meeting or for the taking of a poll at which the Person named in the instrument proposes to vote and in default the instrument of proxy shall not be treated as valid provided that the

Manager may waive the foregoing requirements in relation to the power of attorney or other authority.

- 8.6 A proxy shall unless the contrary is stated thereon be valid as well for any adjournment of the meeting as for the meeting to which it relates. Notwithstanding any provision contained in an instrument of proxy no instrument of proxy shall be valid after the expiration of 12 months from the date of its execution but this provision shall not be construed to apply to the appointment of any attorney or representative otherwise than by an instrument of proxy.
- 8.7 An instrument of 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 Chairperson for which the proxy is used (whether on adjournment or not), the lawful proxy of the appointor.
- 8.8 A Person appointed proxy shall have the right to 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 Investor concerned.
- 8.9 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 mental disorder of the principal or revocation of the proxy or power of attorney or of the authority under which the proxy was executed or the transfer of the Units in respect of which the vote is given provided that no intimation in writing of such death, mental disorder, revocation or transfer is received by the Manager at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

9 Power of Attorney

- 9.1 Any Investor may by power of attorney appoint an attorney (who need not be an Investor) to vote and act on his behalf 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 Investor granting the power of attorney.

10 Representative of the Company

- 10.1 A Person authorised pursuant to a resolution of the directors or other governing body of a corporation which is an Investor to act for it as its representative at any meeting ('Authorised Representative') shall be entitled to exercise the same powers on behalf of that corporation as that corporation could exercise if it were an individual Investor.
- 10.2 An Authorised Representative shall be required to produce evidence of his or her 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 he or she proposes to vote.

11 Procedure

- 11.1 A Special Resolution must be taken as a poll. Any other 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:

- a the Chairperson;
 - b the Supervisor or any representative of the Supervisor; or
 - c one or more Investors holding or representing no less than 5% of the number of Units in the relevant Trust in existence.
- 11.2 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.
- 11.3 If a poll is required or is duly demanded it shall be taken in such manner as the Chairperson may direct and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 11.4 To the extent permitted by law, 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 be entitled to a casting vote in addition to the votes (if any) to which he or she may be entitled as an Investor or on behalf of Investors.
- 11.5 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 30 days from the date of the meeting) and place as the Chairperson may direct. The result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.
- 11.6 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.
- 11.7 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 his or her votes or cast all the votes he or she uses in the same way.
- 11.8 On a show of hands every Person present at the meeting and entitled to vote (whether as an Investor or as a proxy or attorney or Authorised Representative) shall have one vote only. On a poll every Investor who is present in Person or by proxy or by attorney or by an Authorised Representative shall be entitled to one vote for every Unit of which he or she is the holder.
- 11.9 In the case of joint Investors the vote of the senior who tenders a vote whether in Person or by proxy or by attorney or by Authorised Representative shall be accepted to the exclusion of the votes of the other joint Investors and for this purpose seniority shall be determined by the order in which the names stand in a Register in respect of the joint holding.

12 Resolutions

- 12.1 When a particular majority is not required by this Deed or by law, any matter arising at any meeting of Investors shall be determined by Ordinary Resolution.
- 12.2 Subject to the Act, a meeting of Investors of the relevant Trust shall have the following powers exercisable by Special Resolution:

- a power to sanction the exchange of Units of the relevant Trust for, or the conversion of such Units into shares, stock, debentures, debenture stock or other obligations or securities of any company formed or to be formed;
- b power to sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Investors of the relevant Trust howsoever such rights shall arise;
- c 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;
- d subject to the Act, 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;
- e power to sanction the exchange of Units of the relevant Trust for, or the conversion of Units of the relevant Trust into units or interest in any other unit trust or similar entity (whether established in New Zealand or elsewhere) on such basis as may be approved by the Special Resolution; or
- f the powers set out in clauses 24.3b, 26.2ci, 26.4, 29.2b, 35.1b, and 36.1a,

provided that no such sanction, assent, release or waiver which materially and adversely affects the interest of Investors of one Trust in a manner different from that in which it affects the interest of Investors of other Trusts shall be effective without the approval of a separate Special Resolution of the Investors of the first mentioned Trust.

13 Special Resolution binds all Investors

- 13.1 Subject to the Act and the provisions of the proviso to paragraph 12 of this Schedule, a Special Resolution passed at a meeting duly convened and held in accordance with this Deed shall be binding upon all Investors of the relevant Trust whether present or not present at the meeting.
- 13.2 Each of those Investors, the Supervisor and the Manager shall be bound to give effect thereto accordingly and the passing of any such resolution shall as between the Manager, the Supervisor and those Investors be conclusive evidence that the circumstances justify the passing thereof 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 provided that (without prejudice to the proviso to paragraph 12) a Special Resolution which affects a particular Investor or a class of Investors only as opposed to the rights of the Investors of the relevant Trust generally shall not be binding on such Investor or class of Investors unless such Investor agrees or such Investors agree to be bound by the terms of such resolution.

14 Minutes to be kept

- 14.1 Minutes of all resolutions and proceedings at every meeting shall be made by the Manager (or if the Manager shall not be 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 and any such minutes as aforesaid 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 succeeding meeting of Investors shall be prima facie evidence of

the matters therein stated and until the contrary is provided every 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 had thereat to be duly passed and had.

15 Resolution in lieu of meeting

- 15.1 A written resolution is valid as if it has been passed at a meeting if it is signed in accordance with the Act by Investors holding Units in the relevant Trust that have a combined value of no less than 75% of the value of the Units on issue in that Trust held by those Investors who are entitled to vote on the resolution at the meeting.

Schedule 3

Form of Establishment Deed (Clause 4.4)

###

(Name of Trust)

Deed dated the day of

Parties

- 1 Funds Administration New Zealand Limited at Invercargill ('Manager')
- 2 Trustees Executors Limited at Wellington ('Supervisor')

Background

- A The Manager and the Supervisor are parties to a consolidated and amended trust deed dated [x] 2016 ('Deed') which sets out the terms and conditions on which units in managed investment schemes managed by the Manager will be offered for subscription to retail investors.
- B The Deed provides that each scheme is to be established by the Manager and the Supervisor entering into an Establishment Deed setting out the specific terms and conditions relating to that Trust.
- C The Manager has resolved to establish a trust to be known as the '###' ('Trust') and the Supervisor and the Manager have entered into this Establishment Deed for the purpose of establishing the Trust and the terms and conditions applicable to it.

Agreement

1 Interpretation

- 1.1 In this Establishment Deed all terms defined in the Deed which are not separately defined in this Establishment Deed shall have the same meanings where used in this Establishment Deed and, unless the context otherwise requires:

'Distribution Date' means the first day of April, or if such day is not a Working Day, the immediately preceding Working Day or such other day as the Manager may determine and which has been notified to the Investors by not less than 90 days' written notice;

'Distribution Period' means a period commencing on the day following a Distribution Date or, in the case of the first Distribution Period, on the date of this Establishment Deed and ending on the next (in time) Distribution Date;

'Exchange' means the New Zealand Stock Exchange, the Australian Securities Exchange, the London Stock Exchange, the New York Stock Exchange or any other exchange anywhere in the world which brings together buyers and sellers of Investments approved by the Manager;

'Gross Increase' means the positive amount (if any) represented by the difference between the Gross Asset Value at the beginning of the Management Fee Calculation Period and the Gross Asset Value at the end of the Management Fee Calculation Period;

'Management Fee Calculation Period' means the period of [12] calendar months commencing on [1 April] in each year, or such other period as the Manager determines.

- 1.2 Where 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 Establishment Deed or the Deed and the provisions of this Establishment Deed and the Deed shall be construed accordingly.

2 Creation of the Trust

- 2.1 Upon execution of this Establishment Deed, the Manager will procure the deposit of the sum of \$100.00 with the Supervisor to be held upon the trusts created by this Establishment Deed and the Deed. Upon deposit of such sum:
- a the Trust will be deemed to have been established; and
 - b the Person making the deposit shall be issued with 100 Units in the Trust in accordance with the Deed.

3 Investment

- 3.1 The objectives of the Trust are to:
- [Specify]
- 3.2 The SIPO for the Trust shall be as agreed in writing by the Manager, in consultation with the Supervisor, from time to time (subject to clause 18.3 of the Deed). The SIPO agreed from time to time will constitute a 'contrary intention' for the purposes of Section 13D of the Trustee Act 1956. The initial SIPO is set out in the Schedule to this Establishment Deed.
- 3.3 For the purposes of this Trust 'Authorised Investments' means:
- a Cash and term deposits with any bank or bank registered under the Reserve Bank of New Zealand Act 1989; and
 - b [specify]

4 Valuation of the Trust Fund

- 4.1 The Trust Fund shall be valued on each Unit Value Determination Day, however the Manager may, in its discretion, value the Trust Fund more frequently. The Manager may value the Trust Fund less frequently only in situations where, for reasons beyond the Manager's control, valuation is impossible on the Unit Value Determination Day in which case such valuation

shall be on the next Working Day on which valuation is possible. Each valuation will apply from the time of valuation until immediately prior to the time of the next valuation.

- 4.2 The Withdrawal Value of the Trust Fund will be calculated at 5pm on each Unit Value Determination Day.
- 4.3 Subject to clause 1.2, the Market Value of any Investment as at any Working Day means:
- a In respect of any Investment which is listed on an Exchange, the price quoted for the last sale of that Investment on that Exchange at or before 5pm on that Working Day or, if no such price is available, the price quoted for the last sale of that Investment on that Exchange within five Working Days ending with that Working Day. If there has been no sale by 5pm on that Working Day or within the five Working Days ending with that Working Day, or if the Manager reasonably considers that the quoted price as above does not represent the fair market value of the Investment, the value shall be the fair market value determined in such manner which accords with proper prudent principles of valuation or the advice of a valuer or other suitably qualified Person as the Manager may approve;
 - b In respect of any Investment in a trust, group investment fund, managed investment scheme, or similar undertaking or scheme, the net asset value of that Investment determined in accordance with the rules of the undertaking or scheme (unless the Manager reasonably considers that the value does not represent the fair market value of the Investment, in which case the value shall be the fair market value determined in such manner which accords with proper prudent principles of valuation or the advice of a valuer or other suitably qualified Person as the Manager may approve);
 - c In respect of all other Investments the value most recently agreed, or determined in the manner approved by the Manager, or failing approval, determined by a valuer or other suitably qualified Person approved by the Manager, each in accordance with which proper prudent principles of valuation.

5 Management Fee

- 5.1 Unless the Manager and the Supervisor otherwise agree in writing, the Management Fee payable to the Manager shall be up to []% per annum of the Gross Asset Value of the Trust. The Management Fee payable at any time shall be notified by the Manager to the Supervisor in writing.

6 Supervisor Fee

- 6.1 The Supervisor Fee payable to the Supervisor shall be []% per annum of the Gross Asset Value of the Trust with a minimum fee as agreed between the Supervisor and the Manager from time to time. The Supervisor Fee, and any minimum fee, payable at any time shall be notified by the Supervisor to the Manager in writing.

7 Minimum Holding

- 7.1 The Minimum Holding that must be invested and maintained by the Trust is \$[] or such other minimum value as the Manager may from time to time determine and disclose in the PDS and/or Register Entry.

8 Minimum Investment

- 8.1 The Minimum Initial Amount that can be invested in the Trust by an Investor as a lump sum amount is \$[] or such other amount as is determined from time to time by the Manager and set out in the PDS and/or Register Entry for the Trust. The Minimum Initial Amount that can be invested in the Trust by an Investor as a regular contribution is \$[] per month or such other amount as is determined from time to time by the Manager and set out in the PDS and/or Register Entry for the Trust. The Manager may determine the minimum amount for any subsequent irregular lump sum investments provided that any such minimum is set out in the PDS and/or Register Entry for the Trust. The Manager may accept applications for amounts less than the Minimum Initial Amount or any minimum amount for subsequent investments.
- 8.2 The Manager will comply with its obligations under clause 15 of the Deed in respect of all Investor transactions.

9 Minimum Number of Units

- 9.1 The Minimum Number of Units that must be maintained by an Investor in the Trust is [1,000] or such other number as the Manager may determine from time to time and set out in the PDS and/or Register Entry for the Trust.

10 Calculation of Entitlements

- 10.1 On each Distribution Date the Distributable Income of the Trust Fund during the Distribution Period ending on that Distribution Date which the Manager has declared pursuant to clause 17.1 of the Deed to be available for distribution shall be divided by the number of Units in the Trust on issue to determine the Entitlement per Unit which shall be distributed to Investors in proportion to the number of Units in the Trust held by them as set out in the Register as at the Distribution Date.
- 10.2 Following calculation of the Entitlement per Unit as soon as practicable (but no later than 60 days) after the Distribution Date the Entitlements shall be distributed to the Investors by payment in accordance with the direction of each of the Investors or failing direction, to the Investors and the Manager shall send to the Investors details of the Distributable Income distribution.

11 Reinvestment of Entitlements

- 11.1 Investors who have elected to reinvest their Entitlements (less any Taxation Amount as defined in clause 38 of the Deed which the Manager is obliged to deduct) will receive further Units pursuant to this clause 11 (**Reinvestment Election**). Each Investor so electing shall be deemed to have elected to have the amount of his or her Entitlements applied in subscription or purchase of further Units unless the Manager shall have received from that Investor not later than 30 days prior to the end of a Distribution Period a notice revoking that Investor's deemed election (the 'Revocation Notice') in respect of that Distribution Period and subsequent Distribution Periods.
- 11.2 The reinvestment of Entitlements under this clause is subject to the requirements specified in clause 10(1)(b) of Schedule 1 of the Act and Regulations 14 and 15 of Schedule 8 of the Regulations, and the Manager may only accept Reinvestment Elections where those requirements have been satisfied.

- 11.3 Any Revocation Notice shall be effective until it is revoked by notice in writing to the Manager provided that any such notice given within 30 days prior to the end of a Distribution Period shall not be effective until the next succeeding Distribution Period. The Manager, in consultation with the Supervisor, shall be entitled to impose such further conditions or requirements not inconsistent with this Establishment Deed as the Manager thinks fit in relation to the operation of the aforementioned election provisions.
- 11.4 The Manager shall not be required to satisfy an election by the provision of further Units where further Units are not available for issue or the Manager in its sole discretion decides there is good reason not to provide further Units.

12 Redemption of Units

- 12.1 The maximum period for redemption or purchase of Units subject to a Withdrawal Notice pursuant to clause 12.3 of the Deed is [25] Working Days.

13 Switching

- 13.1 Switching from this Trust to other Trusts constituted under the Deed will be available at the discretion of the Manager upon request by an Investor.
- 13.2 The maximum period for switching of Units pursuant to a Switching Notice pursuant to clause 13.5 of the Deed is [25] Working Days.
- 13.3 The minimum number of Units which may be the subject of a Switching Notice is 500 or such other number as the Manager may from time to time determine and set out in the PDS and/or Register Entry for the Trust.

14 Deed

- 14.1 Except as modified by the terms of this Establishment Deed, all the terms and conditions set out in the Deed shall apply to the Trust. Subject to the Act, in a case where there is a conflict between the provisions of the Deed and this Establishment Deed as to the terms and conditions of the Trust this Establishment Deed shall prevail.

Execution

Signed on behalf of
Funds Administration New Zealand Limited by:

Director

Director

**Signed by Trustees
Executors Limited by:**

Authorised Signatory/Director

Authorised Signatory/Director

Witness to the above signature(s):

Witness Signature

Name

Occupation

Address