

## NOTICE OF FILING

This document was lodged electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 3/02/2022 10:00:55 PM AEDT and has been accepted for filing under the Court's Rules. Details of filing follow and important additional information about these are set out below.

### Details of Filing

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)  
File Number: NSD747/2021  
File Title: IN THE MATTER OF THE FORUM GROUP OF COMPANIES PTY LIMITED ACN 151 964 626 (ADMINISTRATORS APPOINTED) & ORS  
Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



*Sia Lagos*

Dated: 8/02/2022 1:52:03 PM AEDT

Registrar

### Important Information

As required by the Court's Rules, this Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date and time of lodgment also shown above are the date and time that the document was received by the Court. Under the Court's Rules the date of filing of the document is the day it was lodged (if that is a business day for the Registry which accepts it and the document was received by 4.30 pm local time at that Registry) or otherwise the next working day for that Registry.



Form 59  
Rule 29.02(1)

### Affidavit

No. NSD747/2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**THE FORUM GROUP OF COMPANIES PTY LIMITED (ADMINISTRATORS APPOINTED)**  
and others named in the schedule  
Plaintiff

Affidavit of: **Sarwar (Sazz) Nasimi**  
Address: Level 6, 140 William Street, Melbourne 3000  
Occupation: Legal practitioner  
Date: 3 February 2022

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Filed on behalf of (name & role of party) Vincenzo Frank Tesoriero, Applicant  
 Prepared by (name of person/lawyer) Sazz Nasimi  
 Law firm (if applicable) Madgwicks Lawyers  
 Tel 03 9242 4720 Fax 03 9242 4777  
 Email [sazz.nasimi@madgwicks.com.au](mailto:sazz.nasimi@madgwicks.com.au)  
**Address for service** Level 6, 140 Williams Street, Melbourne 3000 VIC  
 (include state and postcode)

I, Sarwar (Sazz) Nasimi, of Level 6, 140 William Street Melbourne in the State of Victoria hereby make Oath and Say:

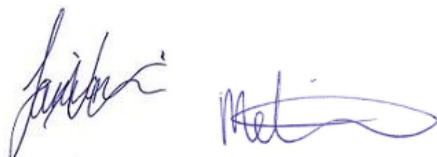
1. I am a legal practitioner and a partner within the law firm Madgwicks. Madgwicks represents the Applicant, Mr Vince Tesoriero, and his associated entities in the present proceeding, and I am the responsible partner within the firm with the ultimate care and conduct of the matter on their behalf.
2. I make this affidavit from my own knowledge save where otherwise indicated. Where I depose to matters that I have been informed of by others, I believe those matters to be true and correct.
3. Annexed to this affidavit and shown to me at the time of swearing this affidavit is a paginated bundle of document marked "**SN-1**". This exhibit contains all the documents referred to in my affidavit. Where reference is made to a specific document or part of a document, contained within "SN-1", it will be referred to by my initials followed by the page number on which that document or reference appears, ie **SN-#**.

#### **Orders of 3 September 2021**

4. On 3 September 2021 Justice Lee made orders in proceeding NSD747/2021 that Jason Ireland and Jason Preston of McGrathNicol (the **Liquidators**) be appointed as receivers of a number of real properties, and authorised to take possession of, preserve, maintain and sell those real properties.

A copy of the Orders made 3 September 2021 are exhibited in **SN-1** at pages 2 to 9.

5. The 3 September Orders related to, among others, the following real properties (the **Properties**):
  - (a) Properties owned by 14 James Street Pty Ltd (in liquidation) as trustee for the 14 James Street Unit Trust, include:
    - (i) 8 Olive Street, Clayton South;
    - (ii) 10 James Street, Clayton South;
    - (iii) 12 James Street, Clayton South;
    - (iv) 14 James Street, Clayton South;
    - (v) 16 James Street, Clayton South;



- (vi) 18 James Street, Clayton South;
- (vii) 1/9 Parsons Street, Clayton South;
- (viii) 2/9 Parsons Street, Clayton South;
- (ix) 3/9 Parsons Street, Clayton South,

(the **James Street Properties**)

- (b) 5 Bulkara Street, Wagstaffe NSW 2257 (**5 Bulkara Street**), which is owned by 5 Bulkara St Pty Ltd (in liquidation) as trustee for the 5 Bulkara Street Trust.
- (c) 6 Bulkara Street, Wagstaffe NSW 2257 (**6 Bulkara Street**), which is owned by 6 Bulkara St Pty Ltd (in liquidation) as trustee for the 6 Bulkara Street Trust.
- (d) 26 Edmonstone Road, Bowen Hills QLD 4006 (**Edmonstone Road**), which was owned by 26 Edmonstone Road Pty Ltd as trustee for the 26 Edmonstone Road Unit Trust.

A copy of the 26 Edmonstone Road Unit Trust Deed is exhibited in **SN-1** at pages 10 to 36.

Title searches for the abovenamed properties at para 5(a) to (d) are exhibited in **SN-1** at pages 37 to 75.

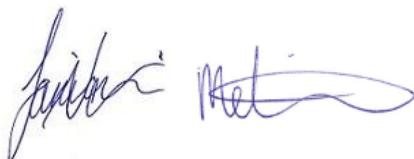
### **Ownership of the Properties**

- 6. The 14 James Street Unit Trust has 100 units, of which:
  - (a) 50 units are owned by Tesoriero Investment Group Pty Ltd as trustee for the Tesoriero Investment Trust (**TIG**);
  - (b) 50 units are owned by Vintes QLD No 3 Pty Ltd as trustee for the MAZ Trust No 3.

A copy of the 14 James Street Trust Deed is exhibited in **SN-1** at pages 76 to 94.

- 7. The 5 Bulkara Street Unit Trust has 10 units, of which:
  - (a) 5 units are owned by TIG; and
  - (b) 5 units are owned by Eros Management Pty Ltd as trustee for the MAZ Trust.

A copy of the 5 Bulkara Street Unit Trust Deed is exhibited in **SN-1** at pages 95 to 127.



8. The 6 Bulkara Street Unit Trust has 10 units, of which:
- (a) 5 units are owned by TIG; and
  - (b) 5 units are owned by Vintes No 4 Pty Ltd, as trustee for the MAZ Trust No 4.

A copy of the 6 Bulkara Street Unit Trust Deed is exhibited in **SN-1** at pages 128 to 167.

9. TIG is a discretionary trust, with Mr Tesoriero and his family members as the named beneficiaries.

A copy of the Tesoriero Investment Trust Deed is exhibited in **SN-1** at pages 168 to 181.

10. The MAZ Trust, MAZ Trust No 3 and MAZ Trust No 4 are discretionary trusts, each with Marcus, Anthony and Zachary Papadimitriou as the named beneficiaries.

A copy of the MAZ Trust Deed is exhibited in **SN-1** at pages 182 to 191.

A copy of the MAZ Trust No 3 Deed is exhibited in **SN-1** at pages 192 to 220.

A copy of the MAZ Trust No 4 Deed is exhibited in **SN-1** at pages 221 to 237.

11. As a result of his holdings in the trusts referred to above, Mr Tesoriero and his family members hold the beneficial interest in 50% of the Properties.

### **Correspondence leading up to 3 September Orders**

12. On or about 5 August 2021 our client's former solicitors, Fortis Law, sent a letter to the Liquidators' solicitors, Allens, which included the following:

*"Our client will consent, without prejudice/admission, to the Liquidators being appointed receivers to the real property assets identified in each of the trusts relating to the Companies provided that Westpac indemnify the receivers for the costs associated with their appointment and the receivers give our client a reasonable opportunity to be involved in the sales process, including determining the sales price.*

...

*For the avoidance of doubt, our client expressly reserves his personal rights and the rights of the entities in which he controls and has authority to apply to the Court for orders relating to the net sale proceeds, the appointment of a trustee and any matter in respect of all properties including but not limited to conduct of the sales and caveats by Westpac."*

A copy of this letter is exhibited in **SN-1** at pages 238 to 240.

13. On 10 August 2021, Allens sent a letter to Fortis Law which included the following:

*“Our clients would be content to liaise with your client in relation to matters such as the identity of any sales agent to be engaged, the order in which the Properties are to be sold and any target price for the properties. Assuming your client is not participating as a potential purchaser, subject to any confidentiality requirements of bidders, our clients would be willing to liaise with your client about offers made for the Properties.”*

A copy of this letter is exhibited in **SN-1** at pages 241 to 243.

14. On 3 September 2021, Allens sent a letter to Fortis Law which included the following:

*“As receivers, our clients would be content to engage with your client regarding the sales process, including the proposed method of sale and the provision of updates. The extent of that engagement, for example whether details of offers received are provided, will need to be assessed at the relevant time (one consideration relevant to this assessment will be whether your client or related parties are participating in the sale process).”*

A copy of this letter is exhibited in **SN-1** at pages 244 to 245.

15. I am informed by Mr Tesoriero that it was on the basis of these assurances that he instructed Fortis Law to consent to the 3 September Orders and refrain from taking steps to replace the trustee of the various trusts which own the Properties.

### **Events since 3 September Orders**

16. Madgwicks were engaged to act for Mr Tesoriero in late September 2021, after the 3 September Orders had been made.
17. Madgwicks had received no communications from Allens seeking to consult with Mr Tesoriero, as promised, in relation to the sale of any real properties.
18. I am informed by Mr Tesoriero that:
- (a) the liquidators have not sought to contact him, consult him or otherwise inform him in relation to the sale of the real properties referred to in the 3 September Orders;
  - (b) since changing solicitors, he has reconsidered his position in relation to the Properties, including having regard to Liquidators' breach of the assurances given to him in advance of the 3 September Orders being made;
  - (c) he now does not wish for the Properties to be sold.

*26 Edmonstone Road*

19. On or about 14 December 2021 I was informed by Mr Tesoriero that that the 26 Edmonstone Road Property had been sold by the Liquidators.
20. This came as a surprise as neither I nor Mr Tesoriero had been notified or consulted in relation to this sale. I was informed by Mr Tesoriero that he was alerted to the sale by a third party.
21. I then caused a search to be conducted of [www.onthefhouse.com.au](http://www.onthefhouse.com.au) and <https://www.jll.pt/>, which indicated that the 26 Edmonstone Road had been listed for auction on 1 December 2021 however, by 30 November 2021 it had been advertised as sold. Notwithstanding this, I am informed by Mr Tesoriero and verily believe that the property had been sold prior to the auction date.

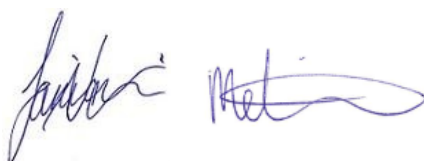
A copy of this webpage is exhibited in **SN-1** at pages 246 to 249.

22. I am informed by Mr Tesoriero that:
  - (a) he had associates who had expressed interest in purchasing a number of his assets, including 26 Edmonstone Road;
  - (b) had he been afforded the opportunity to inform his associates of the sale, it would have increased the number of competitive bids for 26 Edmonstone Road, which likely would have increased the sale price;
  - (c) he believes that 26 Edmonstone Road was sold at an undervalue;
  - (d) more generally, he is concerned that the Liquidators are not engaging in efforts to obtain the best price available in the sale of his assets; and
  - (e) by selling the property prior to the auction date, many possible purchasers were denied the ability to bid on the property

*5 Bulkara Street and 6 Bulkara Street*

23. On 20 December 2021, Allens wrote to Madgwicks stating that the Liquidators intended to commence sale and marketing campaigns on 1 January 2022 for 6 Bulkara Street, and in late January for 5 Bulkara Street.

A copy of this letter is exhibited in **SN-1** at pages 250 to 251.



24. On 23 December 2021, Madgwicks sent a letter to Allens stating that Mr Tesoriero did not wish for the sales to proceed and that he was prepared to undertake to pay the interest arrears on 5 Bulkara Street and 6 Bulkara Street (the **Bulkara Street Properties**) until the claim brought against him by Westpac (NSD616/2021) was resolved.

A copy of this letter is exhibited in **SN-1** at pages 252 to 254.

25. On 23 December 2021, Madgwicks received a letter from Allens stating that the Liquidators intended to proceed with the sale of the Bulkara Street Properties.

A copy of this letter is exhibited in **SN-1** at pages 255 to 257.

26. In or about mid-Jan 2022, I was informed by Mr Tesoriero that the Bulkara Street Properties had been listed for sale. Madgwicks were not consulted by the Liquidators in relation to any listing, and I am informed by Mr Tesoriero that the Liquidators did not contact him in relation to the sale or seek to involve him in the sales process.

27. On or about 19 January 2022, Madgwicks sent a letter to Allens seeking confirmation that the Liquidators would not sell the Bulkara Street Properties until the resolution of proceeding number NSD616/2021.

A copy of this letter is exhibited in **SN-1** at pages 258 to 259.

28. On or about 24 January 2022, Madgwicks received a letter from Allens stating that the Liquidators declined to give the confirmation sought, and that they intended to proceed with the sales.

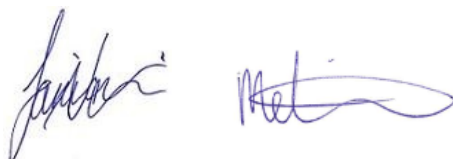
A copy of this letter is exhibited in **SN-1** at pages 260 to 261.

29. For the purposes of this affidavit, I caused a search to be conducted of [www.realestate.com.au](http://www.realestate.com.au), which indicated that expressions of interest for 6 Bulkara Street close at 5pm on 7 February 2022.

A copy of this webpage is exhibited in **SN-1** at page 262.

### **No prejudice to delay the sale of the properties**

30. As there is a dispute as to who is entitled to the proceeds of sale of the Properties, if the properties are sold, the proceeds of sale will be held until the resolution of proceeding NSD616/2021.





*James Street Properties*

31. I am informed by Mr Tesoriero that the James Street Properties are currently tenanted, and that the rental income exceeds the interest payments on the mortgages over the properties.
32. I accordingly believe that there is no prejudice to the Liquidators, or the creditors of 14 James Street Pty Ltd, if the James Street Properties are not sold until the resolution of proceeding NSD616/2021.
33. I am informed by Mr Tesoriero he has received a proposal from Blackridge Finance for a 12-month refinance of the mortgages held by NAB, in the amount of \$4 million, with capitalised interest for the term of the loan

A copy of this finance proposal is exhibited in **SN-1** at pages 263 to 268.

*5 Bulkara Street and 6 Bulkara Street*

34. In relation to the Bulkara Street Properties, I am informed by Mr Tesoriero that:
- (a) the properties are mortgaged to NAB in the sum of approximately \$9 million;
  - (b) he has received a proposal from Blackridge Finance for a 12-month refinance of the mortgages held by NAB, in the amount of \$10 million, with capitalised interest for the term of the loan.

A copy of this finance proposal is exhibited in **SN-1** at pages 269 to 274.

35. As the proposed lender is prepared to capitalise the interest on the loan, I believe that there is no prejudice to the Liquidators, or the creditors of the registered proprietors of the properties, if the Bulkara Street Properties are not sold until the resolution of proceeding NSD616/2021.

**Prejudice to Mr Tesoriero**

36. As set out in paragraphs 16 to 29 above, contrary to the statements in the letters from Allens to Fortis Law set out in paragraphs 13 and 0 above, the liquidators did not inform Mr Tesoriero of the details of the proposed sale of the Properties, or consult him in any way regarding the sale.

- 37. For the reasons set out in paragraph 22 above, Mr Tesoriero has reason to believe that the Liquidators are not able, and/or not motivated, to obtain the best price reasonably available for the Properties.
- 38. Proceeding NSD616/2021 is at a very early stage, with Mr Tesoriero's strike out application due to be heard on 10 March 2022. If Mr Tesoriero's strike out application is successful, or if he is otherwise successful in the proceeding, then he will have a strong claim to recover possession of the Properties.
- 39. I am informed by Mr Tesoriero that he would like to develop the James Street Properties and then retain them as investments thereafter.
- 40. In relation to the Bulkara Street Properties, which are residential properties located next to each other, I am informed by Mr Tesoriero that he intends to hold the properties with the ultimate aim of acquiring the other 50% of the properties and living in them when he retires.
- 41. If the Liquidators are permitted to sell the Properties, then in addition to any loss if the Properties are sold at an undervalue, Mr Tesoriero will lose the opportunity to:
  - (a) Develop the James Street Properties and retain them as investments; and
  - (b) retain and ultimately live in the Bulkara Street Properties.
- 42. For the above reasons, I believe that it is in the interests of justice that the Liquidators be prevented from selling the Properties (with the exception of 26 Edmonstone Road, which has already been sold) until the resolution of proceeding NSD616/2021.

The contents of this my affidavit are true and correct and I make it knowing that a person making a false affidavit may be prosecuted for the offence of perjury.

Sworn by Sarwar Nasimi )  
 at Melbourne on 3 February 2022 )



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Before me:



**Melissa Passarelli**  
 6th Floor, 140 William St, Melbourne, Vic, 3000  
 An Australian Legal Practitioner  
 within the meaning of the  
 Legal Profession Uniform Law (Victoria).

As a witness, I certify the following matters concerning the person who made this affidavit (deponent):

1. I saw the face of the deponent.
2. I observed the deponent signing a copy of this affidavit in real time.
3. I attest or otherwise confirm witnessing the deponent's signature by signing this affidavit.
4. I am reasonably satisfied this affidavit signed by me is a copy of the affidavit signed by the deponent.
5. I has confirmed the person's identity based on the following identification document presented to me: Drivers Licence

This affidavit is witnessed over audio visual link in accordance with Part 2B of the *Electronic Transactions Act 2000* (NSW)

## Schedule of Parties

No. NSD747/2021

Federal Court of Australia

District Registry: New South Wales

Division: General

Applicant: JASON PRESTON

Applicant: JASON IRELAND

Second Plaintiff: 14 JAMES STREET PTY LTD ACN 638 449 206 (ADMINISTRATORS APPOINTED)

Third Plaintiff: 26 EDMONSTONE ROAD PTY LTD ACN 622 944 129 (ADMINISTRATORS APPOINTED)

Fourth Plaintiff: 5 BULKARA STREET PTY LTD ACN 630 982 160 (ADMINISTRATORS APPOINTED)

Fifth Plaintiff: 6 BULKARA STREET PTY LTD ACN 639 734 473 (ADMINISTRATORS APPOINTED)

Sixth Plaintiff: ARAMIA HOLDINGS PTY LTD ACN 114 958 717 (ADMINISTRATORS APPOINTED)

Seventh Plaintiff: EROS MANAGEMENT PTY LTD ACN 622 298 346 (ADMINISTRATORS APPOINTED)

Eighth Plaintiff: FORUM DIRECT PTY LTD ACN 054 890 710 (ADMINISTRATORS APPOINTED)

Ninth Plaintiff: FORUM FLEET PTY LIMITED ACN 155 440 994 (ADMINISTRATORS APPOINTED)

Tenth Plaintiff: FORUM GROUP PTY LTD ACN 153 336 997 (ADMINISTRATORS APPOINTED)

Eleventh Plaintiff: FORUM GROUP (QLD) PTY LTD ACN 103 609 678 (ADMINISTRATORS APPOINTED)

Twelfth Plaintiff: FORUM GROUP (VIC) PTY LTD ACN 153 062 018 (ADMINISTRATORS APPOINTED)

Thirteenth Plaintiff: IMAGETEC FINANCIAL SERVICES PTY LTD ACN 111 978 182 (ADMINISTRATORS APPOINTED)

Fourteenth Plaintiff: IMAGETEC SOLUTIONS AUSTRALIA PTY LTD ACN 074 715 718 (ADMINISTRATORS APPOINTED)

Fifteenth Plaintiff: INTRASHIELD INVESTMENT GROUP PTY LTD ACN 645 578 829 (ADMINISTRATORS APPOINTED)

Sixteenth Plaintiff: INTRASHIELD PTY LTD ACN 133 426 534 (ADMINISTRATORS APPOINTED)

Seventeenth Plaintiff: IUGIS INVESTMENTS PTY LTD ACN 647 627 745 (ADMINISTRATORS APPOINTED)

Eighteenth Plaintiff: IUGIS PTY LTD ACN 632 882 243 (ADMINISTRATORS APPOINTED)

Nineteenth Plaintiff: IUGISWASTE SOLUTIONS PTY LTD ACN 647 212 299 (ADMINISTRATORS APPOINTED)

Twentieth Plaintiff: ONESOURCE AUSTRALIA HOLDINGS PTY LIMITED ACN 120 463 541 (ADMINISTRATORS APPOINTED)

Twenty First Plaintiff: ORCA ENVIRO SOLUTIONS PTY LTD ACN 626 552 645 (ADMINISTRATORS APPOINTED)

Twenty Second Plaintiff: ORCA ENVIRO SYSTEMS PTY LTD ACN 627 597 782 (ADMINISTRATORS APPOINTED)

Twenty Third Plaintiff: SMARTPRINT FLEET MANAGEMENT PTY LTD ACN 132 807 080 (ADMINISTRATORS APPOINTED)

Twenty Fourth Plaintiff: SPARTAN CONSULTINGGROUP PTY LTD ACN 168 989 544 (ADMINISTRATORS APPOINTED)

Twenty Fifth Plaintiff: FORUM FINANCE PTY LTD ACN 153 301 172 (IN LIQUIDATION)

Twenty Sixth Plaintiff: FORUM GROUP FINANCIAL SERVICES PTY LTD ACN 623 033 705 (PROVISIONAL LIQUIDATORS APPOINTED)

Twenty Seventh Plaintiff: FORUM ENVIRO PTY LTD ACN 168 709 840 (PROVISIONAL LIQUIDATORS APPOINTED)

Twenty Eighth Plaintiff: FORUM ENVIRO (AUST) PTY LTD ACN 607 484 364 (PROVISIONAL LIQUIDATORS APPOINTED)

# Exhibit certificate

No. NSD747/2021

Federal Court of Australia  
District Registry: New South Wales  
Division: General

**THE FORUM GROUP OF COMPANIES PTY LIMITED (ADMINISTRATORS APPOINTED)**  
and others named in the schedule  
Plaintiff

This is the exhibit marked "**SN-1**" now produced and shown to Sarwar (Sazz) Nasimi at the time of swearing his affidavit on 3 February 2022 before me:



---

Solicitor

**Melissa Passarelli**  
6th Floor, 140 William St, Melbourne, Vic, 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Uniform Law (Victoria).



Federal Court of Australia  
District Registry: New South Wales  
Division: General

No: NSD747/2021

**THE FORUM GROUP OF COMPANIES PTY LIMITED (ADMINISTRATORS APPOINTED)** and others named in the schedule  
Plaintiff

## ORDER

**JUDGE:** JUSTICE LEE

**DATE OF ORDER:** 03 September 2021

**WHERE MADE:** Sydney

### THE COURT ORDERS THAT:

#### Real property

1. Pursuant to s 57 of the *Federal Court of Australia Act 1976* (Cth), Jason Ireland and Jason Preston of McGrathNicol, Level 12, 20 Martin Place Sydney in the State of New South Wales be appointed as receivers and managers (**Receivers**) of the properties listed in items 1 to 4 of Annexure A to these Orders (**Real Properties**) and any sale proceeds or income of those Real Properties.
2. The Receivers be authorised to take possession of, preserve, maintain and sell the Real Properties.
3. The Receivers have the power to do, in Australia and elsewhere, all things necessary or convenient to be done for or in connexion with, or as incidental to achieving the objective set out in Order 2, including without limitation, the power to:
  - (a) Enter into possession of, preserve, maintain and sell the Real Properties;
  - (b) To dispose of the Real Properties;
  - (c) To insure the Real Properties;
  - (d) To appoint a solicitor or other professionally qualified person to assist the Receivers in connexion with their appointment in respect of the Real Properties;



- (e) To appoint an agent to conduct the sale and do any business that the Receivers are unable to do or that it is unreasonable to expect the Receivers to do personally in respect of the Real Properties;
  - (f) Pay any outgoings or collect any rent in connexion with the Real Properties;
  - (g) Sign any documents on behalf of the Company in furtherance of the objective set out in Order 2;
  - (h) Pay the costs, expenses and remuneration of the Receivers in acting as Receivers of the assets from the sale proceeds or income of the Real Properties referable to those costs; and
  - (i) Pay the balance into a controlled monies account held by Allens.
4. The need for the Receivers to file a guarantee under r 14.21 and r 14.22 of the *Federal Court Rules 2011* (Cth) in respect of their appointment under order 1 be dispensed with.

#### XOXO Yacht

5. Pursuant to s 57 of the *Federal Court of Australia Act 1976* (Cth), Jason Ireland and Jason Preston of McGrathNicol, Level 12, 20 Martin Place Sydney in the state of New South Wales be appointed as receivers and managers (**Receivers**) over the property listed in item 5 of Annexure A to these Orders (**XOXO Yacht**).
6. The Receivers be authorised to take possession of, preserve, maintain and sell the XOXO Yacht.
7. The Receivers have the power to do, in Australia and elsewhere, all things necessary or convenient to be done for or in connexion with, or as incidental to achieving the objective set out in order 6, including without limitation:
  - (a) Take possession of, preserve, maintain and sell the XOXO Yacht;
  - (b) To dispose of the XOXO Yacht;
  - (c) To insure the XOXO Yacht;





- (d) To appoint a solicitor or other professionally qualified person to assist the Receivers in connexion with their appointment in respect of the XOXO Yacht;
  - (e) To appoint an agent to conduct the sale and to do any business that the Receivers are unable to do or that it is unreasonable to expect the Receivers to do personally in respect of the XOXO Yacht;
  - (f) Pay any outgoings or collect any rent in connexion with the XOXO Yacht; and
  - (g) Sign any documents on behalf of the Company in furtherance of the objective set out in Order 6;
  - (h) Pay the costs, expenses and remuneration of the Receivers in acting as Receivers of the assets from the sale proceeds or income of the XOXO Yacht; and
  - (i) Pay the balance into a controlled monies account held by Allens.
8. The need for the Receivers to file a guarantee under r 14.21 and r 14.22 of the *Federal Court Rules 2011* (Cth) in respect of their appointment under order 5 be dispensed with.

#### Miscellaneous

9. The applicants costs of this application be paid out of the sale proceeds or income of the Real Properties and XOXO Yacht.
10. Liberty be granted to any person affected by these orders, including any creditor of the applicants or the Trusts or any beneficiary of the Trusts to apply to vary or set aside these orders on 7 business days' notice to the applicants and to the Court by sending an email to [Associate.LeeJ@fedcourt.gov.au](mailto:Associate.LeeJ@fedcourt.gov.au).
11. Liberty be granted to the applicants to apply to the Court for orders discharging and releasing the Receivers on 7 business days' notice by sending an email to [Associate.LeeJ@fedcourt.gov.au](mailto:Associate.LeeJ@fedcourt.gov.au).

#### **THE COURT NOTES:**

12. The appointment of the Receivers of the Real Properties does not affect any rights of a mortgagee of a Real Properties.



13. Without admission by any party the agreement of Westpac Banking Corporation and the Receivers that the appointment of the Receivers of the properties listed in items 1 to 5 of Annexure A to these Orders for the purposes of sale (**Properties**) does not in any way affect:

- (a) Any rights of the current registered proprietor or beneficial owner of the properties or the Unit Holders or beneficiaries in any Trust which is the beneficial owner of any of the Properties that they may have to the proceeds of sale of any property;
- (b) The right of Vincenzo Frank Tesoriero (or a related entity of Mr Tesoriero) to apply to the Court to have any part of any proceeds of sale received from the sale of the properties released from the freezing orders made by the Court on 2 July 2021 (as varied on 9 July 2021 and 37 August 2021) (**Freezing Orders**) for the purpose of the payment of his living expenses and/or legal costs in such an amount as is approved by the Court;
- (c) The right of Vincenzo Frank Tesoriero or any other person to exercise any right that they may have pursuant to any trust deed or as a beneficiary of any trust or as a director or shareholder of any company to facilitate payment out from the proceeds of sale of any property any amounts referred to in (b) above that are approved for payment out by the Court; or
- (d) The right of Vincenzo Frank Tesoriero or any party affected by the Freezing Orders to apply to vary or discharge the Freezing Orders.

Date that entry is stamped: 3 September 2021

  
Registrar



## Annexure A

Item	Party	Property (including the contents of that property to the extent it is owned by the 'Party' included in the second column)
1	Properties held by 14 James Street Pty Limited (In Liquidation) as trustee of the 14 James Street Unit Trust	<p>16 James St Clayton South VIC 3169 Vol: 12170 Folio: 467</p> <p>Warehouse 1, 9 Parsons St, Clayton South VIC 3169 Vol: 12170 Folio: 465</p> <p>Warehouse 2, 9 Parsons St, Clayton Sth VIC 3169 Vol: 12170 Folio: 468</p> <p>Warehouse 3, 9 Parsons St, Clayton Sth VIC 3169 Vol: 12170 Folio: 469</p> <p>10 James Street, Clayton South, VIC 3169 Vol: 12170 Folio: 472</p> <p>12 James Street, Clayton South VIC 3169 Vol: 12170 Folio: 471</p> <p>14 James Street, Clayton South VIC 3169 Vol: 12170 Folio: 470</p> <p>18 James Street, Clayton South VIC 3169 Vol: 12170 Folio: 466</p> <p>8 Olive Street, Clayton South VIC 3169 Vol: 12170 Folio: 474</p>
2	Property held by 26 Edmonstone Road Pty Ltd (In Liquidation) as trustee of the 26 Edmonstone Road Unit Trust	<p>26 Edmondstone Road, Bowen Hills QLD 4006 Title Ref: 12134186</p>
3	Property held by 5 Bulkara Street Pty Ltd (In Liquidation) as trustee of the 5 Bulkara Street Unit Trust	<p>5 Bulkara Street Wagstaffe NSW 2257 Folio: 2/1141260</p>
4	Property held by 6 Bulkara Street Pty Ltd (In Liquidation) as trustee of the 6 Bulkara Street Unit Trust	<p>6 Bulkara Street Wagstaffe, NSW 2257 Folio: 3/1141260</p>



5	Property formerly owned by Intrashield Pty Limited (In Liquidation)	"XOXO" Motor Yacht Cayman Islands Official Number 734587
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## Schedule

No: NSD747/2021

Federal Court of Australia  
 District Registry: New South Wales  
 Division: General

Applicant	JASON PRESTON
Applicant	JASON IRELAND
Second Plaintiff	14 JAMES STREET PTY LTD ACN 638 449 206 (ADMINISTRATORS APPOINTED)
Third Plaintiff	26 EDMONSTONE ROAD PTY LTD ACN 622 944 129 (ADMINISTRATORS APPOINTED)
Fourth Plaintiff	5 BULKARA STREET PTY LTD ACN 630 982 160 (ADMINISTRATORS APPOINTED)
Fifth Plaintiff	6 BULKARA STREET PTY LTD ACN 639 734 473 (ADMINISTRATORS APPOINTED)
Sixth Plaintiff	ARAMIA HOLDINGS PTY LTD ACN 114 958 717 (ADMINISTRATORS APPOINTED)
Seventh Plaintiff	EROS MANAGEMENT PTY LTD ACN 622 298 346 (ADMINISTRATORS APPOINTED)
Eighth Plaintiff	FORUM DIRECT PTY LTD ACN 054 890 710 (ADMINISTRATORS APPOINTED)
Ninth Plaintiff	FORUM FLEET PTY LIMITED ACN 155 440 994 (ADMINISTRATORS APPOINTED)
Tenth Plaintiff	FORUM GROUP PTY LTD ACN 153 336 997 (ADMINISTRATORS APPOINTED)
Eleventh Plaintiff	FORUM GROUP (QLD) PTY LTD ACN 103 609 678 (ADMINISTRATORS APPOINTED)
Twelfth Plaintiff	FORUM GROUP (VIC) PTY LTD ACN 153 062 018 (ADMINISTRATORS APPOINTED)
Thirteenth Plaintiff	IMAGETEC FINANCIAL SERVICES PTY LTD ACN 111 978 182 (ADMINISTRATORS APPOINTED)



Fourteenth Plaintiff	IMAGETEC SOLUTIONS AUSTRALIA PTY LTD ACN 074 715 718 (ADMINISTRATORS APPOINTED)
Fifteenth Plaintiff	INTRASHIELD INVESTMENT GROUP PTY LTD ACN 645 578 829 (ADMINISTRATORS APPOINTED)
Sixteenth Plaintiff	INTRASHIELD PTY LTD ACN 133 426 534 (ADMINISTRATORS APPOINTED)
Seventeenth Plaintiff	IUGIS INVESTMENTS PTY LTD ACN 647 627 745 (ADMINISTRATORS APPOINTED)
Eighteenth Plaintiff	IUGIS PTY LTD ACN 632 882 243 (ADMINISTRATORS APPOINTED)
Nineteenth Plaintiff	IUGIS WASTE SOLUTIONS PTY LTD ACN 647 212 299 (ADMINISTRATORS APPOINTED)
Twentieth Plaintiff	ONESOURCE AUSTRALIA HOLDINGS PTY LIMITED ACN 120 463 541 (ADMINISTRATORS APPOINTED)
Twenty First Plaintiff	ORCA ENVIRO SOLUTIONS PTY LTD ACN 626 552 645 (ADMINISTRATORS APPOINTED)
Twenty Second Plaintiff	ORCA ENVIRO SYSTEMS PTY LTD ACN 627 597 782 (ADMINISTRATORS APPOINTED)
Twenty Third Plaintiff	SMARTPRINT FLEET MANAGEMENT PTY LTD ACN 132 807 080 (ADMINISTRATORS APPOINTED)
Twenty Fourth Plaintiff	SPARTAN CONSULTING GROUP PTY LTD ACN 168 989 544 (ADMINISTRATORS APPOINTED)
Twenty Fifth Plaintiff	FORUM FINANCE PTY LTD ACN 153 301 172 (IN LIQUIDATION)
Twenty Sixth Plaintiff	FORUM GROUP FINANCIAL SERVICES PTY LTD ACN 623 033 705 (PROVISIONAL LIQUIDATORS APPOINTED)
Twenty Seventh Plaintiff	FORUM ENVIRO PTY LTD ACN 168 709 840 (PROVISIONAL LIQUIDATORS APPOINTED)
Twenty Eighth Plaintiff	FORUM ENVIRO (AUST) PTY LTD ACN 607 484 364 (PROVISIONAL LIQUIDATORS APPOINTED)

**DEED OF TRUST**

**OF**

**26 EDMONSTONE ROAD UNIT TRUST**

VICTORIA

*This Trust Deed is a true  
certified copy of the  
original.*  
*[Signature]*  
Lou Stefanetti CPA.

**PACIFIC BLUE TAX SERVICES PTY LTD**  
LEVEL 1, 385 TOORONGA ROAD  
HAWTHORN EAST. VIC. 3123  
PH: 03-8862 4646  
FAX: 03-9824 8881

**ABBOTS**  
**1ST FLR, 225 BRIDGE ROAD**  
**RICHMOND VIC 3121**  
**PO Box 384, RICHMOND VIC 3121**  
**PH: (03) 9427 8888 FAX: (03) 9427 7888**

**THIS DEED OF TRUST** is made the day described in the First Schedule hereto **BETWEEN:** the persons named and described in the First Schedule hereto as the Original Unit Holders (hereinafter called "the Original Unit Holders") of the One Part and the person or persons described in the First Schedule hereto as the Trustee or Trustees (hereinafter called "the Trustee") of the Other Part

**WHEREAS:**

- (A) It is intended by this Deed to establish a Trust to be known by the name shown in the First Schedule.
- (B) For that purpose the Original Unit Holders have paid or intend on or after the execution hereof to transfer to the Trustee the initial sum or other asset stated in the First Schedule hereto, which is to form the Trust Fund until other assets are obtained by the Trustees which will form part of the Trust Fund as defined.
- (C) The Trustee has consented to act as Trustee hereof upon the trusts and subject to the provisions herein contained.
- (D) This Deed is made with the intention that the benefits of the trusts declared in this Deed shall enure to the extent provided for the benefit of the general beneficiaries and of every Unit Holder who shall hold units and be bound by the provisions of this Deed.
- (E) The provisions of Section 38 of the Trustee Act 1958 are not intended to apply to the Trust.

**NOW THIS DEED WITNESSES :-**

**DEFINITIONS :**

1. **IN** this Deed and its Schedules and in certificates issued under this Deed, unless there is something inconsistent in the subject or context the following words expressions and terms shall have the meanings assigned to them namely

- (a) "The Trust" means the Trust established by this Deed.
- (b) "The Trustee" means the trustee or trustees for the time being of the Trust whether the original trustee, or any additional or substituted trustee appointed in accordance with the provisions of this Deed.
- (c) "The Trust Fund" means -
  - (i) The initial sum or asset referred to in Recital(B).
  - (ii) All moneys paid to or assets transferred to and accepted by the Trustee upon the issue of units pursuant to the provisions of this Trust Deed.
  - (iii) Any accumulations of income.
  - (iv) All accretions to the Trust Fund.
  - (v) The investments and property from time to time representing the moneys assets and accumulations which become subject to these trusts.
- (d) "Vesting Date" means the first to occur of
  - (i) the date specified in the First Schedule hereto
  - (ii) if no date is specified in the Schedule the date 80 years from the day before the date hereof, or if the proper law of this trust does not allow that as a perpetuity period the earlier expiration of either the said period of 80 years or the period ending 21 years from the date of death of the last surviving descendant of his late Majesty King George VI now living..
  - (iii) such earlier date as the Trustee may appoint with the consent of the Unit Holders.
- (e) "Investment" means any one of the assets and investments forming for the time being a constituent part of the Trust Fund including the assets and goodwill of any business vested in or carried on by the Trustee.
- (f) "Certificate" means a certificate issued under the provisions of this Deed and for the time being current.
- (g) "Company" shall be deemed to include a unit trust.
- (h) "Unit" means an undivided share in the Trust Fund having the characteristics provided under the terms of this Deed.
- (i) "Unit Holder" means the person for the time being registered under the provisions of this Deed as the holder of a unit and includes persons jointly so registered.



- (j) "Register" means the register of Unit Holders required to be kept by the Trustee in accordance with the provisions hereof.
- (k) "Accounting period" means the period from the date hereof to the next ensuing 30th June and thereafter each period of twelve (12) months ending on the 30th June each year and if the date of termination of the Trust is not on the 30th June in any year then the last accounting period shall be the period commencing on the 1st July immediately preceding the date of termination of the Trust and terminating on the date of termination of the Trust.
- (l) "Person" includes a company firm or body of persons.
- (m) References to any statutory enactment shall mean and be construed as references to the said enactment as amended modified and re-enacted from time to time.
- (n) "Present" in relation to a meeting means present in person or by proxy.
- (o) The singular shall include the plural and vice versa and reference to any gender shall include the other genders.
- (p) The headings contained in this Deed shall not affect the construction of these provisions.
- (q) The "General Beneficiaries" shall comprise those persons that come within the definition set out in the First Schedule from time to time, and those general beneficiaries that are so defined by their connection with a particular unit holder shall constitute a class of general beneficiary related to that unit holder.

#### **EFFECT OF THIS DEED AND DECLARATION OF TRUST**

2. THE perpetuity period in relation to all dispositions made by this Deed shall be the period until the Vesting Date.
3. THIS Deed shall be construed and take effect in accordance with the laws of the State of Victoria unless a different proper law is indicated in the First Schedule.
4. NOTHING in this Deed shall constitute or shall be deemed to constitute the relationship of principal and agent between the Trustee and the Unit Holders or the relationship of partners as between the Trustee and the Unit Holders or as between the Unit Holders inter se or to give rise to any association between the Unit Holders inter se. All income payable in accordance with the provisions of this Deed to Unit Holders shall be payable to them separately and income received by the Trustee shall not be received or be construed as received by or on behalf of the general beneficiaries or the Unit Holders jointly or otherwise.
5. IT is expressly declared that notwithstanding anything contained or implied in this Deed no Unit Holder or general beneficiary shall by reason of any matter including his relationship with the Trustee be required to indemnify the Trustee against any liability or obligation incurred by the Trustee in the course of exercising its duties rights powers or authorities in relation to the Trust Fund or arising herefrom or in the course of carrying on any business hereby authorised, unless such liability or obligation has been incurred at the request in writing of the relevant Unit Holder.
6. THE Original Unit Holders hereby direct and the Original Unit Holders and Trustee hereby agree and declare that the Trustee shall stand possessed of the Trust Fund and of income of that fund (including any business of whatever nature carried on by the Trustee) for the benefit of the general beneficiaries and of the Unit Holders in proportion to the number of units respectively held by them of each class of unit and the respective rights of each class of unit. The Trustee acknowledges that subject to the discretionary entitlements of the general beneficiaries the Unit Holders are and shall be beneficially entitled to all assets of whatever nature of the Trust Fund in accordance with the respective rights of each class of unit and in proportion to the number of units respectively held by them of each class of unit.

#### **ADMINISTRATION OF THE TRUST**

7. (a) THE beneficial interest in the assets of the Trust Fund as originally constituted and as existing from time to time shall be vested in the Unit Holders for the time being.

(b) Each person who becomes registered as a Unit Holder shall be deemed to have agreed to become a party to this Deed and any supplemental deed and shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and of any supplemental deed.

8. EACH unit shall entitle the registered holder thereof together with the registered holders of all other Units to the beneficial interest in the Trust Fund as an entirety but subject thereto shall not entitle a Unit Holder to any particular security or investment comprised in the Trust Fund or any part thereof and no Unit Holder nor any combination of Unit Holders shall be entitled to the transfer of any assets or property comprised in the Trust Fund and save as hereinafter provided, no Unit Holder shall be entitled to interfere with or question the exercise or non-exercise by the Trustee of any discretion in relation to the Trustee's ownership of such assets or property or in relation to the conduct of any business carried on by the Trustee or otherwise.

9. THE Trust Fund as originally constituted shall be divided into units of such amount and class as is specified in the First Schedule which shall be held by the original Unit Holders whose names and addresses and the number of units to be held by each are set out in the First Schedule. The Trustee shall not be required to cause the Trust Fund to merge with any other trust fund and subject to the powers which it may exercise under the provisions of this deed the Trustee shall keep the subject matter of this trust entirely separate and distinct from any other trust fund.

10. (a) THE Trustee shall have power from time to time to issue new units in such manner and at such price and with such rights of any class of unit set out in the Third Schedule or otherwise as the Trustee shall think fit PROVIDED THAT no units shall be issued unless the terms and conditions of the issue are approved by all the Unit Holders or by a Special Resolution of the Unit Holders. Any issue other than of redeemable preference units shall be made in accordance with the following provisions:

(i) the Trustee may satisfy any payment due to be made to the Holders of Units by the issue to such Holders (in proportion to their respective holdings of such units) of additional units at such price as the Trustee thinks reasonable;

(ii) units shall be offered in the first instance to existing Unit Holders in proportion as nearly as may be to their existing holdings of units and without involving fractions;

(iii) the Trustee shall give notice specifying the number and class of the units offered and limiting a time within which the offer if not accepted will be deemed to be declined and after the expiration of that time or on receipt of an intimation from the person to whom the offer is made that he declines to accept the units offered the Trustee may dispose of those units in such manner as the Trustee may think most beneficial to the Trust Fund;

(iv) the Trustee may likewise dispose of any new units which (by reason of the ratio which the new units bear to units held by persons entitled to an offer of new units) cannot in the opinion of the Trustee be conveniently offered under sub-clause (ii).

(b) All persons to whom new units are to be issued other than persons who are already Unit Holders shall sign such form of application as the Trustee may from time to time prescribe including an undertaking to be bound by the terms of issue and of this Deed and of any supplemental Deed.

(c) The Trustee may at any time and shall if so directed by all the Unit Holders cause a valuation of the property and assets of the Trust Fund to be made.

(d) Units of any class may be reclassified by the Trustee with the written approval of all the Unit Holders.

#### UNIT CERTIFICATES

11. (a) UNIT certificates to be issued to the Unit Holders shall be in the form specified in the Second Schedule or in such other form from time to time determined by the Trustee. Every certificate shall specify the name of the Unit Holder the number of units to which it relates and shall bear a distinctive number.

(b) Unit certificates may be issued for any number of units.

(c) Unit certificates shall be signed under the Common Seal of the Trustee or on behalf of the Trustee by some person authorised by the Trustee. No certificate shall be valid until signed as provided.

(d) The Trustee shall prepare all Unit certificates.

(e) The Trustee shall satisfy itself that the applicant whose name is shown on a Unit certificate for issue has become entitled to the units shown on the unit certificate.

- (f) Unit certificates shall be prima facie evidence that the person named in the Certificate is entitled to the number of units therein specified.
- (g) The Trustee shall keep a register of Unit Holders in which there shall be entered the following particulars -
  - (i) the names addresses and descriptions of the Unit Holders;
  - (ii) the number of Units in respect of which they are registered and the distinctive numbers or letters of the Certificates held by them respectively;
  - (iii) the date at which the name of every Unit Holder was entered in the register in respect of units standing in his name; and
  - (iv) any other details considered necessary by the Trustee.

12. NO notice of any trust express implied or constructive shall be entered in the register and the person from time to time entered in the register as the Unit Holder shall be the only person recognised by the Trustee as entitled to the units registered in his name or to exercise the rights and privileges of the registered holder thereof pursuant to this Deed. No person shall be recognised by the Trustee as holding any unit upon any trust and the Trustee shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable contingent future or partial interest in any unit or any interest therein or (except only as by the provisions of this Deed otherwise provided) any other rights in respect of any unit except an absolute right to the entirety thereof in the Unit Holder. Units held by a Trustee in respect of a particular trust may be marked in the register in such a way as to identify them as being held in respect of that trust but no liability shall be created by any such marking and the Trustee shall not be affected with notice of any trust recorded as aforesaid. If a transferee of units so requests in writing the Trustee may issue a certificate of units in the name of a fund which is held by a trust and, subject to the provisions of this Deed relating to transfers, may register any transfer signed by the Trustee for the time being of the fund and may pay all distribution cheques to such Trustee or to the fund by name and any such payments shall be a good discharge to the Trustee who shall not be bound to see to the application of any moneys paid to such fund or to the Trustee thereof.

- 13. (a) UPON delivery to the Trustee by any Unit Holder of a unit certificate together with a properly completed instrument of transfer the Trustee shall subject to the provisions of this Deed cancel the unit certificate and issue a new unit certificate for the units transferred to the transferee, and a further certificate for the balance not being transferred shall be issued to the transferor.
- (b) If any unit certificate issued in accordance with this Deed is delivered to the Trustee and it is mutilated, worn-out, or defaced, the Trustee may at its discretion and upon such evidence and indemnity being given to the Trustee as it considers adequate cancel the unit certificate and issue a new unit certificate in its place to the Unit Holder.
- (c) If any unit certificate issued in accordance with this Deed is lost or destroyed the Trustee shall on payment of a fee not exceeding fifty cents issue a duplicate unit certificate in lieu thereof to the Unit Holder on his application accompanied by -
  - (i) a statutory declaration that the certificate has been lost or destroyed and has not been pledged sold or otherwise disposed of and if lost that proper searches have been made;
  - (ii) an undertaking in writing that if it is found or received by the owner it will be returned to the Trustee;
  - (iii) if required by the Trustee a bond for an amount at least equal to the current value of the units (as certified by the Auditors) indemnifying the Trustee against any loss or expenses following on the production of the original certificate.

#### **TRANSFER OF UNITS**

- 14. (a) SUBJECT to the provisions of this Deed every Unit Holder shall be entitled to transfer any of the units for the time being held by him by an instrument in writing in such form as the Trustee may from time to time approve.
- (b) Every such instrument must be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of the units comprised in such instrument until the name of the transferee is entered in the Register as the holder of such units.
- (c) Every instrument of transfer must be duly stamped at the expense of the transferor or transferee and left with the Trustee for registration accompanied by the unit certificate relating to the units to be transferred and such other evidence as the Trustee may require to prove the title of the transferor or his right to transfer units.

(d) Upon any person becoming entitled to any unit in the Trust Fund in consequence of the death bankruptcy or liquidation of a Unit Holder, the Trustee shall upon such evidence being produced as may from time to time properly be required by the Trustee as to his title, and subject always to the power vested in the Trustee to approve or disapprove of a transfer of units as provided in Clause 15 hereof, register such person as the holder of such units and upon delivery of the former unit certificate the Trustee shall cancel the same and issue a new unit certificate to such person in respect thereof.

15. NO units shall be sold or otherwise transferred without the consent of the Trustee PROVIDED THAT if such consent is not obtained in relation to any proposed sale or transfer, then the following conditions shall apply -

No Unit shall be transferred to any person not being referred to in Clause 16 and 17 hereof except pursuant to the provisions of this Clause, -

(a) A Unit Holder (a "proposing transferor") who desires to sell or transfer any units ("the said units") in the Trust Fund shall unless all the holders of units consent in writing to the proposed transfer leave at the registered office of the Trustee notice in writing ("the transfer notice") addressed to the Trustee that he desires to transfer the said units.

(b) The transfer notice shall specify the sum the proposing transferor fixes as the fair selling value of the said units ("the selling value") and shall constitute the Trustee the Agent of the proposing transferor for the sale of the units at the selling value as hereinafter provided.

(c) Upon receipt of the transfer notice the Trustee shall offer the said units at the selling value to the other unit holders. In default of agreement to the contrary, the offer may only be accepted by each of them in respect of such proportion of the said units as the number of units held by each of them respectively at the time of such offer bears to the number of units held by persons other than the proposing transferor at such time. The offer shall be made by giving a notice in writing to each such holder of units specifying the number and price of the said units and the number which such holder is entitled to purchase and shall invite the unit holder to state within thirty (30) days from the date of the notice whether he desires to purchase any and if so how many of the units offered. In the event of any Unit Holder to whom an offer is addressed not agreeing that the price specified by the proposing transferor is a fair price, the price shall be determined by the Auditor of the Trust or a Registered Company Auditor appointed by the Trustee, and the price determined by such Auditor shall be deemed to be the price specified in the transfer notice for the purposes of this Deed. In making such determination the auditor shall be deemed to be acting as an expert and not as an Arbitrator. The costs of such determination shall be borne by the person who failed to agree with the price originally specified in the transfer notice.

(d) At the expiration of the said thirty (30) days the Trustee shall allocate the said units to or amongst the Unit Holders who shall express their desire to purchase any or all of the units offered to them PROVIDED THAT no Unit Holder shall be obliged to take more than the number of units which he advised the Trustee he desires to purchase. Upon such allocation being made the Trustee shall give notice in writing thereof to the proposing transferor stating the name and address of each of the respective purchasers and the numbers of units agreed to be purchased by them respectively. Settlement of the purchase shall take place at a place and time to be appointed by the Trustee being not less than seven (7) days nor more than thirty (30) days after the date upon which the Trustee shall allocate the units to or amongst the Unit Holders and at settlement the proposing transferor shall be bound on payment of the price to transfer the said units to the respective purchasers thereof.

(e) If the Trustee shall not find Unit Holders willing to purchase all the said units in accordance with the provisions of the preceding clause and if at the expiration of the period of thirty days after the offer there are any of the said units in respect of which no notice of desire to purchase has been given, the proposing transferor may for a period of six months thereafter transfer such units (or any of them) to any person at any price not less than the price specified or deemed to be specified in the relevant transfer notice.

(f) If the proposing transferor makes default in transferring the said units as and when required so to do pursuant to the foregoing provisions of this Clause the Trustee shall be deemed to be the duly appointed attorney of the proposing transferor with full power to execute complete and deliver in the name and on behalf of the proposing transferor a transfer of any of the said units to the purchasing Unit Holder or other person (as the case may be) and to receive and give a good discharge for the purchase money on behalf of the proposing transferor (which purchase money shall be held in trust for the proposing transferor) and upon any such transfer being executed and delivered the Trustee may enter the name of the purchaser in the Register as the holder by transfer of such units purchased by him and after

such name has been entered in the Register in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.

16. THE restrictions contained in the provisions of Clause 15 shall not apply to any of the following transfers of units -

- (a) To any of the following permitted transferees -
    - (i) Any other holder of units of the same class;
    - (ii) any relative of the transferor falling within the following description (called "specified relatives") namely, father, mother, brother, sister, the wife husband son daughter son-in-law daughter-in-law nephew niece or grandchild or other direct issue; (the relationship of parent and child being deemed to exist with an adopted child or stepchild);
    - (iii) the trustee or trustees of any deed of trust or settlement made solely or chiefly for the benefit of one or more of the specified relatives of the transferor to be held by such trustee or trustees upon the terms of such deed (called "a family trust");
    - (iv) any corporation, all of the shares in which are beneficially owned by permitted transferees as aforesaid or by one or more of them;
    - (v) where the transferor is the trustee of a deed of trust or settlement or is a corporation, then to any specified relative (defined as aforesaid) of any beneficiary under the deed of trust or settlement or of any beneficial owner of shares in the corporation (as the case may be).
  - (b) From any permitted transferee as aforesaid to any other Unit Holder holding units of the same class or to any other permitted transferee as aforesaid.
  - (c) From the executors or administrators or other legal personal representatives of a deceased Unit Holder to any person who is already a Unit Holder holding units of the class held by the deceased or to the widow or widower of the deceased Unit Holder or to any of the specified relatives (defined as aforesaid) of such Unit Holder entitled in each case thereto under or by virtue of the will of such Unit Holder or as one of his next-of-kin.
  - (d) From the trustees of a family trust to the beneficiary or beneficiaries entitled thereto pursuant to such family trust.
  - (e) From the trustees of the will of any deceased Unit Holder or of any family trust on any change of trustees to the trustees for the time being of such will or family trust.
  - (f) In the case of a Unit Holder being a body corporate, from such Unit Holder to another body corporate which is in relation to such Unit Holder a related body corporate within the meaning stated in Section 50 of the Corporations Law.
  - (g) A transfer of units by a Unit Holder being a corporation to any member of such corporation.
  - (h) A transfer of units from a corporation to a trustee for that corporation.
  - (i) A transfer of units from a trustee for a corporation to that corporation.
  - (j) A transfer of units held by the transferor as trustee for a corporation to a substituted trustee for the same corporation, or
  - (k) A transfer of units from a Unit Holder to a corporation which is its subsidiary or of which it is a subsidiary.
17. (a) IN the case of the death of a Unit Holder, the survivor or survivors where the deceased was a joint holder and the legal personal representatives of the deceased in all other cases shall be the only persons recognised by the Trustee as having any title to his interest in the units.
- (b) Any person becoming entitled to units in consequence of the death lunacy liquidation or bankruptcy of any holder may upon such evidence being produced as may from time to time be required by the Trustee, elect either to be registered himself as the holder of the units or to have some person nominated by him registered as the transferee thereof but the Trustee shall, in either case, have the same right to decline or suspend registration as the Trustee would have had in the case of a transfer of the units of that holder prior to such death lunacy liquidation or bankruptcy.
- (c) If a person so becoming entitled elects to be registered himself he shall deliver or send to the Trustee a notice in writing signed by him stating that he so elects. If he elects to have another person registered he shall testify his election by executing a transfer of the units to that person. All provisions of this Deed relating to the right to transfer units and the registration of transfers of units shall be applicable to any such notice or transfer as if the death lunacy liquidation or bankruptcy of the Unit Holder had not occurred and the notice or transfer were a transfer executed by that holder.

(d) A person entitled to units by transmission shall be entitled to receive and may give a good discharge for all moneys payable in respect of the units but except as otherwise provided by this Deed shall not be entitled to any of the rights or privileges of the Unit Holder unless and until he shall become registered in respect of the units.

18. A Unit Holder shall not mortgage pledge or give any security over a Unit without the consent of the Trustee and of a majority of the Unit Holders first had and obtained and it shall be a condition of any such consent that -

- (a) the proposed mortgagee or party taking security is a bank or lending institution of sound financial standing which bona fide carries on the business of lending money on security;
- (b) the proposed mortgagee or party taking security undertakes in writing to the Trustee that in exercising any power of sale it will comply with the provisions of Clauses 15 and 16 of this Deed.

#### CANCELLATION OF UNITS

19. (a) A Unit Holder may apply in writing to the Trustee for the surrender and cancellation of all or any of the units held by him in the Trust Fund and the Trustee shall accept the surrender and duly cancel such units referred to in any application made pursuant to this Clause provided the Trustee has first obtained approval of such cancellation by an unanimous resolution of the other Unit Holders. A holder of redeemable preference units may request the redemption of some or all of his units in accordance with the terms of issue.

(b) Upon delivery to the Trustee of the certificates relating to the units referred to in any application made pursuant to the preceding sub-clause, the Trustee shall cancel such units and note such cancellation in the Register and shall then pay to the Unit Holder such amount as shall represent the redemption price of any redeemable preference units or the value of any other units as at the date of cancellation.

(c) The Trustee shall obtain a certificate from the auditors of the Trust of their opinion of the net value of the Trust Fund at the date the application is received by the Trustee and of the value of each of the units in the application and this shall be the value of each unit to be so surrendered for the purposes of this clause. The Unit Holder surrendering such units shall be entitled to be paid the value of each unit so surrendered by him provided that any such payment may at the absolute discretion of the Trustee be made in cash or by the transfer of assets of equivalent value (as certified by the auditors as aforesaid) to the Unit Holder concerned. The certificate of the auditors as to the value of the Trust Fund and of each of the assets thereof delivered for the purposes of this clause shall be final and conclusive for the purposes hereof.

(d) Unless otherwise provided by the terms of issue a redeemable preference unit may be redeemed at any time by the Trustee or upon request by the unit holder made more than one year after the date of issue. The redemption price shall be specified in the terms of issue if it is other than the amount paid up on the unit. Until redeemed the units shall carry the right to a distribution of income before other units of 10 per cent per annum on the amount paid up on the unit plus the right to share in any distribution of income to the other units which exceeds 10 per cent in any income tax year.

#### DURATION AND TERMINATION OF THE TRUST

20. (a) SUBJECT to the provisions of sub-clause (b) of this Clause the Trust created by this Deed shall commence on the date hereof and shall terminate on the Vesting Date unless it has been terminated prior to that date under the provisions of this Deed.

(b) The Trust may be terminated at any time before the Vesting Date if so resolved by a Special Resolution of the Unit Holders and such termination shall take effect from a date to be named in the Resolution.

(c) If any law should be passed which renders it illegal or in the opinion of Queen's Counsel impracticable or inadvisable to continue the Trust the Trustee shall terminate the Trust by notice in writing fixing the date at which such termination is to take effect.

(d) When the Trust is terminated the Trustee shall sell call in and convert into money or cause to be sold called in and converted into money the investments and property constituting the Trust Fund, and within the period of six months (or later if approved by the Unit Holders but not later than the expiration of the perpetuity period) from the giving of the notices to Unit Holders provided for in the next sub-clause, divide the proceeds less all proper costs and disbursements commissions brokerage fees and other outgoings and all proper provision for liabilities among the Unit Holders in proportion to the number of units of each class held by them and the respective rights of each class of units and upon such registered

holders delivering up to the Trustee for cancellation the certificates held by them respectively provided however that the Trustee may in its discretion at the request of any Unit Holder transfer to such Unit Holder any assets of the Trust Fund in specie in satisfaction or part satisfaction of the entitlement of the Unit Holder.

- (e) The Trustee shall as soon as practicable after the termination of the Trust give to each Unit Holder not less than one month's notice of the impending distribution.
- (f) The Trustee may postpone the sale and conversion of any part of the investments and property of the Trust Fund for such time as they think desirable in the interests of the Unit Holders and shall not be responsible for any loss attributable to such postponement.

#### **ACCOUNTS AND AUDITOR**

- 21. (a) THE Trustee shall cause proper accounts of the Trust Fund to be kept of all income and other moneys including capital moneys received and all costs, fees, expenses, commissions, disbursements, rates, taxes, debts and other outgoings and capital moneys paid in the management of the Trust Fund and assets and businesses constituting the same and the books of account shall be kept at the office of the Trustee and shall be open to the inspection of any Unit Holder.
- (b) There shall be a bank account of the Trust which shall be maintained at such bank as shall from time to time be decided by the Trustee. All moneys and securities belonging to the Trust shall as and when received be paid into or deposited with the said bank to the credit of the said account. All cheques and other negotiable instruments shall be drawn in the name of the Trustee and shall be endorsed in such manner as the Trustee may from time to time require.
- (c) Promptly after the close of each Accounting Period the Trustee shall prepare a written accounting report (prepared in accordance with normally acceptable accounting procedures) for such period consisting of a balance sheet and statement of income and expenditure and a list of assets held at the close of such year and a copy thereof shall be furnished to the Unit Holders upon request.
- (d) If the Unit Holders at the annual general meeting nominate an auditor the Trustee shall appoint that auditor and if the Unit Holders do not make a nomination the Trustee may in its discretion if it thinks fit act instead of the auditor or if it thinks fit appoint an auditor to examine and ascertain the correctness of the accounts of the Trust Fund and to report thereon to the Trustee and to the Unit Holders.

#### **INCOME OF THE TRUST FUND**

- 22. (a) THE Trustee shall collect and receive the dividends interest rents and other income from the investment of the Trust Fund.
  - (b) The Trustee shall pay out of the gross income of the Trust Fund all costs and disbursements commissions fees taxes (including land tax and income tax) management charges and other proper outgoings in respect of the investment and administration of the Trust Fund.
  - (c) In dealing with the income the Trustee may decide to treat income derived from different origins in different ways and may resolve that any particular payment application or appropriation shall be made from income of a specified origin.
- 23. (a) THE Trustee may at any time before the expiration of each Accounting Period until the Vesting Date and whether in respect of income of the whole Accounting Period or as an interim distribution determine with respect to any part of the net income of the Trust Fund for such Accounting Period to do any of the following:-
    - (i) the trustee shall pay or apply or appropriate the whole or such part of the income of the Trust Fund and in such manner and at such times as the Trustee shall in its absolute discretion think fit to or for the benefit of one or more of the members of each class of general beneficiaries and if the Trustee shall think it desirable unequally between the members of such class or for or towards the maintenance support education or benefit of such one or more to the exclusion of the other or others of such members as the Trustee shall in its absolute discretion determine, Provided that the amount of income so dealt with for the benefit of one or more members of any one class of general beneficiaries shall not exceed the amount of income which the unit holder related to that class would otherwise have become entitled to if the trustee had failed to exercise the said discretion.
    - (ii) to pay apply or set aside the same for the Unit Holders in proportion to the number of units of which they are respectively registered as the holders at the time of such determination and the rights of the various classes of units then in existence.

- (iii) to accumulate the same;
  - (iv) to pay apply or set aside the same for such charitable purposes as the Trustee (with the consent of the Unit Holders) may think fit.
- (b) The following rules shall apply to any determination pursuant to paragraph (a) of this Clause namely
- (i) any determination shall be conditional upon the income the subject thereof in fact proving to exist at the end of the Accounting Period and any determination to accumulate income shall be conditional upon the law in force in relation to this Deed giving effect to such determination at the end of the Accounting Period but except as provided in this paragraph (b) each such determination shall be irrevocable;
  - (ii) if at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to paragraph (a) of this Clause exceed the net income of the Trust Fund for the Accounting Period the amount of the excess shall in the first place be deducted from the amounts which the Trustee has determined to accumulate and only the balance of such amounts (if any) shall thenceforth be accumulated and in the second place should any deficiency remain the Trustee shall be deemed to have applied the capital of the Trust Fund the value of which shall thereupon be adjusted accordingly;
  - (iii) a determination to pay apply or set aside any amount for any Unit Holder may be made by placing such amount to the credit of such Unit Holder in the books of the Trust Fund or by drawing any cheque in respect of such amount made payable to or for the credit or benefit of such Unit Holder or by paying the same in cash to or for the benefit of such Unit Holder;
  - (iv) the Trustee shall have a complete discretion as to the making of any determination and shall not be bound to assign any reason therefor.
- (c) The amount of any accumulation shall be dealt with as an accretion to the Trust Fund but so that the Trustee may at any time or times resort to all such accumulations and pay or apply the whole or any part or parts thereof as if they were income of the Trust Fund.
- (d) The Trustee shall hold so much of the net income of the Trust Fund for each Accounting Period as shall not be the subject of a determination effectively made at or prior to the end of such Accounting Period pursuant to the foregoing provisions of this Clause in trust for the Unit Holders in proportion to their respective interests on the last day of such Accounting Period.
- (e) Any amount set aside for any person and any amount held by the Trustee in trust for any person pursuant to the foregoing provisions shall not form part of the Trust Fund but upon such setting aside or becoming subject to such trust (as the case may be) shall be thenceforth held by the Trustee as a separate trust fund on trust for such person absolutely with power to the Trustee pending payment over thereof to such person to invest or apply or deal with such fund or any resulting income therefrom or any part thereof in a similar manner to that provided for the Trustee in relation to the Trust Fund.
- (g) The Trustee may satisfy any amount payable to a Unit Holder who is an infant by paying the same to a parent or guardian of such infant and the Trustee shall not be bound to see to the application thereof by such parent or guardian.

24. THE Trustee may with the sanction of a Special Resolution at any time or times and from time to time before the date of the termination of the Trust out of the capital of the Trust Fund raise any sum or sums and pay the same to Unit Holders in proportion to their interests as at the date of such Resolution for their own use and benefit in addition to any income to which the said Unit Holders may from time to time be entitled.

#### **CAPITAL GAINS**

25. The Trustee may in its discretion treat any capital gains whether or not taxable as such in the same way as income is to be treated for the purposes of this trust or may treat them as accruals to the capital of the Trust Fund and deal with them accordingly.

#### **APPOINTMENT AND RESIGNATION OF TRUSTEES**

26. (a) THE Trustee named in the first Schedule shall be the initial Trustee of the Trust Fund and for itself and its successors as Trustee covenants with the Unit Holders that it will act continuously as Trustee under the Trusts herein set forth until such Trusts are determined as herein provided or until the Trustee has retired or been removed from office in the manner herein provided.
- (b) A Trustee shall be disqualified from holding office if -



- (i) being an individual he becomes insolvent or of unsound mind or does or suffers anything which would disqualify him from holding office as Director of a Company;
  - (ii) being a company it goes into liquidation or if a receiver manager or administrator of any of its assets or undertaking is appointed.
- (c) A Trustee may retire upon giving one month's notice in writing to the Unit Holders of that Trustee's desire to do so but such retirement shall not take effect until a general meeting of Unit Holders called to consider the appointment of a Trustee or Trustees in place of the retiring Trustee has appointed a new Trustee and that Trustee has executed a Deed of Trust as hereinafter provided.
- (d) The Unit Holders shall be entitled -
- (i) by unanimous resolution in writing or in general meeting to remove any Trustee or to appoint an additional Trustee;
  - (ii) by special resolution in general meeting or by unanimous resolution in writing to appoint a Trustee in place of any Trustee who dies or retires or is disqualified or removed from office.
- (e) A Trustee shall on retirement take such action as is necessary to vest the Trust Fund or cause it to be vested in any new Trustee or Trustees and shall deliver to such new Trustee or Trustees all books documents records and other property relating to the Trust Fund and a continuing Trustee shall take such action as is necessary to cause title to any assets of the Trust Fund to be amended to include any additional Trustee.
- (f) A new Trustee shall execute a deed in such form as is approved by Special Resolution of the Unit Holders in general meeting whereby such new Trustee shall undertake to the Unit Holders jointly and severally all of the obligations of a Trustee hereunder.
- (g) The costs charges and expenses of and in connection with the retirement and replacement of any Trustee or the appointment of any additional Trustee shall be recouped from the Trust Fund.

#### ALTERNATE TRUSTEES

27. ANY Trustee being a natural person may with the consent of the other Trustee or Trustees appoint any person to be an alternate Trustee in his place and so that any such appointment shall have effect during such period as such Trustee may from time to time be absent from the place where the Trust Fund is being administered or is otherwise incapable of acting and the Trustee may by deed under his hand revoke or alter such appointment as alternate Trustee.
28. NO Trustee shall be responsible for -
- (a) any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by failure to exercise any such discretion or power; or
  - (b) any breach of duty or trust whatsoever unless it shall be proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustees charged to be so liable. All persons claiming any beneficial interest in over or upon the property subject to this Trust shall be deemed to take the same with notice of and subject to the protection hereby conferred on the Trustees.
29. THE Trustee shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by the Trustee in the execution or attempted execution or as a consequence of the failure to exercise any of the trusts authorities powers and discretions hereof or by virtue of being the Trustee hereof.
30. THE Trustee shall not be bound in any case to act personally but shall be at full liberty to act by managers or to employ any contractors manager solicitor accountant clerks workmen employees or servants or any agents to transact all or any business of whatever nature required to be done in the premises including the receipt and payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.
31. (a) A sole Trustee hereof for the time being is hereby authorised notwithstanding that he is the sole Trustee to receive capital and other moneys and to give valid and effectual receipts therefor for all purposes and for the purposes of any statutory enactments including the receipt of moneys which may or may not be deemed to be capital moneys for the purposes of any Statute.
- (b) The Trustees if at any time they are more than one shall act jointly and not severally. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustee and may execute any powers of attorney or other instruments necessary to effectuate such purpose. Each Trustee may appoint an alternate Trustee to act in his place at meetings of

trustees so long as and whenever the appointing Trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting .

(c) If at any time there are more than one Trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to an arbitrator whose decision shall be final and the Trustees shall act in accordance with the decision .

(d) If a Trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole Trustee it may attend meetings of trustees and vote there by its representative.

32. ANY Trustee hereof who is engaged in any profession or business or any firm of which he is a member shall be entitled to make all usual and proper charges for professional and other services in the administration of the Trust and for his time and trouble that he would have been entitled to make if not a Trustee and so employed.

33. THE Trustee shall subject to this Deed have the sole and absolute discretion in the exercise of all rights appertaining to the shares or other investments comprised in the Trust Fund and no Unit Holder shall save as is herein expressly provided have any right with respect to the Trust Fund to attend meetings of shareholders or to vote or take part in or consent to any corporate or shareholder's motion or save as expressly provided by this Deed to interfere with or question the exercise or non-exercise by the Trustee of the rights and powers of the Trustee as the owner of the Investments of the Trust Fund.

34. THE receipt of a Unit Holder for any moneys payable in respect of the Units represented by his Unit Certificate shall be a good discharge to the Trustee and if several persons are registered as joint Unit Holders or in consequence of the death or bankruptcy of a Unit Holder are entitled to be so registered any one of them may give effectual receipts for any such moneys. The terms and conditions of this Deed and of any supplemental deed entered into under the provisions of Clause 39 of this Deed shall be binding on each Unit Holder or any person claiming through him as if he had been a party to this Deed.

35. THE Trustee shall in addition to the powers otherwise conferred upon trustees by law have the following powers:-

(a) To apply and invest all moneys forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and to the intent that the Trustee shall have the same powers in all respects as if it were absolute owner beneficially entitled including without diminishing the generality of the foregoing the subscription for, the taking up on allotment and the purchase of any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and to take or purchase the whole or any part or unit of or share or interest in (including a minority part or share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate or any part or share or interest therein and notwithstanding that the same may not be income producing or may be of a wasting or speculative nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto.

(b) To make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and the Trustee may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and may agree to pay for any such investments wholly or in part from any future moneys which may come into its hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

(c) (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed

(ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit

(iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract

obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit

- (d) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.
- (e) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.
- (f) To hold use purchase construct demolish maintain repair renovate reconstruct develop improve sell transfer convey surrender let lease exchange take and grant options or rights in alienate mortgage charge pledge reconvey release or discharge or otherwise deal with any real or personal property and in particular with shares debentures or securities of any company and with or without deferred restricted qualified or special rights relating thereto.
- (g) To purchase or acquire any reversionary or deferred property or rights of any description or any life or life endowment annuity or sinking-fund or term or other policy or policies of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and to pay out of the income or capital of the Trust Fund as the Trustee in its absolute discretion thinks fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any policy or policies of insurance (whether owned by the Trustee or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy or policies shall for all the purposes of this Deed be deemed to be a sale thereof.
- (h) To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or of carrying out or performing the trusts hereof which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustee may be required to pay as settlement probate estate gift stamp or revenue duties including stamp gift or settlement duties payable in respect of the Trust Fund or on these presents.
- (i) To exercise all rights and privileges and perform all duties and do all such acts, matters and things appertaining to any shares stock or debentures in any corporation for the time being subject to the trusts hereof as the Trustee could do if it were the beneficial owner of the shares stock or debentures or were personally interested or concerned in the corporation and without diminishing the generality of the foregoing with liberty to assent to any arrangements modifying such rights privileges or duties and to agree to any scheme or arrangement for the reconstruction or the increase or reduction of the capital of any corporation and to make any agreement in respect of or in the course of the winding up of any company and for any such purpose to deposit surrender or exchange any of the said shares stock or debentures or the title thereto and to pay any calls or contributions or other necessary expenses in connection with any such shares stock or debentures or any title thereto.
- (j) To carry on anywhere in the world and either alone or in partnership and under such name as the Trustee thinks fit any trade or business whatsoever and to discontinue the same from time to time.
- (k) To employ any person (including any Trustee hereof) in connection with any trade or business carried on by the Trustee or in connection with anything required to be done pursuant to the provisions hereof including the receipt and payment of money and to decide the remuneration to be allowed and paid and the amount of all charges and expenses and to create or arrange any scheme of superannuation retirement benefit or pension for the benefit of any person so employed.
- (l) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition.

- (m) To establish promote or acquire any company or companies or join in the promotion establishment or acquisition of any company or companies.
- (n) To appropriate any part or parts of the Trust Fund in the actual condition or state of investment thereof in or towards the satisfaction of the interest of any person in the Trust Fund or in or towards the satisfaction of any sum which the Trustee may determine to pay or apply to or for the benefit of any person pursuant to Clause 23 hereof and in making such appropriation to estimate the value of the component parts of the Trust Fund or to employ such person to make such valuation as in the circumstances the Trustee deems proper without obtaining any consents otherwise required by law and every appropriation so made shall bind all persons interested in the Trust Fund notwithstanding that they may not yet be in existence or may be under a legal disability.
- (o) To determine whether any real or personal property or any increase in amount number or value of any property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this Deed and every determination of the Trustee in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.
- (p) To open any account or accounts with any bank or banks and to operate by and in all usual ways any such account or accounts and to draw make accept endorse discount issue or otherwise deal with any cheque promissory note bill of exchange bill of lading or other negotiable or transferable instrument.
- (q) To give effectual receipts and discharges for any moneys received by or on behalf of the Trustee or otherwise relating to any of the acts matters and things provided for in these presents and to receive property by gift inter vivos or by will or under the provisions of any other trust or trusts or otherwise and either from the Original Unit Holders or from any other person and to hold the same upon the trusts herein set forth and to administer such property under the provisions hereof.
- (r) To grant options in respect of any assets held subject to the trusts of this Deed to any person firm or company.
- (s) To become a Director of any company in which moneys forming part of the Trust Fund are invested or to appoint any person to act as Director of any such company and to receive the remuneration attached to such office without accounting to the Trust therefor provided that the Trustee executes all proper declarations of trust for any shares held by it on behalf of the Trust and accounts to the Trust for all dividends and bonuses and to exercise or concur in exercising all of the powers and discretions contained in this Deed or otherwise by law conferred notwithstanding that the Trustee or any person being a Trustee or any person being a Director or shareholder of a Trustee hereof (being a Company) has or may have a direct or personal interest (whether as Trustee of any other Trust or in his personal capacity or as a Director or shareholder of any company or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.
- (t) To take such action as the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to take and act upon the opinion (given in writing) of a solicitor or Counsel practising in any country where the Trust Fund or any part thereof may for the time being be invested in relation to the interpretation or effect of these presents or any other document or statute or as to the administration of the trusts hereof without being liable to any of the persons beneficially interested in respect of any act done by the Trustee in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustee from applying to any Court if the Trustee thinks fit or prohibits any of the Unit Holders from so doing and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by these presents.
- (u) To remunerate any Unit Holder who is at any time in the employ of the Trustee to the same extent and in the same manner as if the Unit Holder so employed were not a Unit Holder hereunder and all bona fide payments made by the Trustee to any such Unit Holder in the form of remuneration for services rendered or to be rendered or on account of expenses in connection with such employment shall not be or be deemed to be payment to the Unit Holder of or on account of his or her share in the Trust Fund or the income thereof.

- (v) To permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustee and to deposit securities to the deeds and other documents belonging or related to the Trust Fund with any bank or other appropriate Custodian.
- (w) With the consent of the Unit Holders, in any conditions or circumstances which the Trustee thinks expedient to appoint either in respect of the whole of the Trust Fund or any part thereof new Trustees in any country in the world and to transfer assign and set over the investments for the time being representing the Trust Fund or any part thereof to any such new Trustee upon similar trusts and subject to similar terms and conditions to those declared in these presents and either subject to the control of the Trustee of these presents or to the exclusion of such control AND the Trustee of these presents shall be indemnified and held harmless against any loss which may arise from the exercise of this power.
- (x) With the consent of the Unit Holders at any time or times before the Vesting Date by any irrevocable deed or deeds (without infringing any rule against perpetuities applicable to this Deed) to appoint that the whole or any part of the Trust Fund shall thenceforth be held upon the trusts and with and subject to the powers and provisions of any other Trust (not infringing the rule against perpetuities applicable to this Deed) and approved by the Trustee in favour or for the benefit of all or one or more exclusively of the others or other of the Unit Holders registered at the time of such appointment and upon any such appointment being made the Trustee may transfer to the trustee or trustees for the time being of the said other Trust the property comprised in the said appointment and thereupon the trusts herein declared concerning such property shall cease and determine and the said property shall for all purposes be subject to the trusts powers and provisions contained in the said other Trust and be subject to and governed by the proper law of the said other Trust whether or not such proper law shall be the proper law of this Trust.
- (y) In the event of any probate succession estate or other duties fees or taxes becoming payable in any part of the world in respect of the Trust Fund or any part thereof on the death of any Unit Holder or any other person at their absolute discretion to pay all or any part of such duties fees or taxes out of the Trust Fund notwithstanding that such duties fees or taxes or some part thereof are not or may not be recoverable from the Trustee or from the Trust Fund by legal process in the place where they become payable.
- (z) Generally to exercise or concur in exercising all the powers and discretions contained in this deed or otherwise conferred by law and notwithstanding that the Trustee or any person being a Trustee or any person being a director or shareholder of any company which is a Trustee hereof has or may have an indirect direct or personal interest (whether as Trustee of any other trust or settlement or in his personal capacity or as a shareholder or director or member or partner of any company or partnership or as a unit holder in any unit trust or as a beneficiary of any discretionary or other trust or otherwise) in the mode or result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

36. NOTWITHSTANDING anything herein to the contrary or otherwise contained the Trustee shall have power at its absolute discretion :-

- (a) to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustee in its personal capacity or in its capacity as Trustee of other Trust Funds or otherwise howsoever or to any company or partnership whatsoever notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or to a wife, husband, child or children of any Trustee absolutely;
- (b) to buy transfer acquire hire or lease any real or personal property or to borrow any moneys from the Trustee (or any of them when there may be more than one) in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or from any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or from the husband or wife or child or children of any Trustee;
- (c) to carry on or carry out any profit-making undertaking or scheme in partnership with the Trustee in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or with any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or with the husband or wife or child or children of any Trustee;
- (d) to exercise all the powers and discretions vested in the Trustee notwithstanding that the Trustee may be a Unit Holder and generally to deal with the Trustee in its personal capacity in all respects as if there were two separate persons to the dealings. AND without limiting the generality of anything herein contained the Trustee shall have power in its absolute discretion to sell to itself in its

capacity as Trustee of other trust funds either for cash or upon terms any assets being shares or a joint or undivided interest in property where other shares in the same company or companies or another joint or undivided interest in the same property are held by the Trustee in such other capacity as aforesaid AND to divide assets in specie between the Trust Fund and such other trust funds in such manner as the Trustee shall think fit.

7. THE Trustee may in its absolute discretion notwithstanding anything to the contrary herein contained or otherwise provided -

(a) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date out of the capital of the Trust Fund held on trust but not out of any moneys referred to in paragraph (d) of this Clause raise any sum or sums and pay the same (in addition to any entitlement to income or share of income) to Unit Holders in proportion to their interests at the time for their own use and benefit or apply the same to or for the benefit of the Unit Holders in like proportions;

(b) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date lend any sum or sums out of the Trust Fund and any moneys held in trust hereunder to any Unit Holder either with or without security and upon such terms and conditions as to repayment and with or without interest as the Trustee shall in its absolute discretion think fit;

(c) at any time or times and from time to time pay or apply the whole or any part of the capital or the whole or any part of any income or accrued or accumulated income to which any infant Unit Holder is entitled in such manner as the Trustee in its absolute discretion thinks fit for the benefit of such infant and without limiting the generality thereof in particular for the maintenance education or advancement of such infant and in the exercise of this power or in respect of any other amount payable to an infant by the provisions of this Deed may pay the same to a parent or guardian of such infant without being bound to see to the application thereof by such parent or guardian;

(d) invest any amount held by the Trustee in trust pursuant to Clause 23 hereof on behalf of the person entitled thereto by investing the same and the resulting income thereof in any of the investments hereby authorised in respect of the Trust Fund but the Trustees may at any time or times and from time to time in their absolute discretion resort to such income and may pay apply or deal with the same or any part thereof in such manner as the Trustee in its absolute discretion thinks fit for the benefit of the person entitled thereto;

(e) at any time or times and from time to time pay or transfer any investments or money appropriated to a share to which any person is or becomes absolutely entitled to such person absolutely if he is of full age or to a parent or guardian of any infant Unit Holder as trustee for such infant Unit Holder without being bound to see to the application thereof by such parent or guardian;

(f) allow any Unit Holder to occupy have custody of or use any immovable property or chattels for the time being forming part of the Trust Fund on such terms or conditions as to rent inventories repair replacement insurance outgoings or otherwise at all as the Trustee shall think fit and so that no Trustee shall be liable for any loss or damage which may occur to any property so forming part of the Trust Fund during or by reason of any such occupation custody or use except insofar as such loss or damage shall be occasioned by the conscious and wilful default or neglect of such Trustee.

#### **REMUNERATION OF TRUSTEE:**

3. IT is hereby agreed that :-

(a) The Trustee shall be entitled to be paid such sums as may be determined by a Special Resolution of the Unit Holders as remuneration for its services.

(b) That without limiting the generality of the other provisions of this Deed the Unit Holders acknowledge that the Trustee may pay on demand all costs charges and expenses reasonably and properly incurred by or on behalf of the Trust.

(c) That all the aforesaid remuneration and payments shall be and are hereby charged upon the Trust Fund and shall be paid in priority to any claim by any Unit Holder.

#### **MODIFICATION OF TRUST DEED**

(a) THE Trustee may from time to time pursuant to a Special Resolution of the Unit Holders requesting the Trustee to do so by Deed supplemental to this Deed modify or alter or add to the provisions of this Deed (including this present Clause) PROVIDED THAT such modification alteration or addition -

- (i) in the opinion of the Trustee is desirable for the more convenient or economical management of the Trust or is necessary to satisfy the requirements of any statute, ordinance, rule, regulation or by-law which may be passed and which affects Trusts of this nature;
  - (ii) does not prejudice the interests of the Unit Holders or any of them and does not operate to release the Trustee from any responsibility to the Unit Holders provided for in this Deed, unless with the specific consent of the unit holders affected.
  - (iii) does not impose on any Unit Holder any obligation to make any further payment in respect of his units.
  - (iv) does not infringe or have the effect of infringing any law against perpetuities;
  - (v) shall not affect the beneficial entitlement to any amount set aside for any Unit Holder prior to the date of the modification alteration or addition;
  - (vi) does not result in any inappropriate benefit accruing to the Trustee.
- (b) As soon as possible after the execution of any supplemental deed and in any event not later than two months thereafter notice thereof containing a short summary of such supplemental deed shall be sent by the Trustee to each Unit Holder and the terms and conditions of any supplemental deed entered into under the provisions of this Clause shall be binding on each Unit Holder or any person claiming through him as if he had been a party to this Deed and any such supplemental deed.

#### **NOTICE TO UNIT HOLDERS**

40. (a) SUBJECT to sub-clause (b) of this Clause any notice required to be given to a Unit Holder shall be deemed to have been given if it is either delivered or sent by post with postage prepaid in an envelope addressed to him at his address appearing in the Register and any such notice shall be deemed to be served on the date of delivery or on the third day following that on which the said envelope is posted.
- (b) Service of a notice or document on any one of several joint Unit Holders shall be deemed effective service on the other joint Unit Holders.
- (c) Any notice or document delivered at or posted to the address of a Unit Holder shall notwithstanding that such Unit Holder be then dead or whether or not the Trustee has notice of his death be deemed to have been duly served and such service shall be deemed a sufficient service on the executor or administrator of the deceased Unit Holder and all persons (if any) registered as joint Unit Holders with him in respect of the Unit concerned.
- (d) A notice may be given by the Trustee to the persons entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder by sending it through the post in a prepaid letter addressed to them by name or by the title of representatives of the deceased or of the lunatic or as liquidator or assignee of the bankrupt or by any like description at the address (if any) within the Commonwealth of Australia supplied for the purpose by the persons claiming to be entitled or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death lunacy liquidation or bankruptcy had not occurred.
- (e) Subject to sub-clause (f) hereof, notice of every meeting of Unit Holders shall be given in any manner hereinbefore authorised to :-
- (i) every Unit Holder except those Unit Holders who (having no registered address within the Commonwealth of Australia) have not supplied to the Trustee an address within the Commonwealth of Australia for the giving of notices to them;
  - (ii) every person entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder who was before such event entitled to receive notice of such meetings ;
  - (iii) the Auditor (if any) for the time being of the Trust Fund.
- (f) The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.
- (g) The signature to any notice to be given by the Trustee may be written or printed or stamped and the signature may be that of one or more of the Trustees or of any Director or Secretary of a corporate Trustee.
- (h) If the Trustee shall so determine a notice may be given by means of telex telegram cablegram fax or radiogram and service of such notice shall be deemed to be effected if the telex telegram cablegram fax or radiogram is properly addressed paid for and lodged for transmission with a competent authority or body and deemed to be delivered at the time at which in the ordinary course the telex telegram cablegram fax or radiogram would be delivered.

### **MEETINGS OF UNIT HOLDERS**

41. (a) THE Trustee or the holders of not less than 10% of the registered units may convene a meeting of the Unit Holders.
- (b) Subject to the consent of all the Unit Holders to shorter notice not less than seven days' notice shall be given of every such meeting and such notice shall specify the general nature of the business to be transacted and the place day and time of the meeting.
- (c) The Chairman of the meeting shall be a person appointed by a majority of the Unit Holders entitled to vote and be present at such meeting.
- (d) At any meeting voting shall be by a show of hands unless a poll be demanded by Unit Holders entitled to vote holding not less than 10% of the units issued and carrying the right to vote and upon a poll every Unit Holder present in person or by proxy shall have one vote for every voting unit held by him.
- (e) Votes may be given either personally or by proxy. A proxy may but need not be a Unit Holder and in the case of a Unit Holder being a corporation, the proxy may be any officer of such corporation.
- (f) In the case of joint registered Unit Holders any one of such joint holders may vote either personally or by proxy as if he were solely entitled to the units comprised in the joint holding but if more than one of such joint holders be present at any meeting either personally or by proxy that one of the persons so present whose name stands first in the register in respect of the joint holding shall alone be entitled to vote in respect thereof. Several executors or administrators shall for the purpose of this sub-clause be deemed joint holders.
- (g) Every instrument of proxy shall be in a form approved from time to time by the Trustee and shall be deposited with the Trustee at any time before the time of holding the meeting at which the person named in such instrument proposes to vote.
- (h) A quorum for the meeting shall be registered Unit Holders present in person or by proxy and holding not less than 75% of all registered units entitled to vote at the date of such meeting.
- (i) The Chairman may with the sanction of the meeting adjourn the meeting to such time and place as he shall determine and he shall adjourn any meeting at which a quorum is not present.
- (j) A Unit Holder who is of unsound mind or a patient or an infirm person within the meaning of any Act may vote whether on a show of hands or on a poll by his committee or by the Public Trustee or by such other person as properly has the management of his estate and any such Committee Trustee or other person may vote by proxy or attorney.
- (k) A Unit Holder who is an infant may vote by either of his parents or by his guardian upon such evidence being produced of the relationship or of the appointment of the Guardian as the Trustee may from time to time properly require.
- (l) A resolution in writing signed by all the Unit Holders entitled to vote at a general meeting of Unit Holders or of Unit Holders of any class shall be as valid and effectual as if it had been passed at a duly called and constituted general meeting of Unit Holders or of Unit Holders of that class as the case may be. Any such resolution may consist of duplicate copies of one document one copy of which shall have been signed by each Unit Holder.
- (m) A Unit Holder shall for all purposes be deemed to be present at a meeting if present either in person or by his proxy.
- (n) The notice calling a meeting of Unit Holders at which a special Resolution is to be considered shall give a general description of the subject matter of such proposed Special Resolution.
- (o) A Special Resolution may be passed by a meeting of Unit Holders if due notice has been given and 75% or more of the then registered unit holders entitled to vote exercise their votes in favour of such resolution.

### **CONSENT OF UNIT HOLDERS**

42. FOR the purposes of this Deed the consent of the Unit Holders to any act or thing shall be conclusively deemed to have been given on production of -
- (a) a consent in writing executed by or on behalf of all the Unit Holders; or
- (b) the consent was given by a Special Resolution of the Unit Holders.

### **LIQUOR LICENCE**

43. While and so long as the Trustee is the holder of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any



change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

<b>JURISDICTION</b>	<b>LEGISLATION</b>	<b>AUTHORITY</b>	<b>EXECUTIVE</b>
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian Capital Territory	Liquor Act 1975	Registrar of Liquor Licences	Registrar
Northern Territory	Liquor Act 1978	Liquor Commission	Registrar
Tasmania	Liquor & Accommodation Act 1990	Commissioner for Licensing	Chief Executive Officer

**FIRST SCHEDULE****DATE OF MAKING THIS DEED:**

27-11-2017

**TRUSTEE DETAILS:**

26 EDMONSTONE ROAD PTY LTD ACN: 622 944 129 of  
Level 1  
385 Tooronga Road  
Hawthorn East VIC 3123

**ORIGINAL UNIT HOLDERS & UNIT HOLDING:**

EROS MANAGEMENT PTY LTD ACN: 622 298 346 of 27 MALTON ROAD, BEECROFT NSW 2119  
As Trustee For EROS MANAGEMENT TRUST  
Total of 1 unit  
1 Ordinary \$1.00 Unit Fully Paid at a cost of \$1.00

TESORIERO INVESTMENT GROUP PTY LTD ACN: 161 088 115 of  
Level 1, 385 Tooronga Road, Hawthorn East VIC 3123  
As Trustee For TESORIERO INVESTMENT TRUST  
Total of 1 unit  
1 Ordinary \$1.00 Unit Fully Paid at a cost of \$1.00

**PROPER LAW:**

Victoria

**TRUST NAME:**

26 EDMONSTONE ROAD UNIT TRUST

**INITIAL SUM:**

Two Dollars (\$ 2.00)  
Two (2) Units

**VESTING DAY:**The seventy-ninth (79<sup>th</sup>) Anniversary of the signing hereof.



**GENERAL BENEFICIARY:** means those persons named as the Corpus Beneficiaries, and the parents brothers sisters children nephews and nieces of the Corpus Beneficiaries or of their spouses or former spouses and the grandparents great-grandparents grandchildren aunts and uncles of the Corpus Beneficiaries and the spouses and former spouses of any of the persons included by the preceding description (all of whom are to be included in the term " the related beneficiaries") and shall also include any company in which one or more related beneficiaries own all the shares and any trust under the terms of which only a related beneficiary or any such company is entitled to a benefit whether vested contingent discretionary or otherwise and also any person named as a specified beneficiary. The trustees of any trust which comes within the class shall receive any benefit for that trust in their capacity as trustees and not in their personal capacity and the benefit shall be held by them and their successors as trustees upon the relevant trusts and upon the condition that the benefit will be fully vested on or before the Date of Vesting notwithstanding any provision of that trust which might allow for later vesting.

**SPECIFIED BENEFICIARY:****CORPUS BENEFICIARY:**

The person or persons who own one or more of the units issued and if such person is a company includes its shareholders and directors.

IN WITNESS WHEREOF the parties have executed these presents the 27<sup>th</sup> day of November, 2017

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
26 EDMONSTONE ROAD PTY LTD ACN: 622 944 129  
in accordance with its Constitution OR for and on behalf of the Company by;

**DIRECTOR**  **SECRETARY** 

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
EROS MANAGEMENT PTY LTD ACN: 622 298 346  
As Trustee For EROS MANAGEMENT TRUST  
in accordance with its Constitution OR for and on behalf of the Company by;

**DIRECTOR**  **SECRETARY** 

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
TESORIERO INVESTMENT GROUP PTY LTD ACN: 161 088 115  
As Trustee For TESORIERO INVESTMENT TRUST  
in accordance with its Constitution OR for and on behalf of the Company by;

Director  Secretary 

**SECOND SCHEDULE****UNIT CERTIFICATE NUMBER :** \_\_\_\_\_

(Name of Unit Trust)  
 (Constituted by Trust Deed dated the \_\_\_\_\_ day of \_\_\_\_\_ 199\_\_\_\_ )

**THIS IS TO CERTIFY** that

of

is the Registered Holder of Units in the abovenamed Trust subject to the provisions of the Trust Deed . Details of the units are set out below and were entered in the Register of Unit Holders on the \_\_\_\_\_ day of \_\_\_\_\_ 199\_\_\_\_ .

REGISTER FOLIO	NUMBER OF UNITS	CLASS

Signed for and on behalf of the Trustee

This Certificate must be delivered to the Trustee on application to transfer any of the Units comprised therein.

## **THIRD SCHEDULE CLASSES OF UNIT**

### **ORDINARY UNITS**

These Units shall entitle the holders to receive such part of the income and capital gains of the Trust for any accounting period as the Trustee does not appoint or allocate to any other class of unit and in proportion to the number of units held by each of them and shall entitle the holders to the whole of any distribution of the Trust Fund not arising from income or capital gains other than any part which the Trustee appoints or allocates to any other class of unit and in proportion to the number of units held by each of them, the holders shall have the right to vote at meetings of unit holders generally and of ordinary unit holders only.

### **CLASS A (INCOME UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

### **CLASS B (CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

### **CLASS C (INCOME UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

### **CLASS D (CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

### **CLASS E (INCOME AND CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only.

### **CLASS F (INCOME AND CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but may vote at meetings of the class only.

**CLASS G ( DISCRETIONARY ENTITLEMENT - NON-VOTING)**

These units shall entitle the holders to receive such part of the net income, the net capital gains or the Trust Fund as the Trustee in its exercise of the powers and discretions vested in the Trustee determines to allocate to each holder from time to time with the discretion to make such allocation unequally and to exclude all or any of the holders from benefiting from any allocation or distribution. These units shall only carry the right to vote at meetings of the class. As long as any Ordinary Units in the Trust are held the consent of not less than 75% of the Ordinary Unit holders calculated by the number of units held by those voting or expressing their consent in writing shall be required to validate any proposed appointment or allocation of any income ,capital gain , or distribution of the Trust Fund in favour of this class of unit holder.

**CLASS H ( DISCRETIONARY ENTITLEMENT - VOTING)**

These units shall entitle the holders to receive such part of the net income, the net capital gains or the Trust Fund as the Trustee in its exercise of the powers and discretions vested in the Trustee determines to allocate to each holder from time to time with the discretion to make such allocation unequally and to exclude all or any of the holders from benefiting from any allocation or distribution. These units shall carry the right to vote at meetings of unit holders generally and of the class. As long as any Ordinary Units in the Trust are held the consent of not less than 75% of the Ordinary Unit holders calculated by the number of units held by those voting or expressing their consent in writing shall be required to validate any proposed appointment or allocation of any income, capital gain , or distribution of the Trust Fund in favour of this class of unit holder.

**CLASS J ( VOTING - WITHOUT OTHER ENTITLEMENT)**

These units shall not entitle the holders to receive any part of the net income and net taxable gains of the Trust . The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund .

N.B. Issues of Classes A, B, C, and D are not compatible with issues of Classes E and F. Classes G or H cannot be issued alone but may be added to Ordinary units and/or a selection from A,B,C, & D. or from E & F. One Class should have full voting rights. A and C Classes are alternatives and B and D are alternatives. The holders of Class G and H units have no beneficial interest or entitlement in the Trust whatsoever unless and until the Trustee exercise a power or discretion in favour of the relevant class or of a holder of units of a relevant class and has received the necessary consent.

**CLASS K ( PART PAID ORDINARY UNITS - FLEXIBLE CONTRIBUTION)**

These units shall entitle the holders to receive in proportion to the amounts paid up on their units such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee does not appoint or allocate to any other class of unit. At meetings of unit holders they shall have one vote per unit held. Where the full nominal contribution of the unit holder has not been paid, the balance may at any time be paid to the Trustee in whole or part but there shall be no obligation on any unit holder to make any such payment or right of the Trustee to call for any such payment. On the Vesting Date or upon any earlier distribution of the capital of the Trust Fund the holders of these units shall firstly receive repayment of the amounts paid up on their units, in proportion to the amounts so paid, and any surplus other than any part which the Trustee appoints or allocates to any other class of unit shall be distributed in accordance with the number of units held. K units are unsuitable for issue with ordinary units.

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DEED OF TRUST

OF

MONSTONE ROAD UNIT TRUST

**PACIFIC BLUE TAX SERVICES PTY LTD (LOU STEFANETTI)**  
**PO BOX 2442**  
**LOWER TEMPLESTOWE VIC 3107**  
**PHONE: 03 8862 4646 FAX: 03 9824 8881**

ADVISED  
BY THE REGISTRAR OF DEEDS  
ON 11/08/2014  
PLEASE CONTACT THE REGISTRAR  
ON 03 947 8888 FOR MORE INFORMATION

## Historical Search

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## RECORD OF HISTORICAL DEALINGS

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Date Lodged for      Date Recorded              Dealing                      Imaged      Dealing Type and  
Registration              on Register    Details

## RECORD OF VOTS DEALINGS

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Date Lodged for      Date Recorded              Dealing                      Imaged  
Registration              on Register

13/03/2020              13/03/2020              AT072659W (E)              N

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204372026  
Removed by Dealing AT443962E

20/07/2020              20/07/2020              AT443962E (E)              N

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020              20/07/2020              AT443963C (E)              N

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443963C 20/07/2020

20/07/2020 20/07/2020 AT443964A (E) N

MORTGAGE OF LAND  
 MORTGAGE AT443964A 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

22/12/2020 05/01/2021 AT903748U (E) N

CAVEAT

CAVEAT AT903748U 22/12/2020

Caveator

NP021 PTY LTD

Grounds of Claim

MORTGAGE WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

18/12/2020

Estate or Interest

INTEREST AS MORTGAGEE

Prohibition

ABSOLUTELY

Lodged by

SUMMER LAWYERS

Notices to

SAMANTHA PARSONS of SUITE 4 13 LACKEY STREET SUMMER HILL NSW 2130

19/02/2021 19/02/2021 AU068527F (E) N

CAVEAT

CAVEAT AU068527F 19/02/2021

Caveator

AKSARA HOLDINGS PTY LTD

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

16/12/2020

Estate or Interest

INTEREST AS CHARGE

Prohibition

ABSOLUTELY

Lodged by

KABO LAWYERS

Notices to

KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

03/06/2021 07/06/2021 AU416983Q (E) N

WITHDRAWAL OF CAVEAT

CAVEAT AT903748U REMOVED

23/07/2021 23/07/2021 AU614481M (E) N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.  
Estate or Interest  
FREEHOLD ESTATE  
Prohibition  
ABSOLUTELY  
Lodged by  
MINTER ELLISON  
Notices to  
RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 474  
124080572288E  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 10 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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## Historical Search

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria  
-----

Produced 05/11/2021 10:54 AM

Volume 12170 Folio 472  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

RECORD OF HISTORICAL DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
---------------------------------	------------------------------	---------	--------	-----------------------------

RECORD OF VOTS DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
---------------------------------	------------------------------	---------	--------

13/03/2020	13/03/2020	AT072940G (E)	N
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## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204372302  
Removed by Dealing AT443975U

20/07/2020	20/07/2020	AT443975U (E)	N
------------	------------	---------------	---

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020	20/07/2020	AT443976S (E)	N
------------	------------	---------------	---

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443976S 20/07/2020

20/07/2020            20/07/2020            AT443977Q (E)            N

MORTGAGE OF LAND

MORTGAGE AT443977Q 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT

CAVEAT AU068527F 19/02/2021

Caveator

AKSARA HOLDINGS PTY LTD

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

16/12/2020

Estate or Interest

INTEREST AS CHARGE

Prohibition

ABSOLUTELY

Lodged by

KABO LAWYERS

Notices to

KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

23/07/2021            23/07/2021            AU614481M (E)            N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

MINTER ELLISON

Notices to

RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 472  
124080572286G  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 8 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria  
-----

Produced 05/11/2021 10:54 AM

Volume 12170 Folio 471

Folio Creation: Created as a computer folio

Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

RECORD OF HISTORICAL DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
---------------------------------	------------------------------	---------	--------	-----------------------------

RECORD OF VOTS DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
---------------------------------	------------------------------	---------	--------

13/03/2020	13/03/2020	AT073140L (E)	N
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APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204372310

Removed by Dealing AT443981A

20/07/2020	20/07/2020	AT443981A (E)	N
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DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020	20/07/2020	AT443982X (E)	N
------------	------------	---------------	---

TRANSFER OF LAND BY ENDORSEMENT

FROM:

EDWARD SANSIL

ANTOINE A INVESTMENTS PTY LTD

TO:

14 JAMES STREET PTY LTD 638449206

RESULTING PROPRIETORSHIP:

Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443982X 20/07/2020

20/07/2020            20/07/2020            AT443983V (E)            N

MORTGAGE OF LAND

MORTGAGE AT443983V 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT

CAVEAT AU068527F 19/02/2021

Caveator

AKSARA HOLDINGS PTY LTD

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

16/12/2020

Estate or Interest

INTEREST AS CHARGE

Prohibition

ABSOLUTELY

Lodged by

KABO LAWYERS

Notices to

KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

23/07/2021            23/07/2021            AU614481M (E)            N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

MINTER ELLISON

Notices to

RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 471  
124080572285H  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 7 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria

-----  
Produced 05/11/2021 10:54 AM

Volume 12170 Folio 470  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

## RECORD OF HISTORICAL DEALINGS

-----  
Date Lodged for      Date Recorded      Dealing                      Imaged      Dealing Type and  
Registration              on Register    Details

## RECORD OF VOTS DEALINGS

-----  
Date Lodged for      Date Recorded      Dealing                      Imaged  
Registration              on Register  
  
31/12/2019              31/12/2019              AS862995J (E)              N

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204092075  
Removed by Dealing AS900425V

16/01/2020              16/01/2020              AS900425V (E)              N

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

16/01/2020              16/01/2020              AS900426T (E)              N

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of 44 HOWITT ROAD CAULFIELD NORTH VIC 3161  
 AS900426T 16/01/2020

16/01/2020            16/01/2020            AS900427R (E)            N

MORTGAGE OF LAND  
 MORTGAGE AS900427R 16/01/2020  
 WITTEN FAMILY PTY LTD  
 BLACKRIDGE FINANCE PTY LTD

20/07/2020            20/07/2020            AT443904U (E)            N

DISCHARGE OF MORTGAGE  
 AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
 MORTGAGE AS900427R

20/07/2020            20/07/2020            AT443905S (E)            N

MORTGAGE OF LAND  
 MORTGAGE AT443905S 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

22/12/2020            05/01/2021            AT903748U (E)            N

CAVEAT  
 CAVEAT AT903748U 22/12/2020  
 Caveator  
 NP021 PTY LTD  
 Grounds of Claim  
 MORTGAGE WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 18/12/2020  
 Estate or Interest  
 INTEREST AS MORTGAGEE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 SUMMER LAWYERS  
 Notices to  
 SAMANTHA PARSONS of SUITE 4 13 LACKEY STREET SUMMER HILL NSW 2130

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT  
 CAVEAT AU068527F 19/02/2021  
 Caveator  
 AKSARA HOLDINGS PTY LTD  
 Grounds of Claim  
 AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 16/12/2020  
 Estate or Interest  
 INTEREST AS CHARGE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 KABO LAWYERS  
 Notices to  
 KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

03/06/2021 07/06/2021 AU416983Q (E) N

WITHDRAWAL OF CAVEAT  
CAVEAT AT903748U REMOVED

23/07/2021 23/07/2021 AU614481M (E) N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

MINTER ELLISON

Notices to

RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 470  
124080572284J  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
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Lot 6 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
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HISTORICAL SEARCH STATEMENT                      Land Use Victoria

-----  
Produced 05/11/2021 10:54 AM

Volume 12170 Folio 467  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

## RECORD OF HISTORICAL DEALINGS

-----  
Date Lodged for      Date Recorded              Dealing                      Imaged      Dealing Type and  
Registration              on Register    Details

## RECORD OF VOTS DEALINGS

-----  
Date Lodged for      Date Recorded              Dealing                      Imaged  
Registration              on Register  
  
13/03/2020              13/03/2020              AT072628J (E)              N

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204371926  
Removed by Dealing AT443969P

20/07/2020              20/07/2020              AT443969P (E)              N

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020              20/07/2020              AT443970F (E)              N

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple



Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443970F 20/07/2020

20/07/2020            20/07/2020            AT443971D (E)            N

MORTGAGE OF LAND

MORTGAGE AT443971D 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT

CAVEAT AU068527F 19/02/2021

Caveator

AKSARA HOLDINGS PTY LTD

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

16/12/2020

Estate or Interest

INTEREST AS CHARGE

Prohibition

ABSOLUTELY

Lodged by

KABO LAWYERS

Notices to

KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

23/07/2021            23/07/2021            AU614481M (E)            N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

MINTER ELLISON

Notices to

RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 467  
124080572281M  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 3 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria

-----  
Produced 05/11/2021 10:54 AM

Volume 12170 Folio 466  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

## RECORD OF HISTORICAL DEALINGS

-----  
Date Lodged for      Date Recorded              Dealing                      Imaged      Dealing Type and  
Registration              on Register    Details

## RECORD OF VOTS DEALINGS

-----  
Date Lodged for      Date Recorded              Dealing                      Imaged  
Registration              on Register

13/03/2020              13/03/2020              AT072913K (E)              N

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204372074  
Removed by Dealing AT443965X

20/07/2020              20/07/2020              AT443965X (E)              N

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020              20/07/2020              AT443966V (E)              N

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443966V 20/07/2020

20/07/2020            20/07/2020            AT443967T (E)            N

MORTGAGE OF LAND  
 MORTGAGE AT443967T 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT  
 CAVEAT AU068527F 19/02/2021  
 Caveator  
 AKSARA HOLDINGS PTY LTD  
 Grounds of Claim  
 AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 16/12/2020  
 Estate or Interest  
 INTEREST AS CHARGE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 KABO LAWYERS  
 Notices to  
 KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

23/07/2021            23/07/2021            AU614481M (E)            N

CAVEAT  
 CAVEAT AU614481M 23/07/2021  
 Caveator  
 WESTPAC BANKING CORPORATION  
 Grounds of Claim  
 IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.  
 Estate or Interest  
 FREEHOLD ESTATE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 MINTER ELLISON  
 Notices to  
 RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 466  
124080572280N  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 2 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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## Historical Search

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

HISTORICAL SEARCH STATEMENT                      Land Use Victoria  
-----

Produced 05/11/2021 10:44 AM

Volume 12170 Folio 465  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

RECORD OF HISTORICAL DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
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RECORD OF VOTS DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
---------------------------------	------------------------------	---------	--------

13/03/2020	13/03/2020	AT072947R (E)	N
------------	------------	---------------	---

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204372254  
Removed by Dealing AT443956Y

20/07/2020	20/07/2020	AT443956Y (E)	N
------------	------------	---------------	---

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020	20/07/2020	AT443957W (E)	N
------------	------------	---------------	---

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443957W 20/07/2020

20/07/2020            20/07/2020            AT443958U (E)            N

MORTGAGE OF LAND  
 MORTGAGE AT443958U 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

22/12/2020            05/01/2021            AT903748U (E)            N

CAVEAT  
 CAVEAT AT903748U 22/12/2020  
 Caveator  
 NP021 PTY LTD  
 Grounds of Claim  
 MORTGAGE WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 18/12/2020  
 Estate or Interest  
 INTEREST AS MORTGAGEE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 SUMMER LAWYERS  
 Notices to  
 SAMANTHA PARSONS of SUITE 4 13 LACKEY STREET SUMMER HILL NSW 2130

19/02/2021            19/02/2021            AU068527F (E)            N

CAVEAT  
 CAVEAT AU068527F 19/02/2021  
 Caveator  
 AKSARA HOLDINGS PTY LTD  
 Grounds of Claim  
 AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 16/12/2020  
 Estate or Interest  
 INTEREST AS CHARGE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 KABO LAWYERS  
 Notices to  
 KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

03/06/2021            07/06/2021            AU416983Q (E)            N

WITHDRAWAL OF CAVEAT  
 CAVEAT AT903748U REMOVED

23/07/2021            23/07/2021            AU614481M (E)            N

CAVEAT  
 CAVEAT AU614481M 23/07/2021  
 Caveator  
 WESTPAC BANKING CORPORATION  
 Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.  
Estate or Interest  
FREEHOLD ESTATE  
Prohibition  
ABSOLUTELY  
Lodged by  
MINTER ELLISON  
Notices to  
RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END



VOTS Snapshot

VOLUME 12170 FOLIO 465  
124080572279P  
Produced 04/12/2019 12:35 PM

## LAND DESCRIPTION

-----  
Lot 1 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

## REGISTERED PROPRIETOR

-----  
Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

## ENCUMBRANCES, CAVEATS AND NOTICES

-----  
MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

## DIAGRAM LOCATION

-----  
SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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## Historical Search

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria  
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Produced 05/11/2021 10:44 AM

Volume 12170 Folio 468  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

RECORD OF HISTORICAL DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
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RECORD OF VOTS DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
---------------------------------	------------------------------	---------	--------

13/03/2020	13/03/2020	AT072451X (E)	N
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## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204371862  
Removed by Dealing AT443978N

20/07/2020	20/07/2020	AT443978N (E)	N
------------	------------	---------------	---

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020	20/07/2020	AT443979L (E)	N
------------	------------	---------------	---

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443979L 20/07/2020

20/07/2020 20/07/2020 AT443980C (E) N

MORTGAGE OF LAND  
 MORTGAGE AT443980C 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

22/12/2020 05/01/2021 AT903748U (E) N

CAVEAT  
 CAVEAT AT903748U 22/12/2020  
 Caveator  
 NP021 PTY LTD  
 Grounds of Claim  
 MORTGAGE WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 18/12/2020  
 Estate or Interest  
 INTEREST AS MORTGAGEE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 SUMMER LAWYERS  
 Notices to  
 SAMANTHA PARSONS of SUITE 4 13 LACKEY STREET SUMMER HILL NSW 2130

19/02/2021 19/02/2021 AU068527F (E) N

CAVEAT  
 CAVEAT AU068527F 19/02/2021  
 Caveator  
 AKSARA HOLDINGS PTY LTD  
 Grounds of Claim  
 AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.  
 Parties  
 THE REGISTERED PROPRIETOR(S)  
 Date  
 16/12/2020  
 Estate or Interest  
 INTEREST AS CHARGE  
 Prohibition  
 ABSOLUTELY  
 Lodged by  
 KABO LAWYERS  
 Notices to  
 KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

03/06/2021 07/06/2021 AU416983Q (E) N

WITHDRAWAL OF CAVEAT  
 CAVEAT AT903748U REMOVED

23/07/2021 23/07/2021 AU614481M (E) N

CAVEAT  
 CAVEAT AU614481M 23/07/2021  
 Caveator  
 WESTPAC BANKING CORPORATION  
 Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.

Estate or Interest

FREEHOLD ESTATE

Prohibition

ABSOLUTELY

Lodged by

MINTER ELLISON

Notices to

RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END

VOTS Snapshot

VOLUME 12170 FOLIO 468  
124080572282L  
Produced 04/12/2019 12:35 PM

## LAND DESCRIPTION

-----

Lot 4 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

## REGISTERED PROPRIETOR

-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192

PS712132N 04/12/2019

## ENCUMBRANCES, CAVEATS AND NOTICES

-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

## DIAGRAM LOCATION

-----

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HISTORICAL SEARCH STATEMENT                      Land Use Victoria  
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Produced 05/11/2021 10:44 AM

Volume 12170 Folio 469  
Folio Creation: Created as a computer folio

## Parent titles :

Volume 10572 Folio 848                      Volume 08917 Folio 984  
Volume 09951 Folio 984 to Volume 09951 Folio 985

RECORD OF HISTORICAL DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged	Dealing Type and Details
---------------------------------	------------------------------	---------	--------	-----------------------------

RECORD OF VOTS DEALINGS  
-----

Date Lodged for Registration	Date Recorded on Register	Dealing	Imaged
---------------------------------	------------------------------	---------	--------

13/03/2020	13/03/2020	AT072386G (E)	N
------------	------------	---------------	---

## APPLICATION TO NOMINATE AN ECT TO AN ELECTRONIC INSTRUMENT

ELF Id: 204371793  
Removed by Dealing AT443987M

20/07/2020	20/07/2020	AT443987M (E)	N
------------	------------	---------------	---

## DISCHARGE OF MORTGAGE

AFFECTED ENCUMBRANCE(S) AND REMOVED MORTGAGE(S)  
MORTGAGE AJ746878Q

20/07/2020	20/07/2020	AT443988K (E)	N
------------	------------	---------------	---

## TRANSFER OF LAND BY ENDORSEMENT

FROM:  
EDWARD SANSIL  
ANTOINE A INVESTMENTS PTY LTD  
TO:  
14 JAMES STREET PTY LTD 638449206  
RESULTING PROPRIETORSHIP:  
Estate Fee Simple

Sole Proprietor  
 14 JAMES STREET PTY LTD of SUITE 3 LEVEL 11 343 LITTLE COLLINS STREET  
 MELBOURNE VIC 3000  
 AT443988K 20/07/2020

20/07/2020 20/07/2020 AT443989H (E) N

MORTGAGE OF LAND  
 MORTGAGE AT443989H 20/07/2020  
 NATIONAL AUSTRALIA BANK LTD

22/12/2020 05/01/2021 AT903748U (E) N

CAVEAT

CAVEAT AT903748U 22/12/2020

Caveator

NP021 PTY LTD

Grounds of Claim

MORTGAGE WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

18/12/2020

Estate or Interest

INTEREST AS MORTGAGEE

Prohibition

ABSOLUTELY

Lodged by

SUMMER LAWYERS

Notices to

SAMANTHA PARSONS of SUITE 4 13 LACKEY STREET SUMMER HILL NSW 2130

19/02/2021 19/02/2021 AU068527F (E) N

CAVEAT

CAVEAT AU068527F 19/02/2021

Caveator

AKSARA HOLDINGS PTY LTD

Grounds of Claim

AGREEMENT WITH THE FOLLOWING PARTIES AND DATE.

Parties

THE REGISTERED PROPRIETOR(S)

Date

16/12/2020

Estate or Interest

INTEREST AS CHARGE

Prohibition

ABSOLUTELY

Lodged by

KABO LAWYERS

Notices to

KONFIR KABO of LOT 2 LEVEL 23 360 COLLINS STREET MELBOURNE VIC 3000

03/06/2021 07/06/2021 AU416983Q (E) N

WITHDRAWAL OF CAVEAT

CAVEAT AT903748U REMOVED

23/07/2021 23/07/2021 AU614481M (E) N

CAVEAT

CAVEAT AU614481M 23/07/2021

Caveator

WESTPAC BANKING CORPORATION

Grounds of Claim

IMPLIED, RESULTING OR CONSTRUCTIVE TRUST.  
Estate or Interest  
FREEHOLD ESTATE  
Prohibition  
ABSOLUTELY  
Lodged by  
MINTER ELLISON  
Notices to  
RODNEY OWEN of 275 KENT STREET SYDNEY NSW 2000

STATEMENT END



VOTS Snapshot

VOLUME 12170 FOLIO 469  
124080572283K  
Produced 04/12/2019 12:35 PM

LAND DESCRIPTION  
-----

Lot 5 on Plan of Subdivision 712132N.

## PARENT TITLES :

Volume 08917 Folio 984

Volume 09951 Folio 984 to Volume 09951 Folio 985

Volume 10572 Folio 848

Created by instrument PS712132N 04/12/2019

REGISTERED PROPRIETOR  
-----

Estate Fee Simple

## TENANTS IN COMMON

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

EDWARD SANSIL of 320 RESERVE ROAD CHELTENHAM VIC 3192

As to 1 of a total of 2 equal undivided shares

Sole Proprietor

ANTOINE A INVESTMENTS PTY LTD of 320 RESERVE ROAD CHELTENHAM VIC 3192  
PS712132N 04/12/2019

ENCUMBRANCES, CAVEATS AND NOTICES  
-----

MORTGAGE AJ746878Q 22/06/2012

BANK OF WESTERN AUSTRALIA LTD

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION  
-----

SEE PS712132N FOR FURTHER DETAILS AND BOUNDARIES

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LAND  
REGISTRY  
SERVICES

# Historical Title



NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

SEARCH DATE

5/11/2021 10:02AM

FOLIO: 2/1141260

First Title(s): OLD SYSTEM  
Prior Title(s): 17/734848

Recorded	Number	Type of Instrument	C.T. Issue
-----	-----	-----	-----
22/7/2009	DP1141260	DEPOSITED PLAN	FOLIO CREATED EDITION 1
7/10/2009	DP1143573	DEPOSITED PLAN	EDITION 2
4/11/2009	AF90300	DISCHARGE OF MORTGAGE	
4/11/2009	AF90301	TRANSFER	
4/11/2009	AF90302	MORTGAGE	EDITION 3
18/5/2010	AF497737	POSITIVE COVENANT	EDITION 4
15/7/2010	AF631676	DISCHARGE OF MORTGAGE	
15/7/2010	AF631677	TRANSFER	EDITION 5
7/6/2014	AI646753	MORTGAGE	EDITION 6
12/4/2018	AN251708	NOTICE OF DEATH	EDITION 7 CORD ISSUED
28/6/2019	AP356402	DISCHARGE OF MORTGAGE	
28/6/2019	AP356403	TRANSFER	
28/6/2019	AP356404	MORTGAGE	EDITION 8 CORD ISSUED
30/8/2019	AP494929	CAVEAT	
17/7/2020	AQ255793	WITHDRAWAL OF CAVEAT	
20/7/2020	AQ258870	DISCHARGE OF MORTGAGE	
20/7/2020	AQ258871	MORTGAGE	EDITION 9 CORD ISSUED
4/8/2020	AQ294846	DEPARTMENTAL DEALING	
21/11/2020	AQ576290	CAVEAT	
15/12/2020	AQ653467	WITHDRAWAL OF CAVEAT	
23/12/2020	AQ685698	CAVEAT	

END OF PAGE 1 - CONTINUED OVER

047678

PRINTED ON 5/11/2021

NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

-----

SEARCH DATE

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5/11/2021 10:02AM

FOLIO: 2/1141260

PAGE 2

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Recorded	Number	Type of Instrument	C.T. Issue
-----	-----	-----	-----
20/2/2021	AQ815502	CAVEAT	
4/6/2021	AR113504	WITHDRAWAL OF CAVEAT	
26/7/2021	AR272706	CAVEAT	

\*\*\* END OF SEARCH \*\*\*

047678

PRINTED ON 5/11/2021

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LAND  
REGISTRY  
SERVICES

# Historical Title



NEW SOUTH WALES LAND REGISTRY SERVICES - HISTORICAL SEARCH

SEARCH DATE

5/11/2021 10:04AM

FOLIO: 3/1141260

First Title(s): OLD SYSTEM  
Prior Title(s): 116/1079106

Recorded	Number	Type of Instrument	C.T. Issue
22/7/2009	DP1141260	DEPOSITED PLAN	FOLIO CREATED EDITION 1
7/10/2009	DP1143573	DEPOSITED PLAN	EDITION 2
23/12/2009	AF216339	DEPARTMENTAL DEALING	
23/12/2009	AF216795	DISCHARGE OF MORTGAGE	
23/12/2009	AF216796	TRANSFER	
23/12/2009	AF216797	MORTGAGE	EDITION 3
26/5/2010	AF485695	POSITIVE COVENANT	EDITION 4
4/9/2013	AH918478	RELEASE OR EXTINGUISHMENT OF RESTRICTION ON THE USE OF LAND	EDITION 5
21/10/2013	AI102528	DISCHARGE OF MORTGAGE	
21/10/2013	AI102529	TRANSFER	EDITION 6
4/8/2020	AQ294846	DEPARTMENTAL DEALING	
22/12/2020	AQ685536	PRIORITY NOTICE	
23/12/2020	AQ686053	TRANSFER	
23/12/2020	AQ686054	MORTGAGE	
23/12/2020	AQ686055	MORTGAGE	
23/12/2020	AQ686056	MORTGAGE	EDITION 7
20/5/2021	AR67563	DISCHARGE OF MORTGAGE	
20/5/2021	AR67564	DISCHARGE OF MORTGAGE	
20/5/2021	AR67565	DISCHARGE OF MORTGAGE	
20/5/2021	AR67566	MORTGAGE	EDITION 8 CORD ISSUED
26/7/2021	AR272705	CAVEAT	

\*\*\* END OF SEARCH \*\*\*

047678

PRINTED ON 5/11/2021

HISTORICAL TITLE SEARCH  
QUEENSLAND TITLES REGISTRY PTY LTD

Request No: 39162833  
Search Date: 05/11/2021 08:58

Title Reference: 12134186  
Date Created: 07/01/1941

Previous Title: 11399075

REGISTERED OWNER

Dealing No: 718686363 11/04/2018

26 EDMONSTONE ROAD PTY LTD A.C.N. 622 944 129  
TRUSTEE  
UNDER INSTRUMENT 718686363

TRANSFER TO TRUSTEE No 718686363  
26 EDMONSTONE ROAD PTY LTD A.C.N. 622 944 129 TRUSTEE  
UNDER INSTRUMENT 718686363  
Lodged at 14:55 on 11/04/2018

TRANSFER TO TRUSTEE No 708014262  
PAGEHIRST INVESTMENTS PTY LTD A.C.N. 108 356 645 TRUSTEE  
UNDER INSTRUMENT 708014262  
Lodged at 08:55 on 31/08/2004

TRANSFER No 703364553  
ACE PROPERTY HOLDINGS PTY LTD A.C.N. 076 383 410  
Lodged at 14:28 on 28/05/1999

ESTATE AND LAND

Estate in Fee Simple

LOT 1 REGISTERED PLAN 41028  
Local Government: BRISBANE CITY

EASEMENTS, ENCUMBRANCES AND INTERESTS

1. WITHDRAWAL No 720966761  
CAVEAT: 720490262  
Lodged at 14:52 on 26/07/2021
2. CAVEAT No 720964398  
WESTPAC BANKING CORPORATION A.C.N. 007 457 141  
Lodged at 10:33 on 26/07/2021
3. CAVEAT No 720490262 CANCELLED BY 720966761  
NP021 PTY LTD A.C.N. 646 482 564  
Lodged at 14:13 on 22/12/2020
4. MORTGAGE No 720477049  
PERPETUAL CORPORATE TRUST LTD A.C.N. 000 341 533  
Lodged at 14:18 on 17/12/2020

HISTORICAL TITLE SEARCH  
QUEENSLAND TITLES REGISTRY PTY LTD

Request No: 39162833

Search Date: 05/11/2021 08:58

Title Reference: 12134186

Date Created: 07/01/1941

## EASEMENTS, ENCUMBRANCES AND INTERESTS

5. RELEASE No 720477048  
MORTGAGE: 718686364  
Lodged at 14:18 on 17/12/2020
6. WITHDRAWAL No 720464106  
CAVEAT: 719590694  
Lodged at 11:41 on 14/12/2020
7. WITHDRAWAL No 720409500  
CAVEAT: 718801404  
Lodged at 09:24 on 20/11/2020
8. CAVEAT No 719590694 CANCELLED BY 720464106  
TESORIERO INVESTMENT GROUP PTY. LTD. A.C.N. 161 088 115  
Lodged at 14:28 on 28/08/2019
9. CAVEAT No 718801404 CANCELLED BY 720409500  
JAF NOMINEES PTY LTD A.C.N. 005 827 458  
Lodged at 09:48 on 12/06/2018
10. MORTGAGE No 718686364 CANCELLED BY 720477048  
ING BANK (AUSTRALIA) LIMITED A.C.N. 000 893 292  
Lodged at 14:55 on 11/04/2018
11. RELEASE No 718686362  
MORTGAGE: 708014265  
Lodged at 14:55 on 11/04/2018
12. MORTGAGE No 708014265 CANCELLED BY 718686362  
AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED A.C.N. 005  
357 522  
Lodged at 08:56 on 31/08/2004
13. RELEASE No 708014259  
MORTGAGE: 703364562  
Lodged at 08:55 on 31/08/2004
14. CANCELLATION No 707948382  
LEASE: 702878157  
Lodged at 12:46 on 04/08/2004
15. MORTGAGE No 703364562 CANCELLED BY 708014259  
NATIONAL AUSTRALIA BANK LIMITED A.C.N. 004 044 937  
Lodged at 14:30 on 28/05/1999
16. APPLICATION FOR TITLE No 702878163  
A Certificate of Title has been issued  
Lodged at 11:33 on 03/09/1998

## QUEENSLAND TITLES REGISTRY PTY LTD

Request No: 39162833

Search Date: 05/11/2021 08:58

Title Reference: 12134186

Date Created: 07/01/1941

## EASEMENTS, ENCUMBRANCES AND INTERESTS

17. LEASE No 702878157 CANCELLED BY 707948382  
THE STATE OF QUEENSLAND  
Lodged at 11:32 on 03/09/1998
18. APPLICATION FOR TITLE No 702578541  
A Certificate of Title has been issued  
Lodged at 15:45 on 24/03/1998
19. SURRENDER No 702578535  
LEASE: 701585517  
Lodged at 15:43 on 24/03/1998
20. APPLICATION FOR TITLE No 701936494  
A Certificate of Title has been issued  
Lodged at 10:47 on 23/04/1997
21. TRANSFER No 701936488  
LEASE: 701585517  
MICRO WAREHOUSE (AUSTRALIA) PTY LIMITED A.C.N. 068 105 984  
Lodged at 10:45 on 23/04/1997
22. APPLICATION FOR TITLE No 701585519  
A duplicate copy of this Title has been requested.  
Lodged at 13:09 on 04/10/1996
23. LEASE No 701585517 CANCELLED BY 702578535  
to  
COMMSWARE AUSTRALIA PTY LTD A.C.N. 010 700 348  
Original term commencing  
01/02/1996  
Terminating  
31/01/2001  
with options as therein stated over the whole of the land  
Lodged at 13:08 on 04/10/1996
24. CANCELLATION No 701585511  
of  
LEASE: 602025678 (G869154 )  
AND LEASE J763089E  
Lodged at 13:08 on 04/10/1996
25. LEASE No 602025679 (J763089E)  
OF THE WHOLE OF THE LAND  
TO A M INTERNATIONAL PTY LTD  
ORIGINAL TERM; COMMENCING 01 OCT 1988  
TERMINATING 30 SEP 1993  
OR OPTIONS AS MAY BE STATED  
Lodged at 00:00 on 12/01/1989

Request No: 39162833  
 Search Date: 05/11/2021 08:58

Title Reference: 12134186  
 Date Created: 07/01/1941

EASEMENTS, ENCUMBRANCES AND INTERESTS

26. LEASE No 602025678 (G869154) CANCELLED BY 701585511  
 OF THE WHOLE OF THE LAND  
 TO VALENTINE SANDS LIMITED  
 FOR 5 YEARS  
 ORIGINAL TERM: COMMENCING 01 MAR 1982  
 OR OPTIONS AS MAY BE STATED  
 Lodged at 00:00 on 09/12/1982

27. Rights and interests reserved to the Crown by  
 Deed of Grant No. 19551002 (ESA 65)

ADMINISTRATIVE ADVICES

Dealing	Type	Lodgement Date	Status
707965209	SETTLMNT NTC	10/08/2004 15:23	NOT CURRENT
UNREGISTERED DEALINGS - NIL			

Caution - Charges do not necessarily appear in order of priority

\*\* End of Historical Title Search \*\*

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 Requested By: D-ENQ INFOTRACK PTY LIMITED



TRUSTEE

14 JAMES STREET PTY LTD

## 14 James Street Unit Trust

I certify that this document is a true  
and exact copy of the original.



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## 14 James Street Unit Trust

THIS DEED OF TRUST is made on 12 March 2020.

BETWEEN

The Party described in Item 2 of the Schedule to this Deed ("the Trustee") 14 JAMES STREET PTY LTD of the one part.

("the Trustee")

and

Tesoriero Investment Group Pty Ltd in its capacity as trustee of the TESORIERO INVESTMENT TRUST

and

VINTES QLD NO 3 PTY LTD in its capacity as trustee of the MAZ TRUST NO 3

("the initial Unitholders")

### RECITALS

- A. Tesoriero Investment Group Pty Ltd and VINTES QLD NO 3 PTY LTD are collectively known as the initial Unitholders.
- B. The initial Unitholders as set out above and more particularly described in Item 1 of Schedule A have requested the Trustee to act, and the Trustee has agreed to that request, as Trustee of the Trust constituted by this Deed.
- C. The initial Unitholders have agreed to take up the number of units set out opposite their respective names in Item 1 of Schedule A and have each paid or shall pay on execution of this Deed in respect of the units the amount per unit set out in Item 2 of Schedule A.
- D. This Trust shall be for the benefit of each and every Unitholder who shall at any time hold units in the Trust in proportion to the units held by them.
- E. The Trustee has agreed to hold the fund as defined in this Deed upon the trusts and with and subject to the powers and provisions following.

### OPERATIVE PARTS

#### PART 1 THE TRUST

##### 1. The Trust, the Trustee, Declaration of Trust and the Unitholders

- 1.1 The name of this Trust shall be 14 James Street Unit Trust
- 1.2 The Unitholders may change from time to time and every Unitholder who shall hold units in this Trust shall be deemed to have executed this Deed.
- 1.3 The Unitholders agree to be bound by the provisions of this Deed and any amendment
- 1.4 The Trustee shall be 14 JAMES STREET PTY LTD the registered office of which is situated at SUITE 11.03, LEVEL 11 343 LITTLE COLLINS STREET Melbourne Victoria 3000.
- 1.5 In consideration of the premises set out above the Trustee HEREBY DECLARES that it shall henceforth stand possessed of the fund and the income thereof for the Unitholders upon the trusts set out in this Deed and with and subject to the powers and provisions of this Deed.
- 1.6 The Trustee shall not be the agent of the Unitholders.
- 1.7 The Trust shall terminate on a date 80 years from the date of this Deed or otherwise as is provided for in this Deed.

## 2. The Fund

2.1 Each initial Unitholder shall pay

Tesoriero Investment Group Pty Ltd: 50  
VINTES QLD NO 3 PTY LTD: 50

to become a Unitholder and that amount shall be paid into the trust fund ("the fund") and in addition the fund shall be made up of the following:

2.1.1 other amounts or sums accepted by the Trustee on further allotment of units;  
2.1.2 all money investments income and property from time to time paid or transferred to and accepted by the Trustee as additions to the fund all accretions or accumulations of income empowered by this Deed and the moneys investments and property from time to time representing those moneys additions accretions and accumulations or any part thereof or into which the same may be converted;

2.1.3 the proceeds of realised sale of investments;

2.1.4 the proceeds of any borrowing by the Trustee.

2.2 The Trustee shall hold the fund on trust and manage the fund in accordance with the terms of this Deed for the Unitholders.

2.3 The Trustee shall distribute the net income and capital of the Trust to the Unitholders in accordance with the terms of this Deed..

2.4 The Unitholders are absolutely entitled to the net income of the fund in proportion to their holdings PROVIDED THAT, unless expressly stated, no unit confers any interest in any particular part of the fund to a Unitholder.

## 3. Units

3.1 The fund at the commencement of the Trust shall be divided into units of

Tesoriero Investment Group Pty Ltd: 50  
VINTES QLD NO 3 PTY LTD: 50

each and for all future purposes the unit value shall equal the value of the fund divided by the number of units.

3.2 The Trustee shall have the power to issue units from the following classes of units which shall have the entitlements as described:

3.2.1 ORDINARY UNITS - give the holder an entitlement to net income, capital and to vote in proportion to the number of units held.

3.2.2 INCOME ONLY UNITS - give the holder an entitlement to net income in proportion to the number of units held, but give no entitlement to capital or to vote.

3.2.3 CAPITAL ONLY UNITS - give the holder an entitlement to capital in proportion to the number of units held, but give no entitlement to net income or to vote.

3.2.4 VOTING ONLY UNITS - give the holder an entitlement to vote in proportion to the number of units held, but give no entitlement to net income or capital.

3.2.5 NON VOTING UNITS - give the holder an entitlement to net income and capital in proportion to the number of units held, but give no entitlement to vote.

3.2.6 NON CAPITAL UNITS - give the holder an entitlement to net income and to vote in proportion to the number of units held, but give no entitlement to capital.

3.2.7 NON INCOME UNITS - give the holder an entitlement to capital and to vote in proportion to the number of units held, but give no entitlement to net income.

3.2.8 PREFERENCE UNITS - give the holder an entitlement to net income or capital is preferential and is limited to that specified in the Unit Certificate, but give no entitlement to vote.

**PART 2 THE TRUSTEE****A: TRUSTEE'S DUTIES****4 Trustee's General Duties**

The Trustee's general duties shall be to hold and manage the fund, the investments and any business carried on under the Trust properly and efficiently and the Trustee shall have the specific duties set out in clauses 5 to 11 of this Deed PROVIDED THAT in fulfilling its duties whether general or specific the Trustee shall not be subject to the provisions of the *Trustee Act* 1958 as amended or to any similar Act in the Commonwealth of Australia or in any of its other States or Territories.

**5 Valuation of the Fund**

The Trustee shall value the investments of the fund in each of the following circumstances:

- 5.1 when a simple majority of Unitholders requests the Trustee in writing to do so.
- 5.2 when a simple majority of Unitholders present at a meeting, including those present by proxy, resolve that the Trustee should do so.

The cost of such a valuation shall be paid out of the fund.

**6 Accounting**

The Trustee shall arrange for proper books of account to be kept for all receipts and expenditure of the Trust and for the details of all sales and purchases of the fund in such a manner that will enable the fund and any business being carried on by the Trust to be audited.

**7 Deposits and Payments**

The Trustee shall pay all money received by the Trust into a separate bank account, and shall pay all outgoings of the Trust. The Trustee shall also set up necessary reserves for future and contingent liabilities.

**8 Insurance**

The Trustee shall adequately insure all properties in the fund and their contents and shall contribute to all applicable insurance and other schemes for the benefit of employees.

**9 Investments**

The Trustee shall choose how to invest the fund and then invest it. Any investments held by the Trustee at any time may be retained for the purpose of the Trust and its management, improvement and development. The Trustee shall have the power to invest the fund in any manner which may be available to an individual without restriction.

**10 Licences and Permits**

The Trustee shall apply for, renew, transfer, or assign any licence or permit required under any legislation governing any business in which the Trustee is engaged. A licence or permit may be in the name of the Trustee or any other person.

**11 Profit and Loss Accounts**

As soon as practicable after 30 June in each year (or any other accounting date set by the Trustee), the Trustee shall prepare a profit and loss account showing a calculation of the income of the fund to that date together with a balance sheet for the same period.

**B: TRUSTEE'S POWERS****12 Trustee's General Powers**

12.1 The Trustee shall have the maximum powers authorities and discretions to administer the fund including but not limited to the power to invest and change investments freely as if the Trustee were beneficially entitled to those investments. In the exercise of its powers, the Trustee shall not be subject to the provisions of the *Trustee Act* 1958 as amended or to any similar Act in the Commonwealth of Australia or in any of its other States or Territories.

12.2 In addition to the powers and discretions of the Trustee expressed in sub clause 12.1, the Trustee shall have the specific powers set out in clauses 13 to 21 and the power to compulsorily buy units as set out in clause 44.

**13 Distribution of Net Income to Unitholders - Income Distribution Account**

13.1 The Trustee shall have the power to accumulate income after preparing the accounts referred to in clause 11 and any such accumulation shall form part of the fund.

13.2 Subject to sub clause 13.1, immediately after preparing the accounts referred to in clause 11, the Trustee shall transfer to an Income Distribution Account all net income, including any category of net income or capital deemed to be net income for any purpose, of the fund less any amount transferred to the Capital Reserve Account under clause 14, until it is distributed to the Unitholders.

- 13.3 As soon as is practicable, and subject to clause 70 and any Unitholder's preferential entitlement to net income, the Trustee shall distribute the amount in the Income Distribution Account to Unitholders who are entitled to net income in proportion to the units held by them which gives the entitlement to receive net income.
- 13.4 Any income which is net income for the purposes of the *Income Tax Assessment Act 1936* ("the 1936 Act") or the *Income Tax Assessment Act 1997* ("the 1997 Act") shall be net income for the purposes of the Trust, unless the Trustee decides otherwise.
- 13.5 The Trustee shall not change the definition of net income for the purposes of the Trust without the unanimous consent of the Unitholders holding income only, capital only, non capital, non income, discretionary income and discretionary capital units.

#### 14 Capital Reserve Account

The Trustee may establish a Capital Reserve Account if a simple majority of Unitholders pass a resolution agreeing to do so before the end of the financial year. The Trustee may set aside from the income of the fund any amount that the Trustee in its absolute discretion thinks fit for the Capital Reserve Account. The funds in the Capital Reserve Account shall be held as capital.

#### 15 Distributing Capital to Unitholders

- 15.1 The Trustee, in accordance with this clause may distribute to Unitholders any amount, including any category of capital (or net income deemed to be capital for any purpose), which is in the Capital Reserve Account.
- 15.2 If a 75 % majority of Unitholders resolve, and subject to clause 70, any Unitholder's preferential entitlement to capital and/or any restrictions described in Item 3 of Schedule A;
- 15.3 A distribution of capital pursuant to this clause shall be made to Unitholders who are entitled to capital in proportion to their holding of units which give the entitlement to receive capital, at the date of the resolution.
- 15.4 The Trustee shall when making a distribution to a Unitholder pursuant to this clause first apply the distribution to any amount unpaid on the Unitholder's units.

#### 16 Trustee May Categorise Net Income and Capital

- 16.1 The Trustee may identify and separately record and maintain in the books of accounts and records of the fund, income or capital having or in respect of which there is attached individual, separate or unique characteristics or sources as the Trustee by resolution shall determine.
- 16.2 Without limiting the generality of sub clause 16.1, the Trustee may in the books of account and records of the fund separately record each of the following categories of income or capital received:
- 16.2.1 dividends from a company:
- (a) which are fully franked;
  - (b) which are partially franked;
  - (c) which are unfranked;
  - (d) which include an amount which has been imputed to be or to form part of a dividend;
  - (e) to which a foreign tax credit attaches; or
  - (f) to which any other separately identifiable taxation or other consequence or benefit is attached or arises.
- 16.2.2 income, or any capital gain or return of capital whether or not taxable as income:
- (a) which as an Australian source;
  - (b) which has an ex-Australian source;
  - (c) to which a foreign tax or other credit attaches;
  - (d) which is or includes a tax rebate or credit which has been paid or received by the Trustee;
  - (e) includes an amount imputed to be income;
  - (f) which is exempt or otherwise liable not to be taxed; or
  - (g) which has or gives rise to any other separately identifiable taxation or other consequence or benefit.
- 16.3 To the extent that expenses or outgoings of the fund are attributable to a particular category they may, at the discretion of the Trustee, be allocated against and deducted from the net income or capital of the category.
- 16.4 Net income or capital of the Trust fund to which a Unitholder becomes entitled pursuant to clauses 13 or 15 as the case may be, and which can be identified from the books and records of the fund as being of a category shall retain its separate identity when it passes to or is received by the Unitholder or when the Unitholder otherwise becomes entitled to it.
- 16.5 "category" in relation to the net income or the capital of the fund or any allocated fund means that part or those parts of the net income or capital which the Trustee has separately identified, categorised and recorded in the books of account of the fund so that it may be separately distributed or dealt with as provided in clauses 13 or 15.

#### 17 Trustee to Provide Distribution Statement

When all or any part of the fund is distributed to Unitholders the Trustee shall provide a statement to the Unitholders receiving a distribution showing the amount of distribution to each Unitholder and the balance of the fund remaining undistributed.

**18 Amending the Trust Deed**

The Trustee may only amend or vary this Deed if a 75 % majority of Unitholders pass a resolution agreeing to the amendment or variation. The amendment or variation shall be by Deed executed by the Trustee with the signatures of consenting Unitholders and shall be annexed to and form part of this Deed. An amendment to this Deed must not adversely affect any vested entitlement of a Unitholder or remove or limit the operation of clause 70.

**19 Appointment of Auditor**

The Trustee may appoint an auditor of the fund if a 75 % majority of unit holders agree in writing that an auditor shall be appointed. The auditor shall hold office:

19.1 until he or she retires by written notice to the Trustee; or

19.2 until he or she is requested to retire by the Trustee or a 75 % majority of Unitholders.

The Trustee shall give the auditor written notice of a request to retire and shall immediately appoint another auditor unless a 75 % majority of Unitholders agree in writing or resolve that an auditor need not be appointed.

**20 To value the Fund**

Wherever it is necessary to value the fund, the valuation shall be made by an independent accountant appointed by the Trustee and approved by a simple majority of Unitholders. If the Unitholders do not approve an accountant, the accountant shall be appointed by the President of the Institute of Chartered Accountants in Victoria.

**21 Trustee's Specific Powers**

The Trustee shall have the following specific powers in addition to those powers in clauses 12 to 20:

- 21.1 to exercise any of the Trustee's powers and discretions even if the Trustee has a conflict of interest and even if the Trustee is a company and any director or shareholder of the Trustee has any interest in the exercise of the Trustee's powers or discretions or may benefit in any way from their exercise;
- 21.2 to commence acquire and carry on any business or investment activity anywhere in the world which the Trustee may decide can be conveniently carried on or which is desirable in the interest of the fund or the Unitholders and in doing so the Trustee shall have all of the powers vested in a company by virtue of the *Corporations Act 2001*;
- 21.3 to execute and prosecute legal proceedings of any kind and in any Court and to enforce any contract or other arrangement entered into or to recover damages for breach of any such contract or other arrangement;
- 21.4 to make or purchase any such investment for a sum greater than the amount of the fund for the time being and to pay for any such investments wholly or in part from any future moneys which may come into its hands, including dividends, profits, interest or other income paid or payable in respect of any such investments;
- 21.5 to raise or concur in raising with or without security any money for any purpose in relation to the execution of the trusts or powers conferred on the Trustee by mortgaging or charging with or without a power of sale all or any part of the fund and no lender shall be concerned to enquire into the necessity for any such borrowing or as to the purpose for which it is required or as to the application of money borrowed;
- 21.6 to employ or otherwise contract with any person, including the Trustee or a Unitholder, in connection with any business referred to in the above sub clauses carried on by the Trustee or anything required to be done pursuant to the provisions of this Deed including the power to receive and pay money, decide the remuneration to be allowed and paid and to decide the amount of all charges and expenses;
- 21.7 to create or arrange or participate in any scheme of or fund for superannuation retirement benefits or pensions for the benefit of any person employed by virtue of the above sub clauses and to make contributions to any scheme or fund for the benefit of such employees;
- 21.8 to give any guarantee or indemnity for the payment of money or the performance of any contractual obligation or undertaking and become surety or security for any persons, trustees, companies or entities, and without exception either alone or in association or jointly and severally or jointly or severally with any persons, trustees, companies or entities and for the purpose of securing the payment of any money or the performance of any contractual obligation or undertaking for which the Trustee has become or may become liable under and by virtue of any guarantee indemnity or other contract pursuant to this clause, to mortgage or provide a lien or fixed or floating charge or to otherwise charge the whole or any part of the fund (in the present or the future) and the rights of the mortgagee or chargee shall take priority in all respects over the rights of the Unitholders and all other persons whatsoever and no lender shall be concerned to enquire into the necessity for any such borrowing or as to the purpose for which it is required or as to the application of money borrowed;
- 21.9 to advance and lend moneys to and to borrow raise moneys from and to secure by mortgage bill of sale lien or charge fixed or floating legal or equitable or otherwise howsoever the payment or repayment of any money or advances to themselves or to any persons (including themselves) and whether severally or jointly and severally with any person and upon such terms with or without security or interest as the Trustee shall deem fit and the Trustee is hereby expressly empowered to join with any other person in executing any mortgage or other document for the purpose of securing the payment of money to or the assumption of any liability (whether actual or contingent) to pay



money to any other person and if the Trustee is a corporation to give and to execute a registerable floating charge or a charge over personal property over the assets of the corporation and the assets of the Trust Fund held by it as Trustee and to give and execute any other charge or security charge registerable under any Act for the time being in force and the Trustee may borrow or raise moneys to be used in deriving income or gain in augmentation of the fund notwithstanding that the fund may already be wholly invested or applied or that the moneys to be borrowed or raised may exceed the sum or value of the fund and no lender shall be concerned to inquire into the necessity for any such borrowing or as to the purpose for which it is required or as to the application of money borrowed notwithstanding that the asset secured or purchased may not be income producing or of a wasting or speculative nature;

- 21.10 to delegate in writing the exercise of all or any of the powers or authorities hereby conferred on the Trustee and to execute any powers of attorney or other instruments necessary to effect such a delegation;
- 21.11 to permit any asset of the fund to be held or registered in the name of any nominee of the Trustee and to deposit securities to the deeds and other documents belonging or related to the fund with any bank or solicitor;
- 21.12 in the event of any probate succession estate or other duties fees or taxes becoming payable in any part of the world in respect of the fund or any part thereof on the death of any unitholder or any other person at the Trustee's discretion absolutely to pay all or any part of such duties fees and taxes out of the fund notwithstanding that such duties fees or taxes or some part thereof are not or may not be recoverable from the Trustee or from the fund by legal process in the place where the same become payable;
- 21.13 to open and operate accounts with any bank anywhere in the world, to draw, make, accept, endorse, discount, execute, issue, present, sign (whether as Drawer, Acceptor or Endorser) or otherwise deal with any promissory notes, bills of exchange, bills of lading, cheque or other negotiable or transferable instruments;
- 21.14 to give effectual receipts and discharges for any monies received by or on behalf of the Trustee or otherwise relating to any of the acts, matters and things provided for in this Deed;
- 21.15 notwithstanding any power contained in this Deed, the Trustee shall have power and authority to enter into and perform:
- 21.15.1 any transaction involving, or in connection with, an exchange of streams of payment between counterparties whether directly or indirectly;
- 2 1.15.2 any transaction involving, or in connection with, trading commodities, securities or currency at a fixed price for delivery or settlement, whether immediately or at a future date;
- 21.15.3 any transaction for managing, lessening, hedging or protecting against movements in currency exchange, interest or discount rates or against costs of borrowing, lending or obtaining financial accommodation;
- and without limiting the generality of the foregoing, the power conferred on the Trustee as aforesaid shall include power for any purpose to enter into and perform any interest rate swap or exchange transaction, currency swap or exchange transaction, rate cap, rate floor, rate collar, option contract relating to swaps, future contract, currency option and forward rate agreement or any interest and or currency protection transaction or any combination of such transactions, contracts or agreements or any other transactions, financial arrangements or contracts of a kind or class similar to the transactions herein referred to;
- 21.16 to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by this Deed and to exercise any of the above powers both jointly with any other person and in conjunction with any other powers, authorities or discretions; and
- 21.17 to carry out all and any of the foregoing powers by and through an agent and to appoint and authorise an agent to carry out all or any of these powers.

**C: PAYMENT OF THE TRUSTEE AND THE TRUSTEE'S LIABILITY**

**22 Trustee's Fee**

The Trustee shall be entitled to be paid a reasonable fee for each year of service. The fee shall be set each year by resolution of a 75 % majority of Unitholders. If no fee shall be set in a year the fee for the previous year shall be paid to the Trustee.

**23 Liability and Indemnity of the Trustee**

The Trustee shall not be liable for any loss caused by the exercise of any power unless the loss is caused by the Trustee's dishonesty (or in the case of a Trustee which is a corporation, the dishonesty of any director of that corporation) or the wilful commission or omission of an act known by the Trustee (or in the case of a Trustee which is a corporation, the wilful commission or omission of any director of that corporation) to be a breach of trust. Should the Trustee act in good faith in exercising any power under this Deed the Trustee shall be entitled to be indemnified out of the fund for any liability which is so incurred. Such indemnity shall be limited to the assets of the fund. The Unitholders shall not be liable to repay to the Trustee any money properly paid to them by the Trustee, nor to indemnify the Trustee for any loss or liability.

**D: REMOVAL AND RETIREMENT OF TRUSTEE AND APPOINTMENT OF ADDITIONAL TRUSTEE**

- 24 Retirement, and Appointment, of Trustee**  
The Trustee may retire after giving three months' written notice if a 75 % majority of Unitholders so resolves. The identity and appointment of any new Trustee shall be determined by a 75 % majority of Unitholders.
- 25 Removal of Trustee**
- 25.1 If the Trustee goes into liquidation, or ceases to carry on business, or a receiver or administrator is appointed, the Trustee is deemed to have retired and the Unitholders may appoint a new trustee.
- 25.2 In any other case, the Unitholders may by resolution remove the Trustee and appoint a new trustee after giving notice to the Trustee.
- 25.3 Subject to any restrictions in Item 4 of Schedule A, any resolution to remove or to appoint a Trustee under this clause must be passed by a 75 % majority of Unitholders.
- 26 Additional Trustee**  
The Unitholders may by resolution appoint an additional trustee after giving notice to the Trustee. Subject to any restrictions in Item 5 in Schedule A such a resolution shall be passed by a 75 % majority of Unitholders.
- 27 Restrictions on Retirement, Removal and Additional Trustee if Trustee holds Liquor Licence**  
If the Trustee holds a licence under the *Estate Agents Act 1980*, the *Liquor Control Reform Act* or any similar Act in the Commonwealth of Australia or in any of its States or Territories, the Trustee may not retire or be removed, nor may an additional Trustee be appointed, until the new Trustee has been approved by the Business Licensing Authority or any similar authority in the Commonwealth of Australia or of any of its States or Territories. This clause takes precedence over the other clauses in this Chapter.
- PART 3 UNITS**
- A: GENERAL RULES ABOUT UNITS**
- 28 Application for Units**  
An application for units must be to the same effect as the form set out in Schedule 1 and must be sent to the Trustee. The application shall specify the class of and number of units applied for and any other terms relating to the units applied for.
- 29 Certificate for Units**
- 29.1 The Trustee shall issue each Unitholder with a certificate setting out the class of and number of units that he, she or it owns and any other terms relating to the units. The certificate shall be to the same effect as the form set out in Schedule 2 to this Deed.
- 29.2 If any certificate is worn out or defaced, the Trustee may cancel it and issue a replacement certificate. If any certificate is lost or destroyed, the Unitholder may apply to the Trustee for a duplicate certificate. The Unitholder must give the Trustee a statutory declaration that the certificate has been lost or destroyed and has not been pledged, transferred, mortgaged or sold. The Trustee shall then issue a duplicate certificate.
- 30 Limit on Number of Units**  
The Trustee shall decide when sufficient units have been accepted. The Trustee shall then inform the Unitholders. After that date, no further units may be created except in the manner set out in this Deed.
- 31 Units may not be offered to the Public**  
No unit may be offered to the public. Any transaction resulting from an offer to the public shall be void.
- 32 Buying Back Units and Cancelling Them - to Reduce the Value of the Fund**  
If a 75 % majority of Unitholders resolves that the value of the fund is to be reduced, the Trustee may buy back units of any kind in accordance with the following procedure:

- 32.1 The Trustee may obtain a valuation of the fund from the auditor of the fund or the accountant appointed under clause 20. The person valuing the fund must also fix the price at which the units are to be bought back. The costs of the valuation must be paid out of the fund.
- 32.2 At least 14 days prior to buying back the units, the Trustee shall give notice to the Unitholders of the fact that the units are to be bought back and then cancelled. The notice must set out the price for each unit to be bought back and the manner in which the Trustee will pay for them.
- 32.3 The Unitholder shall deliver the relevant unit certificates to the Trustee and the Trustee shall pay for the units in cash or in assets from the fund.
- 32.4 The Trustee shall cancel any units bought under this clause from the date the Trustee bought them and may not re-issue them. The Trustee must cancel the certificate and, if necessary, issue a certificate for the balance of the units.

**B: ADDITIONAL SUMS AND UNITS**

**33 Raising Additional Sums and Issuing New Units**

- 33.1 If a 75 % majority of Unitholders resolve, the Trustee may raise additional sums by issuing more units provided the entitlements of any Unitholders described in clause 70 are not adversely affected or diminished.
- 33.2 Before more units are issued, the auditor of the fund or the accountant appointed under clause 20, whichever the case may be, shall value the fund, less the additional sums referred to in the preceding sub clause, and calculate the value of each existing unit ("the unit price").
- 33.3 The number of the new units to be issued must equal the total sale price of the units to be issued divided by the unit price, and the number of units is to be adjusted to the nearest whole number.

**34 Procedure for Offering Additional Units for Subscription**

If the Trustee issues more units pursuant to the preceding clause, the Trustee shall follow the following procedure:

- 34.1 The Trustee shall first offer the additional units to the Unitholders in proportion to the number and in accordance with the classes of units then held by them unless a 75 % majority of Unitholders decides otherwise.
- 34.2 The offer must be in writing and set out the number of units, the unit price, and the time within which the offer must be accepted - which cannot be less than thirty (30) days. The offer must also state that the Unitholders may accept less than the full number of units.
- 34.3 Units which are not accepted pursuant to sub clause 34.2 shall then be offered in the same manner to the Unitholders who accepted the offer, in proportion to the number and in accordance with the classes of units then held by them, until the Trustee is satisfied that no Unitholder will accept further units. Subject to clause 31, the Trustee may then dispose of the balance of the additional units at the unit price in whichever way the Trustee thinks fit.
- 34.4 If a 75 % majority of Unitholders resolve that the Trustee use a different procedure, the Trustee shall use that procedure.

**35 Additional Units where Value of the Units Exceeds \$1.00**

If the value of a unit is more than \$1.00 the Trustee may create further units to reduce the value of each unit. These units shall be allocated to the existing Unitholders without charge in proportion to their unitholding. The value may be reduced to any amount, even to a value of less than \$1.00 per unit.

**36 Reclassifying Units**

If a 75 % majority of Unitholders resolve, then subject to clause 70 and the Trustee obtaining the consent of each Unitholder holding units that are to be reclassified, the Trustee may re-classify any units which have already been issued.

**C: TRANSFER OF UNITS**

**37 Transfer of Units**

Units shall be transferred in the manner set out in this Deed and any transfer that breaches the provisions of this Deed shall be void and registration of such a transfer shall not operate so as to validate the void transfer.

**38 Consent of Unitholders Required**

A Unitholder may only transfer units after giving written notice to the Trustee ("transfer notice") and obtaining the written consent of a 75 % majority of Unitholders.

**39 Trustee's Duties after Receiving Transfer Notice**

Subject to clause 40, the Unitholder selling the units shall prepare a transfer notice and send it to the Trustee. As soon as practicable after receiving a transfer notice:

- 39.1 The Trustee shall offer the units to the other Unitholders in proportion to the number and in accordance with the classes of units held by them. Each offer must be made in writing and must set out:
- 39.1.1 the number and price of the units; and
- 39.1.2 the time within which the offer must be accepted - which must not be less than 7 days or more than 28 days from the date of the offer.

- 39.2 The Trustee shall give notice of the result of the offer to all Unitholders. The Trustee's notice must set out each of the following:
- 39.2.1 the names of the buying Unitholders;
  - 39.2.2 the number of units bought by each Unitholder; and
  - 39.2.3 the place and time for settlement - the time must not be more than 30 days after the date of the notice.
- 39.3 The Unitholder selling units shall transfer the units which have been bought as soon as practicable after payment has been made to the transferring Unitholder. If any units or surplus of units remain unsold then, subject to clause 31, the Unitholder may dispose of the units as he or she thinks fit at a price not less than the unit price.
- 39.4 The Trustee shall have a discretion to stipulate a period of time within which the Unitholder shall transfer the units.

**40 Transfer of Initial Unitholder's Units**

- 40.1 This clause shall take precedence over any other provisions in this Deed which may be to the contrary.
- 40.2 The Trustee shall not register the transfer of any units from an initial Unitholder other than by transfer to the remaining initial Unitholder(s), if any, whether by sale inter vivos or by transfer by way of sale or otherwise by the legal personal representative of a deceased initial Unitholder.
- 40.3 The Trustee shall not be bound by the preceding subclause if the remaining initial Unitholder(s), if any, choose not to purchase or otherwise take a transfer from the initial Unitholder who wishes to sell her units or from her legal personal representative.
- 40.4 The initial Unitholders by executing this Deed acknowledge that they are bound to act pursuant to this clause and that this Deed shall bind their executors, administrators and legal personal representatives in relation to the transfer of their units.
- 40.5 The unit price for sale of units in accordance with this clause shall be governed by clause 46.
- 40.6 In all other respects the sale of units by the initial Unitholders shall be governed by the provisions of this Deed.

**41 Form of Transfer**

A Unitholder may only transfer units by completing and signing a form to the effect of the form in Schedule 3, or any other form approved by the Trustee. After completing the procedure set out in clause 39 the form must be signed by the transferee. The transferor shall be the holder of the units until payment has been made by the transferee. The form (which must be stamped if required, with stamp duty to be paid by the transferee, unless the transferor and the transferee agree otherwise) and the relevant unit certificates must be delivered to and left with the Trustee.

**42 Transfer not Completed**

If a Unitholder sells units but fails to transfer the units to the purchaser the Trustee may receive and hold the purchase money on trust for the Unitholder and register the name of the purchaser as a Unitholder if requested to do so by the purchaser.

- 43 Unitholders Selling Units Back to the Trustee**
- 43.1 The Trustee may buy back units if:
- 43.1.1 A Unitholder requests the Trustee to buy back any of his, her or its units by giving the Trustee a request in writing together with the relevant Certificates; and
- 43.1.2 If a consenting resolution to that effect is passed by a 75 % majority of Unitholders.
- 43.2 In buying back the units the Trustee shall use the following procedure:
- 43.2.1 Before buying back the units the Trustee shall offer the units to all Unitholders in proportion to the number and in accordance with the classes of units held by them at the unit price.
- 43.2.2 After the Trustee has offered the units to all Unitholders in accordance with the preceding paragraph, Unitholders who have already bought units may buy any remaining units.
- 43.2.3 If any units remain, the Trustee shall buy back those units at the unit price. As soon as is practicable, the Trustee shall cancel the remaining units referred to in this paragraph and make an entry in the register.
- 44 Trustee's Power to Compulsorily Buy Back Units**
- The Trustee may compulsorily buy back the units of a Unitholder if any of the following happens:
- 44.1 a receiver, manager, official manager or administrator is appointed in relation to the Unitholder;
- 44.2 a provisional or official liquidator is appointed under the *Corporations Act 2001* in relation to the Unitholder;
- 44.3 the Unitholder becomes bankrupt, or assigns his or her interest for the benefit of the creditors, becomes a represented person within the meaning of the *Guardianship and Administration Act 1987*, or becomes an involuntary patient under the *Mental Health Act 1986*; or
- 44.4 any Unitholder which is a company permits shareholders who are also Unitholders to dispose of their shareholding or permits any change in the shareholding which alters the effective control of the company without a unanimous resolution of the other Unitholders.
- 44.5 the Unitholder dies.
- 45 Procedure for Compulsory Buy Back**
- 45.1 In order to buy units back compulsorily the Trustee must do each of the following:
- 45.1.1 obtain a consenting resolution to that effect passed by a 75 % majority of Unitholders;
- 45.1.2 give notice to the Unitholder or to his or her legal personal representative; and
- 45.1.3 pay the Unitholder or legal personal representative the unit price for each unit calculated by the auditor or accountant appointed under clause 20.
- 45.2 A compulsory buy back by the Trustee is effective even if the certificates are not surrendered by the Unitholder or his or her legal personal representative.
- 45.3 After such a buy back the Trustee shall remove the name of the Unitholder from the register.
- 46 Price of Units**
- For the purposes of this Chapter, a reference to "*unit price*" means:
- 46.1 the unit price agreed between the Unitholders or the Unitholders and the Trustee as the case may be; or
- 46.2 if the Unitholders, or the Unitholders and the Trustee, are unable to agree upon the unit price then clause 20 shall apply to establish the value of the fund and thereby the unit price. The costs of such valuation shall be paid out of the fund.

#### **PART 4 UNITHOLDERS**

##### **A: GENERAL RULES ABOUT UNITHOLDERS**

- 47 Limitation of Liability of Unitholders**
- A Unitholder shall only liable to contribute to the fund to the extent of the unpaid part of the price of the units he, she or it holds.
- 48 Questioning Trustee's Exercise of Power or Discretion**
- Subject to this Deed, a Unitholder shall not be entitled to interfere with or question the Trustee's exercise of any power or discretion.
- 49 Register of Unitholders**
- 49.1 The Trustee shall maintain an up-to-date register of Unitholders. The register shall contain the following information:
- 49.1.1 names and current addresses of Unitholders;
- 49.1.2 the number and class of their units;
- 49.1.3 the relevant certificate numbers or letters.
- 49.2 A Unitholder shall notify the trustee of any change to his, her or its address.
- 49.3 Subject to clause 52, no notice of any trust may be entered in the register
- 50 Death of a Unitholder**
- 50.1 In the event of the death of a Unitholder:

- 50.1.1 If the deceased Unitholder was a joint Unitholder, the survivor shall be the only person who has any title or interest in the units;
- 50.1.2 If the deceased Unitholder was not a joint Unitholder, the legal personal representative of a deceased Unitholder shall be the only person who shall have any title to the units.

50.2 The Trustee shall register a person as a Unitholder if that person proves to be satisfaction of the Trustee that that person is the surviving joint Unitholder or the legal personal representative of a deceased Unitholder who was not a joint Unitholder and provides a certified copy of the will of the deceased Unitholder, a certified copy of the Probate parchment and the certificate for the units.

**51. Registration as a Unitholder After Bankruptcy**

The Trustee may register a person as a Unitholder if one of the following conditions are met:

- 51.1 that person proves to the satisfaction of the Trustee that he or she is entitled to any units because of the bankruptcy of a Unitholder; or
- 51.2 that person is the trustee in bankruptcy of the bankrupt estate of the Unitholder and makes a declaration to the effect of the form in Schedule 5.

**52. No Need to take Notice of Equities**

The Trustee need not take notice of any trust or equity affecting any unit or certificate except where ordered to by a court.

**53. Receipts**

The receipt of a Unitholder (including the executor or administrator of a deceased Unitholder being a natural person) for any money due or any property transferred to a Unitholder shall be a good discharge to the Trustee.

**B: MEETINGS OF UNITHOLDERS**

**54 Calling Meetings**

- 54.1 The Trustee may call a meeting at any time or if a simple majority of Unitholders request a meeting the Trustee shall call a meeting as soon as is practicable after receiving such request.
- 54.2 The Trustee shall deliver a notice setting out the general nature of the business of any meeting to each Unitholder entitled to attend the meeting at least 7 days prior to the meeting unless all of the Unitholders who are entitled to vote waive this requirement.

**55 Quorum**

The quorum for a meeting is not less than two Unitholders, including proxies, holding between them 75 % of the units which give an entitlement to vote. If all the units are held by one Unitholder, the quorum is that person or his or her proxy.

**56 Appointing the Chair**

- 56.1 At a meeting called by the Trustee, the Trustee may nominate a Unitholder or proxy as Chair.
- 56.2 At a meeting called at the request of the Unitholders, the meeting may nominate a Unitholder or proxy as Chair.

**57 Definition of Majorities**

Where this Deed specifies that something shall be done if a simple majority of Unitholders or a specified percentage majority of Unitholders agree or pass a resolution to that effect, that refers to that majority or specified percentage of units that Unitholders hold which give an entitlement to vote.

**58 Voting**

In a meeting:

- 58.1 A Unitholder who is entitled to vote may vote either in person or by proxy.
- 58.2 Where the votes are equal, the Chair is not entitled to a second or casting vote in addition to the vote he, she or it has as a Unitholder or proxy.
- 58.3 A Unitholder under the age of 18 years may only vote by a parent or guardian. The Trustee may require proof of the appointment, or relationship, before that person can vote.

**59 Proxies**

Subject to the following, a Unitholder may appoint a proxy:

- 59.1 The Unitholder or any Attorney must sign the document appointing a proxy. If it is signed by an Attorney, a certified copy of the power of attorney shall be attached.
- 59.2 The document appointing a proxy and (where relevant) the authority under which it is signed shall be given to the Trustee before the meeting opens otherwise the proxy is not entitled to vote.
- 59.3 A proxy need not be a Unitholder.

**60 Polls**

60.1 At any meeting a question may be decided by a show of hands provided that a poll shall be taken in either of the following circumstances:

- 60.1.1 when the question must be decided by a specified majority of the votes of the Unitholders present and voting, including proxies; or

60.1.2 when a poll is demanded by a Unitholder before, or immediately after, any question is put to a show of hands.

60.2 In a poll, every Unitholder, including a proxy, shall have a vote for each unit held which entitles that Unitholder to vote. Joint Unitholders shall be entitled to only one vote for each unit held which entitles the joint Unitholders to vote, the Unitholder named first on the register shall be entitled to cast it.

**61 Adjournments**

With the consent of the meeting, the Chair, may adjourn the meeting to a place and time he or she chooses. The Chair shall adjourn a meeting where there is no longer a quorum.

**62 Minutes**

The Trustee shall arrange for minutes to be kept of the proceedings of all meetings. The Trustee shall send copies of the minutes to all Unitholders within 21 days after a meeting. Minutes signed by the Chair are conclusive evidence of the business carried out unless there is evidence to the contrary.

**PART 5 TERMINATION OF THE TRUST**

**63 Unitholders can Require that the Trustee End the Trust**

The Trustee shall terminate the Trust if a 75 % majority of Unitholders are present at a meeting -including those present by proxy, and that majority resolves that the Trustee shall do so.

**64 Procedure When the Trust is Ended**

When the Trust is to terminate, whether after 80 years or pursuant to clause 63 of this Deed, the Trustee shall do each of the following things:

- 64.1 convert the investments of the fund into money;
- 64.2 give each Unitholder notice that the Trust is to terminate and of the proposed distribution; and
- 64.3 distribute the fund, less all costs, charges and expenses, to the Unitholders entitled to capital in proportion to the units held by them or:
- 64.4 if there are no Unitholders hold for such charitable purposes as the Trustee in its absolute discretion shall determine.  
PROVIDED THAT:
- 64.5 The Trustee may postpone converting the investments into money if the Trustee believes that it is in the interests of the Unitholders and the Trustee will not be responsible for any loss attributable to a postponement; and
- 64.6 the Trustee may retain part of the fund to meet outgoings or liabilities, whether actual or contingent and once payment has been made of those outgoings or liabilities, any surplus funds shall be distributed to the Unitholders entitled to capital in proportion to the units held by them.

**65 Trustee to Give Final Distribution Statement**

When the whole of the fund is distributed to Unitholders under this part, the Trustee shall give a statement to Unitholders who have received a distribution in accordance with this Part.

**PART 6 MISCELLANEOUS**

**66 Notices**

- 66.1 A notice that shall be given under this Deed shall be in writing and given by delivering it personally, sent by facsimile or by post in a prepaid envelope addressed:
  - 66.1.1 if to the Unitholder, to his, her or its address in the register; or if to the Trustee, to the address last notified.
- 66.2 If the notice is sent by post, it shall be regarded as having been received on the second day after the posting.
- 66.3 Notices sent by facsimile after 5.00 pm will be taken to have been received at 9.00 am on the next business day at the place where it is received.
- 66.4 It shall be sufficient to serve a notice or document on any one of several joint Unitholders.

**67 Applicable Law**

This deed is governed by the laws of Victoria

**68 Relationship of Trustee and Unitholders**

Nothing in this Deed shall constitute or shall be deemed to constitute or give rise to:

- 68.1 the relationship of principal and agent between the Trustee and the Unitholders;
- 68.2 the relationship of partners as between:
  - 68.2.1 the Trustee and the Unitholders;
  - 68.2.2 the Unitholders inter Se;

**69 Limitation of Liability of Unitholders**

69.1 Notwithstanding any other provision of this Deed or provision deemed to be included in this Deed or any rule of law to the contrary, no Unitholder shall be under any obligation personally to indemnify the Trustee or any creditor of the Trustee in the event that there is any deficiency of assets of the fund as compared with the liabilities of the Trustee.

69.2 The only rights, if any, of indemnity of the Trustee or of such creditor shall be limited to recourse to the assets of the fund.

69.3 A Unitholder shall only be liable to the Trustee acting as Trustee of the Trust to the extent to which the consideration (if any) payable by the Unitholder to the Trustee for the issue of units to the Unitholder may be unpaid and outstanding.

69.4 The Trustee expressly waives, releases, forfeits and abandons all rights and remedies which it otherwise might have at law or in equity to recover monies from a Unitholder by reason of any rights of indemnity or subrogation notwithstanding that any such right may not be able to be satisfied or discharged in whole or in part out of the fund.

**70 Special Provision where Certain Trustees hold Units**

70.1 Notwithstanding any other provision of this Deed, where the Trustee shall be empowered to exercise a discretion, (whether by any resolution of a majority of Unitholders, any provision of an agreement between Unitholders or by virtue of any units issued or otherwise) where a Unitholder is holding units:

70.1.1 in his, her or its capacity as the trustee for a superannuation fund; or

70.1.2 for the purpose of generating "excepted income" or "excepted Trust income" within the meaning of sections 1O2AE or 1O2AG of the 1936 Act the distribution of Trust net income or capital to the Unitholder shall be the amount the Unitholder would have received if there were no distributions made to Unitholders by virtue of the exercise of the Trustee's discretion.

70.2 A person subscribing for units, in their application for units, may elect for the preceding sub clause to not apply in respect of those units.

**71. Mediation**

Notwithstanding any other provision of this Deed, in the event of any dispute between the Trustee and the Unitholders arising in connection with:

71.1 Ownership and management of any land owned managed or utilised by or on behalf of the Trustee.

71.2 Ownership and management of any business or investment conducted or held by or on behalf of the Trustee.

71.3 Administration of the Trust.

("the dispute") which cannot be settled by negotiation between the parties or their representatives any party may refer the dispute to mediation by a mediator agreed upon by the parties or failing such agreement the Trustee shall request the President of the Law Institute Victoria or his or her nominee to appoint a mediator for the parties. The Trustee shall then arrange a time and place with the mediator for mediation to take place between the parties. During such mediation each party may be represented by a legal practitioner.



## Execution

Executed as a deed.

Dated: 2 MARCH 2020

Executed by  
14 JAMES STREET PTY LTD ACN 638449206  
in its capacity as trustee, in accordance with  
section 127(1) of the Corporations Act 2001  
(Cwth):



---

VINCENZO FRANK TESORIERO, Sole  
director and sole company secretary

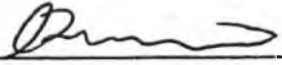
Executed by  
Tesoriero Investment Group Pty Ltd ACN  
161088115 in its capacity as initial unit holder,  
in accordance with section 127(1) of the  
Corporations Act 2001 (Cwth):



---

VINCENZO FRANK TESORIERO, Sole  
director and sole company secretary

Executed by  
VINTES QLD NO 3 PTY LTD ACN 640878152  
in its capacity as initial unit holder, in  
accordance with section 127(1) of the  
Corporations Act 2001 (Cwth):



---

VINCENZO FRANK TESORIERO, Sole  
director and sole company secretary

## SCHEDULE A

Item 1  
Initial Unitholders

Tesoriero Investment Group Pty Ltd in its capacity as trustee of the TESORIERO INVESTMENT TRUST (50 units).

and

VINTES QLD NO 3 PTY LTD in its capacity as trustee of the MAZ TRUST NO 3 (50 units).

Item 2  
Initial Unit Capital -

100 ordinary units of \$1.00 each (income, capital and voting rights);  
discretionary capital units of \$1.00 each;  
discretionary income units of \$1.00 each;  
preference units of \$1.00 each;  
income units of \$1.00 each;  
capital units of \$1.00 each;  
voting units of \$1.00 each;  
non-voting units of \$1.00 each;  
non-capital units of \$1.00 each;  
non-income units of \$1.00 each.

Item 3  
Restrictions on distribution from Capital Reserve Account

Nil

Item 4  
Restrictions on removal of Trustee

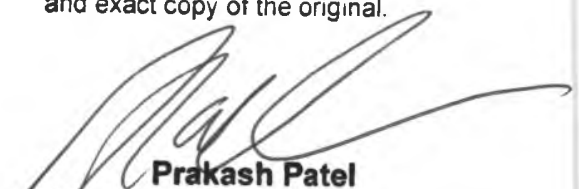
Nil

Item 5  
Restrictions on appointment of additional trustee(s)

## **5 BULKARA STREET UNIT TRUST**

**VICTORIA**

I certify that this document is a true  
and exact copy of the original.



**Prakash Patel**  
Suite 3, Level 11, 343 Little Collins Street  
Melbourne VIC 3000  
An Australian Legal Practitioner  
within the meaning of the  
Law Application Act 2014 (VIC)

**ABBOTS**  
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(C) The Trustee has consented to act as Trustee hereof upon the trusts and subject to the provisions herein contained.

(D) This Deed is made with the intention that the benefits of the trusts declared in this Deed shall enure to the extent provided for the benefit of every Unit Holder who shall hold units and be bound by the provisions of this Deed.

(E) The provisions of Section 38 of the Trustee Act 1958 are not intended to apply to the Trust.

**NOW THIS DEED WITNESSES:-**

**DEFINITIONS :**

1. IN this Deed and its Schedules and in certificates issued under this Deed, unless there is something inconsistent in the subject or context the following words expressions and terms shall have the meanings assigned to them namely :-

- (a) "The Trust" means the Trust established by this Deed.
- (b) "The Trustee" means the Trustee or trustees for the time being of the Trust whether the original Trustee, or any additional or substituted Trustee.
- (c) "The Trust Fund" means -
  - (i) The initial sum or asset referred to in Recital (B).
  - (ii) All moneys paid or payable to or assets transferred to the Trustee upon or in consequence of the issue of units pursuant to the provisions of this Trust Deed.
  - (iii) Any accumulations of income.
  - (iv) All accretions to the Trust Fund.
  - (v) The investments and property from time to time representing the moneys assets and accumulations which become subject to these trusts.
- (d) "Vesting Date" means the first to occur of
  - (i) the date specified in the First Schedule hereto
  - (ii) if no date is specified in the Schedule the date 80 years from the day before the date hereof, or if the proper law of this trust does not allow that as a perpetuity period the earlier expiration of either the said period of 80 years or the period ending 21 years from the date of death of the last surviving descendant of his late Majesty King George VI now living..
  - (iii) such earlier date as the Trustee may appoint with the consent of the Unit Holders.
- (e) "Investment" means any one of the assets and investments forming for the time being a constituent part of the Trust Fund including the assets and goodwill of any business vested in or carried on by the Trustee.
- (f) "Certificate" means a certificate issued under the provisions of this Deed and for the time being current.
- (g) "Company" shall be deemed to include a unit trust.
- (h) "Unit" means an undivided share in the Trust Fund having the characteristics provided under the terms of this Deed.
- (i) "Unit Holder" or "Beneficiary" means the person for the time being registered under the provisions of this Deed as the holder of a unit and includes persons jointly so registered.

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(p) The headings contained in this Deed shall not affect the construction of these provisions.

#### **EFFECT OF THIS DEED AND DECLARATION OF TRUST**

2. THE perpetuity period in relation to all dispositions made by this Deed shall be the period until the Vesting Date.
3. THIS Deed shall be construed and take effect in accordance with the laws of the State of Victoria unless a different proper law is indicated in the First Schedule.
4. NOTHING in this Deed shall constitute or shall be deemed to constitute the relationship of principal and agent between the Trustee and the Unit Holders or the relationship of partners as between the Trustee and the Unit Holders or as between the Unit Holders inter se or to give rise to any association between the Unit Holders inter se. All income payable in accordance with the provisions of this Deed to Unit Holders shall be payable to them separately and income received by the Trustee shall not be received or be construed as received by or on behalf of the Unit Holders jointly or otherwise.
5. IT is expressly declared that notwithstanding anything contained or implied in this Deed no Unit Holder shall by reason of any matter including his relationship with the Trustee be required to indemnify the Trustee against any liability or obligation incurred by the Trustee in the course of exercising its duties rights powers or authorities in relation to the Trust Fund or arising herefrom or in the course of carrying on any business hereby authorised, whether or not such liability or obligation has been incurred at the request of any Unit Holders.
6. THE Original Unit Holders hereby direct and the Original Unit Holders and Trustee hereby agree and declare that the Trustee shall stand possessed of the Trust Fund and of income of that fund (including any business of whatever nature carried on by the Trustee) for the benefit of the Unit Holders in proportion to the number of units respectively held by them of each class of unit and the respective rights of each class of unit. The Trustee acknowledges that the Unit Holders are and shall be beneficially entitled to all assets of whatever nature of the Trust Fund including amounts unpaid of the issue price of any units in accordance with the respective rights of each class of unit and in proportion to the number of units respectively held by them of each class of unit.

#### **ADMINISTRATION OF THE TRUST**

7. (a) THE beneficial interest in the Trust Fund as originally constituted and as existing from time to time shall be vested in the Unit Holders for the time being.
- (b) Each person who becomes registered as a Unit Holder shall be deemed to have agreed to become a party to this Deed and any supplemental deed and shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and of any supplemental deed.
8. EACH unit shall entitle the registered holder thereof together with the registered holders of all other Units to the beneficial interest in the Trust Fund as an entirety but subject thereto shall not entitle a Unit Holder to any particular security or investment comprised in the Trust Fund or any part thereof and no Unit Holder nor any combination of Unit Holders shall be entitled to the transfer of any assets or property comprised in the Trust Fund and save as hereinafter provided, no Unit Holder shall be entitled to interfere with or question the exercise or non-exercise by the Trustee of any discretion in relation to the Trustee's ownership of such assets or property or in relation to the conduct of any business carried on by the Trustee.

such Holders (in proportion to their respective holdings of such units) of additional units at such price as the Trustee thinks reasonable;

(ii) units shall be offered in the first instance to existing Unit Holders in proportion as nearly as may be to their existing holdings of units and without involving fractions;

(iii) the Trustee shall give notice specifying the number and class of the units offered and limiting a time within which the offer if not accepted will be deemed to be declined and after the expiration of that time or on receipt of an intimation from the person to whom the offer is made that he declines to accept the units offered the Trustee may dispose of those units in such manner as the Trustee may think most beneficial to the Trust Fund;

(iv) the Trustee may likewise dispose of any new units which (by reason of the ratio which the new units bear to units held by persons entitled to an offer of new units) cannot in the opinion of the Trustee be conveniently offered under sub-clause (ii).

(b) All persons to whom new units are to be issued other than persons who are already Unit Holders shall sign such form of application as the Trustee may from time to time prescribe including an undertaking to be bound by the terms of issue and of this Deed and of any supplemental Deed.

(c) The Trustee may at any time and shall if so directed by all the Unit Holders cause a valuation of the property and assets of the Trust Fund to be made.

(d) Units of any class may be reclassified by the Trustee with the written approval of all the Unit Holders.

#### **CALLS ON UNITS**

(e) The Trustee may from time to time make calls upon the unit holders in respect of any money unpaid on their units (whether on account of the nominal value of the units or by way of premium) and not by the conditions of issue thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the unit or be payable less than one month from the date fixed for the payment of the last preceding call, and each unit holder shall (subject to receiving at least fourteen days notice specifying the time or times and place of payment) pay to the Trustee at the time or times and place so specified the amount called on his units. A call may be revoked or postponed as the Trustee may determine.

(f) A call shall be deemed to have been made at the time when the resolution of the Trustee authorising the call was passed and may be required to be paid by instalments.

(g) The joint holders of a unit shall be jointly and severally liable to pay all calls in respect thereof.

(h) If a sum called in respect of a unit is not paid before or on the day appointed for the payment thereof, the person from whom the sum is due shall pay interest on the sum from the day following the day appointed for payment thereof to the time of actual payment at such rate not exceeding eight per centum per annum as the Trustee may determine, but the Trustee shall be at liberty to waive payment of that interest wholly or in part.

(i) Any sums which by the terms of issue of a unit become payable on issue or at any fixed date by instalments or otherwise, whether on account of the nominal value of the unit or by way of premium shall for the purpose of these regulations be deemed to be a call duly made and payable on the date on which by the terms of the issue the same becomes payable, and in case of non-payment all the relevant provisions of these regulations as to payment of interest and expenses forfeiture, or otherwise shall apply as if the sum has become payable by virtue of a call duly made and notified.



the call was made will be liable to be forfeited.

(n) If the requirements of a notice are not complied with, any unit in respect of which the notice has been given may be forfeited by a resolution of the Trustee to that effect at any time thereafter before the payment required by the notice has been made. Such forfeiture shall include all distributions of income declared in respect of the forfeited units and not actually paid before the forfeiture.

(o) A forfeited unit may be sold or otherwise disposed of on such terms and in such manner as the Trustee thinks fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Trustee thinks fit.

(p) A person whose units have been forfeited shall cease to be a unit holder in respect of the forfeited units, but shall remain liable to pay to the Trustee all money which, at the date of forfeiture, was payable by the unit holder in respect of the units (together with interest at the rate of eight per centum per annum from the date of forfeiture on the money for the time being unpaid if the Trustee think fit to enforce payment of such interest), but his liability shall cease if and when the Trustee receives payment in full of all such money (including interest) in respect of the units.

(q) A statement in writing by the Trustee that a particular unit has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the unit.

(r) The Trustee may receive the consideration (if any) given for a forfeited unit on any sale or disposition thereof and may execute a transfer of the unit in favour of the person to whom the unit is sold or disposed of and upon the execution of the transfer he shall be registered as the holder of the unit, and shall not be bound to see to the application of the purchase money (if any) paid as consideration nor shall his title to the unit be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the unit.

(s) These provisions as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a unit, becomes payable at a fixed time, whether on account of the nominal value of the unit or by way of a premium, as if the same had been payable by virtue of a call duly made and notified.

#### **UNIT CERTIFICATES**

11. (a) UNIT certificates to be issued to the Unit Holders shall be in the form specified in the Second Schedule or in such other form from time to time determined by the Trustee. Every certificate shall specify the name of the Unit Holder the number of units to which it relates and shall bear a distinctive number.
- (b) Unit certificates may be issued for any number of units.
- (c) Unit certificates shall be signed under the Common Seal of the Trustee or on behalf of the Trustee by some person authorised by the Trustee. No certificate shall be valid until signed as provided.
- (d) The Trustee shall prepare all Unit certificates.
- (e) The Trustee shall satisfy itself that the applicant whose name is shown on a Unit certificate for issue has become entitled to the units shown on the unit certificate.
- (f) Unit certificates shall be prima facie evidence that the person named in the Certificate is entitled to the number of units therein specified.

Trustee shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable contingent future or partial interest in any unit or any interest therein or (except only as by the provisions of this Deed otherwise provided) any other rights in respect of any unit except an absolute right to the entirety thereof in the Unit Holder. Units held by a Trustee in respect of a particular trust may be marked in the register in such a way as to identify them as being held in respect of that trust but no liability shall be created by any such marking and the Trustee shall not be affected with notice of any trust recorded as aforesaid. If a transferee of units so requests in writing the Trustee may issue a certificate of units in the name of a fund which is held by a trust and, subject to the provisions of this Deed relating to transfers, may register any transfer signed by the Trustee for the time being of the fund and may pay all distribution cheques to such Trustee or to the fund by name and any such payments shall be a good discharge to the Trustee who shall not be bound to see to the application of any moneys paid to such fund or to the Trustee thereof.

13. (a) UPON delivery to the Trustee by any Unit Holder of a unit certificate together with a properly completed instrument of transfer the Trustee shall subject to the provisions of this Deed cancel the unit certificate and issue a new unit certificate for the units transferred to the transferee, and a further certificate for the balance not being transferred shall be issued to the transferor.
- (b) If any unit certificate issued in accordance with this Deed is delivered to the Trustee and it is mutilated, worn-out, or defaced, the Trustee may at its discretion and upon such evidence and indemnity being given to the Trustee as it considers adequate cancel the unit certificate and issue a new unit certificate in its place to the Unit Holder.
- (c) If any unit certificate issued in accordance with this Deed is lost or destroyed the Trustee shall on payment of a fee not exceeding fifty cents issue a duplicate unit certificate in lieu thereof to the Unit Holder on his application accompanied by -
- (i) a statutory declaration that the certificate has been lost or destroyed and has not been pledged sold or otherwise disposed of and if lost that proper searches have been made;
  - (ii) an undertaking in writing that if it is found or received by the owner it will be returned to the Trustee;
  - (iii) if required by the Trustee a bond for an amount at least equal to the current value of the units (as certified by the Auditors) indemnifying the Trustee against any loss or expenses following on the production of the original certificate.

#### **TRANSFER OF UNITS**

14. (a) SUBJECT to the provisions of this Deed every Unit Holder shall be entitled to transfer any of the units for the time being held by him by an instrument in writing in such form as the Trustee may from time to time approve.
- (b) Every such instrument must be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of the units comprised in such instrument until the name of the transferee is entered in the Register as the holder of such units.
- (c) Every instrument of transfer must be duly stamped at the expense of the transferor or transferee and left with the Trustee for registration accompanied by the unit certificate relating to the units to be transferred and such other evidence as the Trustee may require to prove the title of the transferor or his right to transfer units.
- (d) Upon any person becoming entitled to any unit in the Trust Fund in consequence of the death bankruptcy or liquidation of a Unit Holder, the Trustee shall upon such evidence being produced as may from time to time properly be required by the Trustee as to his title, and subject always to the power vested in the Trustee to approve or disapprove of a transfer of units as provided in Clause 15 hereof,

(c) Upon receipt of the transfer notice the Trustee shall offer the said units at the selling value to the other unit holders. In default of agreement to the contrary, the offer may only be accepted by each of them in respect of such proportion of the said units as the number of units held by each of them respectively at the time of such offer bears to the number of units held by persons other than the proposing transferor at such time. The offer shall be made by giving a notice in writing to each such holder of units specifying the number and price of the said units and the number which such holder is entitled to purchase and shall invite the unit holder to state within thirty (30) days from the date of the notice whether he desires to purchase any and if so how many of the units offered. In the event of any Unit Holder to whom an offer is addressed not agreeing that the price specified by the proposing transferor is a fair price, the price shall be determined by the Auditor of the Trust or a Registered Company Auditor appointed by the Trustee, and the price determined by such Auditor shall be deemed to be the price specified in the transfer notice for the purposes of this Deed. In making such determination the auditor shall be deemed to be acting as an expert and not as an Arbitrator. The costs of such determination shall be borne by the person who failed to agree with the price originally specified in the transfer notice.

(d) At the expiration of the said thirty (30) days the Trustee shall allocate the said units to or amongst the Unit Holders who shall express their desire to purchase any or all of the units offered to them PROVIDED THAT no Unit Holder shall be obliged to take more than the number of units which he advised the Trustee he desires to purchase. Upon such allocation being made the Trustee shall give notice in writing thereof to the proposing transferor stating the name and address of each of the respective purchasers and the numbers of units agreed to be purchased by them respectively. Settlement of the purchase shall take place at a place and time to be appointed by the Trustee being not less than seven (7) days nor more than thirty (30) days after the date upon which the Trustee shall allocate the units to or amongst the Unit Holders and at settlement the proposing transferor shall be bound on payment of the price to transfer the said units to the respective purchasers thereof.

(e) If the Trustee shall not find Unit Holders willing to purchase all the said units in accordance with the provisions of the preceding clause and if at the expiration of the period of thirty days after the offer there are any of the said units in respect of which no notice of desire to purchase has been given, the proposing transferor may for a period of six months thereafter transfer such units (or any of them) to any person at any price not less than the price specified or deemed to be specified in the relevant transfer notice.

(f) If the proposing transferor makes default in transferring the said units as and when required so to do pursuant to the foregoing provisions of this Clause the Trustee shall be deemed to be the duly appointed attorney of the proposing transferor with full power to execute complete and deliver in the name and on behalf of the proposing transferor a transfer of any of the said units to the purchasing Unit Holder or other person (as the case may be) and to receive and give a good discharge for the purchase money on behalf of the proposing transferor (which purchase money shall be held in trust for the proposing transferor) and upon any such transfer being executed and delivered the Trustee may enter the name of the purchaser in the Register as the holder by transfer of such units purchased by him and after such name has been entered in the Register in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.

16. THE restrictions contained in the provisions of Clause 15 shall not apply to any of the following transfers of units -

(a) To any of the following permitted transferees -

settlement or of any beneficial owner of shares in the corporation (as the case may be).

- (b) From any permitted transferee as aforesaid to any other Unit Holder holding units of the same class or to any other permitted transferee as aforesaid.
  - (c) From the executors or administrators or other legal personal representatives of a deceased Unit Holder to any person who is already a Unit Holder holding units of the class held by the deceased or to the widow or widower of the deceased Unit Holder or to any of the specified relatives (defined as aforesaid) of such Unit Holder entitled in each case thereto under or by virtue of the will of such Unit Holder or as one of his next-of-kin.
  - (d) From the trustees of a family trust to the beneficiary or beneficiaries entitled thereto pursuant to such family trust.
  - (e) From the trustees of the will of any deceased Unit Holder or of any family trust on any change of trustees to the trustees for the time being of such will or family trust.
  - (f) In the case of a Unit Holder being a body corporate, from such Unit Holder to another body corporate which is in relation to such Unit Holder a related body corporate within the meaning stated in Section 50 of the Corporations Act.
  - (g) A transfer of units by a Unit Holder being a corporation to any member of such corporation.
  - (h) A transfer of units from a corporation to a Trustee for that corporation.
  - (i) A transfer of units from a Trustee for a corporation to that corporation.
  - (j) A transfer of units held by the transferor as Trustee for a corporation to a substituted Trustee for the same corporation, or
  - (k) A transfer of units from a Unit Holder to a corporation which is its subsidiary or of which it is a subsidiary.
17. (a) IN the case of the death of a Unit Holder, the survivor or survivors where the deceased was a joint holder and the legal personal representatives of the deceased in all other cases shall be the only persons recognised by the Trustee as having any title to his interest in the units.
- (b) Any person becoming entitled to units in consequence of the death lunacy liquidation or bankruptcy of any holder may upon such evidence being produced as may from time to time be required by the Trustee, elect either to be registered himself as the holder of the units or to have some person nominated by him registered as the transferee thereof but the Trustee shall, in either case, have the same right to decline or suspend registration as the Trustee would have had in the case of a transfer of the units of that holder prior to such death lunacy liquidation or bankruptcy.
- (c) If a person so becoming entitled elects to be registered himself he shall deliver or send to the Trustee a notice in writing signed by him stating that he so elects. If he elects to have another person registered he shall testify his election by executing a transfer of the units to that person. All provisions of this Deed relating to the right to transfer units and the registration of transfers of units shall be applicable to any such notice or transfer as if the death lunacy liquidation or bankruptcy of the Unit Holder had not occurred and the notice or transfer were a transfer executed by that holder.
- (d) A person entitled to units by transmission shall be entitled to receive and may give a good discharge for all moneys payable in respect of the units but except as otherwise provided by this Deed shall not be entitled to any of the rights or privileges of the Unit Holder unless and until he shall become registered in respect of the units.

obtained approval of such cancellation by an unanimous resolution of the other Unit Holders. A holder of redeemable preference units may request the redemption of some or all of his units in accordance with the terms of issue.

(b) Upon delivery to the Trustee of the certificates relating to the units referred to in any application made pursuant to the preceding sub-clause, the Trustee shall cancel such units and note such cancellation in the Register and shall then pay to the Unit Holder such amount as shall represent the redemption price of any redeemable preference units or the value of any other units as at the date of cancellation.

(c) The Trustee shall obtain a certificate from the auditors of the Trust of their opinion of the net value of the Trust Fund at the date the application is received by the Trustee and of the value of each of the units in the application and this shall be the value of each unit to be so surrendered for the purposes of this clause. The Unit Holder surrendering such units shall be entitled to be paid the value of each unit so surrendered by him provided that any such payment may at the absolute discretion of the Trustee be made in cash or by the transfer of assets of equivalent value (as certified by the auditors as aforesaid) to the Unit Holder concerned. The certificate of the auditors as to the value of the Trust Fund and of each of the assets thereof delivered for the purposes of this clause shall be final and conclusive for the purposes hereof.

(d) Unless otherwise provided by the terms of issue a redeemable preference unit may be redeemed at any time by the Trustee or upon request by the unit holder made more than one year after the date of issue. The redemption price shall be specified in the terms of issue if it is other than the amount paid up on the unit. Until redeemed the units shall carry the right to a distribution of income before other units of 10 per cent per annum on the amount paid up on the unit plus the right to share in any distribution of income to the other units which exceeds 10 per cent in any income tax year.

#### **DURATION AND TERMINATION OF THE TRUST**

20. (a) SUBJECT to the provisions of sub-clause (b) of this Clause the Trust created by this Deed shall commence on the date hereof and shall terminate on the Vesting Date unless it has been terminated prior to that date under the provisions of this Deed.

(b) The Trust may be terminated at any time before the Vesting Date if so resolved by a Special Resolution of the Unit Holders and such termination shall take effect from a date to be named in the Resolution.

(c) If any law should be passed which renders it illegal or in the opinion of Queen's Counsel impracticable or inadvisable to continue the Trust the Trustee shall terminate the Trust by notice in writing fixing the date at which such termination is to take effect.

(d) When the Trust is terminated the Trustee shall sell call in and convert into money or cause to be sold called in and converted into money the investments and property constituting the Trust Fund, and within the period of six months (or later if approved by the Unit Holders but not later than the expiration of the perpetuity period) from the giving of the notices to Unit Holders provided for in the next sub-clause, divide the proceeds less all proper costs and disbursements commissions brokerage fees and other outgoings and all proper provision for liabilities among the Unit Holders in proportion to the number of units of each class held by them and the respective rights of each class of units and upon such registered holders delivering up to the Trustee for cancellation the certificates held by them respectively provided however that the Trustee may in its discretion at the request of any Unit Holder transfer to such Unit Holder any assets of the Trust Fund in specie in satisfaction or part satisfaction of the entitlement of the Unit Holder.

from time to time be decided by the Trustee. All moneys and securities belonging to the Trust shall as and when received be paid into or deposited with the said bank to the credit of the said account. All cheques and other negotiable instruments shall be drawn in the name of the Trustee and shall be endorsed in such manner as the Trustee may from time to time require.

(c) Promptly after the close of each Accounting Period the Trustee shall prepare a written accounting report (prepared in accordance with normally acceptable accounting procedures) for such period consisting of a balance sheet and statement of income and expenditure and a list of assets held at the close of such year and a copy thereof shall be furnished to the Unit Holders upon request.

(d) If the Unit Holders at the annual general meeting nominate an auditor the Trustee shall appoint that auditor and if the Unit Holders do not make a nomination the Trustee may in its discretion if it thinks fit act instead of the auditor or if it thinks fit appoint an auditor to examine and ascertain the correctness of the accounts of the Trust Fund and to report thereon to the Trustee and to the Unit Holders.

#### **INCOME OF THE TRUST FUND**

22. (a) THE Trustee shall collect and receive the dividends interest rents and other income from the investment of the Trust Fund.
- (b) The Trustee shall pay out of the gross income of the Trust Fund all costs and disbursements commissions fees taxes (including land tax and income tax) management charges and other proper outgoings in respect of the investment and administration of the Trust Fund.
- (c) In dealing with the income the Trustee may decide to treat income derived from different origins in different ways and may resolve that any particular payment application or appropriation shall be made from income of a specified origin.
23. (a) THE Trustee may at any time before the expiration of each Accounting Period until the Vesting Date determine with respect to all or any part or parts of the net income of the Trust Fund for such Accounting Period to do all or any of the following:-
- (i) to pay apply or set aside the same for the Unit Holders in proportion to the number of units of which they are respectively registered as the holders at the time of such determination and the rights of the various classes of units then in existence.
  - (ii) to accumulate the same;
  - (iii) to pay apply or set aside the same for such charitable purposes as the Trustee (with the consent of the Unit Holders) may think fit.
- (b) The following rules shall apply to any determination pursuant to paragraph (a) of this Clause namely -
- (i) any determination shall be conditional upon the income the subject thereof in fact proving to exist at the end of the Accounting Period and any determination to accumulate income shall be conditional upon the law in force in relation to this Deed giving effect to such determination at the end of the Accounting Period but except as provided in this paragraph (b) each such determination shall be irrevocable;
  - (ii) if at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to paragraph (a) of this Clause exceed the net income of the Trust Fund for the Accounting Period the amount of the excess shall in the first place be deducted from the amounts which the Trustee has determined to accumulate and only the balance of such amounts (if any) shall thenceforth be accumulated and in the second place should any deficiency remain the Trustee shall be deemed to have applied the capital of the Trust Fund the value of which shall thereupon be adjusted accordingly;

respectively registered at the time and the rights of the various classes of units then in existence.

(e) The Trustee shall hold so much of the net income of the Trust Fund for each Accounting Period as shall not be the subject of a determination effectively made at or prior to the end of such Accounting Period pursuant to the foregoing provisions of this Clause in trust for the Unit Holders in proportion to their respective interests on the last day of such Accounting Period.

(f) Any amount set aside for any Unit Holder and any amount held by the Trustee in trust for any Unit Holder pursuant to the foregoing provisions shall not form part of the Trust Fund but upon such setting aside or becoming subject to such trust (as the case may be) shall be thenceforth held by the Trustee as a separate trust fund on trust for such person absolutely with power to the Trustee pending payment over thereof to such person to invest or apply or deal with such fund or any resulting income therefrom or any part thereof in a similar manner to that provided for the Trustee in relation to the Trust Fund.

(g) The Trustee may satisfy any amount payable to a Unit Holder who is an infant by paying the same to a parent or guardian of such infant and the Trustee shall not be bound to see to the application thereof by such parent or guardian.

24. THE Trustee may with the sanction of a Special Resolution at any time or times and from time to time before the date of the termination of the Trust out of the capital of the Trust Fund raise any sum or sums and pay the same to Unit Holders in proportion to their interests as at the date of such Resolution for their own use and benefit in addition to any income to which the said Unit Holders may from time to time be entitled.

#### **CAPITAL GAINS**

25. The Trustee may in its discretion treat any capital gains which are taxable as such in the same way as income is to be treated for the purposes of this trust or may treat them as accruals to the capital of the Trust Fund and deal with them accordingly.

#### **APPOINTMENT AND RESIGNATION OF TRUSTEES**

26. (a) THE Trustee named in the first Schedule shall be the initial Trustee of the Trust Fund and for itself and its successors as Trustee covenants with the Unit Holders that it will act continuously as Trustee under the Trusts herein set forth until such Trusts are determined as herein provided or until the Trustee has retired or been removed from office in the manner herein provided.

(b) A Trustee shall be disqualified from holding office if -

(i) being an individual he becomes insolvent or of unsound mind or does or suffers anything which would disqualify him from holding office as Director of a Company;

(ii) being a company it goes into liquidation or if a receiver manager or administrator of any of its assets or undertaking is appointed.

(c) A Trustee may retire upon giving one month's notice in writing to the Unit Holders of that Trustee's desire to do so but such retirement shall not take effect until a general meeting of Unit Holders called to consider the appointment of a Trustee or Trustees in place of the retiring Trustee has appointed a new Trustee and that Trustee has executed a Deed of Trust as hereinafter provided.

(d) The Unit Holders shall be entitled -

(i) by unanimous resolution in writing or in general meeting to remove any Trustee or to appoint an additional Trustee;

(ii) by special resolution in general meeting or by unanimous resolution in writing to appoint a Trustee in place of any Trustee who dies or retires or is disqualified or removed from office.

person to be an alternate Trustee in his place and so that any such appointment shall have effect during such period as such Trustee may from time to time be absent from the place where the Trust Fund is being administered or is otherwise incapable of acting and the Trustee may by deed under his hand revoke or alter such appointment as alternate Trustee.

28. NO Trustee shall be responsible for -

- (a) any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by failure to exercise any such discretion or power; or
- (b) any breach of duty or trust whatsoever unless it shall be proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustees charged to be so liable. All persons claiming any beneficial interest in over or upon the property subject to this Trust shall be deemed to take the same with notice of and subject to the protection hereby conferred on the Trustees.

29. THE Trustee shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by the Trustee in the execution or attempted execution or as a consequence of the failure to exercise any of the trusts authorities powers and discretions hereof or by virtue of being the Trustee hereof.

30. THE Trustee shall not be bound in any case to act personally but shall be at full liberty to act by managers or to employ any contractors manager solicitor accountant clerks workmen employees or servants or any agents to transact all or any business of whatever nature required to be done in the premises including the receipt and payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.

31. (a) A sole Trustee hereof for the time being is hereby authorised notwithstanding that he is the sole Trustee to receive capital and other moneys and to give valid and effectual receipts therefor for all purposes and for the purposes of any statutory enactments including the receipt of moneys which may or may not be deemed to be capital moneys for the purposes of any Statute.

(b) The Trustees if at any time they are more than one shall act jointly and not severally. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustee and may execute any powers of attorney or other instruments necessary to effectuate such purpose. Each Trustee may appoint an alternate Trustee to act in his place at meetings of trustees so long as and whenever the appointing Trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting .

(c) If at any time there are more than one Trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to an arbitrator whose decision shall be final and the Trustees shall act in accordance with the decision .

(d) If a Trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole Trustee it may attend meetings of trustees and vote there by its representative.

32. ANY Trustee hereof who is engaged in any profession or business or any firm of which he is a member shall be entitled to make all usual and proper charges for professional and other services in the administration of the Trust and for his time and trouble that he would have been entitled to make if not a Trustee and so employed.

33. THE Trustee shall subject to this Deed have the sole and absolute discretion in the exercise of all rights appertaining to the shares or other investments comprised in the Trust Fund and no Unit Holder shall save as is herein expressly provided have any right with respect to the Trust Fund to attend meetings of shareholders or to vote or take part in or consent to any corporate or shareholder's motion or save as expressly provided by this



have the same powers in all respects as if it were absolute owner beneficially entitled including without diminishing the generality of the foregoing the subscription for, the taking up on allotment and the purchase of any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and to take or purchase the whole or any part or unit of or share or interest in (including a minority part or share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate or any part or share or interest therein and notwithstanding that the same may not be income producing or may be of a wasting or speculative nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto.

(b) To make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and the Trustee may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and may agree to pay for any such investments wholly or in part from any future moneys which may come into its hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

(c) (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed  
(ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit  
(iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit

(d) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.

(e) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.

(f) To hold use purchase construct demolish maintain repair renovate reconstruct develop improve sell transfer convey surrender let lease exchange take and grant options or rights in alienate mortgage charge pledge reconvey release or discharge or otherwise deal with any real or personal

contained or of carrying out or performing the trusts hereof which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustee may be required to pay as settlement probate estate gift stamp or revenue duties including stamp gift or settlement duties payable in respect of the Trust Fund or on these presents.

(i) To exercise all rights and privileges and perform all duties and do all such acts, matters and things appertaining to any shares stock or debentures in any corporation for the time being subject to the trusts hereof as the Trustee could do if it were the beneficial owner of the shares stock or debentures or were personally interested or concerned in the corporation and without diminishing the generality of the foregoing with liberty to assent to any arrangements modifying such rights privileges or duties and to agree to any scheme or arrangement for the reconstruction or the increase or reduction of the capital of any corporation and to make any agreement in respect of or in the course of the winding up of any company and for any such purpose to deposit surrender or exchange any of the said shares stock or debentures or the title thereto and to pay any calls or contributions or other necessary expenses in connection with any such shares stock or debentures or any title thereto.

(j) To carry on anywhere in the world and either alone or in partnership and under such name as the Trustee thinks fit any trade or business whatsoever and to discontinue the same from time to time.

(k) To employ any person (including any Trustee hereof) in connection with any trade or business carried on by the Trustee or in connection with anything required to be done pursuant to the provisions hereof including the receipt and payment of money and to decide the remuneration to be allowed and paid and the amount of all charges and expenses and to create or arrange any scheme of superannuation retirement benefit or pension for the benefit of any person so employed.

(l) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition.

(m) To establish promote or acquire any company or companies or join in the promotion establishment or acquisition of any company or companies.

(n) To appropriate any part or parts of the Trust Fund in the actual condition or state of investment thereof in or towards the satisfaction of the interest of any person in the Trust Fund or in or towards the satisfaction of any sum which the Trustee may determine to pay or apply to or for the benefit of any Unit Holder pursuant to Clause 23 hereof and in making such appropriation to estimate the value of the component parts of the Trust Fund or to employ such person to make such valuation as in the circumstances the Trustee deems proper without obtaining any consents otherwise required by law and every appropriation so made shall bind all persons interested in the Trust Fund notwithstanding that they may not yet be in existence or may be under a legal disability.

(o) To determine whether any real or personal property or any increase in amount number or value of any property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this Deed and every determination of the Trustee in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

(p) To open any account or accounts with any bank or banks and to operate by and in all usual ways any such account or accounts and to draw make accept endorse discount issue or otherwise deal

contained in this Deed or otherwise by law conferred notwithstanding that the Trustee or any person being a Trustee or any person being a Director or shareholder of a Trustee hereof (being a Company) has or may have a direct or personal interest (whether as Trustee of any other Trust or in his personal capacity or as a Director or shareholder of any company or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

(t) To take such action as the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to take and act upon the opinion (given in writing) of a solicitor or Counsel practising in any country where the Trust Fund or any part thereof may for the time being be invested in relation to the interpretation or effect of these presents or any other document or statute or as to the administration of the trusts hereof without being liable to any of the persons beneficially interested in respect of any act done by the Trustee in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustee from applying to any Court if the Trustee thinks fit or prohibits any of the Unit Holders from so doing and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by these presents.

(u) To remunerate any Unit Holder who is at any time in the employ of the Trustee to the same extent and in the same manner as if the Unit Holder so employed were not a Unit Holder hereunder and all bona fide payments made by the Trustee to any such Unit Holder in the form of remuneration for services rendered or to be rendered or on account of expenses in connection with such employment shall not be or be deemed to be payment to the Unit Holder of or on account of his or her share in the Trust Fund or the income thereof.

(v) To permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustee and to deposit securities to the deeds and other documents belonging or related to the Trust Fund with any bank or other appropriate Custodian.

(w) With the consent of the Unit Holders, in any conditions or circumstances which the Trustee thinks expedient to appoint either in respect of the whole of the Trust Fund or any part thereof new Trustees in any country in the world and to transfer assign and set over the investments for the time being representing the Trust Fund or any part thereof to any such new Trustee upon similar trusts and subject to similar terms and conditions to those declared in these presents and either subject to the control of the Trustee of these presents or to the exclusion of such control AND the Trustee of these presents shall be indemnified and held harmless against any loss which may arise from the exercise of this power.

(x) With the consent of the Unit Holders at any time or times before the Vesting Date by any irrevocable deed or deeds (without infringing any rule against perpetuities applicable to this Deed) to appoint that the whole or any part of the Trust Fund shall thenceforth be held upon the trusts and with and subject to the powers and provisions of any other Trust (not infringing the rule against perpetuities applicable to this Deed) and approved by the Trustee in favour or for the benefit of all or one or more exclusively of the others or other of the Unit Holders registered at the time of such appointment and upon any such appointment being made the Trustee may transfer to the Trustee or trustees for the time being of the said other Trust the property comprised in the said appointment and thereupon the trusts herein declared concerning such property shall cease and determine and the said property shall for all purposes be subject to the trusts powers and provisions contained in the said other Trust and be subject to and governed by the proper law of the said other Trust whether or not such proper law shall be the proper law of this Trust.

exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

36. NOTWITHSTANDING anything herein to the contrary or otherwise contained the Trustee shall have power at its absolute discretion :-

- (a) to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustee in its personal capacity or in its capacity as Trustee of other Trust Funds or otherwise howsoever or to any company or partnership whatsoever notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or to a wife, husband, child or children of any Trustee absolutely;
- (b) to buy transfer acquire hire or lease any real or personal property or to borrow any moneys from the Trustee (or any of them when there may be more than one) in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or from any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or from the husband or wife or child or children of any Trustee;
- (c) to carry on or carry out any profit-making undertaking or scheme in partnership with the Trustee in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or with any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or with the husband or wife or child or children of any Trustee;
- (d) to exercise all the powers and discretions vested in the Trustee notwithstanding that the Trustee may be a Unit Holder and generally to deal with the Trustee in its personal capacity in all respects as if there were two separate persons to the dealings. AND without limiting the generality of anything herein contained the Trustee shall have power in its absolute discretion to sell to itself in its capacity as Trustee of other trust funds either for cash or upon terms any assets being shares or a joint or undivided interest in property where other shares in the same company or companies or another joint or undivided interest in the same property are held by the Trustee in such other capacity as aforesaid AND to divide assets in specie between the Trust Fund and such other trust funds in such manner as the Trustee shall think fit.

37. THE Trustee may in its absolute discretion notwithstanding anything to the contrary herein contained or otherwise provided -

- (a) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date out of the capital of the Trust Fund held on trust but not out of any moneys referred to in paragraph (d) of this Clause raise any sum or sums and pay the same (in addition to any entitlement to income or share of income) to Unit Holders in proportion to their interests at the time for their own use and benefit or apply the same to or for the benefit of the Unit Holders in like proportions;
- (b) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date lend any sum or sums out of the Trust Fund and any moneys held in trust hereunder to any Unit Holder either with or without security and upon such terms and conditions as to repayment and with or without interest as the Trustee shall in its absolute discretion think fit;
- (c) at any time or times and from time to time pay or apply the whole or any part of the capital or the whole or any part of any income or accrued or accumulated income to which any infant Unit Holder is entitled in such manner as the Trustee in its absolute discretion thinks fit for the benefit of such infant and without limiting the generality thereof in particular for the maintenance education or advancement of such infant and in the exercise of this power or in respect of any other amount payable to an infant by the

(\*) allow any Unit Holder to occupy have custody of or use any immovable property or chattels for the time being forming part of the Trust Fund on such terms or conditions as to rent inventories repair replacement insurance outgoings or otherwise at all as the Trustee shall think fit and so that no Trustee shall be liable for any loss or damage which may occur to any property so forming part of the Trust Fund during or by reason of any such occupation custody or use except insofar as such loss or damage shall be occasioned by the conscious and wilful default or neglect of such Trustee.

#### **REMUNERATION OF TRUSTEE:**

38. IT is hereby agreed that :-

- (a) The Trustee shall be entitled to be paid such sums as may be determined by a Special Resolution of the Unit Holders as remuneration for its services.
- (b) That without limiting the generality of the other provisions of this Deed the Unit Holders acknowledge that the Trustee may pay on demand all costs charges and expenses reasonably and properly incurred by or on behalf of the Trust.
- (c) That all the aforesaid remuneration and payments shall be and are hereby charged upon the Trust Fund and shall be paid in priority to any claim by any Unit Holder.

#### **MODIFICATION OF TRUST DEED**

39. (a) THE Trustee may from time to time pursuant to a Special Resolution of the Unit Holders requesting the Trustee to do so by Deed supplemental to this Deed modify or alter or add to the provisions of this Deed (including this present Clause) PROVIDED THAT such modification alteration or addition -
- (i) in the opinion of the Trustee is desirable for the more convenient or economical management of the Trust or is necessary to satisfy the requirements of any statute, ordinance, rule, regulation or by-law which may be passed and which affects Trusts of this nature;
  - (ii) does not prejudice the interests of the Unit Holders or any of them and does not operate to release the Trustee from any responsibility to the Unit Holders provided for in this Deed ,unless with the specific consent of the unit holders affected.
  - (iii) does not impose on any Unit Holder any obligation to make any further payment in respect of his units.
  - (iv) does not infringe or have the effect of infringing any law against perpetuities;
  - (v) shall not affect the beneficial entitlement to any amount set aside for any Unit Holder prior to the date of the modification alteration or addition;
  - (vi) does not result in any inappropriate benefit accruing to the Trustee.
- (b) As soon as possible after the execution of any supplemental deed and in any event not later than two months thereafter notice thereof containing a short summary of such supplemental deed shall be sent by the Trustee to each Unit Holder and the terms and conditions of any supplemental deed entered into under the provisions of this Clause shall be binding on each Unit Holder or any person claiming through him as if he had been a party to this Deed and any such supplemental deed.

#### **NOTICE TO UNIT HOLDERS**

40. (a) SUBJECT to sub-clause (b) of this Clause any notice required to be given to a Unit Holder shall be deemed to have been given if it is either delivered or sent by post with postage prepaid in an envelope addressed to him at his address appearing in the Register and any such notice shall be deemed to be served on the date of delivery or on the third day following that on which the said envelope is posted.

given if the death lunacy liquidation or bankruptcy had not occurred.

(e) Subject to sub-clause (f) hereof, notice of every meeting of Unit Holders shall be given in any manner hereinbefore authorised to :-

- (i) every Unit Holder except those Unit Holders who (having no registered address within the Commonwealth of Australia) have not supplied to the Trustee an address within the Commonwealth of Australia for the giving of notices to them;
- (ii) every person entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder who was before such event entitled to receive notice of such meetings ;
- (iii) the Auditor (if any) for the time being of the Trust Fund.

(f) The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.

(g) The signature to any notice to be given by the Trustee may be written or printed or stamped and the signature may be that of one or more of the Trustees or of any Director or Secretary of a corporate Trustee.

(h) If the Trustee shall so determine a notice may be given by means of telex telegram cablegram fax or radiogram and service of such notice shall be deemed to be effected if the telex telegram cablegram fax or radiogram is properly addressed paid for and lodged for transmission with a competent authority or body and deemed to be delivered at the time at which in the ordinary course the telex telegram cablegram fax or radiogram would be delivered.

#### **MEETINGS OF UNIT HOLDERS**

41. (a) THE Trustee or the holders of not less than 10% of the registered units may convene a meeting of the Unit Holders.
- (b) Subject to the consent of all the Unit Holders to shorter notice not less than seven days' notice shall be given of every such meeting and such notice shall specify the general nature of the business to be transacted and the place day and time of the meeting.
- (c) The Chairman of the meeting shall be a person appointed by a majority of the Unit Holders entitled to vote and be present at such meeting.
- (d) At any meeting voting shall be by a show of hands unless a poll be demanded by Unit Holders entitled to vote holding not less than 10% of the units issued and carrying the right to vote and upon a poll every Unit Holder present in person or by proxy shall have one vote for every voting unit held by him.
- (e) Votes may be given either personally or by proxy. A proxy may but need not be a Unit Holder and in the case of a Unit Holder being a corporation, the proxy may be any officer of such corporation.
- (f) In the case of joint registered Unit Holders any one of such joint holders may vote either personally or by proxy as if he were solely entitled to the units comprised in the joint holding but if more than one of such joint holders be present at any meeting either personally or by proxy that one of the persons so present whose name stands first in the register in respect of the joint holding shall alone be entitled to vote in respect thereof. Several executors or administrators shall for the purpose of this sub-clause be deemed joint holders.
- (g) Every instrument of proxy shall be in a form approved from time to time by the Trustee and shall be deposited with the Trustee at any time before the time of holding the meeting at which the person named in such instrument proposes to vote.

Unit Holders or of Unit Holders of any class shall be as valid and effectual as if it had been passed at a duly called and constituted general meeting of Unit Holders or of Unit Holders of that class as the case may be. Any such resolution may consist of duplicate copies of one document one copy of which shall have been signed by each Unit Holder.

- (m) A Unit Holder shall for all purposes be deemed to be present at a meeting if present either in person or by his proxy.
- (n) The notice calling a meeting of Unit Holders at which a special Resolution is to be considered shall give a general description of the subject matter of such proposed Special Resolution.
- (o) A Special Resolution may be passed by a meeting of Unit Holders if due notice has been given and 75% or more of the then registered unit holders entitled to vote exercise their votes in favour of such resolution.

#### **CONSENT OF UNIT HOLDERS**

42. FOR the purposes of this Deed the consent of the Unit Holders to any act or thing shall be conclusively deemed to have been given on production of -

- (a) a consent in writing executed by or on behalf of all the Unit Holders; or
- (b) the consent was given by a Special Resolution of the Unit Holders.

#### **LIQUOR LICENCE**

43. While and so long as the Trustee is the holder of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

<b>JURISDICTION</b>	<b>LEGISLATION</b>	<b>AUTHORITY</b>	<b>EXECUTIVE</b>
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian Capital Territory	Liquor Act 1975	Registrar of Liquor Licences	Registrar
Northern	Liquor Act 1978	Liquor	Registrar





<b>REGISTER FOLIO</b>	<b>NUMBER OF UNITS</b>	<b>CLASS</b>

Signed for and on behalf of the Trustee

This Certificate must be delivered to the Trustee on application to transfer any of the Units comprised therein.

such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

**CLASS B (CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

**CLASS C (INCOME UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

**CLASS D (CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

**CLASS E (INCOME AND CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only.

**CLASS F (INCOME AND CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but may vote at meetings of the class only.

holders from benefiting from any allocation or distribution. These units shall carry the right to vote at meetings of unit holders generally and of the class. As long as any Ordinary Units in the Trust are held the consent of not less than 75% of the Ordinary Unit holders calculated by the number of units held by those voting or expressing their consent in writing shall be required to validate any proposed appointment or allocation of any income, capital gain, or distribution of the Trust Fund in favour of this class of unit holder.

**CLASS J ( VOTING - WITHOUT OTHER ENTITLEMENT)**

These units shall not entitle the holders to receive any part of the net income and net taxable gains of the Trust . The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund .

N.B. Issues of Classes A, B, C, and D are not compatible with issues of Classes E and F. Classes G or H cannot be issued alone but may be added to Ordinary units and/or a selection from A,B,C, & D. or from E & F. One Class should have full voting rights. A and C Classes are alternatives and B and D are alternatives. The holders of Class G and H units have no beneficial interest or entitlement in the Trust whatsoever unless and until the Trustee exercise a power or discretion in favour of the relevant class or of a holder of units of a relevant class and has received the necessary consent.

**CLASS K ( PART PAID ORDINARY UNITS - FLEXIBLE CONTRIBUTION)**

These units shall entitle the holders to receive in proportion to the amounts paid up on their units such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee does not appoint or allocate to any other class of unit. At meetings of unit holders they shall have one vote per unit held. Where the full nominal contribution of the unit holder has not been paid, the balance may at any time be paid to the Trustee in whole or part but there shall be no obligation on any unit holder to make any such payment or right of the Trustee to call for any such payment. On the Vesting Date or upon any earlier distribution of the capital of the Trust Fund the holders of these units shall firstly receive repayment of the amounts paid up on their units, in proportion to the amounts so paid, and any surplus other than any part which the Trustee appoints or allocates to any other class of unit shall be distributed in accordance with the number of units held. K units are unsuitable for issue with ordinary units.

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**PACIFIC BLUE TAX SERVICES PTY LTD (LOU STEFANETTI)**  
**PO BOX 2442**  
**LOWER TEMPLESTOWE VIC 3107**  
**PHONE: 03 8862 4646 FAX: 03 9824 8881**

<b>Interest:</b>	\$0
<b>Total Amount:</b>	\$200
<b>Section:</b>	s37 - Establishment of a trust relating to unidentified property and non-dutiable property

**TRUST INFORMATION**

<b>Trust Name:</b>	5 BULKARA STREET UNIT TRUST
<b>Date of Trust:</b>	14th January 2019

**TRUSTEE**

<b>Company:</b>	5 BULKARA STREET PTY LTD
-----------------	--------------------------

*This is a true certified copy  
of the original.*

*Luigi Stefanetti*  
TA 76044000

<b>PACIFIC BLUE TAX SERVICES PTY LTD</b>
<b>PO BOX 2442</b>
<b>TEMPLESTOWE LOWER, VIC. 3107</b>

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**SRO CONTACT DETAILS**

<b>Mail</b> Duties Online Support, State Revenue Office, GPO Box 1641, MELBOURNE VIC 3001 or DX 260090 MELBOURNE	<b>Website</b> <a href="http://www.sro.vic.gov.au">www.sro.vic.gov.au</a>
	<b>Email</b> <a href="mailto:dutiesonline@sro.vic.gov.au">dutiesonline@sro.vic.gov.au</a>
	<b>Phone</b> 03 9628 6539
	<b>Fax</b> 03 9628 0021



CD2011/1

EXECUTED UNDER SEAL in the presence of the undersigned by  
TESORIERO INVESTMENT GROUP PTY LTD ACN: 161 088 115  
As Trustee For TESORIERO INVESTMENT TRUST  
in accordance with its Constitution OR for and on behalf of the Company by;

DIRECTOR [Signature] SECRETARY [Signature]

EXECUTED UNDER SEAL in the presence of the undersigned by  
EROS MANAGEMENT PTY LTD ACN: 622 298 346  
As Trustee For MAZ TRUST  
in accordance with its Constitution OR for and on behalf of the Company by;

Director [Signature] Secretary [Signature]

*This is a true certified copy  
of the original  
[Signature]  
Luigi Stefanetti  
TR 76044000*

PACIFIC BLUE TAX SERVICES PTY LTD  
PO BOX 2442  
TEMPLESTOWE LOWER, VIC. 3107

**UNIT HOLDING:** Level 1, 365 Tooronga Road, Hawthorn East VIC 3123  
As Trustee For TESORIERO INVESTMENT TRUST  
Total of 5 Units  
5 Ordinary \$1.00 Units Fully Paid at a cost of \$5.00

EROS MANAGEMENT PTY LTD ACN: 622 298 346 of Level 5, 141  
WALKER STREET, NORTH SYDNEY NSW 2060  
As Trustee For MAZ TRUST  
Total of 5 Units  
5 Ordinary \$1.00 Units Fully Paid at a cost of \$5.00

**PROPER LAW:** Victoria  
**TRUST NAME:** 5 BULKARA STREET UNIT TRUST  
**INITIAL SUM:** Ten Dollars (\$ 10.00)  
Ten (10) Units

**VESTING DAY:** The seventy-ninth (79<sup>th</sup>) Anniversary of the signing hereof.

*This is a true, certified copy  
of the original.*  
*[Signature]*  
Luigi Stefanetti  
TA 76044000

PACIFIC BLUE TAX SERVICES PTY LTD  
PO BOX 2442  
TEMPLESTOWE LOWER, VIC. 3107

**DEED OF TRUST**

**OF**

**6 BULKARA STREET UNIT TRUST**

**VICTORIA**

**ABBOTS**

**1ST FLR, 225 BRIDGE ROAD**

**RICHMOND VIC 3121**

**PO Box 384, RICHMOND VIC 3121**

**PH: (03) 9427 8888 FAX: (03) 9427 7888**



**THIS DEED OF TRUST** is made the day described in the First Schedule hereto **BETWEEN:** the persons named and described in the First Schedule hereto as the Original Unit Holders (hereinafter called “the Original Unit Holders”) of the One Part and the person or persons described in the First Schedule hereto as the Trustee or Trustees (hereinafter called “the Trustee”) of the Other Part

**WHEREAS:**

- (A) It is intended by this Deed to establish a Trust to be known by the name shown in the First Schedule.
- (B) For that purpose the Original Unit Holders have paid or intend on or after the execution hereof to transfer to the Trustee the initial sum or other asset stated in the First Schedule hereto, which is to form the Trust Fund until other assets are obtained by the Trustees which will form part of the Trust Fund as defined.
- (C) The Trustee has consented to act as Trustee hereof upon the trusts and subject to the provisions herein contained.
- (D) This Deed is made with the intention that the benefits of the trusts declared in this Deed shall enure to the extent provided for the benefit of every Unit Holder who shall hold units and be bound by the provisions of this Deed.
- (E) The provisions of Section 38 of the Trustee Act 1958 are not intended to apply to the Trust.

**NOW THIS DEED WITNESSES:-**

**DEFINITIONS :**

1. IN this Deed and its Schedules and in certificates issued under this Deed, unless there is something inconsistent in the subject or context the following words expressions and terms shall have the meanings assigned to them namely :-

- (a) “The Trust” means the Trust established by this Deed.
- (b) “The Trustee” means the Trustee or trustees for the time being of the Trust whether the original Trustee, or any additional or substituted Trustee.
- (c) “The Trust Fund” means -
  - (i) The initial sum or asset referred to in Recital (B).
  - (ii) All moneys paid or payable to or assets transferred to the Trustee upon or in consequence of the issue of units pursuant to the provisions of this Trust Deed.
  - (iii) Any accumulations of income.
  - (iv) All accretions to the Trust Fund.
  - (v) The investments and property from time to time representing the moneys assets and accumulations which become subject to these trusts.
- (d) “Vesting Date” means the first to occur of
  - (i) the date specified in the First Schedule hereto
  - (ii) if no date is specified in the Schedule the date 80 years from the day before the date hereof, or if the proper law of this trust does not allow that as a perpetuity period the earlier expiration of either the said period of 80 years or the period ending 21 years from the date of death of the last surviving descendant of his late Majesty King George VI now living..
  - (iii) such earlier date as the Trustee may appoint with the consent of the Unit Holders.
- (e) “Investment” means any one of the assets and investments forming for the time being a constituent part of the Trust Fund including the assets and goodwill of any business vested in or carried on by the Trustee.
- (f) “Certificate” means a certificate issued under the provisions of this Deed and for the time being current.
- (g) “Company” shall be deemed to include a unit trust.
- (h) “Unit” means an undivided share in the Trust Fund having the characteristics provided under the terms of this Deed.
- (i) “Unit Holder” or “Beneficiary” means the person for the time being registered under the provisions of this Deed as the holder of a unit and includes persons jointly so registered.

- (j) "Register" means the register of Unit Holders required to be kept by the Trustee in accordance with the provisions hereof.
- (k) "Accounting period" means the period from the date hereof to the next ensuing 30th June and thereafter each period of twelve (12) months ending on the 30th June each year and if the date of termination of the Trust is not on the 30th June in any year then the last accounting period shall be the period commencing on the 1st July immediately preceding the date of termination of the Trust and terminating on the date of termination of the Trust.
- (l) "Person" includes a company firm or body of persons.
- (m) References to any statutory enactment shall mean and be construed as references to the said enactment as amended modified and re-enacted from time to time.
- (n) "Present" in relation to a meeting means present in person or by proxy.
- (o) The singular shall include the plural and vice versa and reference to any gender shall include the other genders.
- (p) The headings contained in this Deed shall not affect the construction of these provisions.

#### **EFFECT OF THIS DEED AND DECLARATION OF TRUST**

2. THE perpetuity period in relation to all dispositions made by this Deed shall be the period until the Vesting Date.
3. THIS Deed shall be construed and take effect in accordance with the laws of the State of Victoria unless a different proper law is indicated in the First Schedule.
4. NOTHING in this Deed shall constitute or shall be deemed to constitute the relationship of principal and agent between the Trustee and the Unit Holders or the relationship of partners as between the Trustee and the Unit Holders or as between the Unit Holders inter se or to give rise to any association between the Unit Holders inter se. All income payable in accordance with the provisions of this Deed to Unit Holders shall be payable to them separately and income received by the Trustee shall not be received or be construed as received by or on behalf of the Unit Holders jointly or otherwise.
5. IT is expressly declared that notwithstanding anything contained or implied in this Deed no Unit Holder shall by reason of any matter including his relationship with the Trustee be required to indemnify the Trustee against any liability or obligation incurred by the Trustee in the course of exercising its duties rights powers or authorities in relation to the Trust Fund or arising herefrom or in the course of carrying on any business hereby authorised, whether or not such liability or obligation has been incurred at the request of any Unit Holders.
6. THE Original Unit Holders hereby direct and the Original Unit Holders and Trustee hereby agree and declare that the Trustee shall stand possessed of the Trust Fund and of income of that fund (including any business of whatever nature carried on by the Trustee) for the benefit of the Unit Holders in proportion to the number of units respectively held by them of each class of unit and the respective rights of each class of unit. The Trustee acknowledges that the Unit Holders are and shall be beneficially entitled to all assets of whatever nature of the Trust Fund including amounts unpaid of the issue price of any units in accordance with the respective rights of each class of unit and in proportion to the number of units respectively held by them of each class of unit.

#### **ADMINISTRATION OF THE TRUST**

7. (a) THE beneficial interest in the Trust Fund as originally constituted and as existing from time to time shall be vested in the Unit Holders for the time being.
- (b) Each person who becomes registered as a Unit Holder shall be deemed to have agreed to become a party to this Deed and any supplemental deed and shall be entitled to the benefit of and shall be bound by the terms and conditions of this Deed and of any supplemental deed.
8. EACH unit shall entitle the registered holder thereof together with the registered holders of all other Units to the beneficial interest in the Trust Fund as an entirety but subject thereto shall not entitle a Unit Holder to any particular security or investment comprised in the Trust Fund or any part thereof and no Unit Holder nor any combination of Unit Holders shall be entitled to the transfer of any assets or property comprised in the Trust Fund and save as hereinafter provided, no Unit Holder shall be entitled to interfere with or question the exercise or non-exercise by the Trustee of any discretion in relation to the Trustee's ownership of such assets or property or in relation to the conduct of any business carried on by the Trustee.



9. THE Trust Fund as originally constituted shall be divided into units of such amount and class as is specified in the First Schedule which shall be held by the original Unit Holders whose names and addresses and the number of units to be held by each are set out in the First Schedule. The Trustee shall not be required to cause the Trust Fund to merge with any other trust fund and subject to the powers which it may exercise under the provisions of this deed the Trustee shall keep the subject matter of this trust entirely separate and distinct from any other trust fund.

10. (a) THE Trustee may issue units with the rights of any class of unit set out in the Third Schedule or otherwise and subject to payment in full on issue or partly paid with the balance payable at call when the Trustee shall think fit PROVIDED THAT no new units shall be issued unless the terms and conditions of the issue are approved by all the existing Unit Holders or by a Special Resolution of the Unit Holders. Any issue other than of redeemable preference units shall be made in accordance with the following provisions:

- (i) the Trustee may satisfy any payment due to be made to the Holders of Units by the issue to such Holders (in proportion to their respective holdings of such units) of additional units at such price as the Trustee thinks reasonable;
- (ii) units shall be offered in the first instance to existing Unit Holders in proportion as nearly as may be to their existing holdings of units and without involving fractions;
- (iii) the Trustee shall give notice specifying the number and class of the units offered and limiting a time within which the offer if not accepted will be deemed to be declined and after the expiration of that time or on receipt of an intimation from the person to whom the offer is made that he declines to accept the units offered the Trustee may dispose of those units in such manner as the Trustee may think most beneficial to the Trust Fund;
- (iv) the Trustee may likewise dispose of any new units which (by reason of the ratio which the new units bear to units held by persons entitled to an offer of new units) cannot in the opinion of the Trustee be conveniently offered under sub-clause (ii).

(b) All persons to whom new units are to be issued other than persons who are already Unit Holders shall sign such form of application as the Trustee may from time to time prescribe including an undertaking to be bound by the terms of issue and of this Deed and of any supplemental Deed.

(c) The Trustee may at any time and shall if so directed by all the Unit Holders cause a valuation of the property and assets of the Trust Fund to be made.

(d) Units of any class may be reclassified by the Trustee with the written approval of all the Unit Holders.

#### **CALLS ON UNITS**

(e) The Trustee may from time to time make calls upon the unit holders in respect of any money unpaid on their units (whether on account of the nominal value of the units or by way of premium) and not by the conditions of issue thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the unit or be payable less than one month from the date fixed for the payment of the last preceding call, and each unit holder shall (subject to receiving at least fourteen days notice specifying the time or times and place of payment) pay to the Trustee at the time or times and place so specified the amount called on his units. A call may be revoked or postponed as the Trustee may determine.

(f) A call shall be deemed to have been made at the time when the resolution of the Trustee authorising the call was passed and may be required to be paid by instalments.

(g) The joint holders of a unit shall be jointly and severally liable to pay all calls in respect thereof.

(h) If a sum called in respect of a unit is not paid before or on the day appointed for the payment thereof, the person from whom the sum is due shall pay interest on the sum from the day following the day appointed for payment thereof to the time of actual payment at such rate not exceeding eight per centum per annum as the Trustee may determine, but the Trustee shall be at liberty to waive payment of that interest wholly or in part.

(i) Any sums which by the terms of issue of a unit become payable on issue or at any fixed date by instalments or otherwise, whether on account of the nominal value of the unit or by way of premium shall for the purpose of these regulations be deemed to be a call duly made and payable on the date on which by the terms of the issue the same becomes payable, and in case of non-payment all the relevant provisions of these regulations as to payment of interest and expenses forfeiture, or otherwise shall apply as if the sum has become payable by virtue of a call duly made and notified.

- (j) The Trustee may, on the issue of units, differentiate between the holders as to the amount of calls to be paid and the times of payment.
- (k) (1) The Trustee may accept from a unit holder the whole or part of the amount unpaid on a unit although no part of that amount has been called up.
- (2) The Trustee may authorise payment of interest upon the whole or any part of an amount so accepted, until the amount becomes payable, at such rate as is agreed upon between the Trustee and the unit holder paying the sum in advance.
- (l) If a unit holder fails to pay any call or instalment of a call on the day appointed for payment thereof, the Trustee may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid together with any interest which has accrued.
- (m) The notice shall name a further day (not earlier than the expiration of fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of nonpayment at or before the time appointed the units in respect of which the call was made will be liable to be forfeited.
- (n) If the requirements of a notice are not complied with, any unit in respect of which the notice has been given may be forfeited by a resolution of the Trustee to that effect at any time thereafter before the payment required by the notice has been made. Such forfeiture shall include all distributions of income declared in respect of the forfeited units and not actually paid before the forfeiture.
- (o) A forfeited unit may be sold or otherwise disposed of on such terms and in such manner as the Trustee thinks fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Trustee thinks fit.
- (p) A person whose units have been forfeited shall cease to be a unit holder in respect of the forfeited units, but shall remain liable to pay to the Trustee all money which, at the date of forfeiture, was payable by the unit holder in respect of the units (together with interest at the rate of eight per centum per annum from the date of forfeiture on the money for the time being unpaid if the Trustee think fit to enforce payment of such interest), but his liability shall cease if and when the Trustee receives payment in full of all such money (including interest) in respect of the units.
- (q) A statement in writing by the Trustee that a particular unit has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the unit.
- (r) The Trustee may receive the consideration (if any) given for a forfeited unit on any sale or disposition thereof and may execute a transfer of the unit in favour of the person to whom the unit is sold or disposed of and upon the execution of the transfer he shall be registered as the holder of the unit, and shall not be bound to see to the application of the purchase money (if any) paid as consideration nor shall his title to the unit be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the unit.
- (s) These provisions as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a unit, becomes payable at a fixed time, whether on account of the nominal value of the unit or by way of a premium, as if the same had been payable by virtue of a call duly made and notified.

#### **UNIT CERTIFICATES**

11. (a) UNIT certificates to be issued to the Unit Holders shall be in the form specified in the Second Schedule or in such other form from time to time determined by the Trustee. Every certificate shall specify the name of the Unit Holder the number of units to which it relates and shall bear a distinctive number.
- (b) Unit certificates may be issued for any number of units.
- (c) Unit certificates shall be signed under the Common Seal of the Trustee or on behalf of the Trustee by some person authorised by the Trustee. No certificate shall be valid until signed as provided.
- (d) The Trustee shall prepare all Unit certificates.
- (e) The Trustee shall satisfy itself that the applicant whose name is shown on a Unit certificate for issue has become entitled to the units shown on the unit certificate.
- (f) Unit certificates shall be prima facie evidence that the person named in the Certificate is entitled to the number of units therein specified.

(g) The Trustee shall keep a register of Unit Holders in which there shall be entered the following particulars -

- (i) the names addresses and descriptions of the Unit Holders;
- (ii) the number of Units in respect of which they are registered and the distinctive numbers or letters of the Certificates held by them respectively;
- (iii) the date at which the name of every Unit Holder was entered in the register in respect of units standing in his name; and
- (iv) any other details considered necessary by the Trustee.

12. NO notice of any trust express implied or constructive shall be entered in the register and the person from time to time entered in the register as the Unit Holder shall be the only person recognised by the Trustee as entitled to the units registered in his name or to exercise the rights and privileges of the registered holder thereof pursuant to this Deed. No person shall be recognised by the Trustee as holding any unit upon any trust and the Trustee shall not be bound by or be compelled in any way to recognise (even when having notice thereof) any equitable contingent future or partial interest in any unit or any interest therein or (except only as by the provisions of this Deed otherwise provided) any other rights in respect of any unit except an absolute right to the entirety thereof in the Unit Holder. Units held by a Trustee in respect of a particular trust may be marked in the register in such a way as to identify them as being held in respect of that trust but no liability shall be created by any such marking and the Trustee shall not be affected with notice of any trust recorded as aforesaid. If a transferee of units so requests in writing the Trustee may issue a certificate of units in the name of a fund which is held by a trust and, subject to the provisions of this Deed relating to transfers, may register any transfer signed by the Trustee for the time being of the fund and may pay all distribution cheques to such Trustee or to the fund by name and any such payments shall be a good discharge to the Trustee who shall not be bound to see to the application of any moneys paid to such fund or to the Trustee thereof.

13. (a) UPON delivery to the Trustee by any Unit Holder of a unit certificate together with a properly completed instrument of transfer the Trustee shall subject to the provisions of this Deed cancel the unit certificate and issue a new unit certificate for the units transferred to the transferee, and a further certificate for the balance not being transferred shall be issued to the transferor.

(b) If any unit certificate issued in accordance with this Deed is delivered to the Trustee and it is mutilated, worn-out, or defaced, the Trustee may at its discretion and upon such evidence and indemnity being given to the Trustee as it considers adequate cancel the unit certificate and issue a new unit certificate in its place to the Unit Holder.

(c) If any unit certificate issued in accordance with this Deed is lost or destroyed the Trustee shall on payment of a fee not exceeding fifty cents issue a duplicate unit certificate in lieu thereof to the Unit Holder on his application accompanied by -

- (i) a statutory declaration that the certificate has been lost or destroyed and has not been pledged sold or otherwise disposed of and if lost that proper searches have been made;
- (ii) an undertaking in writing that if it is found or received by the owner it will be returned to the Trustee;
- (iii) if required by the Trustee a bond for an amount at least equal to the current value of the units (as certified by the Auditors) indemnifying the Trustee against any loss or expenses following on the production of the original certificate.

#### **TRANSFER OF UNITS**

14. (a) SUBJECT to the provisions of this Deed every Unit Holder shall be entitled to transfer any of the units for the time being held by him by an instrument in writing in such form as the Trustee may from time to time approve.

(b) Every such instrument must be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of the units comprised in such instrument until the name of the transferee is entered in the Register as the holder of such units.

(c) Every instrument of transfer must be duly stamped at the expense of the transferor or transferee and left with the Trustee for registration accompanied by the unit certificate relating to the units to be transferred and such other evidence as the Trustee may require to prove the title of the transferor or his right to transfer units.

(d) Upon any person becoming entitled to any unit in the Trust Fund in consequence of the death bankruptcy or liquidation of a Unit Holder, the Trustee shall upon such evidence being produced as may from time to time properly be required by the Trustee as to his title, and subject always to the power

vested in the Trustee to approve or disapprove of a transfer of units as provided in Clause 15 hereof, register such person as the holder of such units and upon delivery of the former unit certificate the Trustee shall cancel the same and issue a new unit certificate to such person in respect thereof.

15. NO units shall be sold or otherwise transferred without the consent of the Trustee PROVIDED THAT if such consent is not obtained in relation to any proposed sale or transfer, then the following conditions shall apply -

No Unit shall be transferred to any person not being referred to in Clause 16 and 17 hereof except pursuant to the provisions of this Clause, -

(a) A Unit Holder (a "proposing transferor") who desires to sell or transfer any units ("the said units") in the Trust Fund to another person not a Unit Holder shall unless all the holders of units consent in writing to the proposed transfer leave at the registered office of the Trustee notice in writing ("the transfer notice") addressed to the Trustee that he desires to transfer the said units.

(b) The transfer notice shall specify the sum the proposing transferor fixes as the fair selling value of the said units ("the selling value") and shall constitute the Trustee the Agent of the proposing transferor for the sale of the units at the selling value as hereinafter provided.

(c) Upon receipt of the transfer notice the Trustee shall offer the said units at the selling value to the other unit holders. In default of agreement to the contrary, the offer may only be accepted by each of them in respect of such proportion of the said units as the number of units held by each of them respectively at the time of such offer bears to the number of units held by persons other than the proposing transferor at such time. The offer shall be made by giving a notice in writing to each such holder of units specifying the number and price of the said units and the number which such holder is entitled to purchase and shall invite the unit holder to state within thirty (30) days from the date of the notice whether he desires to purchase any and if so how many of the units offered. In the event of any Unit Holder to whom an offer is addressed not agreeing that the price specified by the proposing transferor is a fair price, the price shall be determined by the Auditor of the Trust or a Registered Company Auditor appointed by the Trustee, and the price determined by such Auditor shall be deemed to be the price specified in the transfer notice for the purposes of this Deed. In making such determination the auditor shall be deemed to be acting as an expert and not as an Arbitrator. The costs of such determination shall be borne by the person who failed to agree with the price originally specified in the transfer notice.

(d) At the expiration of the said thirty (30) days the Trustee shall allocate the said units to or amongst the Unit Holders who shall express their desire to purchase any or all of the units offered to them PROVIDED THAT no Unit Holder shall be obliged to take more than the number of units which he advised the Trustee he desires to purchase. Upon such allocation being made the Trustee shall give notice in writing thereof to the proposing transferor stating the name and address of each of the respective purchasers and the numbers of units agreed to be purchased by them respectively. Settlement of the purchase shall take place at a place and time to be appointed by the Trustee being not less than seven (7) days nor more than thirty (30) days after the date upon which the Trustee shall allocate the units to or amongst the Unit Holders and at settlement the proposing transferor shall be bound on payment of the price to transfer the said units to the respective purchasers thereof.

(e) If the Trustee shall not find Unit Holders willing to purchase all the said units in accordance with the provisions of the preceding clause and if at the expiration of the period of thirty days after the offer there are any of the said units in respect of which no notice of desire to purchase has been given, the proposing transferor may for a period of six months thereafter transfer such units (or any of them) to any person at any price not less than the price specified or deemed to be specified in the relevant transfer notice.

(f) If the proposing transferor makes default in transferring the said units as and when required so to do pursuant to the foregoing provisions of this Clause the Trustee shall be deemed to be the duly appointed attorney of the proposing transferor with full power to execute complete and deliver in the name and on behalf of the proposing transferor a transfer of any of the said units to the purchasing Unit Holder or other person (as the case may be) and to receive and give a good discharge for the purchase money on behalf of the proposing transferor (which purchase money shall be held in trust for the proposing transferor) and upon any such transfer being executed and delivered the Trustee may enter the name of the purchaser in the Register as the holder by transfer of such units purchased by him and after such name has been entered in the Register in purported exercise of the aforesaid power the validity of the proceedings shall not be questioned by any person.

16. THE restrictions contained in the provisions of Clause 15 shall not apply to any of the following transfers of units -

- (a) To any of the following permitted transferees -
- (i) Any other holder of units of the same class;
  - (ii) any relative of the transferor falling within the following description (called “specified relatives”) namely, father, mother, brother, sister, the wife husband son daughter son-in-law daughter-in-law nephew niece or grandchild or other direct issue; (the relationship of parent and child being deemed to exist with an adopted child or stepchild);
  - (iii) the Trustee or trustees of any deed of trust or settlement made solely or chiefly for the benefit of one or more of the specified relatives of the transferor to be held by such Trustee or trustees upon the terms of such deed (called “ a family trust”);
  - (iv) any corporation, all of the shares in which are beneficially owned by permitted transferees as aforesaid or by one or more of them;
  - (v) where the transferor is the Trustee of a deed of trust or settlement or is a corporation, then to any specified relative (defined as aforesaid) of any beneficiary under the deed of trust or settlement or of any beneficial owner of shares in the corporation (as the case may be).
- (b) From any permitted transferee as aforesaid to any other Unit Holder holding units of the same class or to any other permitted transferee as aforesaid.
- (c) From the executors or administrators or other legal personal representatives of a deceased Unit Holder to any person who is already a Unit Holder holding units of the class held by the deceased or to the widow or widower of the deceased Unit Holder or to any of the specified relatives (defined as aforesaid) of such Unit Holder entitled in each case thereto under or by virtue of the will of such Unit Holder or as one of his next-of-kin.
- (d) From the trustees of a family trust to the beneficiary or beneficiaries entitled thereto pursuant to such family trust.
- (e) From the trustees of the will of any deceased Unit Holder or of any family trust on any change of trustees to the trustees for the time being of such will or family trust.
- (f) In the case of a Unit Holder being a body corporate, from such Unit Holder to another body corporate which is in relation to such Unit Holder a related body corporate within the meaning stated in Section 50 of the Corporations Act.
- (g) A transfer of units by a Unit Holder being a corporation to any member of such corporation.
- (h) A transfer of units from a corporation to a Trustee for that corporation.
- (i) A transfer of units from a Trustee for a corporation to that corporation.
- (j) A transfer of units held by the transferor as Trustee for a corporation to a substituted Trustee for the same corporation, or
- (k) A transfer of units from a Unit Holder to a corporation which is its subsidiary or of which it is a subsidiary.
17. (a) IN the case of the death of a Unit Holder, the survivor or survivors where the deceased was a joint holder and the legal personal representatives of the deceased in all other cases shall be the only persons recognised by the Trustee as having any title to his interest in the units.
- (b) Any person becoming entitled to units in consequence of the death lunacy liquidation or bankruptcy of any holder may upon such evidence being produced as may from time to time be required by the Trustee, elect either to be registered himself as the holder of the units or to have some person nominated by him registered as the transferee thereof but the Trustee shall, in either case, have the same right to decline or suspend registration as the Trustee would have had in the case of a transfer of the units of that holder prior to such death lunacy liquidation or bankruptcy.
- (c) If a person so becoming entitled elects to be registered himself he shall deliver or send to the Trustee a notice in writing signed by him stating that he so elects. If he elects to have another person registered he shall testify his election by executing a transfer of the units to that person. All provisions of this Deed relating to the right to transfer units and the registration of transfers of units shall be applicable to any such notice or transfer as if the death lunacy liquidation or bankruptcy of the Unit Holder had not occurred and the notice or transfer were a transfer executed by that holder.
- (d) A person entitled to units by transmission shall be entitled to receive and may give a good discharge for all moneys payable in respect of the units but except as otherwise provided by this Deed shall not be entitled to any of the rights or privileges of the Unit Holder unless and until he shall become registered in respect of the units.

18. A Unit Holder shall not mortgage pledge or give any security over a Unit without the consent of the Trustee and of a majority of the Unit Holders first had and obtained and it shall be a condition of any such consent that -

(a) the proposed mortgagee or party taking security is a bank or lending institution of sound financial

standing which bona fide carries on the business of lending money on security;

(b) the proposed mortgagee or party taking security undertakes in writing to the Trustee that in exercising any power of sale it will comply with the provisions of Clauses 15 and 16 of this Deed.

#### **CANCELLATION OF UNITS**

19. (a) A Unit Holder may apply in writing to the Trustee for the surrender and cancellation of all or any of the units held by him in the Trust Fund and the Trustee shall accept the surrender and duly cancel such units referred to in any application made pursuant to this Clause provided the Trustee has first obtained approval of such cancellation by an unanimous resolution of the other Unit Holders. A holder of redeemable preference units may request the redemption of some or all of his units in accordance with the terms of issue.

(b) Upon delivery to the Trustee of the certificates relating to the units referred to in any application made pursuant to the preceding sub-clause, the Trustee shall cancel such units and note such cancellation in the Register and shall then pay to the Unit Holder such amount as shall represent the redemption price of any redeemable preference units or the value of any other units as at the date of cancellation.

(c) The Trustee shall obtain a certificate from the auditors of the Trust of their opinion of the net value of the Trust Fund at the date the application is received by the Trustee and of the value of each of the units in the application and this shall be the value of each unit to be so surrendered for the purposes of this clause. The Unit Holder surrendering such units shall be entitled to be paid the value of each unit so surrendered by him provided that any such payment may at the absolute discretion of the Trustee be made in cash or by the transfer of assets of equivalent value (as certified by the auditors as aforesaid) to the Unit Holder concerned. The certificate of the auditors as to the value of the Trust Fund and of each of the assets thereof delivered for the purposes of this clause shall be final and conclusive for the purposes hereof.

(d) Unless otherwise provided by the terms of issue a redeemable preference unit may be redeemed at any time by the Trustee or upon request by the unit holder made more than one year after the date of issue. The redemption price shall be specified in the terms of issue if it is other than the amount paid up on the unit. Until redeemed the units shall carry the right to a distribution of income before other units of 10 per cent per annum on the amount paid up on the unit plus the right to share in any distribution of income to the other units which exceeds 10 per cent in any income tax year.

#### **DURATION AND TERMINATION OF THE TRUST**

20. (a) SUBJECT to the provisions of sub-clause (b) of this Clause the Trust created by this Deed shall commence on the date hereof and shall terminate on the Vesting Date unless it has been terminated prior to that date under the provisions of this Deed.

(b) The Trust may be terminated at any time before the Vesting Date if so resolved by a Special Resolution of the Unit Holders and such termination shall take effect from a date to be named in the Resolution.

(c) If any law should be passed which renders it illegal or in the opinion of Queen's Counsel impracticable or inadvisable to continue the Trust the Trustee shall terminate the Trust by notice in writing fixing the date at which such termination is to take effect.

(d) When the Trust is terminated the Trustee shall sell call in and convert into money or cause to be sold called in and converted into money the investments and property constituting the Trust Fund, and within the period of six months (or later if approved by the Unit Holders but not later than the expiration of the perpetuity period) from the giving of the notices to Unit Holders provided for in the next sub-clause, divide the proceeds less all proper costs and disbursements commissions brokerage fees and other outgoings and all proper provision for liabilities among the Unit Holders in proportion to the number of units of each class held by them and the respective rights of each class of units and upon such registered holders delivering up to the Trustee for cancellation the certificates held by them respectively provided however that the Trustee may in its discretion at the request of any Unit Holder transfer to such Unit Holder any assets of the Trust Fund in specie in satisfaction or part satisfaction of the entitlement of the Unit Holder.

- (e) The Trustee shall as soon as practicable after the termination of the Trust give to each Unit Holder not less than one month's notice of the impending distribution.
- (f) The Trustee may postpone the sale and conversion of any part of the investments and property of the Trust Fund for such time as they think desirable in the interests of the Unit Holders and shall not be responsible for any loss attributable to such postponement.

#### **ACCOUNTS AND AUDITOR**

21. (a) THE Trustee shall cause proper accounts of the Trust Fund to be kept of all income and other moneys including capital moneys received and all costs, fees, expenses, commissions, disbursements, rates, taxes, debts and other outgoings and capital moneys paid in the management of the Trust Fund and assets and businesses constituting the same and the books of account shall be kept at the office of the Trustee and shall be open to the inspection of any Unit Holder.
- (b) There shall be a bank account of the Trust which shall be maintained at such bank as shall from time to time be decided by the Trustee. All moneys and securities belonging to the Trust shall as and when received be paid into or deposited with the said bank to the credit of the said account. All cheques and other negotiable instruments shall be drawn in the name of the Trustee and shall be endorsed in such manner as the Trustee may from time to time require.
- (c) Promptly after the close of each Accounting Period the Trustee shall prepare a written accounting report (prepared in accordance with normally acceptable accounting procedures) for such period consisting of a balance sheet and statement of income and expenditure and a list of assets held at the close of such year and a copy thereof shall be furnished to the Unit Holders upon request.
- (d) If the Unit Holders at the annual general meeting nominate an auditor the Trustee shall appoint that auditor and if the Unit Holders do not make a nomination the Trustee may in its discretion if it thinks fit act instead of the auditor or if it thinks fit appoint an auditor to examine and ascertain the correctness of the accounts of the Trust Fund and to report thereon to the Trustee and to the Unit Holders.

#### **INCOME OF THE TRUST FUND**

22. (a) THE Trustee shall collect and receive the dividends interest rents and other income from the investment of the Trust Fund.
- (b) The Trustee shall pay out of the gross income of the Trust Fund all costs and disbursements commissions fees taxes (including land tax and income tax) management charges and other proper outgoings in respect of the investment and administration of the Trust Fund.
- (c) In dealing with the income the Trustee may decide to treat income derived from different origins in different ways and may resolve that any particular payment application or appropriation shall be made from income of a specified origin.
23. (a) THE Trustee may at any time before the expiration of each Accounting Period until the Vesting Date determine with respect to all or any part or parts of the net income of the Trust Fund for such Accounting Period to do all or any of the following:-
- (i) to pay apply or set aside the same for the Unit Holders in proportion to the number of units of which they are respectively registered as the holders at the time of such determination and the rights of the various classes of units then in existence.
  - (ii) to accumulate the same;
  - (iii) to pay apply or set aside the same for such charitable purposes as the Trustee (with the consent of the Unit Holders) may think fit.
- (b) The following rules shall apply to any determination pursuant to paragraph (a) of this Clause namely -
- (i) any determination shall be conditional upon the income the subject thereof in fact proving to exist at the end of the Accounting Period and any determination to accumulate income shall be conditional upon the law in force in relation to this Deed giving effect to such determination at the end of the Accounting Period but except as provided in this paragraph (b) each such determination shall be irrevocable;
  - (ii) if at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to paragraph (a) of this Clause exceed the net income of the Trust Fund for the Accounting Period the amount of the excess shall in the first place be deducted from the amounts which the Trustee has determined to accumulate and only the balance of such amounts (if any) shall thenceforth be accumulated and in the second place should any deficiency remain

the Trustee shall be deemed to have applied the capital of the Trust Fund the value of which shall thereupon be adjusted accordingly;

(iii) a determination to pay apply or set aside any amount for any Unit Holder may be made by placing such amount to the credit of such Unit Holder in the books of the Trust Fund or by drawing any cheque in respect of such amount made payable to or for the credit or benefit of such Unit Holder or by paying the same in cash to or for the benefit of such Unit Holder;

(iv) the Trustee shall have a complete discretion as to the making of any determination and shall not be bound to assign any reason therefor.

(c) The amount of any accumulation shall be dealt with as an accretion to the Trust Fund but so that the

Trustee may at any time or times resort to all such accumulations and pay or apply the whole or any part or parts thereof as if they were income of the Trust Fund.

(d) Notwithstanding the foregoing the Trustee shall be entitled to make an interim distribution of income at such time or times as the Trustee shall determine during any Accounting Period such interim distributions to be made among the Unit Holders in proportion to the number of units of which they are respectively registered at the time and the rights of the various classes of units then in existence.

(e) The Trustee shall hold so much of the net income of the Trust Fund for each Accounting Period as shall not be the subject of a determination effectively made at or prior to the end of such Accounting Period pursuant to the foregoing provisions of this Clause in trust for the Unit Holders in proportion to their respective interests on the last day of such Accounting Period.

(f) Any amount set aside for any Unit Holder and any amount held by the Trustee in trust for any Unit Holder pursuant to the foregoing provisions shall not form part of the Trust Fund but upon such setting aside or becoming subject to such trust (as the case may be) shall be thenceforth held by the Trustee as a separate trust fund on trust for such person absolutely with power to the Trustee pending payment over thereof to such person to invest or apply or deal with such fund or any resulting income therefrom or any part thereof in a similar manner to that provided for the Trustee in relation to the Trust Fund.

(g) The Trustee may satisfy any amount payable to a Unit Holder who is an infant by paying the same to a parent or guardian of such infant and the Trustee shall not be bound to see to the application thereof by such parent or guardian.

24. THE Trustee may with the sanction of a Special Resolution at any time or times and from time to time before the date of the termination of the Trust out of the capital of the Trust Fund raise any sum or sums and pay the same to Unit Holders in proportion to their interests as at the date of such Resolution for their own use and benefit in addition to any income to which the said Unit Holders may from time to time be entitled.

#### **CAPITAL GAINS**

25. The Trustee may in its discretion treat any capital gains which are taxable as such in the same way as income is to be treated for the purposes of this trust or may treat them as accruals to the capital of the Trust Fund and deal with them accordingly.

#### **APPOINTMENT AND RESIGNATION OF TRUSTEES**

26. (a) THE Trustee named in the first Schedule shall be the initial Trustee of the Trust Fund and for itself and its successors as Trustee covenants with the Unit Holders that it will act continuously as Trustee under the Trusts herein set forth until such Trusts are determined as herein provided or until the Trustee has retired or been removed from office in the manner herein provided.

(b) A Trustee shall be disqualified from holding office if -

(i) being an individual he becomes insolvent or of unsound mind or does or suffers anything which would disqualify him from holding office as Director of a Company;

(ii) being a company it goes into liquidation or if a receiver manager or administrator of any of its assets or undertaking is appointed.

(c) A Trustee may retire upon giving one month's notice in writing to the Unit Holders of that Trustee's desire to do so but such retirement shall not take effect until a general meeting of Unit Holders called to consider the appointment of a Trustee or Trustees in place of the retiring Trustee has appointed a new Trustee and that Trustee has executed a Deed of Trust as hereinafter provided.

(d) The Unit Holders shall be entitled -

(i) by unanimous resolution in writing or in general meeting to remove any Trustee or to appoint an additional Trustee;



(ii) by special resolution in general meeting or by unanimous resolution in writing to appoint a Trustee in place of any Trustee who dies or retires or is disqualified or removed from office.

(e) A Trustee shall on retirement take such action as is necessary to vest the Trust Fund or cause it to be vested in any new Trustee or Trustees and shall deliver to such new Trustee or Trustees all books documents records and other property relating to the Trust Fund and a continuing Trustee shall take such action as is necessary to cause title to any assets of the Trust Fund to be amended to include any additional Trustee.

(f) A new Trustee shall execute a deed in such form as is approved by Special Resolution of the Unit Holders in general meeting whereby such new Trustee shall undertake to the Unit Holders jointly and severally all of the obligations of a Trustee hereunder.

(g) The costs charges and expenses of and in connection with the retirement and replacement of any Trustee or the appointment of any additional Trustee shall be recouped from the Trust Fund.

### **ALTERNATE TRUSTEES**

27. ANY Trustee being a natural person may with the consent of the other Trustee or Trustees appoint any person to be an alternate Trustee in his place and so that any such appointment shall have effect during such period as such Trustee may from time to time be absent from the place where the Trust Fund is being administered or is otherwise incapable of acting and the Trustee may by deed under his hand revoke or alter such appointment as alternate Trustee.

28. NO Trustee shall be responsible for -

(a) any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by failure to exercise any such discretion or power; or

(b) any breach of duty or trust whatsoever unless it shall be proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustees charged to be so liable. All persons claiming any beneficial interest in over or upon the property subject to this Trust shall be deemed to take the same with notice of and subject to the protection hereby conferred on the Trustees.

29. THE Trustee shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by the Trustee in the execution or attempted execution or as a consequence of the failure to exercise any of the trusts authorities powers and discretions hereof or by virtue of being the Trustee hereof.

30. THE Trustee shall not be bound in any case to act personally but shall be at full liberty to act by managers or to employ any contractors manager solicitor accountant clerks workmen employees or servants or any agents to transact all or any business of whatever nature required to be done in the premises including the receipt and payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.

31. (a) A sole Trustee hereof for the time being is hereby authorised notwithstanding that he is the sole Trustee to receive capital and other moneys and to give valid and effectual receipts therefor for all purposes and for the purposes of any statutory enactments including the receipt of moneys which may or may not be deemed to be capital moneys for the purposes of any Statute.

(b) The Trustees if at any time they are more than one shall act jointly and not severally. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustee and may execute any powers of attorney or other instruments necessary to effectuate such purpose. Each Trustee may appoint an alternate Trustee to act in his place at meetings of trustees so long as and whenever the appointing Trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting .

(c) If at any time there are more than one Trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to an arbitrator whose decision shall be final and the Trustees shall act in accordance with the decision .

(d) If a Trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole Trustee it may attend meetings of trustees and vote there by its representative.

32. ANY Trustee hereof who is engaged in any profession or business or any firm of which he is a member shall be entitled to make all usual and proper charges for professional and other services in the administration of the Trust and for his time and trouble that he would have been entitled to make if not a Trustee and so employed.

33. THE Trustee shall subject to this Deed have the sole and absolute discretion in the exercise of all rights appertaining to the shares or other investments comprised in the Trust Fund and no Unit Holder shall save as is

herein expressly provided have any right with respect to the Trust Fund to attend meetings of shareholders or to vote or take part in or consent to any corporate or shareholder's motion or save as expressly provided by this Deed to interfere with or question the exercise or non-exercise by the Trustee of the rights and powers of the Trustee as the owner of the Investments of the Trust Fund.

34. THE receipt of a Unit Holder for any moneys payable in respect of the Units represented by his Unit Certificate shall be a good discharge to the Trustee and if several persons are registered as joint Unit Holders or in consequence of the death or bankruptcy of a Unit Holder are entitled to be so registered any one of them may give effectual receipts for any such moneys. The terms and conditions of this Deed and of any supplemental deed entered into under the provisions of Clause 39 of this Deed shall be binding on each Unit Holder or any person claiming through him as if he had been a party to this Deed.

35. THE Trustee shall in addition to the powers otherwise conferred upon trustees by law have the following

powers:-

- (a) To apply and invest all moneys forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and to the intent that the Trustee shall have the same powers in all respects as if it were absolute owner beneficially entitled including without diminishing the generality of the foregoing the subscription for, the taking up on allotment and the purchase of any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and to take or purchase the whole or any part or unit of or share or interest in (including a minority part or share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate or any part or share or interest therein and notwithstanding that the same may not be income producing or may be of a wasting or speculative nature and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto.
- (b) To make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and the Trustee may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and may agree to pay for any such investments wholly or in part from any future moneys which may come into its hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.
- (c)
  - (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed
  - (ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit
  - (iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit
- (d) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.
- (e) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.

- (f) To hold use purchase construct demolish maintain repair renovate reconstruct develop improve sell transfer convey surrender let lease exchange take and grant options or rights in alienate mortgage charge pledge reconvey release or discharge or otherwise deal with any real or personal property and in particular with shares debentures or securities of any company and with or without deferred restricted qualified or special rights relating thereto.
- (g) To purchase or acquire any reversionary or deferred property or rights of any description or any life or life endowment annuity or sinking-fund or term or other policy or policies of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and to pay out of the income or capital of the Trust Fund as the Trustee in its absolute discretion thinks fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any policy or policies of insurance (whether owned by the Trustee or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy or policies shall for all the purposes of this Deed be deemed to be a sale thereof.
- (h) To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or of carrying out or performing the trusts hereof which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustee may be required to pay as settlement probate estate gift stamp or revenue duties including stamp gift or settlement duties payable in respect of the Trust Fund or on these presents.
- (i) To exercise all rights and privileges and perform all duties and do all such acts, matters and things appertaining to any shares stock or debentures in any corporation for the time being subject to the trusts hereof as the Trustee could do if it were the beneficial owner of the shares stock or debentures or were personally interested or concerned in the corporation and without diminishing the generality of the foregoing with liberty to assent to any arrangements modifying such rights privileges or duties and to agree to any scheme or arrangement for the reconstruction or the increase or reduction of the capital of any corporation and to make any agreement in respect of or in the course of the winding up of any company and for any such purpose to deposit surrender or exchange any of the said shares stock or debentures or the title thereto and to pay any calls or contributions or other necessary expenses in connection with any such shares stock or debentures or any title thereto.
- (j) To carry on anywhere in the world and either alone or in partnership and under such name as the Trustee thinks fit any trade or business whatsoever and to discontinue the same from time to time.
- (k) To employ any person (including any Trustee hereof) in connection with any trade or business carried on by the Trustee or in connection with anything required to be done pursuant to the provisions hereof including the receipt and payment of money and to decide the remuneration to be allowed and paid and the amount of all charges and expenses and to create or arrange any scheme of superannuation retirement benefit or pension for the benefit of any person so employed.
- (l) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition.
- (m) To establish promote or acquire any company or companies or join in the promotion establishment or acquisition of any company or companies.
- (n) To appropriate any part or parts of the Trust Fund in the actual condition or state of investment thereof in or towards the satisfaction of the interest of any person in the Trust Fund or in or towards the satisfaction of any sum which the Trustee may determine to pay or apply to or for the benefit of any Unit Holder pursuant to Clause 23 hereof and in making such appropriation to estimate the value of the component parts of the Trust Fund or to employ such person to make such valuation as in the circumstances the Trustee deems proper without obtaining any consents otherwise required by law and every appropriation so made shall bind all persons interested in the Trust Fund notwithstanding that they may not yet be in existence or may be under a legal disability.
- (o) To determine whether any real or personal property or any increase in amount number or value of any property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this Deed and every determination of the Trustee in relation to any of the matters aforesaid whether made upon a question formally or actually raised or

implied in any of the acts or proceedings of the Trustee in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

- (p) To open any account or accounts with any bank or banks and to operate by and in all usual ways any such account or accounts and to draw make accept endorse discount issue or otherwise deal with any cheque promissory note bill of exchange bill of lading or other negotiable or transferable instrument.
- (q) To give effectual receipts and discharges for any moneys received by or on behalf of the Trustee or otherwise relating to any of the acts matters and things provided for in these presents and to receive property by gift inter vivos or by will or under the provisions of any other trust or trusts or otherwise and either from the Original Unit Holders or from any other person and to hold the same upon the trusts herein set forth and to administer such property under the provisions hereof.
- (r) To grant options in respect of any assets held subject to the trusts of this Deed to any person firm or company.
- (s) To become a Director of any company in which moneys forming part of the Trust Fund are invested or to appoint any person to act as Director of any such company and to receive the remuneration attached to such office without accounting to the Trust therefor provided that the Trustee executes all proper declarations of trust for any shares held by it on behalf of the Trust and accounts to the Trust for all dividends and bonuses and to exercise or concur in exercising all of the powers and discretions contained in this Deed or otherwise by law conferred notwithstanding that the Trustee or any person being a Trustee or any person being a Director or shareholder of a Trustee hereof (being a Company) has or may have a direct or personal interest (whether as Trustee of any other Trust or in his personal capacity or as a Director or shareholder of any company or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.
- (t) To take such action as the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to take and act upon the opinion (given in writing) of a solicitor or Counsel practising in any country where the Trust Fund or any part thereof may for the time being be invested in relation to the interpretation or effect of these presents or any other document or statute or as to the administration of the trusts hereof without being liable to any of the persons beneficially interested in respect of any act done by the Trustee in accordance with such opinion provided that nothing in this provision shall prohibit or impede the Trustee from applying to any Court if the Trustee thinks fit or prohibits any of the Unit Holders from so doing and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by these presents.
- (u) To remunerate any Unit Holder who is at any time in the employ of the Trustee to the same extent and in the same manner as if the Unit Holder so employed were not a Unit Holder hereunder and all bona fide payments made by the Trustee to any such Unit Holder in the form of remuneration for services rendered or to be rendered or on account of expenses in connection with such employment shall not be or be deemed to be payment to the Unit Holder of or on account of his or her share in the Trust Fund or the income thereof.
- (v) To permit any asset of the Trust Fund to be held or registered in the name of any nominee of the Trustee and to deposit securities to the deeds and other documents belonging or related to the Trust Fund with any bank or other appropriate Custodian.
- (w) With the consent of the Unit Holders, in any conditions or circumstances which the Trustee thinks expedient to appoint either in respect of the whole of the Trust Fund or any part thereof new Trustees in any country in the world and to transfer assign and set over the investments for the time being representing the Trust Fund or any part thereof to any such new Trustee upon similar trusts and subject to similar terms and conditions to those declared in these presents and either subject to the control of the Trustee of these presents or to the exclusion of such control AND the Trustee of these presents shall be indemnified and held harmless against any loss which may arise from the exercise of this power.
- (x) With the consent of the Unit Holders at any time or times before the Vesting Date by any irrevocable deed or deeds (without infringing any rule against perpetuities applicable to this Deed) to appoint that the whole or any part of the Trust Fund shall thenceforth be held upon the trusts and with and subject to the powers and provisions of any other Trust (not infringing the rule against perpetuities applicable to this Deed) and approved by the Trustee in favour or for the benefit of all or one or more exclusively of the others or other of the Unit Holders registered at the time of such appointment and upon any such appointment being made the Trustee may transfer to the Trustee or trustees for the time being of the said other Trust the property comprised in the said appointment and thereupon the trusts herein declared concerning such property shall cease and determine and the said property shall for all purposes

be subject to the trusts powers and provisions contained in the said other Trust and be subject to and governed by the proper law of the said other Trust whether or not such proper law shall be the proper law of this Trust.

(y) In the event of any probate succession estate or other duties fees or taxes becoming payable in any part of the world in respect of the Trust Fund or any part thereof on the death of any Unit Holder or any other person at their absolute discretion to pay all or any part of such duties fees or taxes out of the Trust Fund notwithstanding that such duties fees or taxes or some part thereof are not or may not be recoverable from the Trustee or from the Trust Fund by legal process in the place where they become payable.

(z) Generally to exercise or concur in exercising all the powers and discretions contained in this deed or otherwise conferred by law and notwithstanding that the Trustee or any person being a Trustee or any person being a director or shareholder of any company which is a Trustee hereof has or may have an indirect direct or personal interest (whether as Trustee of any other trust or settlement or in his personal capacity or as a shareholder or director or member or partner of any company or partnership or as a unit holder in any unit trust or as a beneficiary of any discretionary or other trust or otherwise) in the mode or result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

36. NOTWITHSTANDING anything herein to the contrary or otherwise contained the Trustee shall have power at its absolute discretion :-

(a) to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustee in its personal capacity or in its capacity as Trustee of other Trust Funds or otherwise howsoever or to any company or partnership whatsoever notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or to a wife, husband, child or children of any Trustee absolutely;

(b) to buy transfer acquire hire or lease any real or personal property or to borrow any moneys from the Trustee (or any of them when there may be more than one) in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or from any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or from the husband or wife or child or children of any Trustee;

(c) to carry on or carry out any profit-making undertaking or scheme in partnership with the Trustee in its personal capacity or in the capacity of the Trustee as Trustee of other Trust Funds or otherwise or with any company or partnership notwithstanding that the Trustee is a shareholder or director or member or partner of such company or partnership or with the husband or wife or child or children of any Trustee;

(d) to exercise all the powers and discretions vested in the Trustee notwithstanding that the Trustee may be a Unit Holder and generally to deal with the Trustee in its personal capacity in all respects as if there were two separate persons to the dealings. AND without limiting the generality of anything herein contained the Trustee shall have power in its absolute discretion to sell to itself in its capacity as Trustee of other trust funds either for cash or upon terms any assets being shares or a joint or undivided interest in property where other shares in the same company or companies or another joint or undivided interest in the same property are held by the Trustee in such other capacity as aforesaid AND to divide assets in specie between the Trust Fund and such other trust funds in such manner as the Trustee shall think fit.

37. THE Trustee may in its absolute discretion notwithstanding anything to the contrary herein contained or otherwise provided -

(a) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date out of the capital of the Trust Fund held on trust but not out of any moneys referred to in paragraph (d) of this Clause raise any sum or sums and pay the same (in addition to any entitlement to income or share of income) to Unit Holders in proportion to their interests at the time for their own use and benefit or apply the same to or for the benefit of the Unit Holders in like proportions;

(b) subject to the consent of the Unit Holders at any time or times and from time to time before the Vesting Date lend any sum or sums out of the Trust Fund and any moneys held in trust hereunder to any Unit Holder either with or without security and upon such terms and conditions as to repayment and with or without interest as the Trustee shall in its absolute discretion think fit;

(c) at any time or times and from time to time pay or apply the whole or any part of the capital or the whole or any part of any income or accrued or accumulated income to which any infant Unit Holder

is entitled in such manner as the Trustee in its absolute discretion thinks fit for the benefit of such infant and without limiting the generality thereof in particular for the maintenance education or advancement of such infant and in the exercise of this power or in respect of any other amount payable to an infant by the provisions of this Deed may pay the same to a parent or guardian of such infant without being bound to see to the application thereof by such parent or guardian;

(d) invest any amount held by the Trustee in trust pursuant to Clause 23 hereof on behalf of the person entitled thereto by investing the same and the resulting income thereof in any of the investments hereby authorised in respect of the Trust Fund but the Trustees may at any time or times and from time to time in their absolute discretion resort to such income and may pay apply or deal with the same or any part thereof in such manner as the Trustee in its absolute discretion thinks fit for the benefit of the Unit Holder entitled thereto;

(e) at any time or times and from time to time pay or transfer any investments or money appropriated to a share to which any person is or becomes absolutely entitled to such person absolutely if he is of full age or to a parent or guardian of any infant Unit Holder as Trustee for such infant Unit Holder without being bound to see to the application thereof by such parent or guardian;

(f) allow any Unit Holder to occupy have custody of or use any immovable property or chattels for the time being forming part of the Trust Fund on such terms or conditions as to rent inventories repair replacement insurance outgoings or otherwise at all as the Trustee shall think fit and so that no Trustee shall be liable for any loss or damage which may occur to any property so forming part of the Trust Fund during or by reason of any such occupation custody or use except insofar as such loss or damage shall be occasioned by the conscious and wilful default or neglect of such Trustee.

#### **REMUNERATION OF TRUSTEE:**

38. IT is hereby agreed that :-

(a) The Trustee shall be entitled to be paid such sums as may be determined by a Special Resolution of the Unit Holders as remuneration for its services.

(b) That without limiting the generality of the other provisions of this Deed the Unit Holders acknowledge that the Trustee may pay on demand all costs charges and expenses reasonably and properly incurred by or on behalf of the Trust.

(c) That all the aforesaid remuneration and payments shall be and are hereby charged upon the Trust Fund and shall be paid in priority to any claim by any Unit Holder.

#### **MODIFICATION OF TRUST DEED**

39. (a) THE Trustee may from time to time pursuant to a Special Resolution of the Unit Holders requesting the Trustee to do so by Deed supplemental to this Deed modify or alter or add to the provisions of this Deed (including this present Clause) PROVIDED THAT such modification alteration or addition -

(i) in the opinion of the Trustee is desirable for the more convenient or economical management of the Trust or is necessary to satisfy the requirements of any statute, ordinance, rule, regulation or by-law which may be passed and which affects Trusts of this nature;

(ii) does not prejudice the interests of the Unit Holders or any of them and does not operate to release the Trustee from any responsibility to the Unit Holders provided for in this Deed ,unless with the specific consent of the unit holders affected.

(iii) does not impose on any Unit Holder any obligation to make any further payment in respect of his units.

(iv) does not infringe or have the effect of infringing any law against perpetuities;

(v) shall not affect the beneficial entitlement to any amount set aside for any Unit Holder prior to the date of the modification alteration or addition;

(vi) does not result in any inappropriate benefit accruing to the Trustee.

(b) As soon as possible after the execution of any supplemental deed and in any event not later than two months thereafter notice thereof containing a short summary of such supplemental deed shall be sent by the Trustee to each Unit Holder and the terms and conditions of any supplemental deed entered into under the provisions of this Clause shall be binding on each Unit Holder or any person claiming through him as if he had been a party to this Deed and any such supplemental deed.

#### **NOTICE TO UNIT HOLDERS**

40. (a) SUBJECT to sub-clause (b) of this Clause any notice required to be given to a Unit Holder shall be deemed to have been given if it is either delivered or sent by post with postage prepaid in an

envelope addressed to him at his address appearing in the Register and any such notice shall be deemed to be served on the date of delivery or on the third day following that on which the said envelope is posted.

- (b) Service of a notice or document on any one of several joint Unit Holders shall be deemed effective service on the other joint Unit Holders.
- (c) Any notice or document delivered at or posted to the address of a Unit Holder shall notwithstanding that such Unit Holder be then dead or whether or not the Trustee has notice of his death be deemed to have been duly served and such service shall be deemed a sufficient service on the executor or administrator of the deceased Unit Holder and all persons (if any) registered as joint Unit Holders with him in respect of the Unit concerned.
- (d) A notice may be given by the Trustee to the persons entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder by sending it through the post in a prepaid letter addressed to them by name or by the title of representatives of the deceased or of the lunatic or as liquidator or assignee of the bankrupt or by any like description at the address (if any) within the Commonwealth of Australia supplied for the purpose by the persons claiming to be entitled or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death lunacy liquidation or bankruptcy had not occurred.
- (e) Subject to sub-clause (f) hereof, notice of every meeting of Unit Holders shall be given in any manner hereinbefore authorised to :-
- (i) every Unit Holder except those Unit Holders who (having no registered address within the Commonwealth of Australia) have not supplied to the Trustee an address within the Commonwealth of Australia for the giving of notices to them;
  - (ii) every person entitled to a unit in consequence of the death lunacy liquidation or bankruptcy of a Unit Holder who was before such event entitled to receive notice of such meetings ;
  - (iii) the Auditor (if any) for the time being of the Trust Fund.
- (f) The accidental omission to give notice of a meeting to or the non-receipt of a notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings at that meeting.
- (g) The signature to any notice to be given by the Trustee may be written or printed or stamped and the signature may be that of one or more of the Trustees or of any Director or Secretary of a corporate Trustee.
- (h) If the Trustee shall so determine a notice may be given by means of telex telegram cablegram fax or radiogram and service of such notice shall be deemed to be effected if the telex telegram cablegram fax or radiogram is properly addressed paid for and lodged for transmission with a competent authority or body and deemed to be delivered at the time at which in the ordinary course the telex telegram cablegram fax or radiogram would be delivered.

#### **MEETINGS OF UNIT HOLDERS**

41. (a) THE Trustee or the holders of not less than 10% of the registered units may convene a meeting of the Unit Holders.
- (b) Subject to the consent of all the Unit Holders to shorter notice not less than seven days' notice shall be given of every such meeting and such notice shall specify the general nature of the business to be transacted and the place day and time of the meeting.
- (c) The Chairman of the meeting shall be a person appointed by a majority of the Unit Holders entitled to vote and be present at such meeting.
- (d) At any meeting voting shall be by a show of hands unless a poll be demanded by Unit Holders entitled to vote holding not less than 10% of the units issued and carrying the right to vote and upon a poll every Unit Holder present in person or by proxy shall have one vote for every voting unit held by him.
- (e) Votes may be given either personally or by proxy. A proxy may but need not be a Unit Holder and in the case of a Unit Holder being a corporation, the proxy may be any officer of such corporation.
- (f) In the case of joint registered Unit Holders any one of such joint holders may vote either personally or by proxy as if he were solely entitled to the units comprised in the joint holding but if more than one of such joint holders be present at any meeting either personally or by proxy that one of the persons so present whose name stands first in the register in respect of the joint holding shall alone be entitled to vote in respect thereof. Several executors or administrators shall for the purpose of this sub-clause be deemed joint holders.

- (g) Every instrument of proxy shall be in a form approved from time to time by the Trustee and shall be deposited with the Trustee at any time before the time of holding the meeting at which the person named in such instrument proposes to vote.
- (h) A quorum for the meeting shall be registered Unit Holders present in person or by proxy and holding not less than 75% of all registered units entitled to vote at the date of such meeting.
- (i) The Chairman may with the sanction of the meeting adjourn the meeting to such time and place as he shall determine and he shall adjourn any meeting at which a quorum is not present.
- (j) A Unit Holder who is of unsound mind or a patient or an infirm person within the meaning of any Act may vote whether on a show of hands or on a poll by his committee or by the Public Trustee or by such other person as properly has the management of his estate and any such Committee Trustee or other person may vote by proxy or attorney.
- (k) A Unit Holder who is an infant may vote by either of his parents or by his guardian upon such evidence being produced of the relationship or of the appointment of the Guardian as the Trustee may from time to time properly require.
- (l) A resolution in writing signed by all the Unit Holders entitled to vote at a general meeting of Unit Holders or of Unit Holders of any class shall be as valid and effectual as if it had been passed at a duly called and constituted general meeting of Unit Holders or of Unit Holders of that class as the case may be. Any such resolution may consist of duplicate copies of one document one copy of which shall have been signed by each Unit Holder.
- (m) A Unit Holder shall for all purposes be deemed to be present at a meeting if present either in person or by his proxy.
- (n) The notice calling a meeting of Unit Holders at which a special Resolution is to be considered shall give a general description of the subject matter of such proposed Special Resolution.
- (o) A Special Resolution may be passed by a meeting of Unit Holders if due notice has been given and 75% or more of the then registered unit holders entitled to vote exercise their votes in favour of such resolution.

#### **CONSENT OF UNIT HOLDERS**

42. FOR the purposes of this Deed the consent of the Unit Holders to any act or thing shall be conclusively deemed to have been given on production of -
- (a) a consent in writing executed by or on behalf of all the Unit Holders; or
- (b) the consent was given by a Special Resolution of the Unit Holders.

#### **LIQUOR LICENCE**

43. While and so long as the Trustee is the holder of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

<b>JURISDICTION</b>	<b>LEGISLATION</b>	<b>AUTHORITY</b>	<b>EXECUTIVE</b>
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian	Liquor Act 1975	Registrar of Liquor	Registrar



Capital Territory		Licences	
Northern Territory	Liquor Act 1978	Liquor Commission	Registrar
Tasmania	Liquor & Accommodation Act 1990	Commissioner for Licensing	Chief Executive Officer

**FIRST SCHEDULE**

**DATE OF MAKING THIS DEED:** 13 March 2020

**TRUSTEE DETAILS:** 6 BULKARA STREET PTY LTD (A.C.N. 639 734 473) of  
1  
385 TOORONGA ROAD  
HAWTHORN EAST VIC 3123

**ORIGINAL UNIT HOLDERS & UNIT HOLDING:** TESORIERO INVESTMENT GROUP PTY LTD (A.C.N. 161 088 115)  
of 1, 385 TOORONGA ROAD, HAWTHORN EAST VIC 3123  
As Trustee For TESORIERO INVESTMENT TRUST  
Total of 5 units  
5 Class ORD \$1.00 Units Fully Paid at a cost of \$5.00

VINTES NO 4 PTY LTD (A.C.N. 639 726 524) of 1, 385 TOORONGA  
ROAD, HAWTHORN EAST VIC 3123  
As Trustee For MAZ TRUST NO 4  
Total of 5 units  
5 Class ORD \$1.00 Units Fully Paid at a cost of \$5.00

**PROPER LAW:** VICTORIA

**TRUST NAME:** 6 BULKARA STREET UNIT TRUST

**INITIAL SUM:** Ten Australian Dollars (\$10.00)  
Ten (10) Units

**VESTING DAY:** The seventy-ninth (79<sup>th</sup>) Anniversary of the signing hereof.

**IN WITNESS WHEREOF** the parties have executed these presents the \_\_\_\_\_ day of \_\_\_\_\_

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
6 BULKARA STREET PTY LTD (A.C.N. 639 734 473)  
in accordance with its Constitution **OR** for and on behalf of the Company by;

**DIRECTOR** \_\_\_\_\_ **SECRETARY** \_\_\_\_\_

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
TESORIERO INVESTMENT GROUP PTY LTD (A.C.N. 161 088 115)  
in accordance with its Constitution **OR** for and on behalf of the Company by;

**DIRECTOR** \_\_\_\_\_ **SECRETARY** \_\_\_\_\_

**EXECUTED UNDER SEAL** in the presence of the undersigned by  
VINTES NO 4 PTY LTD (A.C.N. 639 726 524)  
in accordance with its Constitution **OR** for and on behalf of the Company by;

**DIRECTOR** \_\_\_\_\_ **SECRETARY** \_\_\_\_\_

**SECOND SCHEDULE****UNIT CERTIFICATE NUMBER :** \_\_\_\_\_

(Name of Unit Trust)  
 (Constituted by Trust Deed dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ )

**THIS IS TO CERTIFY** that

of

is the Registered Holder of Units in the abovenamed Trust subject to the provisions of the Trust Deed . Details of the units are set out below and were entered in the Register of Unit Holders on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ .

REGISTER FOLIO	NUMBER OF UNITS	CLASS

Signed for and on behalf of the Trustee

This Certificate must be delivered to the Trustee on application to transfer any of the Units comprised therein.

## **THIRD SCHEDULE CLASSES OF UNIT**

### **ORDINARY UNITS**

These Units shall entitle the holders to receive such part of the income and capital gains of the Trust for any accounting period as the Trustee does not appoint or allocate to any other class of unit and in proportion to the number of units held by each of them and shall entitle the holders to the whole of any distribution of the Trust Fund not arising from income or capital gains other than any part which the Trustee appoints or allocates to any other class of unit and in proportion to the number of units held by each of them, the holders shall have the right to vote at meetings of unit holders generally and of ordinary unit holders only.

### **CLASS A (INCOME UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

### **CLASS B (CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

### **CLASS C (INCOME UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund not arising from income or capital gains.

### **CLASS D (CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund not arising from income or capital gains on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but the holders may vote at meetings of the class only. The Units shall not entitle the holders to any distribution of net income or net capital gains.

### **CLASS E (INCOME AND CAPITAL UNITS - VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall carry the right to vote at meetings of unit holders generally or of the class only.

### **CLASS F (INCOME AND CAPITAL UNITS - NON-VOTING)**

These units shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee and shall entitle the holders to receive in proportion to the number of these units held by each of them such part of the Trust Fund on the vesting date or any earlier distribution of the capital of the Trust Fund as the Trustee appoints or allocates for the benefit of the class of unit in the exercise of any power or discretion vested in the Trustee. The Units shall not carry the right to vote at meetings of unit holders generally but may vote at meetings of the class only.

**CLASS G ( DISCRETIONARY ENTITLEMENT - NON-VOTING)**

These units shall entitle the holders to receive such part of the net income, the net capital gains or the Trust Fund as the Trustee in its exercise of the powers and discretions vested in the Trustee determines to allocate to each holder from time to time with the discretion to make such allocation unequally and to exclude all or any of the holders from benefiting from any allocation or distribution. These units shall only carry the right to vote at meetings of the class. As long as any Ordinary Units in the Trust are held the consent of not less than 75% of the Ordinary Unit holders calculated by the number of units held by those voting or expressing their consent in writing shall be required to validate any proposed appointment or allocation of any income ,capital gain , or distribution of the Trust Fund in favour of this class of unit holder.

**CLASS H ( DISCRETIONARY ENTITLEMENT - VOTING)**

These units shall entitle the holders to receive such part of the net income, the net capital gains or the Trust Fund as the Trustee in its exercise of the powers and discretions vested in the Trustee determines to allocate to each holder from time to time with the discretion to make such allocation unequally and to exclude all or any of the holders from benefiting from any allocation or distribution. These units shall carry the right to vote at meetings of unit holders generally and of the class. As long as any Ordinary Units in the Trust are held the consent of not less than 75% of the Ordinary Unit holders calculated by the number of units held by those voting or expressing their consent in writing shall be required to validate any proposed appointment or allocation of any income, capital gain , or distribution of the Trust Fund in favour of this class of unit holder.

**CLASS J ( VOTING - WITHOUT OTHER ENTITLEMENT)**

These units shall not entitle the holders to receive any part of the net income and net taxable gains of the Trust . The Units shall carry the right to vote at meetings of unit holders generally or of the class only. The Units shall not entitle the holders to any distribution of the Trust Fund .

N.B. Issues of Classes A, B, C, and D are not compatible with issues of Classes E and F. Classes G or H cannot be issued alone but may be added to Ordinary units and/or a selection from A,B,C, & D. or from E & F. One Class should have full voting rights. A and C Classes are alternatives and B and D are alternatives. The holders of Class G and H units have no beneficial interest or entitlement in the Trust whatsoever unless and until the Trustee exercise a power or discretion in favour of the relevant class or of a holder of units of a relevant class and has received the necessary consent.

**CLASS K ( PART PAID ORDINARY UNITS - FLEXIBLE CONTRIBUTION)**

These units shall entitle the holders to receive in proportion to the amounts paid up on their units such part of the net income and net taxable gains of the Trust in respect of each accounting period as the Trustee does not appoint or allocate to any other class of unit. At meetings of unit holders they shall have one vote per unit held. Where the full nominal contribution of the unit holder has not been paid, the balance may at any time be paid to the Trustee in whole or part but there shall be no obligation on any unit holder to make any such payment or right of the Trustee to call for any such payment. On the Vesting Date or upon any earlier distribution of the capital of the Trust Fund the holders of these units shall firstly receive repayment of the amounts paid up on their units, in proportion to the amounts so paid, and any surplus other than any part which the Trustee appoints or allocates to any other class of unit shall be distributed in accordance with the number of units held. K units are unsuitable for issue with ordinary units.

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Shares	35(a)	Date of	1(d)
Trust	35(q)		







**PACIFIC BLUE TAX SERVICES PTY LTD  
LOU STEFANETTI**

**PO BOX 2442  
TEMPLESTOWE LOWER VIC 3107**

# MINUTES OF MEETING OF TRUSTEES OF

## 6 BULKARA STREET UNIT TRUST

**HELD AT** 1 385 TOORONGA ROAD  
HAWTHORN EAST VIC 3123  
**ON THE**

**PRESENT:** VINCENZO FRANK TESORIERO  
BASILE PAPADIMITRIOU

**CHAIRMAN:** RESOLVED that VINCENZO FRANK TESORIERO be appointed to chair this meeting.

**MINUTES:** Minutes of a meeting of Trustee for the purpose of establishing 6 BULKARA STREET UNIT TRUST

**APPOINTMENT OF TRUSTEE:** The Chairman informed the meeting that 6 BULKARA STREET PTY LTD (A.C.N. 639 734 473) are to act as Trustees for the Trust known as 6 BULKARA STREET UNIT TRUST.

**IT WAS RESOLVED** that the Trustees accept the appointment as trustees of the Trust.

**SETTLEMENT:** The Trustee executed the Trust Instrument.

**SUM SETTLED:** **IT WAS NOTED** that the Trust established in VICTORIA commenced with a balance of \$10.00. It was accordingly decided that such funds be held by 6 BULKARA STREET PTY LTD (A.C.N. 639 734 473)

in the capacity as Trustees.

**CLOSURE OF MEETING:** There being no further business the meeting was closed

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**VINCENZO FRANK TESORIERO**

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# MINUTES

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# MINUTES

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## **APPLICATION FOR UNITS**

**TO THE TRUSTEES OF 6 BULKARA STREET UNIT TRUST**

We,

TESORIERO INVESTMENT GROUP PTY LTD (A.C.N. 161 088 115) of 1, 385  
TOORONGA ROAD, HAWTHORN EAST VIC 3123

As Trustee For TESORIERO INVESTMENT TRUST

**HEREBY APPLY FOR**

Five (5) Class ORD Units payable at \$1.00 each.

We agree to accept the said allotment and to be bound by terms and conditions of the Trust Deed of the abovementioned Unit Trust and hereby authorise my name to be placed on the Register of Unit Holders.

**DATED THIS**

EXECUTED UNDER SEAL in the presence of the undersigned by TESORIERO INVESTMENT GROUP PTY LTD (A.C.N. 161 088 115) in accordance with its Constitution **or** for and on behalf of the Company by

\_\_\_\_\_ Director

\_\_\_\_\_ Director/Secretary

## APPLICATION FOR UNITS

### TO THE TRUSTEES OF 6 BULKARA STREET UNIT TRUST

We,  
VINTES NO 4 PTY LTD (A.C.N. 639 726 524) of 1, 385 TOORONGA ROAD,  
HAWTHORN EAST VIC 3123  
As Trustee For MAZ TRUST NO 4

#### HEREBY APPLY FOR

Five (5) Class ORD Units payable at \$1.00 each.

We agree to accept the said allotment and to be bound by terms and conditions of the Trust Deed of the abovementioned Unit Trust and hereby authorise my name to be placed on the Register of Unit Holders.

#### DATED THIS

EXECUTED UNDER SEAL in the presence of the undersigned by VINTES NO 4 PTY LTD (A.C.N. 639 726 524) in accordance with its Constitution **or** for and on behalf of the Company by

\_\_\_\_\_ Director

\_\_\_\_\_ Director/Secretary



**UNIT CERTIFICATE**  
**6 BULKARA STREET UNIT TRUST**

**TRUST ADDRESS 1 385 TOORONGA ROAD**  
**HAWTHORN EAST VIC 3123**

**CERTIFICATE NUMBER 1**

NUMBER OF UNITS	CLASS	DISTINCTIVE NUMBERS	
		FROM	TO
5	ORD	1	5

This is to certify that TESORIERO INVESTMENT GROUP PTY LTD (A.C.N. 161 088 115) of 1, 385 TOORONGA ROAD, HAWTHORN EAST VIC 3123

As Trustee For TESORIERO INVESTMENT TRUST

is the registered holder of Five (5) Class ORD Units numbered as shown in the panel herein, in the abovementioned Unit Trust subject to the terms and conditions of the Trust Deed thereof.

**SIGNED FOR AND ON BEHALF OF THE TRUSTEE**

6 BULKARA STREET PTY LTD (A.C.N. 639 734 473)

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary

**UNIT CERTIFICATE**  
**6 BULKARA STREET UNIT TRUST**

**TRUST ADDRESS 1 385 TOORONGA ROAD**  
**HAWTHORN EAST VIC 3123**

**CERTIFICATE NUMBER 2**

NUMBER OF UNITS	CLASS	DISTINCTIVE NUMBERS	
		FROM	To
5	ORD	6	10

This is to certify that VINTES NO 4 PTY LTD (A.C.N. 639 726 524) of 1, 385 TOORONGA ROAD, HAWTHORN EAST VIC 3123  
As Trustee For MAZ TRUST NO 4  
is the registered holder of Five (5) Class ORD Units numbered as shown in the panel herein, in the abovementioned Unit Trust subject to the terms and conditions of the Trust Deed thereof.

**SIGNED FOR AND ON BEHALF OF THE TRUSTEE**

6 BULKARA STREET PTY LTD (A.C.N. 639 734 473)

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Secretary



## STANDARD UNIT TRANSFER FORM NUMBER

	<b>Marking Stamp</b>
<b>Affix Stamp Duty Here</b>	
<b>FULL NAME OF UNIT TRUST</b>	
<b>UNIT DESCRIPTION</b>	
<b>QUANTITY</b>	
<b>FULL NAME OF TRANSFEROR (SELLER)</b>	
<b>CONSIDERATION</b>	
<b>DATE OF PURCHASE</b>	
<b>FULL NAME OF TRANSFEREE (BUYER)</b>	
<b>FULL ADDRESS OF TRANSFEREE (BUYER)</b>	
<p>I, the registered holder and undersigned Transferor for the above consideration do hereby transfer to the above named Transferee the units as specified above standing in my name in the books of the above-named Unit Trust, subject to the several conditions on which I held the same at the time of signing hereof and I the Transferee so hereby agree to accept the said unit(s) subject to the same conditions.</p>	
<p><b>TRANSFEROR (SELLER)</b> _____</p> <p style="padding-left: 40px;"><b>DATE SIGNED:</b> _____</p> <p><b>TRANSFEREE (BUYER)</b> _____</p> <p style="padding-left: 40px;"><b>DATE SIGNED:</b> _____</p>	

DEED OF TRUST

OF

TESORIERO INVESTMENT TRUST

VICTORIA

*This is a true copy of  
the original.*  
*[Signature]*  
Lou Stefanetti. CPA.

PACIFIC BLUE TAX SERVICES PTY LTD  
LEVEL 1, 385 TOORONGA ROAD  
HAWTHORN EAST, VIC. 3123  
PH: 03-8862 4646  
FAX: 03-9824 8861

THIS DEED WAS DRAWN BY  
GRIMM & GRIMM  
SOLICITORS

FOR

ABBOTS  
1ST FLR, 225 BRIDGE ROAD  
RICHMOND VIC 3121  
PO Box 384, RICHMOND VIC 3121  
PH: (03) 9427 8888 FAX: (03) 9427 7888

**THIS DEED OF SETTLEMENT** is made on the date stated in the schedule attached (the Schedule) **BETWEEN** the persons named in the Schedule as settlor (the Settlor) and as trustees (the Trustees) **AS** the Settlor desires to provide for certain beneficiaries and proposes to transfer to the Trustees upon the execution of this deed the settled sum set out in the Schedule (the Settled Sum) and the Trustees have agreed to accept the Settled Sum as a trust to be known by the name specified in the Schedule

Counterpart Declaration of Trust  
 Signed at \$230.00  
 Doc ID 2938455, 15 Nov 2012  
 SRO Victoria Duty J212

**NOW THIS DEED PROVIDES :**

**TRUST FUND**

1. The Trustees shall hold the Settled Sum and any other property which may be paid transferred or delivered to the Trustees to be held on the trusts of this settlement and the investments and moneys for the time being representing the same (the Trust Fund) upon the trusts and with and subject to the powers and provisions set out in this deed.

2. **DEFINITIONS**

- A. The terms set out in the first column of the Schedule shall have the meanings set out against them in the second column of the Schedule.
- B. Appointor: means the person named in the Schedule and includes the person at any time who is entitled to act as appointor pursuant to the provisions of this deed.
- C. Beneficiary: means any person included in the Discretionary Class and any Corpus Beneficiary, excepting that it does not include any person named in the Schedule as an excluded beneficiary
- D. Discretionary Class : means those persons named as Specified Beneficiaries in the Schedule, the Corpus Beneficiaries, and the parents grandparents brothers sisters spouses former spouses children grandchildren of the Specified Beneficiaries or of the Corpus Beneficiaries and the parents brothers sisters spouses former spouses and issue of any of the persons included by the preceding description ( all of whom are to be included in the term " the related beneficiaries") and shall also include any company in which a related beneficiary owns a share or of which a related beneficiary is or has been a director and any trust under the terms of which a related beneficiary or any such company is entitled to a benefit whether vested contingent discretionary or otherwise and any person employed by any such company or trust or by the Trustee, or previously so employed, and any school or other establishment for educational or religious purposes and any charity. The trustees of any trust which comes within the discretionary class shall receive any benefit for that trust in their capacity as trustees and not in their personal capacity and the benefit shall be held by them and their successors as trustees upon the relevant trusts and upon the condition that the benefit will be fully vested on or before the Date of Vesting notwithstanding any provision of that trust which might allow for later vesting.
- E. Spouse: includes a person legally married to the relevant person and any person deemed to be a spouse for the purposes of the Income Tax Assessment Act.
- F. Child : the relationship of parent and child shall include adopted child and step-child.
- G. Income : for the purpose of administration of these trusts the Trustees may regard as income any amount which is treated as income, under the current law relating to income tax.
- H. Date of Vesting: shall mean the date specified in the Schedule or an earlier date which the Trustees may appoint in writing , provided that if under the law of the State or Territory specified in the Schedule the period up to the date specified in the Schedule shall be excessive or not applicable , the period from the date of this deed to the end of twentyone years from the death of the last lineal descendant now living of his late Majesty King George VI, shall be substituted for the date specified..
- I. Person: shall include the trustee of a trust or unit trust in his capacity as such trustee.

**SETTLOR**

3. The Settlor desires this settlement to be construed so as to exclude the Settlor from any interest or benefit in the Trust Fund whether by resulting trust retained interest intestacy or otherwise and if any such interest or benefit should arise which would otherwise accrue to the Settlor the Trustees shall hold such interest or benefit for such general public charitable purpose as they may think fit and this settlement is irrevocable.

**INTERPRETATIONS**

4. Any benefits conferred upon any beneficiary are in addition to and not in substitution for any provision made for such beneficiary under any other instrument or disposition whether by settlement Will or otherwise.

### AUTHORISED INVESTMENTS

5. All moneys liable available or requiring to be invested under these trusts may be invested in or upon any of the following investments modes of investment or property notwithstanding that such investments may be of a wasting or speculative nature namely:-

- (a) Investments authorised by the laws of the Commonwealth of Australia or any of the States or Territories thereof for the investment of trust funds.
- (b) Land wherever situate or any estate or interest therein.
- (c) Deposits at interest or otherwise with any company body corporate or bank or on loan at interest or otherwise and either with or without security to any person and notwithstanding where the borrower may for the time being be situate domiciled or resident.
- (d) The fully or partly paid shares stock obligations or debentures of any company or body corporate wherever it may have been incorporated or may carry on business, and any interest in a Unit Trust or other trust whether by purchase of units or otherwise and whether or not involving the Trustees in any liabilities associated with such interest.
- (e) Any investment or property (wherever situate) speculation enterprise or manner of investment from time to time unanimously approved by the Trustees the intention of this Clause being the Trustees may lay out and invest moneys in the same manner as if they were the beneficial owners thereof.
- (f) The acquisition and carrying on of any business, business name, trade, process of production or manufacture, lease, sub-lease, retailing or wholesaling, or other enterprise as the Trustees may think fit.
- (g) The purchase acquisition or effecting of any reversionary or deferred property or rights of any description or any life or life-endowment annuity or sinking fund or term or other policy of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and the Trustees shall have power to pay out of the income or capital of the Trust Fund as they in their absolute discretion think fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any policy of insurance (whether owned by the Trustees or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy shall for the purposes of this settlement be deemed a sale.

### TRUSTEES' POWERS

6. In addition to the powers granted to or vested in them by law the Trustees shall have the following powers and discretions which they may exercise or refrain from exercising even though they may be personally interested in or benefit from the outcome of the exercise thereof:

#### GENERALLY

- (a) To apply and invest moneys forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and to the intent that the Trustees shall have the same powers in all respects as if they were absolute owners beneficially entitled including without diminishing the generality of the foregoing they may subscribe for, take up on allotment and purchase any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and take or purchase the whole or any part or unit of or share or interest in (including a minority share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto AND the Trustees may make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and they may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and they may agree to pay for any such investments wholly or in part from any future moneys which may come into their hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

#### TO BORROW OR LEND AND GUARANTEE

- (b) (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed

(ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit

(iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit

(c) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.

#### TO ALLOW USE IN SPECIE

(d) To permit any beneficiary under this deed to use any real or personal property subject to these trusts upon such terms and conditions as the Trustees may from time to time think fit.

#### TO USE CUSTODIAN

(e) To transfer the whole or any part of the assets of the Trust Fund whether real or personal to one or more companies or persons to allow any such company or person to hold or acquire such assets so that such assets vest in and stand in the name of such company or person subject to the trusts of this settlement and so that such company or person act as custodian trustee of the Trust Fund or of any part thereof, or act as nominee of the Trustees, whether such company or person is a trustee of this settlement or not and to provide for the terms conditions and manner of control which shall apply to such holding of the said assets while held in the name of such company or person and to vary such terms and conditions from time to time as the Trustees may think fit.

#### TO ACT AS DIRECTOR

(f) Any trustee hereof or person nominated by the Trustees may become a director or servant of any company or body corporate in which the Trustees may from time to time hold shares or stock as part of the Trust Fund and to receive the remuneration attaching to such office without being liable to account for the same. AND IT IS DIRECTED that the trustee may become qualified as a director by the holding in his own name of shares or stock belonging to the Trust fund PROVIDED that he account to the Trust Fund for all dividends and bonuses payable in respect thereof.

#### TO BLEND AND APPORTION

(g) With regard to any property or moneys which may be divisible amongst or belong to different trusts or shares in the Trust Fund to hold such property or invest such moneys as a whole or as a common fund with power from time to time to apportion such property or common fund and the income thereof amongst the persons or separate trusts entitled thereto in proportion to their respective interests.

#### TO PAY EXPENSES

(h) To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or of carrying out or performing the trusts hereof which the Trustees may at any time incur in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustees may be required to pay as taxes rates or probate estate gift stamp or revenue duties including stamp duties payable in respect of or in relation to the Trust Fund, whether or not such payment is likely to be enforceable against the Trustees.

#### TO ACT IN RESPECT OF INTERESTS IN COMPANIES

(i) With respect to any company or unit trust or venture (in this paragraph referred to as a "company") in which the Trustees hold shares stocks units interests debentures or other investments or are otherwise interested in or concerned with (in this paragraph referred to as "shares" or "interests") or



which is formed to acquire all or any of the assets of or to carry on the business of any such company, to exercise the following powers in respect of any of such investments in addition to the powers conferred by law:

- (A) to pay calls on any shares or interests or to permit them to be forfeited and sold;
- (B) to purchase any further shares or interests and to take up a new issue of them by any such company;
- (C) to lend money to any such company whether secured by debentures or in any other way or not secured and at such rate of interest and upon such terms as the Trustees think fit;
- (D) to hold any shares or interests acquired by the Trustees for as long as the Trustees think fit;
- (E) to sell any shares or interests held by the Trustees at such price as the Trustees think fit (whether or not such price is less than the sum that appears from the accounts of the company to be the value of such holding) and upon such terms with or without security as the Trustees think fit;
- (F) to assent to or join in any arrangement relating to the sale or transfer or exchange of any such shares or interests or modifying any rights or privileges or interests in relation thereto and to agree to any scheme or arrangement for the increase or reduction of the value or amounts of any shares or interests or of the capital of any company in which any shares or interests forming the whole or any part of the Trust Fund for the time being may be invested or for which they are substituted or given in exchange either wholly or partly for others whether in the same company or not; and for such purpose to deposit surrender or exchange any script or document or title relating thereto, and to pay any contribution out of the capital of the Trust Fund or the income thereof or to incur any necessary expenses in connection with such scheme or arrangement and generally to manage and deal with them as if the Trustees owned them beneficially;
- (G) in respect of a winding up of any company in which the Trustees may for the time being hold shares or interests or are otherwise concerned or interested in to agree with the liquidator of such company or any member or members of such company or any other person in all things as the Trustees shall in their absolute discretion think fit for the division or partition in kind or specie of the assets or property of whatsoever nature of the company and to accept any of the assets and property in payment or satisfaction of any interest of the Trustees in the company with power to pay any moneys by way of equality of division or partition.

#### **TO CARRY ON BUSINESS**

- (j) to carry on any business which the Trustees shall think fit in Australia or in any other country and to do such acts as may be necessary or considered desirable in order to carry on such business effectively and without restricting the foregoing may acquire a business name, purchase and sell commodities and goods of any description, arrange for the provision of services, whether advisory professional broking financial or other, employ workmen, supervisors, managers and others, or arrange for part of such business to be conducted by contractors.

#### **TO PAY TO PARENT OR GUARDIAN**

- (k) to pay over to the parent or guardian of any beneficiary who is under a legal disability any sum of money to which the beneficiary may from time to time be entitled and without requiring such parent or guardian to account for the application of the sum, and the receipt of the parent or guardian of the beneficiary shall be a sufficient receipt and discharge to the Trustees for any moneys paid to them for or on behalf of the beneficiary and the Trustees shall not be bound to see to the application thereof.

#### **TO DEAL WITH TRUSTEES AND ASSOCIATES**

- (l) At their absolute discretion to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustees or any one or more of them in their personal capacity or in their capacity as trustees of other trust funds or otherwise or to any company or partnership notwithstanding that any Trustee is a shareholder or director or member or partner of such company or partnership AND generally to deal with any of the Trustees in their personal capacity in all respects as if there were two separate persons to the dealings or to deal with any spouse or child of the Trustees or of any of them.

#### **TO SUBDIVIDE AND DEVELOP LAND**

- (m) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition, and to construct demolish maintain repair renovate

develop or improve any buildings structures or other property whether real or personal, and to deal with any such property by way of lease exchange transfer conveyance assignment mortgage charge pledge grant of option or otherwise.

#### **TO PROMOTE COMPANIES**

(n) To establish promote or acquire any company or companies or join in the promotion or establishment or acquisition of any company .

#### **TO APPROPRIATE ASSETS**

(o) To appropriate without obtaining any of the consents otherwise required by law any part of the Trust Fund either in its actual condition or state of investment or by setting apart or crediting in the books or accounts of the trust any sum in or towards the satisfaction of any share whether vested or contingent to which any person may be entitled in the Trust Fund and for that purpose to make or cause to be made any valuation of the whole or any part of or of any interest in the Trust Fund as the Trustees may deem necessary either by themselves or by such person or persons whether duly qualified or not as they may appoint and in such manner and at such respective times as the Trustees consider just and proper and every valuation and every appropriation made by the Trustees shall bind all persons interested whether in the share to which the appropriation is made or in any other shares or otherwise interested in the Trust Fund notwithstanding that such persons may not be in existence or that any may be infants lunatics or otherwise under a disability or cannot be found or ascertained at the time of such appropriation or that the Trustees or any one or more of the Trustees for the time being or any person who is a director or shareholder of the trustee making the appropriation are or may be beneficially interested either indirectly or directly in the property appropriated or may benefit either directly or indirectly as a result of the exercise by the Trustees of the power of appropriation as aforesaid.

#### **TO DETERMINE DOUBTS**

(p) To determine whether any real or personal property or any increase or decrease in amount number or value of the property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income (notwithstanding the decision of any company in such matter) and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this settlement; and the Trustees may take the opinion of a barrister or solicitor and shall be entitled to act upon such opinion or to decide to make their determination upon other considerations and every determination of the Trustees in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustees in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

#### **TO JOIN**

(q) To join together with the trustees of any other trust or any other persons and to invest or otherwise deal with the Trust Funds jointly or in partnership with such other trustees or persons and the Trustees of this Settlement together with such other trustees or persons shall then make such apportionment as in their opinion is just and fair.

#### **TO OPERATE BANK ACCOUNTS**

(r) To open any account with any Bank and to operate any such account in all usual ways including drawing making endorsing discounting issuing or otherwise dealing with cheques promissory notes bills of exchange bills of lading or other negotiable or transferable instruments and to deposit withdraw purchase sell any money currency or coin of any country and whether or not in current circulation.

#### **TO CHANGE INVESTMENTS**

(s) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.

#### **TO APPOINT OTHER TRUSTEES**

(t) to appoint in respect of the whole or any part of the Trust Fund new trustees in any country in the world and to transfer the relevant assets to them upon similar trusts either subject to the control of the Trustees or to the exclusion of such control.

#### PROVISION OF ANNUITIES

(u) to agree to pay and to charge the Trust Fund with the payment of an annuity and to grant or redeem any annuity payable for a fixed period or to the extent permitted by law any annuity for any other period specified.

#### TO RECEIVE GIFTS

(v) to receive and accept any gifts bequests devises and legacies to be held on these trusts or subject to any conditions not inconsistent with these trusts.

#### TO KEEP RECORDS

(w) to keep such records as may be required or necessary or desirable. If the Appointor thinks it appropriate he may appoint an auditor to inspect the accounts books and records of the Trust Fund and to report to him and the Trustees. A copy of the auditor's report shall be made available to any specified beneficiary and any corpus beneficiary upon request.

#### INCOME STREAMING

(x) In dealing with the income the Trustees may decide to treat income derived from different origins in different ways and they may resolve that any particular payment application or appropriation shall be made from income of a specified origin.

#### INCIDENTAL MATTERS

(y) to do all such acts and things as may be necessary or incidental to the exercise of the powers otherwise given to them by these trusts.

(z) Generally to exercise or concur in exercising all the powers and discretions contained in this deed or otherwise conferred by law and notwithstanding that the Trustees or any person being a trustee or being a director or shareholder of any company which is a trustee hereof has or may have an indirect direct or personal interest (whether as trustee of any other trust or settlement or in his personal capacity or as a shareholder or director or member or partner of any company or partnership or as a unitholder in any Unit Trust or as a beneficiary of any discretionary or other trust or otherwise) in the mode or result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the trustee for the time being is the sole trustee.

#### TRUSTEES MAY PAY OUT CAPITAL

7. The Trustees from time to time in their absolute discretion and in such manner as they think fit may pay to any one or more members of the Discretionary Class, or apply or settle on trust, for their maintenance education advancement or benefit the whole or any part of the Trust Fund.

#### TRUSTEES MAY CHARGE FOR SERVICES

8. Any trustee of this deed being engaged in any profession or business or in any enterprise conducted by or on behalf of these trusts may be so employed or act and shall be entitled to be paid such remuneration as the Trustees shall consider reasonable for being so employed or so acting in connection with the trusts hereof.

#### COMMISSION

9. The Trustees shall be entitled (but not bound) to charge and be paid commission at such rate as they consider reasonable on the gross income of the Trust Fund and if at the time any such commission becomes payable there shall be more than one trustee hereof the commission so payable shall be divided between them in such manner as the Trustees may agree and if they do not agree on the manner of such division it shall be divided equally between them. No commission shall be payable in respect of the corpus of the Trust Fund.

#### LIABILITY FOR DEFAULTS ONLY

10. The Trustees shall be answerable and accountable only for their own acts receipts omissions neglects and defaults and not for those of any person employed or authorised to act on their behalf with whom or into whose hands any part of the Trust Fund or income thereof comes or is deposited nor for accepting less than a marketable title, nor for any error omission failure to act mistake or lack of skill if made in good faith, nor for any loss unless the same shall happen through their own wilful neglect or default.

#### TRUSTEES MAY DELEGATE

11. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustees and may execute any powers of attorney or other instruments necessary to effectuate such purpose. The Trustees need not act personally but may act by managers, or may employ any

contractors managers solicitors accountants clerks workmen employees or servants or any agents to transact any business required to be done in the premises including the receipt and payment of money and the Trustees shall decide the remuneration to be allowed and paid for all charges and expenses so incurred.

#### TRUSTEES TO ACT JOINTLY

12. (a) The Trustees if at any time they are more than one shall act jointly and not severally. Subject to the consent of the Appointor each trustee may appoint an alternate trustee to act in his place at meetings of trustees so long as and whenever the appointing trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting .
- (b) If at any time there are more than one trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to the Appointor whose decision shall be final and the Trustees shall act in accordance with the decision of the Appointor.
- (c) If a trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole trustee it may attend meetings of trustees and vote there by its representative.

#### SOLE TRUSTEE

13. A sole trustee hereof for the time being is hereby authorised notwithstanding that he is the sole trustee to receive capital and other moneys and to give valid and effectual receipts therefor including for the receipt of capital moneys for the purposes of any statutory enactments.

#### CAPITAL GAINS

14. The Trustees may in their discretion treat any capital gains which are taxable as such in the same way as income is to be treated for the purposes of this trust or if they think it more appropriate they may treat such capital gains as part of the trust fund and deal with it under the provisions of clause 7 or clause 15(b).

#### DISTRIBUTION

15. (a) The Trustees shall hold the Trust Fund or such parts of the Trust Fund as have not been appropriated or distributed and which have not vested absolutely; and

#### DISCRETIONS

(i) shall pay or apply or appropriate the whole or such part of the income of the Trust Fund and in such manner and at such times as the Trustees shall in their absolute discretion think fit to or for the benefit of one or more of the members of the discretionary class and if the Trustees shall think it desirable unequally between the members of such class or for or towards the maintenance support education or benefit of such one or more to the exclusion of the other or others of such members as the Trustees shall in their absolute discretion determine.

#### INCOME OF INFANTS

(ii) Any income which the Trustees may determine to appropriate for the benefit of any infant may be retained together with any income arising from the investment of such appropriated income for that infant during the minority of such infant and the Trustees may in their discretion postpone the payment of such retained income to such infant or to his parent or guardian on his behalf until the "date of vesting", or such earlier date as he may become able to call for such payment. Such appropriations in respect of any infant shall be deemed to be held as a separate Trust for that infant subject to the like powers and conditions as set out in this deed in relation to the Trust Fund.

#### ACCUMULATION

(iii) Any income not applied as aforesaid may be applied to charitable purposes or paid to any Association Corporation or other body established for charitable purposes or paid or applied for the benefit of any other trust established for the benefit of any one or more of the Beneficiaries whether or not such other Trust also benefits other persons provided that as long as any person acts as Appointor of this Trust no such application or payment of either nature shall be made unless with the consent in writing of the Appointor previously received and any balance of income may be accumulated by the Trustees. Such accumulation of income shall continue until "the date of vesting" PROVIDED THAT if the period of accumulation shall end or be determined by Law before "the date of vesting" the Trustees shall thereafter apply the whole of the income in accordance with the provisions of this Clause regarding income not accumulated.

**POWER TO RESORT**

(iv) From time to time at their discretion the Trustees may resort to any accumulations and apply them as income at any time prior to the date of vesting provided that this power to resort or any other power contained in this deed shall not be exercised in any way which would result in the Settlor or any other person who has conferred a benefit on the settlement receiving any amount paid out of such accumulations.

**VESTING OF CORPUS**

(b) At the date of vesting the Trust Fund then held by the Trustees shall be held as to both capital and income upon trust for the corpus beneficiaries in the proportions set out in the Schedule or if no proportions are stated then in equal shares PROVIDED THAT if any corpus beneficiary shall die before the date of vesting of an interest under the foregoing provisions leaving issue surviving such corpus beneficiary, such issue shall stand in the place of the deceased and shall take in equal shares per stirpes (a parent taking to the exclusion of his children) the interest in the same manner as the deceased corpus beneficiary would have taken if he or she had survived to the date of vesting.

**FINAL VESTING PROVISION**

16. If in the events which happen or if for any reason whatsoever the Trust Fund or any parts of it shall not be effectively or validly disposed of by the preceding trusts the Trustees shall hold the Trust Fund or such parts for such persons who are related by blood marriage or in law as would be entitled to participate in the estate of the last of the corpus beneficiaries to die if such corpus beneficiary had died intestate and domiciled in the State or Territory specified in the Schedule on the date of the death of the last to die of the persons contingently entitled under the preceding provisions of this deed and in the proportions prescribed by law relating to the distribution of the intestate estate of a person so dying and if there shall be no such persons to take pursuant to the provisions of this Clause then upon trust for such public charitable purposes as the Trustees may determine. Any resulting trust to the Settlor is hereby expressly negated.

**APPOINTMENT OF TRUSTEES**

17. The Appointor may revoke the appointment of any trustee for the time being hereof or may appoint a new trustee or trustees hereof and on the death or retirement of any trustee he may appoint a new trustee or trustees in the place of the one so dying or retiring and further his consent to the retirement of any trustee shall be a sufficient consent to the retirement of any trustee as required by law.

**APPOINTOR MAY PROVIDE FOR SUCCESSOR**

18. An appointor may by Deed or Will pass this power to some other person or by Deed may renounce the powers conferred upon him by this deed. If the Appointor does renounce these powers he may by the same Deed provide for another person to exercise these powers and for further nominations of persons to exercise these powers. While the Appointor retains these powers he may direct the Trustees in writing to act or not to act in a particular way in respect of certain parts of the Trust Fund, or to dispose of certain assets from the Trust Fund or to acquire others for the Trust Fund. When there are two or more Appointors they will have to act jointly. If at any time there is no appointor capable of acting the Trustees may act as if the consent of the Appointor had been given to any action where it would otherwise be required, and may appoint new trustees or retire in accordance with the general provisions of the law notwithstanding the provisions herein contained.

**EXCLUSION FROM BENEFIT**

19. If the Appointor consents in writing the Trustees may exclude any beneficiary from any further benefit hereunder and if such excluded beneficiary consents to the action of the Trustees in declaring that he or she would thereafter be excluded from further benefit then the action of the Trustees shall become irrevocable and the interest which would otherwise have come to be distributable to the excluded beneficiary shall be dealt with by the Trustees as if the beneficiary had died upon the date upon which such determination of the Trustees was confirmed by receipt of the consent in writing of the beneficiary.

**DIRECTIONS BY BENEFICIARIES**

20. (a) The Trustees shall not be obliged to comply with the directions of the Settlor, nor of any beneficiary save after the date of vesting, and the Trustees shall have no right of indemnity or recourse against the Settlor or any beneficiary but shall be restricted to being indemnified out of the assets of the Trust for any liabilities properly incurred.

#### INDEMNITIES

(b) The Trustees shall be indemnified out of the Assets of the Trust Fund for all liabilities incurred by them in the course of acting for the trust.

#### DISCLOSURE

21. The Trustees shall disclose details of their decisions to any person who may be affected by them and to the Appointor, any auditor of the Trust Fund, and any other person who may be entitled to receive the relevant details, but shall not disclose details of their discussions or of any matters taken into their consideration before arriving at their decisions.

#### DISCRETIONS

22. Every discretion and power exercisable by the Trustees shall be absolute and fully discretionary without any restriction being implied from any other provision of this deed or otherwise.

#### AMENDMENT

23. The Trustees for the time being may with the consent in writing of the Appointor (if any) from time to time revoke add to or vary any of the terms or conditions of this deed Provided that any such amendment shall not infringe the rule against perpetuities, or affect the beneficial entitlement to any amount set aside allotted to or used for the benefit of any beneficiary prior to the date of any such variation alteration or addition.

#### LIQUOR LICENCE

24. While and so long as the Trustees are the holders of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

JURISDICTION	LEGISLATION	AUTHORITY	EXECUTIVE
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian Capital Territory	Liquor Act 1975	Registrar of Liquor Licences	Registrar
Northern Territory	Liquor Act 1978	Liquor Commission	Registrar
Tasmania	Liquor & Accommodation Act 1990	Commissioner for Licensing	Chief Executive Officer

## SCHEDULE

**DATE OF SETTLEMENT:** 5.11.2012

**SETTLOR:** LUIGI STEFANETTI of  
Level 2  
785 TOORAK ROAD  
Hawthorn East VIC 3123

**TRUSTEES:** TESORIERO INVESTMENT GROUP PTY LTD ACN: 161 088 115 of  
Level 2  
785 TOORAK ROAD  
Hawthorn East VIC 3123

**NAME OF TRUST:** TESORIERO INVESTMENT TRUST

**SETTLED SUM:** \$ 10.00

**OTHER SETTLED PROPERTY:**

**APPOINTOR:** GIOVANNI TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161  
VINCENZO TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161

**CORPUS BENEFICIARIES:** GIOVANNI TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161  
CATERINA TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161  
VINCENZO TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161  
TERESA TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161

**SPECIFIED BENEFICIARIES:**

**DATE OF VESTING:** Eighty Years from the day before the Date of Settlement

**RELEVANT LAW:** Victoria

IN WITNESS WHEREOF the parties have executed these presents the 5<sup>th</sup> day of November 2012

EXECUTED UNDER SEAL in the presence of the undersigned by  
TESORIERO INVESTMENT GROUP PTY LTD ACN: 161 088 115  
in accordance with its Constitution OR for and on behalf of the Company by;

DIRECTOR *Luigi Stefanetti* SECRETARY *G. Tesoriere*

SIGNED BY THE SAID  
LUIGI STEFANETTI

*[Signature]*

in the presence of:

*[Signature]*



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# Certificate of Duty Trust Deed

SRO Reference Number: 4526028

Certificate Issue Date: 25th February  
2019

## ASSESSMENT INFORMATION

<b>Duty Assessed:</b>	\$200
<b>Interest:</b>	\$0
<b>Total Amount:</b>	\$200
<b>Section:</b>	s37 - Establishment of a trust relating to unidentified property and non-dutiable property

## TRUST INFORMATION

<b>Trust Name:</b>	MAZ TRUST
<b>Date of Trust:</b>	14th January 2019

## TRUSTEE

<b>Company:</b>	EROS MANAGEMENT PTY LTD
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DEED OF TRUST

OF

MAZ TRUST

VICTORIA

ABBOTS  
1ST FLR, 225 BRIDGE ROAD  
RICHMOND VIC 3121  
PO Box 384, RICHMOND VIC 3121  
PH: (03) 9427 8888 FAX: (03) 9427 7888

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## SRO CONTACT DETAILS

<b>Mail</b> Duties Online Support, State Revenue Office, GPO Box 1641, MELBOURNE VIC 3001 or DX 260090 MELBOURNE	<b>Website</b> <a href="http://www.sro.vic.gov.au">www.sro.vic.gov.au</a> <b>Email</b> <a href="mailto:dutiesonline@sro.vic.gov.au">dutiesonline@sro.vic.gov.au</a> <b>Phone</b> 03 9628 6539 <b>Fax</b> 03 9628 0021
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CD2011/1

**THIS DEED OF SETTLEMENT** is made on the date stated in the schedule attached (the Schedule) **BETWEEN** the persons named in the Schedule as settlor (the Settlor) and as trustees (the Trustees) **AS** the Settlor desires to provide for certain beneficiaries and proposes to transfer to the Trustees upon the execution of this deed the settled sum set out in the Schedule (the Settled Sum) and the Trustees have agreed to accept the Settled Sum as a trust to be known by the name specified in the Schedule

**NOW THIS DEED PROVIDES :**

**TRUST FUND**

1. The Trustees shall hold the Settled Sum and any other property which may be paid transferred or delivered to the Trustees to be held on the trusts of this settlement and the investments and moneys for the time being representing the same (the Trust Fund) upon the trusts and with and subject to the powers and provisions set out in this deed.

2. **DEFINITIONS**

A. The terms set out in the first column of the Schedule shall have the meanings set out against them in the second column of the Schedule.

B. Appointor: means the person named in the Schedule and includes the person at any time who is entitled to act as appointor pursuant to the provisions of this deed.

C. Beneficiary: means any person included in the Discretionary Class and any Corpus Beneficiary, excepting that it does not include any person named in the Schedule as an excluded beneficiary

D. Discretionary Class : means those persons named as Specified Beneficiaries in the Schedule, the Corpus Beneficiaries, and the parents grandparents brothers sisters spouses former spouses children grandchildren of the Specified Beneficiaries or of the Corpus Beneficiaries and the parents brothers sisters spouses former spouses and issue of any of the persons included by the preceding description ( all of whom are to be included in the term " the related beneficiaries") and shall also include any company in which a related beneficiary owns a share or of which a related beneficiary is or has been a director and any trust under the terms of which a related beneficiary or any such company is entitled to a benefit whether vested contingent discretionary or otherwise and any person employed by any such company or trust or by the Trustee, or previously so employed, and any school or other establishment for educational or religious purposes and any charity. The trustees of any trust which comes within the discretionary class shall receive any benefit for that trust in their capacity as trustees and not in their personal capacity and the benefit shall be held by them and their successors as trustees upon the relevant trusts and upon the condition that the benefit will be fully vested on or before the Date of Vesting notwithstanding any provision of that trust which might allow for later vesting.

E. Spouse: includes a person legally married to the relevant person and any person deemed to be a spouse for the purposes of the Income Tax Assessment Act.

F. Child : the relationship of parent and child shall include adopted child and step-child.

G. Income : for the purpose of administration of these trusts the Trustees may regard as income any amount which is treated as income, under the current law relating to income tax.

H. Date of Vesting: shall mean the date specified in the Schedule or an earlier date which the Trustees may appoint in writing , provided that if under the law of the State or Territory specified in the Schedule the period up to the date specified in the Schedule shall be excessive or not applicable , the period from the date of this deed to the end of twentyone years from the death of the last lineal descendant now living of his late Majesty King George VI, shall be substituted for the date specified..

I. Person: shall include the trustee of a trust or unit trust in his capacity as such trustee.

### SETTLOR

3. The Settlor desires this settlement to be construed so as to exclude the Settlor from any interest or benefit in the Trust Fund whether by resulting trust retained interest intestacy or otherwise and if any such interest or benefit should arise which would otherwise accrue to the Settlor the Trustees shall hold such interest or benefit for such general public charitable purpose as they may think fit and this settlement is irrevocable.

### INTERPRETATIONS

4. Any benefits conferred upon any beneficiary are in addition to and not in substitution for any provision made for such beneficiary under any other instrument or disposition whether by settlement Will or otherwise.

### AUTHORISED INVESTMENTS

5. All moneys liable available or requiring to be invested under these trusts may be invested in or upon any of the following investments modes of investment or property notwithstanding that such investments may be of a wasting or speculative nature namely:-

- (a) Investments authorised by the laws of the Commonwealth of Australia or any of the States or Territories thereof for the investment of trust funds.
- (b) Land wherever situate or any estate or interest therein.
- (c) Deposits at interest or otherwise with any company body corporate or bank or on loan at interest or otherwise and either with or without security to any person and notwithstanding where the borrower may for the time being be situate domiciled or resident.
- (d) The fully or partly paid shares stock obligations or debentures of any company or body corporate wherever it may have been incorporated or may carry on business, and any interest in a Unit Trust or other trust whether by purchase of units or otherwise and whether or not involving the Trustees in any liabilities associated with such interest.
- (e) Any investment or property (wherever situate) speculation enterprise or manner of investment from time to time unanimously approved by the Trustees the intention of this Clause being the Trustees may lay out and invest moneys in the same manner as if they were the beneficial owners thereof.
- (f) The acquisition and carrying on of any business, business name, trade, process of production or manufacture, lease, sub-lease, retailing or wholesaling, or other enterprise as the Trustees may think fit.
- (g) The purchase acquisition or effecting of any reversionary or deferred property or rights of any description or any life or life-endowment annuity or sinking fund or term or other policy of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and the Trustees shall have power to pay out of the income or capital of the Trust Fund as they in their absolute discretion think fit all sums payable from time to time for premiums or otherwise for the effecting or maintenance of any policy of insurance (whether owned by the Trustees or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy shall for the purposes of this settlement be deemed a sale.

### TRUSTEES' POWERS

6. In addition to the powers granted to or vested in them by law the Trustees shall have the following powers and discretions which they may exercise or refrain from exercising even though they may be personally interested in or benefit from the outcome of the exercise thereof:

#### GENERALLY

- (a) To apply and invest moneys forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and to the

intent that the Trustees shall have the same powers in all respects as if they were absolute owners beneficially entitled including without diminishing the generality of the foregoing they may subscribe for, take up on allotment and purchase any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and take or purchase the whole or any part or unit of or share or interest in (including a minority share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto AND the Trustees may make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and they may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and they may agree to pay for any such investments wholly or in part from any future moneys which may come into their hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

#### TO BORROW OR LEND AND GUARANTEE

- (b) (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed
  - (ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit
  - (iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit
- (c) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.

#### TO ALLOW USE IN SPECIE

- (d) To permit any beneficiary under this deed to use any real or personal property subject to these trusts upon such terms and conditions as the Trustees may from time to time think fit.

#### TO USE CUSTODIAN

- (e) To transfer the whole or any part of the assets of the Trust Fund whether real or personal to one or more companies or persons to allow any such company or person to hold or acquire such assets so that such assets vest in are held by and stand in the name of such company or person subject to the trusts of this settlement and so that such company or person act as custodian trustee of the Trust Fund or of any part thereof, or act as nominee of the Trustees, whether such company or person is a trustee of this settlement or not and to provide

for the terms conditions and manner of control which shall apply to such holding of the said assets while held in the name of such company or person and to vary such terms and conditions from time to time as the Trustees may think fit.

**TO ACT AS DIRECTOR**

(f) Any trustee hereof or person nominated by the Trustees may become a director or servant of any company or body corporate in which the Trustees may from time to time hold shares or stock as part of the Trust Fund and to receive the remuneration attaching to such office without being liable to account for the same. AND IT IS DIRECTED that the trustee may become qualified as a director by the holding in his own name of shares or stock belonging to the Trust fund PROVIDED that he account to the Trust Fund for all dividends and bonuses payable in respect thereof.

**TO BLEND AND APPORTION**

(g) With regard to any property or moneys which may be divisible amongst or belong to different trusts or shares in the Trust Fund to hold such property or invest such moneys as a whole or as a common fund with power from time to time to apportion such property or common fund and the income thereof amongst the persons or separate trusts entitled thereto in proportion to their respective interests.

**TO PAY EXPENSES**

(h) To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or of carrying out or performing the trusts hereof which the Trustees may at any time incur in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustees may be required to pay as taxes rates or probate estate gift stamp or revenue duties including stamp duties payable in respect of or in relation to the Trust Fund, whether or not such payment is likely to be enforceable against the Trustees.

**TO ACT IN RESPECT OF INTERESTS IN COMPANIES**

(i) With respect to any company or unit trust or venture (in this paragraph referred to as a "company") in which the Trustees hold shares stocks units interests debentures or other investments or are otherwise interested in or concerned with (in this paragraph referred to as "shares" or "interests") or which is formed to acquire all or any of the assets of or to carry on the business of any such company, to exercise the following powers in respect of any of such investments in addition to the powers conferred by law:

- (A) to pay calls on any shares or interests or to permit them to be forfeited and sold;
- (B) to purchase any further shares or interests and to take up a new issue of them by any such company;
- (C) to lend money to any such company whether secured by debentures or in any other way or not secured and at such rate of interest and upon such terms as the Trustees think fit;
- (D) to hold any shares or interests acquired by the Trustees for as long as the Trustees think fit;
- (E) to sell any shares or interests held by the Trustees at such price as the Trustees think fit (whether or not such price is less than the sum that appears from the accounts of the company to be the value of such holding) and upon such terms with or without security as the Trustees think fit;
- (F) to assent to or join in any arrangement relating to the sale or transfer or exchange of any such shares or interests or modifying any rights or privileges or interests in relation thereto and to agree to any scheme or arrangement for the increase or reduction of the value or amounts of any shares or interests or of the capital of any company in which any shares or interests forming the whole or any part of the Trust Fund for the time being may be invested or for which they are substituted or given in exchange either

wholly or partly for others whether in the same company or not; and for such purpose to deposit surrender or exchange any script or document or title relating thereto, and to pay any contribution out of the capital of the Trust Fund or the income thereof or to incur any necessary expenses in connection with such scheme or arrangement and generally to manage and deal with them as if the Trustees owned them beneficially;

(G) in respect of a winding up of any company in which the Trustees may for the time being hold shares or interests or are otherwise concerned or interested in to agree with the liquidator of such company or any member or members of such company or any other person in all things as the Trustees shall in their absolute discretion think fit for the division or partition in kind or specie of the assets or property of whatsoever nature of the company and to accept any of the assets and property in payment or satisfaction of any interest of the Trustees in the company with power to pay any moneys by way of equality of division or partition.

**TO CARRY ON BUSINESS**

(j) to carry on any business which the Trustees shall think fit in Australia or in any other country and to do such acts as may be necessary or considered desirable in order to carry on such business effectively and without restricting the foregoing may acquire a business name, purchase and sell commodities and goods of any description, arrange for the provision of services, whether advisory professional broking financial or other, employ workmen, supervisors, managers and others, or arrange for part of such business to be conducted by contractors.

**TO PAY TO PARENT OR GUARDIAN**

(k) to pay over to the parent or guardian of any beneficiary who is under a legal disability any sum of money to which the beneficiary may from time to time be entitled and without requiring such parent or guardian to account for the application of the sum, and the receipt of the parent or guardian of the beneficiary shall be a sufficient receipt and discharge to the Trustees for any moneys paid to them for or on behalf of the beneficiary and the Trustees shall not be bound to see to the application thereof.

**TO DEAL WITH TRUSTEES AND ASSOCIATES**

(l) At their absolute discretion to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustees or any one or more of them in their personal capacity or in their capacity as trustees of other trust funds or otherwise or to any company or partnership notwithstanding that any Trustee is a shareholder or director or member or partner of such company or partnership AND generally to deal with any of the Trustees in their personal capacity in all respects as if there were two separate persons to the dealings or to deal with any spouse or child of the Trustees or of any of them.

**TO SUBDIVIDE AND DEVELOP LAND**

(m) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition, and to construct demolish maintain repair renovate develop or improve any buildings structures or other property whether real or personal, and to deal with any such property by way of lease exchange transfer conveyance assignment mortgage charge pledge grant of option or otherwise.

**TO PROMOTE COMPANIES**

(n) To establish promote or acquire any company or companies or join in the promotion or establishment or acquisition of any company .

**TO APPROPRIATE ASSETS**

(o) To appropriate without obtaining any of the consents otherwise required by law any part of the Trust Fund either in its actual condition or state of investment or by setting apart or crediting in the books or accounts of the trust any sum in or towards the satisfaction of any

share whether vested or contingent to which any person may be entitled in the Trust Fund and for that purpose to make or cause to be made any valuation of the whole or any part of or of any interest in the Trust Fund as the Trustees may deem necessary either by themselves or by such person or persons whether duly qualified or not as they may appoint and in such manner and at such respective times as the Trustees consider just and proper and every valuation and every appropriation made by the Trustees shall bind all persons interested whether in the share to which the appropriation is made or in any other shares or otherwise interested in the Trust Fund notwithstanding that such persons may not be in existence or that any may be infants lunatics or otherwise under a disability or cannot be found or ascertained at the time of such appropriation or that the Trustees or any one or more of the Trustees for the time being or any person who is a director or shareholder of the trustee making the appropriation are or may be beneficially interested either indirectly or directly in the property appropriated or may benefit either directly or indirectly as a result of the exercise by the Trustees of the power of appropriation as aforesaid.

#### **TO DETERMINE DOUBTS**

(p) To determine whether any real or personal property or any increase or decrease in amount number or value of the property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income (notwithstanding the decision of any company in such matter) and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this settlement; and the Trustees may take the opinion of a barrister or solicitor and shall be entitled to act upon such opinion or to decide to make their determination upon other considerations and every determination of the Trustees in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustees in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

#### **TO JOIN**

(q) To join together with the trustees of any other trust or any other persons and to invest or otherwise deal with the Trust Funds jointly or in partnership with such other trustees or persons and the Trustees of this Settlement together with such other trustees or persons shall then make such apportionment as in their opinion is just and fair.

#### **TO OPERATE BANK ACCOUNTS**

(r) To open any account with any Bank and to operate any such account in all usual ways including drawing making endorsing discounting issuing or otherwise dealing with cheques promissory notes bills of exchange bills of lading or other negotiable or transferable instruments and to deposit withdraw purchase sell any money currency or coin of any country and whether or not in current circulation.

#### **TO CHANGE INVESTMENTS**

(s) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.

#### **TO APPOINT OTHER TRUSTEES**

(t) to appoint in respect of the whole or any part of the Trust Fund new trustees in any country in the world and to transfer the relevant assets to them upon similar trusts either subject to the control of the Trustees or to the exclusion of such control.

#### **PROVISION OF ANNUITIES**

(u) to agree to pay and to charge the Trust Fund with the payment of an annuity and to grant or redeem any annuity payable for a fixed period or to the extent permitted by law any annuity for any other period specified.

#### **TO RECEIVE GIFTS**

(v) to receive and accept any gifts bequests devises and legacies to be held on these trusts or subject to any conditions not inconsistent with these trusts.

#### **TO KEEP RECORDS**

(w) to keep such records as may be required or necessary or desirable. If the Appointor thinks it appropriate he may appoint an auditor to inspect the accounts books and records of the Trust Fund and to report to him and the Trustees. A copy of the auditor's report shall be made available to any specified beneficiary and any corpus beneficiary upon request.

#### **INCOME STREAMING**

(x) In dealing with the income the Trustees may decide to treat income derived from different origins in different ways and they may resolve that any particular payment application or appropriation shall be made from income of a specified origin.

#### **INCIDENTAL MATTERS**

(y) to do all such acts and things as may be necessary or incidental to the exercise of the powers otherwise given to them by these trusts.

(z) Generally to exercise or concur in exercising all the powers and discretions contained in this deed or otherwise conferred by law and notwithstanding that the Trustees or any person being a trustee or being a director or shareholder of any company which is a trustee hereof has or may have an indirect direct or personal interest (whether as trustee of any other trust or settlement or in his personal capacity or as a shareholder or director or member or partner of any company or partnership or as a unitholder in any Unit Trust or as a beneficiary of any discretionary or other trust or otherwise) in the mode or result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the trustee for the time being is the sole trustee.

#### **TRUSTEES MAY PAY OUT CAPITAL**

7. The Trustees from time to time in their absolute discretion and in such manner as they think fit may pay to any one or more members of the Discretionary Class, or apply or settle on trust, for their maintenance education advancement or benefit the whole or any part of the Trust Fund.

#### **TRUSTEES MAY CHARGE FOR SERVICES**

8. Any trustee of this deed being engaged in any profession or business or in any enterprise conducted by or on behalf of these trusts may be so employed or act and shall be entitled to be paid such remuneration as the Trustees shall consider reasonable for being so employed or so acting in connection with the trusts hereof.

#### **COMMISSION**

9. The Trustees shall be entitled (but not bound) to charge and be paid commission at such rate as they consider reasonable on the gross income of the Trust Fund and if at the time any such commission becomes payable there shall be more than one trustee hereof the commission so payable shall be divided between them in such manner as the Trustees may agree and if they do not agree on the manner of such division it shall be divided equally between them. No commission shall be payable in respect of the corpus of the Trust Fund.

#### **LIABILITY FOR DEFAULTS ONLY**

10. The Trustees shall be answerable and accountable only for their own acts receipts omissions neglects and defaults and not for those of any person employed or authorised to act on their behalf with whom or into whose hands any part of the Trust Fund or income thereof comes or is deposited nor for accepting less than a marketable title, nor for any error omission failure to act mistake or lack of skill if made in good faith, nor for any loss unless the same shall happen through their own wilful neglect or default.

**TRUSTEES MAY DELEGATE**

11. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustees and may execute any powers of attorney or other instruments necessary to effectuate such purpose. The Trustees need not act personally but may act by managers, or may employ any contractors managers solicitors accountants clerks workmen employees or servants or any agents to transact any business required to be done in the premises including the receipt and payment of money and the Trustees shall decide the remuneration to be allowed and paid for all charges and expenses so incurred.

**TRUSTEES TO ACT JOINTLY**

12. (a) The Trustees if at any time they are more than one shall act jointly and not severally. Subject to the consent of the Appointor each trustee may appoint an alternate trustee to act in his place at meetings of trustees so long as and whenever the appointing trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting .
- (b) If at any time there are more than one trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to the Appointor whose decision shall be final and the Trustees shall act in accordance with the decision of the Appointor.
- (c) If a trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole trustee it may attend meetings of trustees and vote there by its representative.

**SOLE TRUSTEE**

13. A sole trustee hereof for the time being is hereby authorised notwithstanding that he is the sole trustee to receive capital and other moneys and to give valid and effectual receipts therefor including for the receipt of capital moneys for the purposes of any statutory enactments.

**CAPITAL GAINS**

14. The Trustees may in their discretion treat any capital gains which are taxable as such in the same way as income is to be treated for the purposes of this trust or if they think it more appropriate they may treat such capital gains as part of the trust fund and deal with it under the provisions of clause 7 or clause 15(b).

**DISTRIBUTION**

15. (a) The Trustees shall hold the Trust Fund or such parts of the Trust Fund as have not been appropriated or distributed and which have not vested absolutely; and

**DISCRETIONS**

(i) shall pay or apply or appropriate the whole or such part of the income of the Trust Fund and in such manner and at such times as the Trustees shall in their absolute discretion think fit to or for the benefit of one or more of the members of the discretionary class and if the Trustees shall think it desirable unequally between the members of such class or for or towards the maintenance support education or benefit of such one or more to the exclusion of the other or others of such members as the Trustees shall in their absolute discretion determine.

**INCOME OF INFANTS**

(ii) Any income which the Trustees may determine to appropriate for the benefit of any infant may be retained together with any income arising from the investment of such appropriated income for that infant during the minority of such infant and the Trustees may in their discretion postpone the payment of such retained income to such infant or to his parent or guardian on his behalf until the "date of vesting", or such earlier date as he may become able to call for such payment. Such appropriations in respect of any infant

shall be deemed to be held as a separate Trust for that infant subject to the like powers and conditions as set out in this deed in relation to the Trust Fund.

**ACCUMULATION**

(iii) Any income not applied as aforesaid may be applied to charitable purposes or paid to any Association Corporation or other body established for charitable purposes or paid or applied for the benefit of any other trust established for the benefit of any one or more of the Beneficiaries whether or not such other Trust also benefits other persons provided that as long as any person acts as Appointor of this Trust no such application or payment of either nature shall be made unless with the consent in writing of the Appointor previously received and any balance of income may be accumulated by the Trustees. Such accumulation of income shall continue until "the date of vesting" PROVIDED THAT if the period of accumulation shall end or be determined by Law before "the date of vesting" the Trustees shall thereafter apply the whole of the income in accordance with the provisions of this Clause regarding income not accumulated.

**POWER TO RESORT**

(iv) From time to time at their discretion the Trustees may resort to any accumulations and apply them as income at any time prior to the date of vesting provided that this power to resort or any other power contained in this deed shall not be exercised in any way which would result in the Settlor or any other person who has conferred a benefit on the settlement receiving any amount paid out of such accumulations.

**VESTING OF CORPUS**

(b) At the date of vesting the Trust Fund then held by the Trustees shall be held as to both capital and income upon trust for the corpus beneficiaries in the proportions set out in the Schedule or if no proportions are stated then in equal shares PROVIDED THAT if any corpus beneficiary shall die before the date of vesting of an interest under the foregoing provisions leaving issue surviving such corpus beneficiary, such issue shall stand in the place of the deceased and shall take in equal shares per stirpes (a parent taking to the exclusion of his children) the interest in the same manner as the deceased corpus beneficiary would have taken if he or she had survived to the date of vesting.

**FINAL VESTING PROVISION**

16. If in the events which happen or if for any reason whatsoever the Trust Fund or any parts of it shall not be effectively or validly disposed of by the preceding trusts the Trustees shall hold the Trust Fund or such parts for such persons who are related by blood marriage or in law as would be entitled to participate in the estate of the last of the corpus beneficiaries to die if such corpus beneficiary had died intestate and domiciled in the State or Territory specified in the Schedule on the date of the death of the last to die of the persons contingently entitled under the preceding provisions of this deed and in the proportions prescribed by law relating to the distribution of the intestate estate of a person so dying and if there shall be no such persons to take pursuant to the provisions of this Clause then upon trust for such public charitable purposes as the Trustees may determine. Any resulting trust to the Settlor is hereby expressly negated.

**APPOINTMENT OF TRUSTEES**

17. The Appointor may revoke the appointment of any trustee for the time being hereof or may appoint a new trustee or trustees hereof and on the death or retirement of any trustee he may appoint a new trustee or trustees in the place of the one so dying or retiring and further his consent to the retirement of any trustee shall be a sufficient consent to the retirement of any trustee as required by law.

**APPOINTOR MAY PROVIDE FOR SUCCESSOR**

18. An appointor may by Deed or Will pass this power to some other person or by Deed may renounce the powers conferred upon him by this deed. If the Appointor does renounce these powers he may by the same Deed provide for another person to exercise these powers and for further



nominations of persons to exercise these powers. While the Appointor retains these powers he may direct the Trustees in writing to act or not to act in a particular way in respect of certain parts of the Trust Fund, or to dispose of certain assets from the Trust Fund or to acquire others for the Trust Fund. When there are two or more Appointors they will have to act jointly. If at any time there is no appointor capable of acting the Trustees may act as if the consent of the Appointor had been given to any action where it would otherwise be required, and may appoint new trustees or retire in accordance with the general provisions of the law notwithstanding the provisions herein contained.

#### EXCLUSION FROM BENEFIT

19. If the Appointor consents in writing the Trustees may exclude any beneficiary from any further benefit hereunder and if such excluded beneficiary consents to the action of the Trustees in declaring that he or she would thereafter be excluded from further benefit then the action of the Trustees shall become irrevocable and the interest which would otherwise have come to be distributable to the excluded beneficiary shall be dealt with by the Trustees as if the beneficiary had died upon the date upon which such determination of the Trustees was confirmed by receipt of the consent in writing of the beneficiary.

#### DIRECTIONS BY BENEFICIARIES

20. (a) The Trustees shall not be obliged to comply with the directions of the Settlor, nor of any beneficiary save after the date of vesting, and the Trustees shall have no right of indemnity or recourse against the Settlor or any beneficiary but shall be restricted to being indemnified out of the assets of the Trust for any liabilities properly incurred.

#### INDEMNITIES

(b) The Trustees shall be indemnified out of the Assets of the Trust Fund for all liabilities incurred by them in the course of acting for the trust.

#### DISCLOSURE

21. The Trustees shall disclose details of their decisions to any person who may be affected by them and to the Appointor, any auditor of the Trust Fund, and any other person who may be entitled to receive the relevant details, but shall not disclose details of their discussions or of any matters taken into their consideration before arriving at their decisions.

#### DISCRETIONS

22. Every discretion and power exercisable by the Trustees shall be absolute and fully discretionary without any restriction being implied from any other provision of this deed or otherwise.

#### AMENDMENT

23. The Trustees for the time being may with the consent in writing of the Appointor (if any) from time to time revoke add to or vary any of the terms or conditions of this deed Provided that any such amendment shall not infringe the rule against perpetuities, or affect the beneficial entitlement to any amount set aside allotted to or used for the benefit of any beneficiary prior to the date of any such variation alteration or addition.

#### LIQUOR LICENCE

24. While and so long as the Trustees are the holders of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

JURISDICTION	LEGISLATION	AUTHORITY	EXECUTIVE
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian Capital Territory	Liquor Act 1975	Registrar of Liquor Licences	Registrar
Northern Territory	Liquor Act 1978	Liquor Commission	Registrar
Tasmania	Liquor & Accommodation Act 1990	Commissioner for Licensing	Chief Executive Officer

**SCHEDULE**

**DATE OF SETTLEMENT:** 14-1-2019

**SETTLOR:** Lou Stefanetti of  
Level 1  
385 Tooronga Road  
Hawthorn East VIC 3123

**TRUSTEES:** EROS MANAGEMENT PTY LTD ACN: 622 298 346 of  
Level 5  
141 Walker Street  
North Sydney NSW 2060

**NAME OF TRUST:** MAZ TRUST

**SETTLED SUM:** \$ 10.00

**OTHER SETTLED PROPERTY:**

**APPOINTOR:** BASILE PAPADIMITRIOU of  
Level 5  
141 Walker Street  
North Sydney NSW 2060

**CORPUS BENEFICIARIES:** ANTHONY PAPADIMITRIOU of  
27 Malton Road  
Beecroft NSW 2119  
MARCUS PAPADIMITRIOU of  
27 Malton Road  
Beecroft NSW 2119  
ZACHARY PAPADIMITRIOU of  
27 Malton Road  
Beecroft NSW 2119

**SPECIFIED BENEFICIARIES:**

**DATE OF VESTING:** Eighty Years from the day before the Date of Settlement

**RELEVANT LAW:** Victoria

IN WITNESS WHEREOF the parties have executed these presents the 14<sup>th</sup> day of January 2019

EXECUTED UNDER SEAL in the presence of the undersigned by  
EROS MANAGEMENT PTY LTD ACN: 622 298 346  
in accordance with its Constitution OR for and on behalf of the Company by;

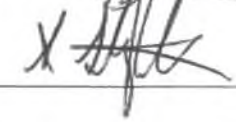
DIRECTOR



SECRETARY



SIGNED BY THE SAID  
Lou Stefanetti



in the presence of:



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**SETTLOR**

**PRAKASH PATEL**

**TRUSTEE**

**VINTES QLD NO 3 PTY LTD**

## **MAZ TRUST NO 3**

Michael J. Kane  
Barrister & Solicitor  
Level 16  
15 William St  
Melbourne, VIC, 3000

DX 460  
MELBOURNE

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## MAZ TRUST NO 3

THIS DEED OF TRUST is made on 13 March 2020.

### B E T W E E N

The Party described in the Schedule to this Deed ("the Settlor") PRAKASH PATEL of the one part.

-and-

The Party described in the Schedule to this Deed ("the Trustee") VINTES QLD NO 3 PTY LTD of the other part.

#### RECITALS :

- A. The Settlor wishes to create a fund to be known as described in the Schedule to this Deed and make provision for certain Beneficiaries described in this Deed.
- B. The Settlor wishes to appoint the Trustee as trustee of these presents and the Trustee has consented to become a trustee hereof upon the trusts and with and subject to the powers and
- C. The Settlor has paid or will pay the sum of \$100.00 to the Trustee.

#### OPERATIVE PARTS:

##### Definitions and Interpretation

##### 1.1 Definitions

In this Deed unless the context otherwise requires

- (a) 'Act' means the Income Tax Assessment Act 1936 and/or the Income Tax Assessment Act 1997 or any reenactment or statutory modification of either Act and any regulation issued under those Acts.
- (b) 'Appointor' means the person having the power under this deed to appoint or remove a trustee;
- (c) 'beneficiary' means a person who may become entitled to income or capital;
- (d) 'category' in relation to income or capital means that part or those parts of the income or capital which the trustee has separately identified, characterised, and recorded in the books of account of the Trust as provided in clause 6;
- (e) 'capital' means that part of the trust fund as does not constitute income;
- (f) 'child', 'children', 'grandchildren' includes a legally adopted child;
- (g) 'default beneficiary' means a beneficiary referred to in clause 14.2(d);
- (h) 'financial year' means a financial year for which income tax of a person other than a company, is levied under the Act;
- (i) 'income' means the net income of the Trust as defined in s 95(1) of the Act, notwithstanding that all or part of that income may at trust law constitute capital; 'minor' means a person under the age of 18 years;
- (j) 'person' includes a company, legal entity or body of persons;
- (k) 'tax' means any tax or imposition payable to any government or government instrumentality and, without limiting that generality, includes income tax, capital gains tax, fringe benefits tax, consumption tax, value added tax, provisional tax, additional tax, penalty tax, stamp duty, a fine or interest for late payment, tax on deposit or withdrawal of funds from any account;
- (l) 'termination date' means the date the Trust is wound up in accordance with this deed;
- (m) 'the Trust' means the trust created by this deed;
- (n) 'the Trustee' means the trustee or any subsequent trustee for the time being of the Trust;
- (o) 'the trust fund' means the money paid by the Settlor to the Trustee to establish the Trust and all other money and property which becomes subject to the rights and obligations of this deed and includes a part of the trust fund; and
- (p) 'this deed' means this deed of settlement as varied by any instrument of variation

##### 1.2 Interpretation

In this deed, unless the contrary is expressly provided:

- (a) the singular includes the plural and vice versa;
- (b) a gender includes each other gender;
- (c) headings are for convenience only and do not affect interpretation;
- (d) reference to legislation or a provision of any legislation includes modifications or re-enactments of the legislation, or any legislative provision substituted for, and all legislation and statutory instruments and regulations issued under the legislation; and
- (e) an expression not otherwise defined has the same meaning as in the *Interpretation of Legislation Act*.



### 1.3 Governing law

The Trust is to be governed by, and this deed is to be construed in accordance with, the laws of Victoria.

## Establishment of Trust

### 2.1 Name of trust

The Trust is to be known as the MAZ TRUST NO 3.

### 2.2 Settlement sum

The Trustee acknowledges having received \$100.00 from the Settlor and agrees to hold it on the trusts and subject to the terms of this deed.

### 2.3 Purpose of trust

The primary purposes of establishing the Trust are:

- (a) to directly or indirectly provide financial assistance to varying degrees for the maintenance, education and benefit in life any one or more of the beneficiaries;
- (b) to invest or utilise all or any part of the trust fund to achieve the purpose in para (a) without the necessity to have regard to generating income or accretion of capital;
- (c) to assist or benefit a beneficiary without regard to the taking of security or the possibility of incurring a loss of capital; and
- (d) to give to the Trustee the widest possible discretion in the exercise of its powers whether investment or otherwise.

## Beneficiaries

### 3.1 Beneficiaries

The beneficiaries of the Trust comprise:

#### *Persons*

(a) ANTHONY PAPADIMITRIOU and MARCUS PAPADIMITRIOU and ZACHARY PAPADIMITRIOU ("the specified beneficiaries");

(b) the lineal descendants of the parents of the specified beneficiaries and spouses for the time being; widow or widower of such lineal descendants born before the termination date;

(c) the spouse of any child or grandchild of either of the specified beneficiaries;

(d) any parent, brother or sister, nephew or niece of either of the specified beneficiaries];

#### *Corporations*

(e) a company which now or before the termination date is incorporated in Australia or under the laws of any other country of which a director, or natural person who beneficially owns a share carrying a right to vote at general meetings, is a beneficiary of this trust;

#### *Secondary trust*

(f) a trustee of any other trust, whether now existing or created after the date of this deed ('secondary trust') where;

(i) a beneficiary or discretionary object of the secondary trust is a beneficiary of this Trust;

(ii) the provisions of the secondary trust require a vesting in interest of its trust property prior to the termination date of this Trust; and

(iii) the provisions of the secondary trust require the beneficiaries of that secondary trust to be such so as not to cause this deed to breach any applicable rule or law against perpetuities;

#### *Benevolent objects*

(g) a trustee of any charitable trust; and

(h) any association, society, authority, institution, church, religious order, corporation, person or entity which at the time a distribution of income or capital is to be made is exempt from income tax under the provisions of the Act or if at the relevant time a gift of money to such body is deductible against assessable income of the donor by virtue of the Act.

### 3.2 Additional beneficiaries

The Trustee may appoint a natural person who is not a beneficiary under clause 3.1 to be a beneficiary or a default beneficiary ('additional beneficiary') provided:

(a) the Trustee obtains the prior written consent of the Appointor to the appointment of the additional beneficiary;

- (b) subject to clause 3.2(e), the appointment of the additional beneficiary is made by an instrument under hand of the Trustee;
- (c) the appointment of the additional beneficiary is not contrary to any express provision of this deed;
- (d) neither the Settlor, the Trustee for the time being nor any person whose appointment would result in infringement of any rule or law against perpetuities or vesting which may apply to the Trust may be appointed as an additional beneficiary; and
- (e) additional default beneficiaries are only appointed in accordance with the procedures for amending the terms of this deed as contained in clause 10.

### **3.3 Removal of beneficiaries**

- (a) A beneficiary, other than a default beneficiary, will cease to be a beneficiary.
  - (i) if by deed expressed to be irrevocable the beneficiary, not being a minor, unconditionally declares a determination to no longer be included as a beneficiary and serves a properly executed copy of such deed on the Trustee; or
  - (ii) where the Trustee with the consent of the Appointor by resolution or deed declares that a person or a class of persons is no longer to be included as a beneficiary and the deed or resolution is expressed to be irrevocable.
- (b) The provisions of clause 3.3(a)(ii) will be effective to exclude as a beneficiary a person under a legal disability, or more than one beneficiary, but will not be effective where the same would result in there being less than two natural persons as beneficiaries of the Trust.
- (c) A person who ceases to be a beneficiary will not thereby be excluded from subsequently being reappointed, or becoming a beneficiary.
- (d) Nothing in this sub-clause affects the rights of a person who has ceased to be a beneficiary to income or capital to which such person becomes entitled prior to such cessation.
- (e) A default beneficiary may only cease to be a beneficiary where a variation of this deed to such effect is made in accordance with clause 10 and where there will remain at least one default beneficiary.

### **3.4 No capital distribution to beneficiary who is sole director of the Trustee**

If the Trustee is a company having a sole director who is also one of the beneficiaries, no determination of the Trustee may be made distributing any capital to such beneficiary during the period the beneficiary is the sole director of the Trustee.

### **3.5 Exclusion of Foreign Beneficiaries**

Notwithstanding any other clause in this document, any person whose inclusion as a beneficiary of the Trust would result in the Trustee of the Trust being a foreign person or foreign purchaser under the legislation outlined in the following clause, is excluded as a beneficiary of the Trust.

This clause is irrevocable.

For clarity, the Trustee must not make a distribution or do any action which would cause the Trustee of the trust to be a:

- (a) Foreign person for the purposes of the following legislation:
  - (i) Duties Act 2001 (Qld);
  - (ii) Duties Act 1997 (NSW); or
  - (iii) Land Tax Act 1956 (NSW); or
- (b) Foreign purchaser for the purpose of the Duties Act 2000 (Vic); or  
The trustee of a foreign trust for the purposes of the Stamp Duties Act 1923 (SA).

## **Income**

### **4.1 Discretionary distribution**

The Trustee holds the income of a financial year which is available for distribution upon trust to pay, apply or set aside the income, or any part of the income, to or for the benefit of the beneficiaries, other than a default beneficiary who is not otherwise a beneficiary, or any one or more of them exclusive of the other or others who are living or which are in existence at the time payment, application or setting aside of such income is made in such shares or proportions and from such category of income as the Trustee may in its discretion determine. The Trustee may so distribute only income from the after all taxation has been paid and may be made with franking credits attached.

### **4.2 Accumulation**

- (a) The Trustee may before the end of a financial year resolve to accumulate the whole or a part of the income of that financial year whereupon such accumulation will subject to clause 4.2(c), form part of capital.
- (b) A resolution to accumulate may be in respect of the whole or a part of one or more categories of income.
- (c) The Trustee may pay tax in respect of an accumulation out of the accumulation or out of capital.

### **4.3 Default**

If the Trustee fails to effectively pay, apply or set aside the whole of the income of a financial year as provided

in clause 4.1 or to effectively resolve to accumulate the income as provided in clause 4.2, the Trustee must hold the income which has not been so paid, applied, set aside or on trust absolutely:

- (a) for the default beneficiaries named or described in clause 14.2(d)(i); and
- (b) if there are no such persons, for the default beneficiaries described in clause 14.2(d)(ii), as if the last day of the financial year were the termination date. The provisions of clause 14.2(d) with respect to the manner of distribution apply to this sub-clause.

#### **4.4 Manner of distribution**

The payment, application or setting aside of income of a financial year may be effectively made as follows:

- (a) for a beneficiary who is not under a legal disability:
  - (i) by paying the income to the beneficiary or to such person on behalf of the beneficiary as the beneficiary may authorise or direct; or
  - (ii) by setting the income aside to a separate account in the books of the Trust in the name of the beneficiary whereupon such moneys will constitute a loan at call and will not bear interest unless the Trustee and the beneficiary otherwise agree;
- (b) for a beneficiary who is a minor or otherwise under a legal disability:
  - (i) by paying the income to an account with a bank or permanent building society in the name of the beneficiary or in the name of a person, who may be the Trustee, operating such account on behalf of or in trust for the beneficiary;
  - (ii) by paying the income as the Trustee may decide to a parent or guardian of the beneficiary to be applied for the benefit of the beneficiary;
  - (iii) by paying the income as the Trustee may decide to any person to be applied directly for or towards the benefit of the beneficiary;
  - (iv) by setting aside income to a separate account in the books of the Trust in the name of the beneficiary on which interest will accrue at such rate (if any) as the Trustee may decide; or
  - (v) by paying the income to any person who by law is entitled to receive moneys on behalf of or to administer the property of the beneficiary;
- (c) payment may be made to a beneficiary, not being a natural person, notwithstanding that such beneficiary may have a liquidator, provisional liquidator, receiver, receiver and manager or administrator appointed to it or in respect of its asset;
- (d) the trustee may, unless otherwise precluded by law, pay from an account referred to in clause 4.4(b)(iv), or an account in the name of the Trustee under clause 4.4(b)(i), moneys which are to be applied for the maintenance education or advancement of the beneficiary for whom the account is held; and
- (e) the Trustee may effect a distribution of income to a beneficiary by one, or partly by one and partly by any other, of the methods of allocation provided in clause 4.4(a) or (b).

#### **4.5 Payment to a beneficiary under a legal disability**

Where the Trustee pays, applies or sets aside income to or for a beneficiary under a legal disability in accordance with this clause, whether made with or without the obtaining of a receipt:

- (a) such payment, application or setting aside constitutes a full discharge to the Trustee in relation to such distribution of income;
- (b) the Trustee is not bound to see to the application of such distribution of income; and
- (c) where moneys are invested, such investment discharges the Trustee in relation to such investment from the trusts of this deed other than such as are stated to expressly apply to such investment.

#### **4.6 Manner of payment to a beneficiary**

- (a) The payment application or setting aside of income to or for the benefit of a beneficiary may be by a determination or resolution of the Trustee and upon such determination or resolution being made the beneficiary will have an immediate vested indefeasible interest in and to that part of the income so paid, applied or set aside for the financial year to which the determination or resolution relates.
- (b) Any such determination or resolution may specify a category and the amount of income from that category to which a beneficiary is entitled, and income by reference to a specific sum or a percentage of the income or any category of income of a financial year.
- (c) The Trustee's determinations or resolutions previously provided in this clause are irrevocable and the income must be dealt with as required by such determination or resolution.

#### **4.7 Trust of applied income not affected by amendment of deed**

A trust declared or effective in respect of income paid, applied or set aside for a beneficiary is not affected by the subsequent exercise of any power of revocation or amendment of this deed.

#### **4.8 Tax**

Where the Trustee is required by law to pay tax:

- (a) in respect of income of a financial year allocated or distributed to a beneficiary or to any entitlement or benefit of a beneficiary out of the trust fund or moneys held by the Trustee on trust for the beneficiary pursuant to a provision of this deed, the Trustee may pay the tax out of income or capital to which the beneficiary is presently entitled or may deduct the tax out of moneys which may then or thereafter come into the hands of the Trustee or over which the Trustee has control and to which the

- (b) beneficiary is or becomes entitled; and  
in respect of an accumulation of income, it may pay the tax out of such income or from capital as it may decide.

## Capital

### 5.1 Distribution of capital

Until the Trust is wound up, the Trustee holds capital for the beneficiaries as follows:

- (a) on or prior to the termination date the whole or any part of the capital, or of any category of capital, is held for such one or more of the beneficiaries to the exclusion of the others as are then living or in existence and if more than one in such shares or proportions as the Trustee in its discretion may at any time or times determine in the manner provided in this clause; and
- (b) on termination of the Trust, the capital available for distribution which has not been the subject of an effective determination of the Trustee pursuant to clause 5.1(a) must be held for the default beneficiaries named and in the manner described in clause 14.2(d).

### 5.2 Effect of determination

A determination of the Trustee pursuant to clause 5.1(a) must be either:

- (a) an irrevocable written declaration, instrument or resolution of the Trustee; or
- (b) a written declaration, instrument or resolution of the Trustee made prior to the termination date and expressed to be revocable during a period which expires prior to the termination date. Such determination will become effective upon the expiration of the relevant period and the Trustee failing to revoke the determination. The period expressed in such revocable determination may be expressed as a fixed period by reference to the occurrence of an event or by reference to the life of a person or the last survivor of the joint lives or two or more persons.

### 5.3 Manner of distribution

Capital to be distributed by way of a determination, or to a default beneficiary pursuant to the provisions of this clause, may be effected:

- (a) in any manner in which income is able to be paid, applied or set aside in accordance with the provisions of this deed; or
- (b) by the transfer in specie of any asset comprised in the trust fund at a valuation determined by or acceptable to the Trustee.

### 5.4 Effect of determination

When a determination of the Trustee in favour of a beneficiary becomes irrevocable, the beneficiary will have an immediate vested indefeasible interest in the capital the subject of such determination. If such distributed capital continues to be held by the Trustee, the Trustee must hold it on a separate trust for the beneficiary.

### 5.5 No resulting trust

A determination of the Trustee pursuant to this clause is not effective to the extent to which the determination creates a resulting trust:

- (a) in favour of the Settlor;
- (b) in favour of the Trustee; or
- (c) where the resulting trust would result in a liability arising at any time under any applicable law on account of death or estate duties or an imposition or tax arising by reference to the death of a person.

### 5.6 Tax

Where the Trustee becomes liable to pay tax in respect of or arising out of a distribution of capital, it may deduct and pay the tax out of such distribution, and to the extent to which the distribution may be insufficient to fully discharge such liability, the Trustee may pay the tax from other moneys or property which may be in its possession or control as it may decide.

## Categories of Income and Capital

### 6.1 Categories of income and capital

The Trustee may separately record the following categories of income or capital in the accounts of the Trust which under the Act:

- (a) are dividends:
  - (i) which are fully franked;
  - (ii) which are unfranked;
  - (iii) to which a foreign tax credit attaches; or
  - (iv) to which another separately identifiable taxation consequence or benefit may attach; and
- (b) is income or capital:
  - (i) which has an Australian source;
  - (ii) which has an ex-Australian source;
  - (iii) to which a foreign tax or other credit attaches;
  - (iv) which is exempt from tax or subject to differing rates of tax or tax treatment; or
  - (v) which has or gives rise to any other separately identifiable taxation consequence or benefit.

### 6.2 Other categories

The Trustee may identify and separately record and maintain in the books of accounts of the Trust, income or

capital having, or in respect of which there is attached, individual or unique characteristics other than as referred to in the preceding sub-clause.

**6.3 Allocation of income or capital of a category**

A resolution or determination of the Trustee by which income of a financial year or capital is distributed or accumulated may at the direction of the Trustee separately deal with all or part of the income or capital of a category, so that all or part of that income or capital may be specifically or separately allocated and identified in a distribution to a beneficiary or in any accumulation.

**6.4 Allocation of expenses**

Expenses and outgoings of the Trust may at the discretion of the Trustee be allocated against and deducted from income or capital of any one or more categories.

**6.5 Effect of allocation on categories of income**

If the Trustee does not exercise its discretion as provided in the preceding sub-clause, outgoings and expenses of the trust fund for a financial year must be allocated firstly against and deducted from income which is not income of a category. To the extent to which that income is insufficient to absorb all expenses and outgoings, then the part which is not so absorbed must be allocated against any income of a category to which a tax credit, rebate or exemption does not attach and thereafter against the remaining income.

**6.6 Distributed income retains categorisation**

Income or capital to which a beneficiary becomes entitled and which can be identified as being of a category, retains its separate identity on passing to or being received by the beneficiary or when the beneficiary otherwise becomes entitled to it.

**Appointment and Removal of Trustee**

**7.1 Power of appointment**

The power to appoint a new trustee in place of the Trustee or in addition to and jointly with the Trustee and the power to remove the Trustee is subject to the following provisions of this clause vested in:

- (a) The person described in the Schedule to this Deed ("the Appointor") during his lifetime and
- (b) on and from the death of the Appointor in the person described in the Schedule to this Deed ('the default Appointor'); and
- (c) on and from the death of the survivor of the appointor and the default Appointor in such person as such survivor may by deed or will nominate; or
- (d) on and from the death of such survivor with no such nomination having been made or such nominee having died or ceased to be in existence or unwilling to act as Appointor, in the Trustee for the time being.

**7.2 Relinquishment of powers of appointment**

The power and authority vested in the Appointor by this clause may at any time be relinquished by notice in writing given to the Trustee in which event the Appointor, upon giving such notice, will cease to act as such and the following provisions will apply:

- (a) subject to clause 7.2(b), where there are joint Appointors, the survivor or survivors as the case may be will so act; or
- (b) the Appointor or the default Appointor who holds office as Appointor and wishes to relinquish such power may by written instrument on or prior to such relinquishment appoint another in his or her place and such appointee will be the Appointor or a joint Appointor during the lifetime of the Appointor giving notice or until the appointee relinquishes such power of appointment, and an appointee upon being so appointed may exercise the power given to his or her appointor under this deed.

**7.3 Residual power of appointment**

If at any time no person has the power to appoint a new trustee or an additional trustee, the power is vested in the Trustee for the time being of the Trust.

**7.4 Trust fund vests in new trustee**

Where a trustee or an additional trustee is appointed pursuant to the power of appointment contained in this clause, the trust fund at that time vests in the person, or jointly in the persons, who thereupon becomes the trustee without the necessity for any vesting, declaration, transfer, conveyance or other assurance.

**7.5 Restrictions of power of appointment**

The power to appoint a new trustee contained in this clause must not be exercised in favour of:

- (a) the Settlor;
- (b) a person who is solely entitled to exercise the power of appointment for the time being; or
- (c) a person who settles property or moneys on the Trust by gifting moneys or property to the Trustee to be held as an accretion to the trust fund.

Where the new trustee is a corporation having a sole director, sole shareholder or both who is a person described in clause 7.5(a), (b) or (c), this clause 7.5 does not operate to restrict the appointment of such company as the new trustee but clause 3.4 may apply.

**7.6 Manner of exercise of power of appointment**

- (a) The power to appoint or remove a trustee may be exercised by memorandum under hand or by deed, and where the Trustee is a corporation must be approved by resolution of its directors.
- (b) Nothing in this deed is to be taken as limiting the right to appoint a corporation or a resident of a place outside Victoria or Australia as trustee.

**7.7 Appointor under a legal disability**

If the Appointor becomes subject to a legal disability, including being declared bankrupt or an order being made for the sequestration of the estate of the Appointor, then from the time of such disability and during the continuance of such disability, the power of appointment and removal vested in the Appointor will vest in the default Appointor. If the default Appointor is not then living, such power will vest in the Trustee. Upon the Appointor ceasing to be subject to a disability including a sequestration order ceasing to have effect, then such power of appointment and removal will then cease and revert in the Appointor.

**7.8 Default Appointor under a legal disability**

If the default Appointor becomes entitled to exercise such power of appointment and removal and during such time becomes subject to a legal disability, including being declared bankrupt or an order being made for the sequestration of the estate of the default Appointor, then from such time the power of appointment and removal vested in the default Appointor will vest in the Trustee. Upon the default Appointor ceasing to be subject to the legal disability including the sequestration order ceasing to have effect, the power of appointment and removal will then cease and revert in the default Appointor.

**7.9 Appointment of one or more trustees**

The place of the Trustee who retires, resigns or is removed may be filled by a sole appointment or the appointment of more than one new trustees.

**7.10 Transfer of records and property**

Upon the resignation, retirement or removal of the Trustee, the Trustee (if a company by its responsible officer) must promptly, at the expense of the Trust (where such expense is necessary and properly incurred):

- (a) hand to the new trustee all books, records, documents and other property of or pertaining to the Trust;
- (b) do all things necessary to transfer the legal title in the assets of the trust fund to the new trustee;
- (c) sign such authorities and give such direction as the new trustee sees necessary or desirable to give possession or control of such trust property as may be in the hands of third parties; and
- (d) give such assistance as the new trustee may reasonably require to put the new trustee into full knowledge of the affairs of the Trust.

**Provisions Relating to Trustee****8.1 No distribution to the Settlor or the Trustee**

- (a) Income or capital, other than remuneration permitted under clause 8.2, may not be paid or transferred beneficially to or applied for the benefit of:
  - (i) the Settlor; or
  - (ii) the Trustee;
- (b) No discretion or power conferred by this deed may be exercised and no provision of this deed operates so as to confer any direct or indirect benefit in the trust fund to the Settlor or to a trustee.
- (c) Where the Trustee is a company having a sole shareholder who is a beneficiary, the Trustee is not taken to be in breach of clause 8.1(a) by paying or transferring income or capital to, or by applying income or capital for the benefit of, such sole shareholder. If the sole shareholder is also the sole director of the Trustee, clause 3.4 will apply.

**8.2 Remuneration**

- (a) The Trustee may be paid out of the income or capital remuneration for the Trustee's services by way of periodical fee, commission or otherwise as does not exceed fees charged by the Public Trustee of Victoria (or any person succeeding to or substantially taking over the functions of the same) in acting as trustee of an inter vivos trust if it were to carry out or perform duties similar to those performed by the Trustee.
- (b) The Trustee may pay all costs, charges and expenses of administering the trust fund out of the trust fund whether from the capital or income as the Trustee may determine. If the trustee is an accountant, solicitor or other person engaged in a profession, shall in addition to any entitlement under clause 8.2(a) the Trustee may charge and be paid all usual professional charges for business transacted, or time expended or actions of the Trustee or any employee or partner of the Trustee in connection with the trusts of this deed including any action which the Trustee not being in a profession could have done personally.

**8.3 Limitation of liability**

The Trustee is not liable or answerable or accountable under this deed or in respect of the Trust for any loss other than a loss attributable to:

- (a) dishonesty of the Trustee; or
- (b) the wilful commission of an act known by the Trustee to be a breach of trust.

**8.4 Indemnity**

The Trustee shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund or any Allocated Fund against liabilities incurred by the Trustee in the execution or attempted execution or as a consequence of the failure to exercise any of the trusts authorities powers and discretions hereof or by virtue of which the Trustee hereof may incur liabilities but shall have no recourse against any of the beneficiaries to meet such indemnity and shall have no right whatsoever to be indemnified by any beneficiary against any liability whatsoever (notwithstanding that the beneficiary may have requested the Trustee to incur the same or may have consented to the Trustee incurring the same) unless the beneficiary agrees in writing to give such indemnity.

**8.5 Exercise of Powers and discretions**

In the exercise of its powers and discretions, no Trustee shall be responsible for -

- (a) any loss or damage occasioned by the exercise of any discretion or power hereby or by law conferred on the Trustee or by failure to exercise such discretion or power; or
- (b) any breach of duty or trust whatsoever unless it shall be proved to have been committed made or omitted in personal conscious fraudulent bad faith by the Trustee charged to be so liable.

All persons claiming any beneficial interest in or over the property subject to this Deed shall be deemed to take with notice of and subject to the protection hereby conferred on the Trustee.

**8.6 Professional Advice**

Any Trustee may obtain and consider the advice of someone who is experienced and knowledgeable in any discipline, where appropriate but is not bound to do so.

**8.7 Manager**

The Trustee shall not be bound in any case to act itself but shall be at full liberty to engage or employ any contractors managers solicitors accountants clerks workers servants or agents to do any act or to transact any business of whatever nature required to be done in the premises including the receipt and payment of money notwithstanding that the Trustee could have done such act or transacted such business and to remunerate such persons for their services.

**8.8 Vacation of office**

Any Trustee (not being the only Trustee) may resign his, her or its office by notice in writing given to the other Trustees and such resignation shall take effect upon such notice being given.

**Custodian Trustee****9.1 Nominee**

The Trustee may nominate any person or persons to act on his/her/its/their behalf and to hold documents or to carry out specific tasks on behalf of the Trustee.

**9.2 Deposit of documents of title**

The Trustee may deposit the documents of title to property or securities for the time being subject to the Trust with a solicitor, accountant, bank, trust company, investment or stock broker or like institution in any part of the world in which any of the trust fund is invested or situated, and the Trustee shall not be liable or responsible for any loss not caused by its own fault which may in any manner occur in relation to or by reason of such loss.

**Variation of Trust****10.1 Variation of trust deed**

Subject to the provisions of clause 10.2, at any time prior to the termination date the Trustee may with the written consent of the Appointor (if any) by deed alter, vary or revoke any trust or provision of this deed other than this clause, clause 7 and clause 8.1.

**10.2 Restriction on variation**

An alteration, variation or revocation pursuant to clause 10.1 must not:

- (a) divert or modify a vested interest of a beneficiary in income or capital or the investments representing the same or income derived from any such investment to which such beneficiary has become absolutely entitled pursuant to this deed; or
- (b) infringe any applicable law or rule against perpetuities or relating to remoteness of vesting or the period during which income may be accumulated or otherwise extend the termination date or result in any provision of the Trust becoming void.



**Accounts****11.1 Preparation of financial accounts**

In each financial year the Trustee must cause financial statements, including a profit and loss account and balance sheet as at the end of each financial year, to be prepared by a qualified chartered or public accountant authorised to practise in the place where the financial affairs of the Trust are in the main conducted, certified by such accountant to be a true and proper statement of the affairs of the trust fund setting out all: (a) income;

- (b) capital;
- (c) costs and disbursements and other outgoings paid or payable out of the trust fund and chargeable against income;
- (d) capital expenditure and liabilities chargeable to capital;
- (e) investments and money comprised in the trust fund;

- (f) amounts distributed by the Trustee to each beneficiary; find
- (g) to the extent to which the Trustee may require, the separate recording of any category of income or capital.

## 11.2 Financial records

The Trustee must:

- (a) establish and maintain proper accounts in book or computer form which must accurately record all receipts and outgoings in relation to the trust fund; and
- (b) separately record income and capital of different categories as are provided by this deed as the Trustee may decide.

## 11.3 Provision of financial statements

The Trustee must at the request of the Appointor supply to the Appointor:

- (a) a copy, or in the case of computer recording a hard copy, of such financial statements certified as provided in clause 11(1); and
- (b) such information and explanations as the Appointor may require.

## 11.4 Trustee may audit accounts

The Appointor may by notice in writing to the Trustee given at any time, require the financial statements of the Trust to be audited by an auditor nominated by the Trustee and approved by the Appointor. The costs of such auditor are to be paid out of the trust fund. If the Trustee fails to nominate an auditor within 14 days of the giving of a notice, or fails within 28 days of the giving of such notice to nominate an auditor who is approved by the Appointor, the Appointor may at any time thereafter appoint an auditor who will continue to hold such office until removed by the Trustee with the Appointor's consent.

## Investment of Trust Fund

### 12.1 Power to invest and vary investments

The Trustee may invest the trust fund in any form of investment and vary an investment at any time.

### 12.2 Diminishing the duty of care

If the Trustee is not a public company or a subsidiary of a public company, there is no obligation on the Trustee in exercising a power of investment to exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

### 12.3 Review of investment performance

The Trustee may, but is not required to, review at any time or at fixed intervals the performance (individually or as a whole) of the Trust investments.

### 12.4 Broadening of investment power

The Trustee may exercise the power to invest the trust fund or vary an investment without the need to comply with any rule and principle of law or equity including:

- (a) a duty to exercise the powers of a trustee in the best interests of all present and future beneficiaries;
- (b) a duty to invest the trust fund in investments which are not speculative, hazardous or involving waste; and
- (c) a duty to act impartially towards beneficiaries and between different classes of beneficiaries. For the purposes of this and the next sub-clause, the expressions 'vary an investment' and 'varying an investment' includes realising an investment or a change to a term or condition of an investment.

### 12.5 Investment advice

In exercising the power of investment, the Trustee may, but is not required to, having regard to the size and nature of the Trust, do either or both of the following:

- (a) obtain and consider independent and impartial advice for the investment of the trust fund, varying an investment or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice; and
- (b) pay out of the trust fund the reasonable costs of obtaining the advice.

## Powers

### 13.1 General powers

In the administration of the Trust and in the exercise of the powers, authorities and discretions conferred by this deed or by law, the Trustee has the following powers which are in addition to the powers, authorities and discretions vested in it by any other provision of this deed or by law and which do not limit the powers, authorities and discretions otherwise vested in the Trustee by this deed or by law:

- (a) *Generally deal with trust fund:* to sell, call in, convert into money, grant options or rights to purchase, mortgage, charge, sub-charge, or otherwise deal with, dispose of or transfer any item or asset comprising the whole or part of the trust fund or otherwise held by the Trustee under the terms of the Trust for such consideration and on such terms as in its discretion it may think fit as if it were the absolute and beneficial owner of the trust fund;

- (b) *Real property*: to acquire, dispose of, exchange, mortgage, sub-mortgage, lease, sub-lease, let, grant, release or vary any right or easement or otherwise deal with real property or any estate or interest in real property;
- (c) *Personal property*: to acquire, dispose of, exchange, hire, lease, let, mortgage or otherwise deal with personal property of any kind;
- (d) *Lease*: to rent premises from any person, acquire the interest of any lessee in any lease, purchase, hire, take on lease, grant leases, sub-leases, tenancies or rights of any nature in and to any realty or estate or interest in land or in and to motor vehicles, computer hardware and software, fixtures and fittings, furniture, utensils, plant and equipment and personalty of ally other description;
- (e) *To let*: to lease and let property forming part of the trust fund for such period, at a rental and to persons and upon such terms as the Trustee may decide and to accept surrenders from, make allowances to and arrangements with, a tenant with or without consideration as the Trustee may think fit;
- (f) *Employment*: to engage or employ persons, including, a person having an interest in or who is the holder of an office in the Trustee, or obtain such other assistance as the trustee may deem requisite, to provide staff, amenities and to vary and terminate any contract of employment;
- (g) *Engage experts*: to employ or engage agents or professionals in the execution of these trusts and powers and instead of acting personally from time to time, to employ or engage and pay out of the trust fund such managers, agents, advisers, solicitors, barristers, auditors, accountants, brokers, surveyors, valuers or other persons to transact any business or to do any act required to be done in connection with the administration of the trusts and to act upon the opinion or advice of any such person without being responsible for loss or damage occasioned in so acting;
- (h) *Power to lend*: to lend moneys forming part of the trust fund, or give credit to any person or company on such terms as the Trustee may decide, in particular without limiting the generality of the foregoing, to a beneficiary, or person having an interest in or the holder of an office in the Trustee and any such lending or giving of credit may be made at call or for a period of time and may be made at a rate of interest or at no interest, and may involve taking of security in any form or without security;
- (i) *Power to borrow*: to raise or borrow moneys either alone or jointly with another or others, from any person including a firm or company, either bearing or free of interest and on terms and conditions and for purposes as the Trustee may decide, and to secure the repayment of any moneys or other indebtedness by mortgage, charge or other security or encumbrance over the whole or part of the trust fund as the Trustee may decide or to have the repayment secured over property of a third party which may include property of the Trustee or a beneficiary, whether such third party collateral security is given alone or jointly with property of the trust fund and no lender is required to inquire as to whether the necessity for any such borrowing has arisen or as to the purpose for which it is required, or as to the application of moneys borrowed;
- (j) *Commercial bills*: to draw, endorse, accept, guarantee or be a party in any way to a commercial bill or other bill of exchange, promissory note, letter of credit, hypothecation or other facility involving the raising, borrowing or lending of moneys by or to the Trustee;
- (k) *Credit*: to enter into alone or with others any agreement or arrangement for obtaining credit upon such terms as the Trustee may see fit including but not limited to obtaining, upon deferred terms as to payment, goods, trading stock or other property or services of any nature;
- (l) *Attorney*: to appointment any person as the representative or attorney of the Trustee for the purpose of executing any document which the Trustee is permitted or authorised to execute by this deed or by law and to revoke any such appointment;
- (m) *Service entity*: to act as a service entity in providing office supplies and services, including professional or other employees, office furniture and equipment of all types, stationery, telephone and electricity services, management, administration and consultancy services and anything incidental to them;
- (n) *Bank accounts*: to open in the name of the Trustee or in the name of a person or corporation as nominee of the Trustee or in the joint names of the Trustee and another, any cheque, savings deposit or other account with any bank or financial institution wherever situated with full power to operate on any such account including, without limitation, power to sign, draw and endorse cheques and other negotiable or transferable instruments on the account and to close the account;
- (o) *Management expenses*: to pay out of income or capital all costs, charges and expenses incidental to the management of the trust fund or to the exercise of any permitted power, authority or discretion or in carrying out or performing the trusts of this deed;
- (p) *Pay general expenses*: to pay insurance premiums, rates, taxes, rents and outgoings in connection with real or personal property of the trust fund and to manage such property and effect repairs as the Trustee may consider necessary or advisable and where the Trustee is unable to charge such expenditure against income it is at liberty to resort to capital;
- (q) *Corporate securities*: with respect to any company in which the Trustee holds shares, debentures, options, convertible notes or other security ('securities') to exercise the following powers in addition to powers conferred by law:
  - (i) to pay calls on securities or permit securities to be forfeited and sold;
  - (ii) to purchase securities and take up securities of a new issue;

- (iii) to attend meetings personally or by proxy, attorney or representative and vote at the discretion of the Trustee;
  - (iv) to sell securities at a price and upon terms as the trustee may decide;
  - (v) to assent to or join in any arrangement relating to the sale, transfer or exchange of any securities or modifying any rights, privileges or interests in relation to securities, to agree to any scheme or arrangement for the increase or reduction of the value or amounts of any securities or of the capital of any company in which any securities form part of or the trust fund or by which any securities are substituted or given in exchange, either wholly or partly for other securities, whether in the same company or not, and for any such purpose to deposit, surrender or exchange any scrip or documents of title relating to the securities and to pay out of capital or income any contribution or incur any expense in connection with such scheme or arrangement and generally to manage and deal with any securities as if the Trustee owned them beneficially; and
  - (vi) to agree in respect of a winding up with the liquidator of the company or any member or creditor of the company, or in a voluntary administration, as the Trustee thinks fit;
- (r) *Unit trust interests:* to acquire units or sub-units of any fixed or flexible unit trust either by way of application, purchase or by way of settlement by the Trustee in the establishment of such unit trust and to exercise all rights including voting rights and perform all obligations as a holder of any units in such trust and to accept all distributions by the trustee of such unit trust as income or capital and as unit holder the Trustee may in its absolute discretion consent to a breach of trust by the trustee of the unit trust or give its consent to, or waive its rights with respect to, any action taken or to be taken by the trustee of the unit trust and the Trustee may so act even if the Trustee's actions may not be in the interests of the Trust or the unit trust;
  - (s) *Franchises:* to acquire by means of purchase or otherwise and to sell, dispose, relinquish or otherwise deal in franchises, franchises, agreements, licences or things of like nature relating to subject matters of all kinds;
  - (t) *Subdivision of property:* to partition or subdivide property of any kind which, or any interest in which, may for the time being be subject to these trusts and to pay moneys by way of equality or partition;
  - (u) *Development of property:* to enter into any agreement with any person with respect to the development and turning to account of any real or personal property or any interest in property and any other right, privilege or interest for the time being subject to these trusts or with respect to the construction of any buildings, laying out or preparing land for building purposes or in developing or turning to account real or personal property or any rights, privileges or interests;
  - (v) *Promotion of companies:* to establish, promote or acquire any company or join in the promotion or establishment of any company and to do anything which a person, not being a trustee, is authorised or empowered to do under any law relating to or governing any such company;
  - (w) *Maintain property:* to maintain and preserve in good and substantial order and condition real or personal property of the trust fund or otherwise held by the Trustee under the terms of this deed and to pay or defray those costs;
  - (x) *Guarantees and indemnities:* power, whether with or without security and whether alone or jointly or severally or both jointly and severally with any other person, to guarantee, indemnify, secure by way of mortgage, charge or otherwise over the whole or part of the trust fund or undertake in any way the payment or repayment of money or debts (including any interest whether existing or to accrue) previously or then lent or to be advanced or any existing or future duties, undertakings, liabilities or obligations incurred or which may at any future time be incurred by any person whether a beneficiary or not and to guarantee, indemnify or secure, with or without security, the due performance of any contract, agreement, covenant or obligation of any person whether a beneficiary or not;
  - (y) *Power to set aside:* to set aside out of income or capital from time to time such money as may in the opinion of the Trustee be sufficient to meet any debt or obligation due or accruing;
  - (z) *Superannuation and bonuses:* to pay bonuses, gratuities or retirement benefits or to establish and support or aid in the establishment and support of schemes providing superannuation, death and retirement benefits or any one or more of such benefits in respect of employees of ex-employees of the Trustee including in the case of a corporate trustee directors or other holders of any office of the Trustee and the dependants of any of such persons and for the benefit of employees, ex-employees and their dependants of any company or person associated with the Trustee;
  - (aa) *Futures contracts and options:* to engage brokers and commission agents and vary and determine the terms of any such engagement and either directly or through any broker or agent in any market in any part of the world to buy, sell, open, close-out or otherwise deal in futures contracts of all kinds and to enter into, vary, exercise, abandon or sell any put or call option or rights, or to place bids, make offers, hedge and effect orders including buying, selling, straddle, switch and stop-loss orders to tender and take delivery of commodities and currencies which are the subject of any futures contract or option and otherwise to do and perform all things so as to operate, utilise or deal with the facilities of any stock or futures exchange;
  - (bb) *To mix funds:* to mix the trust fund including its income and any other moneys held from time to time by the Trustee pursuant to these trusts with other moneys held by the Trustee pursuant to any provision of this deed or under any other trust and;

- (i) to invest the moneys so mixed in any investment, property, interest, arrangement or business or in any other mode or manner in which the Trustee may by law or by this deed be empowered to invest the trust fund;
  - (ii) to exercise all powers, authorities and discretions with respect to the mixed fund which the Trustee is by this deed or by law authorised to exercise with respect to the trust fund; and
  - (iii) to make such arrangements with respect to the moneys and their investment with any other person as the Trustee would be authorised or empowered by law or by this deed to make or enter into;
- (cc) *Trustee's power to deal with itself:* notwithstanding any rule of law to the contrary, to acquire as property of the trust fund real or personal property the beneficial interest in which is at the date of such acquisition the absolute property of the Trustee provided that any property so acquired is acquired for a consideration being not greater than the current market value of the property and upon such acquisition the beneficial interest in and to the property will be held by the Trustee upon the trusts contained in this deed;
- (dd) *Policies:* to effect or acquire policies of life assurance of any kind on the life of any person or in respect of sickness, disability or accident to any person and to pay premiums, transfer, surrender, change the situs of and deal with such policies in any manner, whether or not such policies are individual policies on the life of one person or a group policy on the lives of two or more persons, and to purchase or enter into insurance or investment bonds whether or not the bonds are linked to a policy over the life of any person;
- (ee) *Determination between capital and income:* to determine whether real or personal property, or any increase or decrease in value of any property, or any receipts or payments from, for or in connection with real or personal property, is to be treated as and credited or debited to capital or to income of the trust fund and generally to determine all matters as to which any doubt may arise in relation to the execution of the Trust and powers of the Trust and every determination of the Trustee in relation to any of these matters whether upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustee in relation to the trust fund, binds all interested parties and may not be objected to on any ground;
- (ff) *Partnerships and joint ventures:* to enter into partnership or joint venture with any person on such terms as the Trustee thinks fit and to vary the terms of or terminate and be a party to the partition of assets of any such partnership or joint venture;
- (gg) *To permit beneficiary to use trust property:* to permit a beneficiary to reside in any house, flat, strata title lot or other residential unit or to use any personal property which, or the proceeds of sale of which, may for the time being be subject to the Trust with or without consideration and generally upon such terms as the Trustee in its discretion thinks fit;
- (hh) *Agency and licence:* to apply for, purchase or hold any permit, agency or licence which may be desirable or required to enable or facilitate the carrying on of any business or venture which the Trustee is empowered to engage in and to surrender, relinquish, sell, vary or assign the same;
- (ii) *Choses-in-action:* to acquire choses-in-action, including debts and obligations of all kinds, for value or by way of gift or at a discount or at a premium and to assign, release, vary, relinquish or otherwise deal with such choses-in-action in any way on such terms and conditions as the Trustee may see fit;
- (jj) *Advertise:* to adopt such means of making known and advertising any business which the Trustee is empowered to carry on or in pursuing any power as may seem expedient or desirable;
- (kk) *Make gifts and donations:* to make gifts or donations out of the trust fund for any charitable, scientific or educational purpose;
- (ll) *Receive gifts:* to receive property by gift inter vivos or by will or under the provisions of any other trust or otherwise from any person as an addition to the trust fund and whether subject to liabilities or not and to hold the same upon these trusts and to administer such additions as part of the trust fund;
- (mm) *Legal proceedings:* to institute, join in and defend proceedings at law or by way of mediation or arbitration and to proceed to the final end and determination and to compromise and settle any such dispute or proceedings for such consideration and upon such terms and conditions as the Trustee may decide;
- (nn) *Intellectual property rights:* to apply for, purchase or otherwise acquire and to sell patents, patent rights, copyrights, trade marks, designs, formulas, licences, concessions, know-how and the like conferring any exclusive or non-exclusive or limited right to use or any other intellectual property rights and to use, exercise, develop or grant licences in respect of or otherwise turn to account property rights or information so acquired;
- (oo) *Power to appropriate trust fund in specie:* to appropriate in specie any portion of the trust fund, or any investment to or towards the share or entitlement of a beneficiary and to charge any such share or entitlement with such sum of money by way of equality as the Trustee may think fit and for these purposes the Trustee may fix the value of any real or personal property forming part of the trust fund and every such appropriation, charge and valuation is binding on all persons who may at any time be entitled to any interest in the trust fund;

- (pp) *Release of powers:* by irrevocable deed to renounce and release any power conferred on the Trustee under the Trust in respect of the whole or part of the trust fund or the income and upon such renunciation and release coming into effect, such power is to be taken to be at an end and no longer exercisable by the Trustee to the extent of such renunciation and release;
- (qq) *Incidental powers:* to do all other things as may be incidental to the exercise of the powers, rights, discretions and authorities conferred on the Trustee by this deed; and
- (rr) *Carry on business:* from time to time to carry on alone or jointly with another or others any business or an interest in any business and use the trust fund in carrying on such business as the Trustee may decide with power to charge against or pay or retain out of the trust fund all debts, costs, expenses and other outgoings incurred in carrying on such business or for the purpose of carrying it on or for the purpose of establishing a proposed business and without limitation the Trustee has the following powers:
- (i) to investigate and determine the feasibility or desirability of establishing or carrying on or acquiring any business or an interest in any business which the Trustee proposes or considers establishing or carrying on or acquiring and the Trustee is entitled to incur expenses in or in connection with any investigation and determination and to pay or recoup such expenses out of income or capital whether or not pursuant to that investigation and determination the Trustee proceeds to establish or carry on that business;
  - (ii) to establish any business;
  - (iii) to acquire the whole or part of the goodwill of an existing business;
  - (iv) to acquire the assets, or an interest in the assets, of or used in any business;
  - (v) to undertake to meet liabilities or contingent liabilities incurred or to be incurred by any person in or about the establishment or carrying on or acquisition of the whole or part of an existing business the goodwill and assets of which or any of which are proposed to be acquired by the Trustee and to give indemnities for or enter into guarantees of such liabilities and contingent liabilities or any of them;
  - (vi) to acquire, or join in acquiring, chattels and stock in trade for use in, or in connection with, any business carried on or proposed to be carried on by the Trustee or in which the Trustee may acquire an interest;
  - (vii) to make payments or incur expenses or liabilities (including donations) which the Trustee considers to be for the benefit of any business carried on by or proposed to be carried on by the Trustee or in which the Trustee may have an interest or which the Trustee considers will promote or facilitate such business notwithstanding that the Trustee may be under no legal or enforceable obligation to make such payments or incur such expenses or liabilities and notwithstanding that such payments or the incurring of such expenses or liabilities do not produce any direct benefit to the trust fund;
  - (viii) to sell the good will of any business;
  - (ix) to enter into any covenant or agreement in restraint of trade;
  - (x) to enter into contracts for importing or exporting goods and to enter into contracts for the shipping or other transportation of goods; and
  - (xi) to carry on any business in the same manner and with the same powers and rights as the Trustee would have in relation to the business as if it were carrying it on in its own right and not as trustee and in carrying on such business:
    - (A) the Trustee may transfer title to any property which it holds as trustee, with or without consideration, notwithstanding any limitation on such power which might otherwise by operation of law or under any other provision of this deed prevent such title being effectually or validly transferred by reason of it being a trustee or the transferee having notice that it is a trustee;
    - (B) any person dealing with the Trustee may contract with and make payments to the Trustee without being required to inquire as to whether the Trustee has power to deal with them under this deed or whether the trustee is properly exercising any power it may have in so dealing and such person is not obliged to inquire as to the proper application by the Trustee of any payment so made or is accountable for the non-application of such money notwithstanding that such person was on notice that the Trustee was carrying on such business as a trustee;
    - (C) the title of any person to whom property is transferred by the Trustee, whether with or without consideration, is not affected by any notice that the Trustee held title to such property as a trustee and the receipt of the Trustee is an absolute discharge for any payment made to the Trustee.

### 13.2 Power to act as a director

The Trustee, being a natural person, may become a director of any company in which any moneys forming part of the trust fund are from time to time invested and may receive the remuneration attached to such office without being liable to account.

**13.3 Power to act notwithstanding personal interest**

The Trustee may exercise or concur in exercising all powers and discretions given under this deed or by law notwithstanding that it, or any person being a director or shareholder of the Trustee has or may have a direct or indirect interest in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole trustee.

**Winding up of Trust****14.1 Termination date**

The Trust must wind up and terminate on the first to occur of:

- (a) the date which the Trustee with the written consent of the Appointor determines; or
- (b) on the date described in the Schedule to this Deed

**14.2 Procedure on termination**

Subject to any provision of this deed which limits or restricts distributions of capital, the Trustee must at the termination date:

- (a) pay out or otherwise discharge and satisfy all debts and liabilities in relation to the Trust;
- (b) distribute or otherwise deal with the income in any manner expressly provided by this deed and any income not so dealt with will form part of capital;
- (c) distribute or otherwise deal with capital in any manner expressly provided in clause 5; and
- (d) hold the remainder of the trust fund on trust for the following default beneficiaries:
  - (i) such of the persons described in the Schedule to this Deed as are living on the termination date and if more than one in equal shares as tenants in common and if a default beneficiary dies before the termination date leaving issue living on that date:
    - (A) such issue will take equally among themselves the share to which their parent would otherwise have been entitled had that parent been living on the termination date; and
    - (B) such issue are not to be taken to be, or be capable of becoming, a default beneficiary until the death of the parent of that person and unless at the time such issue is a beneficiary by reason of clause 13.1; and
  - (ii) if the whole or any part of the trust fund fails to so vest in any one or more of such default beneficiaries set out in clause 14.2(d)(i), for such of the bodies described in the Schedule to this Deed ("the charitable objects") as are in existence on the termination date and if more than one in equal shares. The receipt of the treasurer, secretary or other officer of the administrative body of such charitable object is a sufficient discharge to the Trustee.

**14.3 Distribution in specie**

On the winding up of the Trust, the Trustee may distribute property comprised in the trust fund in specie in satisfaction of a part of the trust fund to which a beneficiary is entitled.

- 14.4. On the winding up of the Trust, the Trustee must cause to be prepared financial statements as at the termination date which must comply with the provisions of clause 11 and if at that time there is an Appointor, it must make available to the Appointor a signed and certified copy of the financial statements in printed form which must include particulars of all distributions of capital. If there is no Appointor, the Trustee must supply a copy of all such statements and particulars to each beneficiary entitled to receipt of income or capital on the winding up.

**Resettlement****15.1 Resettlement**

- (a) Subject to clause 15.2, the Trustee may with the written consent of the Appointor (if any) pay, or transfer with or without consideration, the whole or part of the trust fund to a trustee ('the new trustee') for the time being of another trust ('the new trust') constituted under the laws of any state or territory of Australia, or any country, other than Australia, and whether or not such new trust is in existence at the date of this deed, provided that:
  - (i) any one or more of the beneficiaries of the Trust has an interest in the capital or income of the new trust or a right as a discretionary object similar to any right which a beneficiary may have under this Trust; and
  - (ii) no income or capital, other than remuneration permitted under clause 8.1, is paid, transferred beneficially to, or applied for the benefit of, the Settlor or the Trustee.
- (b) Upon such payment or transfer to the new trust, the moneys or property so paid or transferred will be held by the new trustee freed and discharged from the trusts of this deed and on the terms of such new trust as an addition to the property comprised in the new trust whether or not the new trustee or any one of them is resident outside the jurisdiction of the courts of Victoria or Australia and whether

or not the proper law of such new trust is the law of any other State or Territory or country and without the Trustee being bound to see to the application of such moneys.

- (c) Any such resettlement will bind all persons who are bound under this deed. Where the Trustee is also the new Trustee it may at any time declare that it holds the trust fund or a part of the trust fund as trustee of the new trust whereupon the trust fund or such part of the trust fund is to be taken to have been paid or transferred to it as new trustee and held on the terms of the new trust and will take effect accordingly.

#### **15.2 Restriction on resettlement**

No resettlement pursuant to clause 15.1 may:

- (a) divert or modify a vested interest of a beneficiary in income or capital or the investments representing the same or income derived from any such investment to which such beneficiary has become absolutely entitled pursuant to this deed; or
- (b) infringe any applicable law or rule against perpetuities or relating to remoteness of vesting or the period during which income may be accumulated or otherwise extend the termination date or result in any provision of the Trust becoming void.



## Schedule

<b>Date of this deed</b>	13 March 2020
<b>The name of the trust</b>	MAZ TRUST NO 3
<b>The settlor</b>	PRAKASH PATEL
<b>The address of the settlor</b>	44 HOWITT RD Caulfield North Victoria 3161
<b>The names and addresses of the trustees</b>	VINTES QLD NO 3 PTY LTD, SUITE 11.03, LEVEL 11 343 Little Collins Street Melbourne Victoria 3000
<b>The named beneficiaries</b>	ANTHONY PAPADIMITRIOU, 27 MALTON ROAD Beecroft New South Wales 2119 MARCUS PAPADIMITRIOU, 27 MALTON ROAD Beecroft New South Wales 2119 ZACHARY PAPADIMITRIOU, 27 MALTON ROAD Beecroft New South Wales 2119
<b>The appointors</b>	VINCENZO FRANK TESORIERO
<b>The law of the jurisdiction that governs this deed</b>	Victoria
<b>The settled sum</b>	\$100.00
<b>Termination Date:</b>	The 80th anniversary of the day before the date of this Trust

## Execution

Executed as a deed.

Dated: \_\_\_\_\_

Executed by  
VINTES QLD NO 3 PTY LTD ACN 640879152  
in its capacity as trustee, in accordance with  
section 127(1) of the Corporations Act 2001  
(Cwth):

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VINCENZO FRANK TESORIERO, Sole  
director and sole company secretary

Signature: \_\_\_\_\_  
PRAKASH PATEL  
Settlor of the trust created by this deed

Witness signature: \_\_\_\_\_

Witness name: \_\_\_\_\_

## PRUDENT PERSON PROVISIONS

Trustee Act 1958  
Act No. 6401/1958

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5. A trustee may, unless expressly prohibited by the instrument creating the trust-
- (a) invest trust funds in any form of investment; and
  - (b) at any time, vary an investment.
6. **Duties of trustee in respect of power of investment**
- (1) Subject to the instrument creating the trust, a trustee must, in exercising a power of investment-
    - (a) if the trustee's profession, business or employment is or includes acting as a trustee or investing money on behalf of other persons, exercise the care, diligence and skill that a prudent person engaged in that profession, business or employment would exercise in managing the affairs of other persons; or
    - (b) if the trustee is not engaged in such a profession, business or employment, exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.
  - (2) A trustee must exercise a power of investment in accordance with any provision of the instrument creating the trust that is binding on the trustee and requires the obtaining of any consent or approval with respect to trust investments.
  - (3) Subject to the instrument creating the trust, a trustee must, at least once in each year, review the performance (individually and as a whole) of trust investments.
7. **Law and equity preserved**
- (1) Any rules and principles of law or equity that impose a duty on a trustee exercising a power of investment continue to apply except to the extent that they are inconsistent with this or any other Act or the instrument creating the trust.
  - (2) Without limiting the generality of sub-section (1), a duty imposed by any rules and principles of law or equity includes-
    - (a) a duty to exercise the powers of a trustee in the best interests of all present and future beneficiaries of the trust;
    - (b) a duty to invest trust funds in investments that are not speculative;
    - (c) a duty to act impartially towards beneficiaries and between different classes of beneficiaries;
    - (d) a duty to take advice.
  - (3) Any rules and principles of law or equity that relate to a provision in an instrument creating a trust that purports to exempt, limit the liability of, or indemnify a trustee in respect of a breach of trust, continue to apply.
  - (4) If a trustee is under a duty to take advice, the reasonable costs of obtaining the advice are payable out of trust funds.
8. **Matters to which trustee must have regard in exercising power of investment**
- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, have regard to-
    - (a) the purposes of the trust and the needs and circumstances of the beneficiaries; and
    - (b) the desirability of diversifying trust investments; and
    - (c) the nature of and risk associated with existing trust investments and other trust property; and
    - (d) the need to maintain the real value of the capital or income of the trust; and
    - (e) the risk of capital or income loss or depreciation; and
    - (f) the potential for capital appreciation; and
    - (g) the likely income return and the timing of income return; and
    - (h) the length of the term of the proposed investment; and
    - (i) the probable duration of the trust; and
    - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment; and
    - (k) the aggregate value of the trust estate; and (1) the effect of the proposed investment in relation to the tax liability of the trust; and
    - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property; and
    - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment; and
    - (o) the results of a review of existing trust investments.
  - (2) A trustee may-
    - (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice; and
    - (b) pay out of trust funds the reasonable costs of obtaining the advice.

These explanatory notes are intended to provide those who are to administer or be a beneficiary of a discretionary trust established by a deed with a guide to its probable operation. (A discretionary trust is often also referred to as a "family" trust, even though the trust does not fall within the definition of "family trust" in taxation legislation.)

They illustrate of how a typical discretionary trust might operate. These notes should not be read as a statement of the requirements of trust law or income tax law or a summary of the terms of a particular trust (which vary from deed to deed); nor should the notes be used as a substitute for professional advice.

## **Administration of Trust**

### **Role of Settlor**

1. Only role is to pay the settled sum to the trustee to establish the trust.
2. Can never be a beneficiary - must not be the "prime mover" behind the establishment of the trust.

### **Trust Fund**

1. The sources of the assets of the un-allocated discretionary trust fund include:
2. the settled sum; debts incurred by the trustee in the administration of the trust.
3. Income or capital that in the past has been allocated to beneficiaries is held on separate trusts, ie in allocated funds (often confused with loan accounts).
4. Particular care should be taken:
  - a. to preserve the settled sum (particularly where the trust incurs losses); and
  - b. in the investment of allocated funds.
5. Transfers of assets to and from the trust are disposals and acquisitions for capital gains purposes (even if the legal owner does not change).
6. Transfers of dutiable assets to the trust are subject to stamp duty (even if the legal owner does not change) and some transfers from the trust to beneficiaries are also caught.
- 7.

### **Role of Trustee - General Administration of the Trust Fund**

1. Holds the un-allocated assets of the trust (the "trust fund") for the class of beneficiaries (subject to any units or fixed entitlements a beneficiary might hold).
2. Manages any money loaned to the trust in accordance with the terms of those loans.
3. Manages the trust fund and is liable to pay unpaid trust debts; but can claim an indemnity from the trust fund (but not from beneficiaries).
4. Has a wide discretion as to the investment of the trust fund.
5. Obtains a "T" tax file number.
6. Opens and conducts all bank accounts and makes all investments in own (rather than the trust's) name, but may choose to indicate trustee capacity on titles.
7. Maintains an asset register for capital gains purposes.
8. General day to day responsibilities and decision making.

### **Role of Trustee - Allocation of Net Income and Capital**

1. Records the different categories of trust income (eg franked dividends and capital gains) and capital payments received.
2. Separately identifies sufficient net income or capital to satisfy the entitlements of any trust beneficiaries that hold units or other fixed entitlements to the net income or capital of the (otherwise discretionary) trust.
3. May advance an allocation of net income or capital to a beneficiary prior to the end of a financial year.
4. (By the end of each financial year) selects which of the beneficiaries from the defined class have been, or are to be allocated, the net income of the trust available for discretionary allocation.
5. Allocations are only valid for tax purposes if the trustee irrevocably intends that sooner or later the allocation will be paid to, or spent on, the beneficiary.
6. Prepares annual minute of resolution to evidence allocations to selected beneficiaries.
7. Prepares annual accounting statements.
8. Prepares and lodges a "T" income tax return with the Australian Taxation Office.
9. Records the allocation of net income (and any capital) and the categories applicable to each beneficiary.
10. May accumulate (taxed at the highest marginal income tax rate) any part of the net income as an addition to the capital of the trust.

### **Role of Trustee - Administering Allocated Net Income and Capital**

1. Maintains separate accounts ("allocated funds") within the trust records for each beneficiary to whom allocations have been made and distinguishes the allocations from the trust fund and any loans made by the beneficiary.
2. Administers allocations in accordance with prudential standards, eg prudent investment rule, until allocations are:
3. applied for the benefit of the selected beneficiaries (eg by making payments to cover a beneficiary's expenses):
  - a. paid to the selected beneficiaries;
  - b. claimed by creditors of a beneficiary;
  - c. dealt with by of family court orders involving a beneficiary; or
  - d. claimed by the executor or administrator of an estate of a deceased beneficiary.

### **Trustee powers requiring written consent of Appointor**

1. Any variation of the terms of the deed.
2. The exercise of certain discretions, eg capital allocations.
3. The winding up or ending of the trust.
4. "Second generation" appointors may each have power of veto over net income distributions as well (see below).

### **Role of Appointor**

1. Unless bankrupt or lacking sufficient intellectual capacity, has the power to remove and appoint a new or additional trustee.
2. Gives consent or otherwise to certain major decisions made by the trustee.
3. Has indirect, but often effective, control of the trust.
4. (Depending on the terms of the deed) can pass on that control to others, eg by an amendment to the deed or (sometimes) via the Appointor's Will.
5. Care needs to be given to the terms of appointment of second generation appointors, eg when children are to replace parents as appointors; possible solutions include the insertion of deadlock or veto provisions in the deed.

### **Beneficiaries**

1. A class of potential beneficiaries, starting with the primary beneficiaries, is defined by the deed; special meanings are given to "child" and "spouse".
2. Actual beneficiaries are usually selected by trustee from the defined class and the trustee's selection may change from year to year.
3. Net income is usually automatically accumulated in the trust fund if the trustee fails to select beneficiaries before the end of a particular financial year.
4. Beneficiaries, eg children working in a family business, may acquire or be issued with units with a fixed entitlement to net income or capital.
5. The trustee has the discretion to loan trust fund money to a Beneficiary.
6. A beneficiary may be allowed free use the property of the trust.
7. Beneficiaries usually do not have any right to demand to receive any un-allocated net income or capital of the trust, other than:
  - a. net income or capital to which they are entitled, eg as unit-holders, or;
  - b. the balances of their allocated funds.
8. A beneficiary may elect to convert allocations to loans (the terms of such loans are usually much less onerous on the trustee in terms of duty of care).

### **Eligibility for Means Tested Pensions**

1. Trust assets that are a beneficiary's assets for pension purposes include loans and allocated funds.
2. Un-allocated trust assets do not form part of a beneficiary's assets for pension purposes (unless gifted to the trust by the beneficiary within the preceding 5 years).
3. Net income allocated to a beneficiary does count as income for pension purposes, even if not yet paid to, or spent on, the beneficiary.

### **Wills of Primary Beneficiaries**

1. Unless there are little or no net assets in the trust, eg because of loan balances, the trust will be a "non-estate" asset for estate planning purposes.

2. The primary beneficiaries will only be able to deal with the trust assets in their Wills if the trust deed so permits.
3. Dealing with the shares in a trustee company may be a waste of time if the replacement appointor proceeds to remove the company (it is often far more important to include an adjustment clause in a Will (see below).
4. The trust, being discretionary, needs special provisions in the deed or Will included if more than one person is to control the trust after the primary beneficiaries die.
5. Whenever it is likely that children or other relatives will have unequal outstanding balances in their allocated funds, it is important that steps be taken to either:
  - a. clear each of the allocated fund balances by:
    - i. paying expenses on behalf of the beneficiary;
    - ii. reimbursing the primary beneficiaries for expenses incurred on behalf of the beneficiaries - note that once a beneficiary is an adult, the beneficiary must consent to any reimbursements of expenses incurred during the beneficiary's childhood;
    - iii. making payments to the beneficiaries; or
    - iv. the beneficiaries volunteering to give the balances back to the trust or to the primary beneficiaries.
  - b. adjust for those unequal balances in the Wills of the primary beneficiaries.

**Residual Beneficiaries**

1. Usually the children of the primary beneficiaries.

2. Usually hold no power to demand capital or un-allocated net income so long as any of the primary beneficiaries are still alive.
3. The deed may provide that if the trust continues to exist after all primary beneficiaries have died, each residual beneficiary:
  - a. must unanimously consent to the distribution of net income (otherwise default distributions apply).
  - b. may veto the significant decisions of the trustee; and
  - c. can demand a share of the capital and cease to be a beneficiary.

### **Taxation of Net Income**

#### **Trustee's Resolution**

1. An annual resolution is prepared by the trustee by the end of each financial year to deal with all of the net income of the trust for the year.
2. The resolution should also deal with all franking and other tax credits received and should cover "non-accounting" net income such as taxable capital gains.
3. The resolution should identify to which beneficiaries the net income is to be allocated and, if there are different types of trust income, should usually stream the different types of net income to the respective beneficiaries (see below).
4. Any net income that is to be accumulated should be included in the resolution.
5. A resolution should cover the possibility of additional net income of which the trustee may not as yet be aware or able to calculate and can make reference to percentages and balances of net income, as well as to amounts.

#### **Income Tax Returns and Payment of Tax**

1. The trustee must lodge a "T" income tax return for the trust.
2. The trustee only pays tax on that part of the net income that:
  - a. no beneficiary is entitled to receive;
  - b. is accumulated as an addition to trust capital; or
  - c. is allocated to a beneficiary who is:
    - i. a non-resident; or
    - ii. under a legal disability (eg a beneficiary who is under 18 years or is a bankrupt, insane or intellectually disabled) and the beneficiary's income exceeds the minimum tax threshold.
3. Beneficiaries must include in their own tax returns the net income allocated to them by the trustee, together with any tax credits.
4. A separate "I" tax return should not be necessary if a beneficiary does not receive any other income or allocations of trust net income.
5. Each beneficiary is taxed on net income allocated, unless the beneficiary is:
  - a. exempt from income tax;
  - b. the trustee of another trust (taxed as above); or
  - c. a partnership (the tax liability is on the partners).
6. Subject to certain exceptions (eg disabled beneficiaries, certain "double" orphans), beneficiaries under 18 will be taxed at much higher rates than adult beneficiaries.
7. Losses can only be carried forward or "soaked up" if certain tests are satisfied. The trustee may need to make a "family trust election" - after taking appropriate advice - within the meaning of the *Income Tax Assessment Act 1936* in order to utilise losses.

#### **Streaming Different Categories of Net Income**

1. A beneficiary may not have to pay tax on net income allocated if the beneficiary:
  - a. has an un-recouped capital loss and is streamed only taxable capital gains;
  - b. has a taxable income from all sources less than the income tax threshold;
  - c. has tax rebates, credits or un-recouped income losses that are available to offset any income tax liability; or
  - d. is exempt from income tax, eg a Church or a charity.
2. Such a beneficiary should, where possible, be allocated categories of income on which tax has not already been paid.
3. So that tax credits (such as franking credits on dividends and foreign tax credits) are not wasted, net income with tax credits should only be allocated, where possible, to beneficiaries who can use the credits.

4. Other beneficiaries may qualify for lower tax on certain types of net income, eg a non-resident receiving interest, royalties or unfranked dividends.

### **Amending and Ending the Trust**

#### **Amendments to the Trust Deed**

1. If the trustee and Appointor agree, most of the deed's clauses can be amended.
2. If the definition of the class of potential beneficiaries of the trust is amended, it may mean that the existing trust has been "resettled" into a "new" trust and:
  - a. a fresh amount of stamp duty will be payable on the amended deed and possibly on the consequent "transfers" of dutiable trust assets; and
  - b. there may well also be an acquisition and even a disposal for capital gains purposes.
3. Amendments to change the trustee or Appointor or to deal with the future control of the trust, if carefully drafted, should not "resettle" the trust.
4. As discretionary trust assets (other than allocated funds) do not form part of the personal estate of any of the trust beneficiaries, amendments to the deed are commonly needed to ensure that the "estate" planning wishes of the primary or other beneficiaries are carried out.

#### **Ending the Trust**

1. The trust may only exist until the "vesting date", ie a date nominated in the deed and in the vicinity of 80 years from the date the trust began.
2. The trustee may (with the Appointor's consent) resolve to end (or "vest") the trust at any time before that date.
3. Subject to any restrictions in the deed, the trustee can select which of the beneficiaries are to be allocated the trust assets.
4. Allocations of capital on a winding up of the trust may be exempt from stamp duty, but will be treated as a disposal for capital gains purposes.
5. Where possible, resolutions to allocate all or some of the trust capital at a future date should be provisional so as to:
  - a. allow the trustee to change that decision prior to the death of the primary beneficiaries; and
  - b. avoid creating an immediate disposal for capital gains purposes.



STATE REVENUE OFFICE  
DUTIES ACT 2000



# Certificate of Duty Trust Deed

SRO Reference Number: 4823061

Certificate Issue Date: 12th May 2020

## ASSESSMENT INFORMATION

<b>Duty Assessed:</b>	\$200
<b>Interest:</b>	\$0
<b>Total Amount:</b>	\$200
<b>Section:</b>	s37 - Establishment of a trust relating to unidentified property and non-dutiable property

## TRUST INFORMATION

<b>Trust Name:</b>	MAZ TRUST NO 4
<b>Date of Trust:</b>	1st May 2020

## TRUSTEE

<b>Company:</b>	VINTES NO 4 PTY LTD
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The information in this certificate is for Duties Online users only and may contain confidential material and/or personal information. Any review, dissemination, copying, storage or use of this information by persons or entities other than a Duties Online user, or the person to whom the information relates, is prohibited. If you received this certificate in error, please secure it and contact the SRO for further advice on 13 21 61.

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## SRO CONTACT DETAILS

### Mail

Duties Online Support, State Revenue Office, GPO Box 1641, MELBOURNE VIC 3001 or  
DX 260090 MELBOURNE

### Website

[www.sro.vic.gov.au](http://www.sro.vic.gov.au)

### Email

[dutiesonline@sro.vic.gov.au](mailto:dutiesonline@sro.vic.gov.au)

### Phone

03 9628 6539

### Fax

03 9628 0021



CD2011/1

Trusts of Government is made as follows, in the schedule attached to this Deed and the provisions of the Schedule are hereby agreed to be held in trust for the purposes and for the benefit of the persons named in the Schedule and the Trustees shall have full power and authority to do all such things as may be necessary or expedient for the purposes of the Trust and to execute the same.

# DEED OF TRUST

THIS DEED OF TRUST

IS MADE

THIS 10th day of February 2004, between the Trustee named in the Schedule and the Trustees named in the Schedule and the Trustees shall have full power and authority to do all such things as may be necessary or expedient for the purposes of the Trust and to execute the same.

## OF

THE NAME OF WHICH IS

### MAZ TRUST NO 4

The Trustees shall hold the property and the income thereof for the purposes and for the benefit of the persons named in the Schedule and the Trustees shall have full power and authority to do all such things as may be necessary or expedient for the purposes of the Trust and to execute the same.

D. The Trustees shall have the power to sell, lease, mortgage, charge, and otherwise dispose of any property which may be held in trust by the Trustees and to execute the same.

#### VICTORIA

E. The Trustees shall have the power to appoint any person or persons to be the Trustees of the Trust and to execute the same.

F. The Trustees shall have the power to vary the trusts created by this Deed and to execute the same.

G. The Trustees shall have the power to do all such things as may be necessary or expedient for the purposes of the Trust and to execute the same.

#### ABBOTS

1ST FLR, 225 BRIDGE ROAD

RICHMOND VIC 3121

PO Box 384, RICHMOND VIC 3121

PH: (03) 9427 8888 FAX: (03) 9427 7888

H. The Trustees shall have the power to do all such things as may be necessary or expedient for the purposes of the Trust and to execute the same.

**THIS DEED OF SETTLEMENT** is made on the date stated in the schedule attached (the Schedule) **BETWEEN** the persons named in the Schedule as settlor (the Settlor) and as trustees (the Trustees) AS the Settlor desires to provide for certain beneficiaries and proposes to transfer to the Trustees upon the execution of this deed the settled sum set out in the Schedule (the Settled Sum) and the Trustees have agreed to accept the Settled Sum as a trust to be known by the name specified in the Schedule

**NOW THIS DEED PROVIDES :**

#### **TRUST FUND**

1. The Trustees shall hold the Settled Sum and any other property which may be paid transferred or delivered to the Trustees to be held on the trusts of this settlement and the investments and moneys for the time being representing the same (the Trust Fund) upon the trusts and with and subject to the powers and provisions set out in this deed.

#### **2. DEFINITIONS**

A. The terms set out in the first column of the Schedule shall have the meanings set out against them in the second column of the Schedule. References to any statutory enactment shall mean and be construed as references to the said enactment as amended modified and re-enacted from time to time. The singular shall include the plural and vice versa and reference to any gender shall include the other genders. The headings contained in this Deed shall not affect the construction of these provisions.

B. Appointor: means the person named in the Schedule and includes the person at any time who is entitled to act as appointor pursuant to the provisions of this deed.

C. Beneficiary: means any person included in the Discretionary Class and any Corpus Beneficiary, excepting that it does not include any person named in the Schedule as an excluded beneficiary, with such excluded Beneficiaries to be excluded irrevocably.

D. Discretionary Class : means those persons named as Specified Beneficiaries in the Schedule, the Corpus Beneficiaries, and the parents grandparents brothers sisters spouses former spouses children grandchildren of the Specified Beneficiaries or of the Corpus Beneficiaries and the parents brothers sisters spouses former spouses and issue of any of the persons included by the preceding description ( all of whom are to be included in the term " the related beneficiaries") and shall also include any company in which a related beneficiary owns a share or of which a related beneficiary is or has been a director and any trust under the terms of which a related beneficiary or any such company is entitled to a benefit whether vested contingent discretionary or otherwise and any person employed by any such company or trust or by the Trustee, or previously so employed, and any school or other establishment for educational or religious purposes and any charity. The trustees of any trust which comes within the discretionary class shall receive any benefit for that trust in their capacity as trustees and not in their personal capacity and the benefit shall be held by them and their successors as trustees upon the relevant trusts and upon the condition that the benefit will be fully vested on or before the Date of Vesting notwithstanding any provision of that trust which might allow for later vesting.

E. Spouse: includes a person legally married to the relevant person and any person deemed to be a spouse for the purposes of the Income Tax Assessment Act.

F. Child : the relationship of parent and child shall include adopted child and step-child.

G. Income : for the purpose of administration of these trusts the Trustees may regard as income any amount which is treated as income, under the current law relating to income tax.

H. Date of Vesting: shall mean the date specified in the Schedule or an earlier date which the Trustees may appoint in writing , provided that if under the law of the State or Territory specified in the Schedule the period up to the date specified in the Schedule shall be excessive or not applicable , the period from the date of this deed to the end of twentyone years

from the death of the last lineal descendant now living of his late Majesty King George VI, shall be substituted for the date specified..

I. Person: shall include the trustee of a trust or unit trust in his capacity as such trustee.

J. Foreign person: means any foreign person as defined in the *Duties Act 2001* (Qld), any foreign person as defined in the *Duties Act 2001* (Tas), any foreign person or foreign trustee as defined in the *Duties Act 1997* (NSW), any absentee person as defined in the *Land Tax Act 2005* (Vic), any foreign purchaser as defined in the *Duties Act 2000* (Vic), any foreign person or foreign corporation as defined in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or any replacement or modifying legislation, regulations or rulings from time to time or any other relevant current law.

#### SETTLOR

3. The Settlor desires this settlement to be construed so as to exclude the Settlor from any interest or benefit in the Trust Fund whether by resulting trust retained interest intestacy or otherwise and if any such interest or benefit should arise which would otherwise accrue to the Settlor the Trustees shall hold such interest or benefit for such general public charitable purpose as they may think fit and this settlement is irrevocable.

#### INTERPRETATIONS

4. Any benefits conferred upon any beneficiary are in addition to and not in substitution for any provision made for such beneficiary under any other instrument or disposition whether by settlement Will or otherwise.

#### AUTHORISED INVESTMENTS

5. All moneys liable available or requiring to be invested under these trusts may be invested in or upon any of the following investments modes of investment or property notwithstanding that such investments may be of a wasting or speculative nature namely:-

- (a) Investments authorised by the laws of the Commonwealth of Australia or any of the States or Territories thereof for the investment of trust funds.
- (b) Land wherever situate or any estate or interest therein.
- (c) Deposits at interest or otherwise with any company body corporate or bank or on loan at interest or otherwise and either with or without security to any person and notwithstanding where the borrower may for the time being be situate domiciled or resident.
- (d) The fully or partly paid shares stock obligations or debentures of any company or body corporate wherever it may have been incorporated or may carry on business, and any interest in a Unit Trust or other trust whether by purchase of units or otherwise and whether or not involving the Trustees in any liabilities associated with such interest.
- (e) Any investment or property (wherever situate) speculation enterprise or manner of investment from time to time unanimously approved by the Trustees the intention of this Clause being the Trustees may lay out and invest moneys in the same manner as if they were the beneficial owners thereof.
- (f) The acquisition and carrying on of any business, business name, trade, process of production or manufacture, lease, sub-lease, retailing or wholesaling, or other enterprise as the Trustees may think fit.
- (g) The purchase acquisition or effecting of any reversionary or deferred property or rights of any description or any life or life-endowment annuity or sinking fund or term or other policy of insurance of whatsoever nature and at or subject to any premium or premiums whether single or payable periodically and with or subject to any options rights benefits conditions or provisions whatsoever and the Trustees shall have power to pay out of the income or capital of the Trust Fund as they in their absolute discretion think fit all sums payable from

time to time for premiums or otherwise for the effecting or maintenance of any policy of insurance (whether owned by the Trustees or otherwise) or for the exercise or enjoyment of any option right or benefit thereunder and any surrender of any such policy shall for the purposes of this settlement be deemed a sale.

#### **TRUSTEES' POWERS**

6. In addition to the powers granted to or vested in them by law the Trustees shall have the following powers and discretions which they may exercise or refrain from exercising even though they may be personally interested in or benefit from the outcome of the exercise thereof:

##### **GENERALLY**

(a) To apply and invest moneys forming part of the Trust Fund in any investments whether involving liabilities or not or upon personal credit with or without security and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and to the intent that the Trustees shall have the same powers in all respects as if they were absolute owners beneficially entitled including without diminishing the generality of the foregoing they may subscribe for, take up on allotment and purchase any shares, stocks, bonds, mortgages, debentures, obligations or securities of any government authority trust enterprise or company in any part of the world and take or purchase the whole or any part or unit of or share or interest in (including a minority share or interest in) any business or partnership and the goodwill and assets thereof and the purchase of any real or personal property wheresoever situate and to exercise all rights and privileges and perform all duties and obligations appertaining or incidental thereto AND the Trustees may make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustees shall in their absolute discretion think fit and they may make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and they may agree to pay for any such investments wholly or in part from any future moneys which may come into their hands, including dividends, profits, interest or other income paid or payable in respect of any such investments.

##### **TO BORROW OR LEND AND GUARANTEE**

- (b) (i) To borrow and raise financial accommodation from any person or body corporate or unincorporated on such terms and conditions as to interest return and otherwise and for such purposes as the Trustee may in its absolute discretion think fit for the carrying out of the Trust or powers or authorities or discretions of the Trustee under this deed
- (ii) to advance and lend moneys to any persons firms companies corporations or governmental or municipal bodies and upon such terms with or without security or interest as the Trustee shall deem fit
- (iii) To guarantee or covenant, give any indemnity, or assume any obligation, solely or with others, jointly and severally, for the payment of moneys or the performance of any agreement contract obligation or undertaking by any person firm company corporation or association upon such terms with or without security as the Trustee shall deem fit
- (c) to secure the repayment of any borrowing or financial accommodation or any other indebtedness of the Trustee or the liability arising from any guarantee indemnity covenant or obligation by mortgage or by fixed or floating charge or by other encumbrance over all or any part of the Trust Fund including any property which may be subsequently acquired by the Trustee so that it will form part of the Trust Fund; any such mortgage charge or encumbrance shall be valid in all respects irrespective of the purpose for which the borrowing financial accommodation indebtedness guarantee indemnity covenant or obligation has arisen or been given and the rights of the mortgagee or chargee or person secured shall take priority in all respects over the rights of the beneficiaries hereunder and all other persons whatsoever and the Trustee is hereby expressly empowered to join with any company or natural person in executing any mortgage charge deed or other document for the purposes of this Clause and no

lender shall be concerned to enquire as to the propriety of any security or as to the application of any moneys raised thereby.

**TO ALLOW USE IN SPECIE**

(d) To permit any beneficiary under this deed to use any real or personal property subject to these trusts upon such terms and conditions as the Trustees may from time to time think fit.

**TO USE CUSTODIAN**

(e) To transfer the whole or any part of the assets of the Trust Fund whether real or personal to one or more companies or persons to allow any such company or person to hold or acquire such assets so that such assets vest in and stand in the name of such company or person subject to the trusts of this settlement and so that such company or person act as custodian trustee of the Trust Fund or of any part thereof, or act as nominee of the Trustees, whether such company or person is a trustee of this settlement or not and to provide for the terms conditions and manner of control which shall apply to such holding of the said assets while held in the name of such company or person and to vary such terms and conditions from time to time as the Trustees may think fit.

**TO ACT AS DIRECTOR**

(f) Any trustee hereof or person nominated by the Trustees may become a director or servant of any company or body corporate in which the Trustees may from time to time hold shares or stock as part of the Trust Fund and to receive the remuneration attaching to such office without being liable to account for the same. AND IT IS DIRECTED that the trustee may become qualified as a director by the holding in his own name of shares or stock belonging to the Trust fund PROVIDED that he account to the Trust Fund for all dividends and bonuses payable in respect thereof.

**TO BLEND AND APPORTION**

(g) With regard to any property or moneys which may be divisible amongst or belong to different trusts or shares in the Trust Fund to hold such property or invest such moneys as a whole or as a common fund with power from time to time to apportion such property or common fund and the income thereof amongst the persons or separate trusts entitled thereto in proportion to their respective interests.

**TO PAY EXPENSES**

(h) To pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion herein contained or of carrying out or performing the trusts hereof which the Trustees may at any time incur in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustees may be required to pay as taxes rates or probate estate gift stamp or revenue duties including stamp duties payable in respect of or in relation to the Trust Fund, whether or not such payment is likely to be enforceable against the Trustees.

**TO ACT IN RESPECT OF INTERESTS IN COMPANIES**

(i) With respect to any company or unit trust or venture (in this paragraph referred to as a "company") in which the Trustees hold shares stocks units interests debentures or other investments or are otherwise interested in or concerned with (in this paragraph referred to as "shares" or "interests") or which is formed to acquire all or any of the assets of or to carry on the business of any such company, to exercise the following powers in respect of any of such investments in addition to the powers conferred by law:

(A) to pay calls on any shares or interests or to permit them to be forfeited and sold;

(B) to purchase any further shares or interests and to take up a new issue of them by any such company;

(C) to lend money to any such company whether secured by debentures or in any other way or not secured and at such rate of interest and upon such terms as the Trustees think fit;

(D) to hold any shares or interests acquired by the Trustees for as long as the Trustees think fit;

(E) to sell any shares or interests held by the Trustees at such price as the Trustees think fit (whether or not such price is less than the sum that appears from the accounts of the company to be the value of such holding) and upon such terms with or without security as the Trustees think fit;

(F) to assent to or join in any arrangement relating to the sale or transfer or exchange of any such shares or interests or modifying any rights or privileges or interests in relation thereto and to agree to any scheme or arrangement for the increase or reduction of the value or amounts of any shares or interests or of the capital of any company in which any shares or interests forming the whole or any part of the Trust Fund for the time being may be invested or for which they are substituted or given in exchange either wholly or partly for others whether in the same company or not; and for such purpose to deposit surrender or exchange any script or document or title relating thereto, and to pay any contribution out of the capital of the Trust Fund or the income thereof or to incur any necessary expenses in connection with such scheme or arrangement and generally to manage and deal with them as if the Trustees owned them beneficially;

(G) in respect of a winding up of any company in which the Trustees may for the time being hold shares or interests or are otherwise concerned or interested in to agree with the liquidator of such company or any member or members of such company or any other person in all things as the Trustees shall in their absolute discretion think fit for the division or partition in kind or specie of the assets or property of whatsoever nature of the company and to accept any of the assets and property in payment or satisfaction of any interest of the Trustees in the company with power to pay any moneys by way of equality of division or partition.

**TO CARRY ON BUSINESS**

(j) to carry on any business which the Trustees shall think fit in Australia or in any other country and to do such acts as may be necessary or considered desirable in order to carry on such business effectively and without restricting the foregoing may acquire a business name, purchase and sell commodities and goods of any description, arrange for the provision of services, whether advisory professional broking financial or other, employ workmen, supervisors, managers and others, or arrange for part of such business to be conducted by contractors.

**TO PAY TO PARENT OR GUARDIAN**

(k) to pay over to the parent or guardian of any beneficiary who is under a legal disability any sum of money to which the beneficiary may from time to time be entitled and without requiring such parent or guardian to account for the application of the sum, and the receipt of the parent or guardian of the beneficiary shall be a sufficient receipt and discharge to the Trustees for any moneys paid to them for or on behalf of the beneficiary and the Trustees shall not be bound to see to the application thereof.

**TO DEAL WITH TRUSTEES AND ASSOCIATES**

(l) At their absolute discretion to sell transfer hire lease or dispose of any real or personal property of the Trust Fund or to lend or advance any moneys to the Trustees or any one or more of them in their personal capacity or in their capacity as trustees of other trust funds or otherwise or to any company or partnership notwithstanding that any Trustee is a shareholder or director or member or partner of such company or partnership AND generally to deal with any of the Trustees in their personal capacity in all respects as if there were two separate persons to the dealings or to deal with any spouse or child of the Trustees or of any of them.

**TO SUBDIVIDE AND DEVELOP LAND**

(m) To partition or agree to the partition of or to sub-divide or agree to the subdivision of any land or other property which or any interest in which may for the time being be subject to the trusts hereof and to pay any moneys by way of equality of partition, and to construct demolish maintain repair renovate develop or improve any buildings structures or other property whether real or personal, and to deal with any such property by way of lease exchange transfer conveyance assignment mortgage charge pledge grant of option or otherwise.

**TO PROMOTE COMPANIES**

(n) To establish promote or acquire any company or companies or join in the promotion or establishment or acquisition of any company .

**TO APPROPRIATE ASSETS**

(o) To appropriate without obtaining any of the consents otherwise required by law any part of the Trust Fund either in its actual condition or state of investment or by setting apart or crediting in the books or accounts of the trust any sum in or towards the satisfaction of any share whether vested or contingent to which any person may be entitled in the Trust Fund and for that purpose to make or cause to be made any valuation of the whole or any part of or of any interest in the Trust Fund as the Trustees may deem necessary either by themselves or by such person or persons whether duly qualified or not as they may appoint and in such manner and at such respective times as the Trustees consider just and proper and every valuation and every appropriation made by the Trustees shall bind all persons interested whether in the share to which the appropriation is made or in any other shares or otherwise interested in the Trust Fund notwithstanding that such persons may not be in existence or that any may be infants lunatics or otherwise under a disability or cannot be found or ascertained at the time of such appropriation or that the Trustees or any one or more of the Trustees for the time being or any person who is a director or shareholder of the trustee making the appropriation are or may be beneficially interested either indirectly or directly in the property appropriated or may benefit either directly or indirectly as a result of the exercise by the Trustees of the power of appropriation as aforesaid.

**TO DETERMINE DOUBTS**

(p) To determine whether any real or personal property or any increase or decrease in amount number or value of the property or holdings of property or any receipts or payments from for or in connection with any real or personal property shall be treated as and credited or debited to capital or to income (notwithstanding the decision of any company in such matter) and generally to determine all matters as to which any doubt difficulty or question may arise under or in relation to the execution of the trusts and powers of this settlement; and the Trustees may take the opinion of a barrister or solicitor and shall be entitled to act upon such opinion or to decide to make their determination upon other considerations and every determination of the Trustees in relation to any of the matters aforesaid whether made upon a question formally or actually raised or implied in any of the acts or proceedings of the Trustees in relation to the Trust Fund shall bind all parties interested therein and shall not be objected to or questioned on any ground whatsoever.

**TO JOIN**

(q) To join together with the trustees of any other trust or any other persons and to invest or otherwise deal with the Trust Funds jointly or in partnership with such other trustees or persons and the Trustees of this Settlement together with such other trustees or persons shall then make such apportionment as in their opinion is just and fair.

**TO OPERATE BANK ACCOUNTS**

(r) To open any account with any Bank and to operate any such account in all usual ways including drawing making endorsing discounting issuing or otherwise dealing with cheques promissory notes bills of exchange bills of lading or other negotiable or transferable instruments and to deposit withdraw purchase sell any money currency or coin of any country and whether or not in current circulation.



#### **TO CHANGE INVESTMENTS**

- (s) To vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security.

#### **TO APPOINT OTHER TRUSTEES**

- (t) to appoint in respect of the whole or any part of the Trust Fund new trustees in any country in the world and to transfer the relevant assets to them upon similar trusts either subject to the control of the Trustees or to the exclusion of such control.

#### **PROVISION OF ANNUITIES**

- (u) to agree to pay and to charge the Trust Fund with the payment of an annuity and to grant or redeem any annuity payable for a fixed period or to the extent permitted by law any annuity for any other period specified.

#### **TO RECEIVE GIFTS**

- (v) to receive and accept any gifts bequests devises and legacies to be held on these trusts or subject to any conditions not inconsistent with these trusts.

#### **TO KEEP RECORDS**

- (w) to keep such records as may be required or necessary or desirable. If the Appointor thinks it appropriate he may appoint an auditor to inspect the accounts books and records of the Trust Fund and to report to him and the Trustees. A copy of the auditor's report shall be made available to any specified beneficiary and any corpus beneficiary upon request.

#### **INCOME STREAMING**

- (x) In dealing with the income the Trustees may decide to treat income derived from different origins in different ways and they may resolve that any particular payment application or appropriation shall be made from income of a specified origin.

#### **INCIDENTAL MATTERS**

- (y) to do all such acts and things as may be necessary or incidental to the exercise of the powers otherwise given to them by these trusts.
- (z) Generally to exercise or concur in exercising all the powers and discretions contained in this deed or otherwise conferred by law and notwithstanding that the Trustees or any person being a trustee or being a director or shareholder of any company which is a trustee hereof has or may have an indirect direct or personal interest (whether as trustee of any other trust or settlement or in his personal capacity or as a shareholder or director or member or partner of any company or partnership or as a unitholder in any Unit Trust or as a beneficiary of any discretionary or other trust or otherwise) in the mode or result of exercising such power or discretion or may benefit directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the trustee for the time being is the sole trustee.

#### **TRUSTEES MAY PAY OUT CAPITAL**

7. The Trustees from time to time in their absolute discretion and in such manner as they think fit may pay to any one or more members of the Discretionary Class, or apply or settle on trust, for their maintenance education advancement or benefit the whole or any part of the Trust Fund.

#### **TRUSTEES MAY CHARGE FOR SERVICES**

8. Any trustee of this deed being engaged in any profession or business or in any enterprise conducted by or on behalf of these trusts may be so employed or act and shall be entitled to be paid such remuneration as the Trustees shall consider reasonable for being so employed or so acting in connection with the trusts hereof.

#### **COMMISSION**

9. The Trustees shall be entitled (but not bound) to charge and be paid commission at such rate as they consider reasonable on the gross income of the Trust Fund and if at the time any such

commission becomes payable there shall be more than one trustee hereof the commission so payable shall be divided between them in such manner as the Trustees may agree and if they do not agree on the manner of such division it shall be divided equally between them. No commission shall be payable in respect of the corpus of the Trust Fund.

#### **LIABILITY FOR DEFAULTS ONLY**

10. The Trustees shall be answerable and accountable only for their own acts receipts omissions neglects and defaults and not for those of any person employed or authorised to act on their behalf with whom or into whose hands any part of the Trust Fund or income thereof comes or is deposited nor for accepting less than a marketable title, nor for any error omission failure to act mistake or lack of skill if made in good faith, nor for any loss unless the same shall happen through their own wilful neglect or default.

#### **TRUSTEES MAY DELEGATE**

11. The Trustees may delegate in writing the exercise of all or any of the powers discretions or authorities hereby conferred on the Trustees and may execute any powers of attorney or other instruments necessary to effectuate such purpose. The Trustees need not act personally but may act by managers, or may employ any contractors managers solicitors accountants clerks workmen employees or servants or any agents to transact any business required to be done in the premises including the receipt and payment of money and the Trustees shall decide the remuneration to be allowed and paid for all charges and expenses so incurred.

#### **TRUSTEES TO ACT JOINTLY**

12. (a) The Trustees if at any time they are more than one shall act jointly and not severally. Subject to the consent of the Appointor each trustee may appoint an alternate trustee to act in his place at meetings of trustees so long as and whenever the appointing trustee is out of the State or territory where the Trust Fund has its general administration or is otherwise incapable of acting.
- (b) If at any time there are more than one trustee of this trust and they do not agree on any matter or proposed action they shall refer the matter or action to the Appointor whose decision shall be final and the Trustees shall act in accordance with the decision of the Appointor.
- (c) If a trustee is a company it shall act in relation to the Trust Fund by resolution of its Board of Directors. If it is not the sole trustee it may attend meetings of trustees and vote there by its representative.

#### **SOLE TRUSTEE**

13. A sole trustee hereof for the time being is hereby authorised notwithstanding that he is the sole trustee to receive capital and other moneys and to give valid and effectual receipts therefor including for the receipt of capital moneys for the purposes of any statutory enactments.

#### **CAPITAL GAINS**

14. The Trustees may in their discretion treat any capital gains which are taxable as such in the same way as income is to be treated for the purposes of this trust or if they think it more appropriate they may treat such capital gains as part of the trust fund and deal with it under the provisions of clause 7 or clause 15(b).

#### **DISTRIBUTION**

15. (a) The Trustees shall hold the Trust Fund or such parts of the Trust Fund as have not been appropriated or distributed and which have not vested absolutely; and

#### **DISCRETIONS**

- (i) shall pay or apply or appropriate the whole or such part of the income of the Trust Fund and in such manner and at such times as the Trustees shall in their absolute

discretion think fit to or for the benefit of one or more of the members of the discretionary class and if the Trustees shall think it desirable unequally between the members of such class or for or towards the maintenance support education or benefit of such one or more to the exclusion of the other or others of such members as the Trustees shall in their absolute discretion determine.

#### INCOME OF INFANTS

(ii) Any income which the Trustees may determine to appropriate for the benefit of any infant may be retained together with any income arising from the investment of such appropriated income for that infant during the minority of such infant and the Trustees may in their discretion postpone the payment of such retained income to such infant or to his parent or guardian on his behalf until the "date of vesting", or such earlier date as he may become able to call for such payment. Such appropriations in respect of any infant shall be deemed to be held as a separate Trust for that infant subject to the like powers and conditions as set out in this deed in relation to the Trust Fund.

#### ACCUMULATION

(iii) Any income not applied as aforesaid may be applied to charitable purposes or paid to any Association Corporation or other body established for charitable purposes or paid or applied for the benefit of any other trust established for the benefit of any one or more of the Beneficiaries whether or not such other Trust also benefits other persons provided that as long as any person acts as Appointor of this Trust no such application or payment of either nature shall be made unless with the consent in writing of the Appointor previously received and any balance of income may be accumulated by the Trustees. Such accumulation of income shall continue until "the date of vesting" PROVIDED THAT if the period of accumulation shall end or be determined by Law before "the date of vesting" the Trustees shall thereafter apply the whole of the income in accordance with the provisions of this Clause regarding income not accumulated.

#### POWER TO RESORT

(iv) From time to time at their discretion the Trustees may resort to any accumulations and apply them as income at any time prior to the date of vesting provided that this power to resort or any other power contained in this deed shall not be exercised in any way which would result in the Settlor or any other person who has conferred a benefit on the settlement receiving any amount paid out of such accumulations.

#### VESTING OF CORPUS

(b) At the date of vesting the Trust Fund then held by the Trustees shall be held as to both capital and income upon trust for the corpus beneficiaries in the proportions set out in the Schedule or if no proportions are stated then in equal shares PROVIDED THAT if any corpus beneficiary shall die before the date of vesting of an interest under the foregoing provisions leaving issue surviving such corpus beneficiary, such issue shall stand in the place of the deceased and shall take in equal shares per stirpes (a parent taking to the exclusion of his children) the interest in the same manner as the deceased corpus beneficiary would have taken if he or she had survived to the date of vesting.

#### FINAL VESTING PROVISION

16. If in the events which happen or if for any reason whatsoever the Trust Fund or any parts of it shall not be effectively or validly disposed of by the preceding trusts the Trustees shall hold the Trust Fund or such parts for such persons who are related by blood marriage or in law as would be entitled to participate in the estate of the last of the corpus beneficiaries to die if such corpus beneficiary had died intestate and domiciled in the State or Territory specified in the Schedule on the date of the death of the last to die of the persons contingently entitled under the preceding provisions of this deed and in the proportions prescribed by law relating to the distribution of the intestate estate of a person so dying and if there shall be no such persons to take pursuant to the provisions of this Clause then upon trust for such public charitable purposes as the Trustees may determine. Any resulting trust to the Settlor is hereby expressly negated.

#### **APPOINTMENT OF TRUSTEES**

17. The Appointor may revoke the appointment of any trustee for the time being hereof or may appoint a new trustee or trustees hereof and on the death or retirement of any trustee he may appoint a new trustee or trustees in the place of the one so dying or retiring and further his consent to the retirement of any trustee shall be a sufficient consent to the retirement of any trustee as required by law.

#### **APPOINTOR MAY PROVIDE FOR SUCCESSOR**

18. An appointor may by Deed or Will pass this power to some other person or by Deed may renounce the powers conferred upon him by this deed. If the Appointor does renounce these powers he may by the same Deed provide for another person to exercise these powers and for further nominations of persons to exercise these powers. While the Appointor retains these powers he may direct the Trustees in writing to act or not to act in a particular way in respect of certain parts of the Trust Fund, or to dispose of certain assets from the Trust Fund or to acquire others for the Trust Fund. When there are two or more Appointors they will have to act jointly. If at any time there is no appointor capable of acting the Trustees may act as if the consent of the Appointor had been given to any action where it would otherwise be required, and may appoint new trustees or retire in accordance with the general provisions of the law notwithstanding the provisions herein contained.

#### **EXCLUSION FROM BENEFIT**

19. If the Appointor consents in writing the Trustees may exclude any beneficiary from any further benefit hereunder and if such excluded beneficiary consents to the action of the Trustees in declaring that he or she would thereafter be excluded from further benefit then the action of the Trustees shall become irrevocable and the interest which would otherwise have come to be distributable to the excluded beneficiary shall be dealt with by the Trustees as if the beneficiary had died upon the date upon which such determination of the Trustees was confirmed by receipt of the consent in writing of the beneficiary.

#### **DIRECTIONS BY BENEFICIARIES**

20. (a) The Trustees shall not be obliged to comply with the directions of the Settlor, nor of any beneficiary save after the date of vesting, and the Trustees shall have no right of indemnity or recourse against the Settlor or any beneficiary but shall be restricted to being indemnified out of the assets of the Trust for any liabilities properly incurred.

#### **INDEMNITIES**

(b) The Trustees shall be indemnified out of the Assets of the Trust Fund for all liabilities incurred by them in the course of acting for the trust.

#### **DISCLOSURE**

21. The Trustees shall disclose details of their decisions to any person who may be affected by them and to the Appointor, any auditor of the Trust Fund, and any other person who may be entitled to receive the relevant details, but shall not disclose details of their discussions or of any matters taken into their consideration before arriving at their decisions.

#### **DISCRETIONS**

22. Every discretion and power exercisable by the Trustees shall be absolute and fully discretionary without any restriction being implied from any other provision of this deed or otherwise.

#### **AMENDMENT**

23. The Trustees for the time being may with the consent in writing of the Appointor (if any) from time to time revoke add to or vary any of the terms or conditions of this deed Provided that any such amendment shall not infringe the rule against perpetuities, or affect the beneficial entitlement to

any amount set aside allotted to or used for the benefit of any beneficiary prior to the date of any such variation alteration or addition.

#### LIQUOR LICENCE

24. While and so long as the Trustees are the holders of any licence or permit issued pursuant to the Act or any amendment or re-enactment thereof, no variation or amendment to the Trust Deed shall be made ( including any change of Trustees or addition of any beneficiary ) unless and until the variation or amendment has been submitted in writing to the Registrar of the Commission and the proposed variation or amendment has been approved by the Commission.

The references in the preceding paragraph shall be taken to refer to the appropriate legislation authorities and executives in the relevant States and Territories, e.g.

JURISDICTION	LEGISLATION	AUTHORITY	EXECUTIVE
Victoria	Liquor Control Act 1987	Liquor Licensing Commission	Registrar
New South Wales	Liquor Act 1982	Liquor Administration Board	Secretary
Queensland	Liquor Act 1992	Liquor Licensing Division	Chief Executive
Western Australia	Liquor Licensing Act 1988	Director of Liquor Licensing	Director
South Australia	Liquor Licensing Act 1985	Liquor Licensing Commissioner	Commissioner
Australian Capital Territory	Liquor Act 1975	Registrar of Liquor Licences	Registrar
Northern Territory	Liquor Act 1978	Liquor Commission	Registrar
Tasmania	Liquor & Accommodation Act 1990	Commissioner for Licensing	Chief Executive Officer

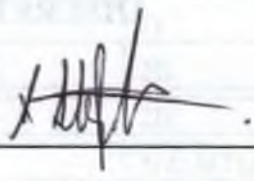
**SCHEDULE****DATE OF SETTLEMENT:** 12 March 2020**SETTLOR:** LUIGI STEFANETTI of  
1  
385 TOORONGA ROAD  
HAWTHORN EAST VIC 3123**TRUSTEES:** VINTES NO 4 PTY LTD (A.C.N. 639 726 524) of  
1  
385 TOORONGA ROAD  
HAWTHORN EAST VIC 3123**NAME OF TRUST:** MAZ TRUST NO 4**SETTLED SUM:** \$10.00**OTHER SETTLED PROPERTY:****APPOINTOR:** VINCENZO FRANK TESORIERO of  
46 HOWITT ROAD  
CAULFIELD NORTH VIC 3161**CORPUS BENEFICIARIES:** ANTHONY PAPADIMITRIOU of  
27 MALTON ROAD  
BEECROFT NSW 2119MARCUS PAPADIMITRIOU of  
27 MALTON ROAD  
BEECROFT NSW 2119ZACHARY PAPADIMITRIOU of  
27 MALTON ROAD  
BEECROFT NSW 2119**SPECIFIED BENEFICIARIES:****EXCLUDED BENEFICIARIES:** BASILE PAPADIMITRIOU  
of</w:t><w:br><w:t>5</w:t><w:br><w:t>141 WALKER  
STREET</w:t><w:br><w:t>NORTH SYDNEY NSW 2060</w:t><w:br><w:t>

All Foreign Persons

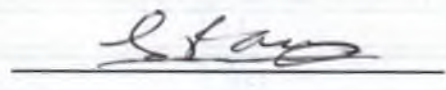
**DATE OF VESTING:** Eighty Years from the day before the Date of Settlement**RELEVANT LAW:** VICTORIA

IN WITNESS WHEREOF the parties have executed these presents the 1<sup>st</sup> day of May 2020


SIGNED BY THE SAID  
LUIGI STEFANETTI

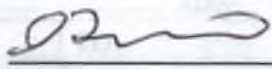


in the presence of:



EXECUTED UNDER SEAL in the presence of the undersigned by  
VINTES NO 4 PTY LTD (A.C.N. 639 726 524)  
in accordance with its Constitution OR for and on behalf of the Company by;

DIRECTOR 

SECRETARY 

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Our Ref: 26171  
Your Ref: 121031672

5 August 2021

Chris Prestwich  
Allens Linklaters  
Deutsche Bank Place  
Corner Hunt and Phillip Streets  
SYDNEY NSW 2000

**By email: [chris.prestwich@allens.com.au](mailto:chris.prestwich@allens.com.au)**

Dear Mr Prestwich,

**Westpac Banking Corporation ABN 33 007 457 141 v Forum Finance Pty Limited & Anor |  
Federal Court of Australia Proceedings File No. NSD616/2021 | Replacement of Trustee**

We refer to your letter dated 30 July 2021 and adopt your definitions therein and reply to your numbering accordingly.

**Appointment of Receivers**

1. Whilst it is true in some respects, some of the properties can be serviced having regard to current and future rental income available. For instance, we understand that the 14 James St Unit Trust Properties are fully tenanted, and a suitable tenant can be located for 26 Edmonstone Road.
2. We do not cavil with the proposition notionally, save for reserving our rights in relation to the claim against the proceeds of sale and inter alia the right to appoint a new trustee (subject to the terms and qualifications of the respective trusts) at a later time.
3. Our client will consent, without prejudice/admission, to the Liquidators being appointed receivers to the real property assets identified in each of the trusts relating to the Companies provided that Westpac indemnify the receivers for the costs associated with their appointment and the receivers give our client a reasonable opportunity to be involved in the sales process, including determining the sale price.

Conversely, our client proposes, for Westpac and the Liquidators consideration, an alternate approach which is to appoint a new trustee (which we have prepared deeds for) and under the supervision of Westpac and the Liquidators conduct a sales process. This would, in our opinion, assist greater on the marketability of the properties.

We otherwise agree with aspect dealing with the proceeds of sale save for the right to make an application in the ordinary course to the Court for release/payment from those proceeds for payment of bona fide expenses, third party liabilities, living and business-related expenses and legal expenses (see further below). The proceeds of sale can otherwise be held jointly by Fortis Law and Minter Ellison in a CMA.

4. The receivers will for all intents and purposes be more expensive than an ordinary trustee, we therefore do not understand this point to have weight against the competing proposition.
5. We note your foreshadowed application (which we believe is unnecessary and premature); however, the Liquidators would be aware that whilst it may be so that their appointment as receivers is an inevitable outcome in some respects, the sale may not be in circumstances where such a sale may be inconsistent with a proprietary right belonging to our client.
6. Our client has agreed at this stage to defer the calling of any meeting of the unitholders *to consider the replacement/appointment of new trustees to the Trusts* until the parties have had the benefit of conferring.
7. Our client is otherwise eager for the sale of 5 and 6 Bulkara St and 26 Edmonstone Road in priority to 14 James St to occur without further delay.
8. We are instructed to request that the Liquidators defer any further steps with respect to 14 James St properties until we have had a reasonable opportunity to confer on this matter having regard to the ability for this trust to service debt.
9. Our client would also like to discuss a process by which sales can be conducted immediately in respect of other properties controlled by our client of which the Liquidators are not appointees but in which Westpac has an alleged interest in, namely (but not limited to):-
  - a. 64-66 Berkeley Street, Hawthorn, VIC, 3122 (approx. \$7m debt);
  - b. 1160 Glen Huntly Road, Glen Huntly, VIC, 3163 (approx. \$1m debt); and
  - c. 23 Margaret Street, Rozelle NSW 2039 (approx.. 2.1m debt).

(‘Further Properties’)
10. To this end, could you please indicate whether or not the Liquidators are instructed (or can be instructed) with the view of being involved in the sales process of those properties and if so in what way do the Liquidators and/or Westpac wish to be involved in.

#### **Payment of Third-Party Liabilities and Expenses**

11. Furthermore, if the Further Properties can be sold together with 5 and 6 Berkley St, a substantial quantum can be realised and preserved in a short period of time.
12. Upon realisation, we would ask the Liquidators/Westpac to consider applying an amount from those proceeds in reduction of a third-party liability associated with the Petrol Station Properties - being a loan owing to Aksara Holdings Pty Ltd. The overall intent of that course would be to preserve the net asset position.
13. Aksara is owed a sum of approximately \$5 million. This reflects a significant amount of equity within the Petrol Station Properties which in turn have a cumulative gross value of potentially \$17-\$20m and approximately \$10.5 million of senior debt owing to Judo Bank.
14. Judo Bank has raised concerns with current arrears (due to the freezing orders) and status quo and particularly regarding Aksara’s caveat Accordingly, paying Aksara would alleviate Judo Bank

and would result in a positive net cash flow of at least \$50,000 per month from the rental income the Petrol Station Properties derive. This would entitle all expenses across the board, if necessary, to be paid pending resolution of the litigation.

15. In this regard, we draw your attention to the decision of *Surf Life Saving New South Wales v Hanks* [2016] NSWSC 1284.
16. We would also propose that appropriate carve outs be made for immediate payments for living expenses and legal expenses (which we require since being served with a 300-page statement of claim and a further statement of claim). It is our view that in the proper course of justice, our client should be entitled to an appropriate capitalised sum for the legal expenses. It would be unjust and unfair to prohibit such course.
17. Accordingly, we propose that from the sale proceeds the following be also paid:
  - a. A lump sum payment of \$400,000 for legal fees and expenses; and
  - b. A lump sum payment of \$50,000 be paid to Vince for living expenses.

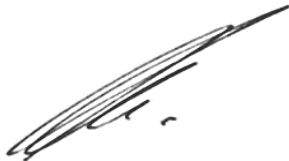
### Reservation of Rights

18. For the avoidance of doubt, our client expressly reserves his personal rights and the rights of the entities in which he controls and has authority to apply to the Court for orders relating to the net sale proceeds, the appointment of a trustee and any matter in respect of all properties including but not limited to conduct of the sales and caveats by Westpac.

We look forward to hearing from you. We are otherwise available to discuss this matter tomorrow.

Yours faithfully,

### FORTIS LAW



**Christopher Nehme**  
Partner

Email: [cnehme@fortislaw.com.au](mailto:cnehme@fortislaw.com.au)



**Pierre Safi**  
Partner

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 Sydney NSW 2001 Australia

ABN 47 702 595 758

**Allens > < Linklaters**

10 August 2021

Christopher Nehme  
 Fortis Law  
 Level 11, 75 Elizabeth Street  
 Sydney NSW 2000

Dear Mr Nehme

**Westpac Banking Corporation ABN 33 007 457 141 v Forum Group Financial Services Pty Ltd (In Liquidation) (Receivers & Managers Appointed) & Ors in the Federal Court of Australia Proceedings No. NSD616/2021 | Appointment of receiver to Unit Trust Properties**

We refer to our previous correspondence including your most recent letter dated 5 August 2021.

We set out below our clients' response to the matters raised in your letter.

**Appointment of receivers**

- 1 Thank you for confirming that your client will defer the calling of any meeting of unitholders of the Unit Trusts until the parties have settled the appropriate means for the sale of the properties held by the Companies in their capacities as trustees of the Unit Trusts (**Properties**).
- 2 Our client remains of the view that the appropriate method of sale is an appointment of receivers to the Properties. In that regard:
  - (a) Noting its proprietary claims, we do not expect that Westpac would agree to a sale by any replacement trustee;
  - (b) In circumstances where the appointment would be made by Court, our clients are not seeking indemnification in relation to that appointment;
  - (c) Any costs incurred by our clients in their capacity as receivers, including in conducting the sale process for the Properties, would be borne out of the assets to which they are appointed (as is the ordinary course).
- 3 In relation to the proposed sales process itself:
  - (a) As receivers, our clients would owe the usual duties in relation to the manner in which the properties are sold;
  - (b) Our clients would be content to liaise with your client in relation to matters such as the identity of any sales agent to be engaged, the order in which the Properties are to be sold and any target price for the properties. Assuming your client is not participating as a potential purchaser, subject to any confidentiality requirements of bidders, our clients would be willing to liaise with your client about offers made for the Properties; and

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 CRTS 515745211v2 121031672 10.8.2021

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(c) However, the decision as to the sale and the terms of sale would ultimately be a matter for the receivers.

4 As to the net proceeds of the sale, our clients recognise that the entitlement to those monies is likely to be a contest as between the lenders to Forum Finance with proprietary claims, the unitholders and/or the Companies in their capacities as former trustees of the Unit Trusts. As such, our clients would not oppose any arrangement agreed as between your client and Westpac as to how the sales proceeds should be held (for example, on agreed terms as between Fortis Law and MinterEllison). Absent such agreement being reached, they should be paid into Court;

5 We attach the form of orders that our clients intend to seek. Please confirm by no later than close of business on 12 August 2021 whether your client will consent to those orders. These include orders in relation to the vessel XOXO in the event that client agrees to that vessel being sold.

### Sale of further properties

6 As to the Further Properties identified in your letter, the accounts of Forum Group Financial Services record the following loans being provided to the following entities (each of which we understand are connected with your client):

	<b>Owner</b>	<b>Property</b>	<b>Loan Amount</b>
(a)	64-66 Berkeley St Hawthorn Pty Ltd	64-66 Berkeley Street Hawthorn, VIC 3122	\$1,865,508.30
(b)	1160 Glen Huntly Road Pty Ltd ATF 1160 Glen Huntly Road Unit Trust	1160 Glen Huntly Road Glen Huntly, VIC 3163	\$900,473.34
(c)	23 Margaret Street Pty Ltd ATF 23 Margaret Street Unit Trust	23 Margaret Street Rozelle NSW 2039	\$687,741.90
(d)	123 High Street Taradale Pty Ltd ATF 123 High Street Taradale Unit Trust	123 High Street Taradale VIC 3447	\$53,353.43
(e)	14 Kirwin Road Morwell Pty Ltd ATF 14 Kirwin Road Morwell Unit Trust	14 Kirwin Road Morwell VIC 3840	\$255,794.93
(f)	160 Murray Valley Hwy Lake Boga Pty Ltd ATF Lake Boga Unit Trust	160 Murray Valley Hwy Lake Boga VIC 3584	\$185,202.74
(g)	22 High Street Rushworth Pty Ltd ATF 22 High Street Rushworth Unit Trust	22 High Street Rushworth VIC 3612	\$25,274.64
(h)	275 High Street Golden Square Pty Ltd ATF 123 High Street Gold Square Unit Trust	Unit 9, 269-275 High Street Golden Square VIC 3325	\$222,213.74
(i)	31 Ellerman Street Dimboola Pty Ltd ATF 31 Ellerman Street Dimboola Unit Trust	31 Ellerman Street Dimboola VIC 3414	\$110,261.69
(j)	4 Cowslip St Violet Town Pty Ltd ATF Violet Town Petrol Unit Trust	4 Cowslip St Violet Town VIC 3325	\$221,623.61
(k)	55 Nolan Street Maryborough Pty Ltd ATF 55 Nolan Street Maryborough Unit Trust	55 Nolan Street Maryborough VIC 3465	\$123,906.95
(l)	8-12 Natalia Ave Oakleigh Pty Ltd ATF 8-12 Natalia Ave Oakleigh Unit Trust	8-12 Natalia Ave Oakleigh South VIC 3167	\$2,122,155.18

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(m)	89 Betka Road Mallacoota Pty Ltd ATF 89 Betka Road Mallacoota Unit Trust	89 Betka Road Mallacoota VIC 3892	\$93,201.89
(n)	9 Gregory Street Ouyen Pty Ltd ATF 9 Gregory Street Ouyen Unit Trust	9 Gregory Street Ouyen VIC 3490	\$18,968.58
(o)	9 Main Street Derrinallum Pty Ltd ATF 9 Main Street Derrinallum Unit Trust	9-13 Main Street Derrinallum VIC 3892	\$85,135.59
(p)	Canner Investments Pty Ltd	12 Hartington Street Elstenwick VIC 3185	\$1,180,315.82

- 7 Given the circumstances in which Forum Group Financial Services made those payments, we expect that parties such as Westpac will make proprietary claims in respect of some or all of those properties.
- 8 Our client would be willing to assist with the sale of some or all of those properties, with appropriate measures for the net proceeds of sale to be preserved pending determination of the entitlement to those monies. In circumstances where our clients are not appointed to the registered proprietors, it is for the registered proprietors to put forward a proposal as to the manner in which our clients could assist with the sale. That might involve, for example:
- (a) McGrathNicol being engaged as agent to sell the relevant properties; and
  - (b) Agreement as to the application of the net proceeds of sale (for example, they could be paid into the same solicitors' trust account as would be used for the Properties).
- 9 While discussions in relation to the those additional properties should not delay the sale of the Properties, please let us know if your client wishes to put forward a proposal along those lines.

#### Legal fees and living expenses

- 10 In relation to the proposed provisions for payment of your client's legal fees or living expenses, given the proprietary nature of the claims being made, our clients are willing to abide by any terms agreed between your client and Westpac in relation to those fees and expenses.

#### Askara and Judo Bank

- 11 Our clients would require further information to consider the position in relation to Askara Holdings Pty Ltd, and Judo Bank.

Yours sincerely



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3 September 2021

Christopher Nehme  
 Fortis Law  
 Level 11, 75 Elizabeth Street  
 Sydney NSW 2000

Dear Mr Nehme

**Forum Group Financial Services Pty Ltd (In Liquidation) (Receivers & Managers Appointed) (FGFS) | Proposed appointment of receiver to Unit Trust Properties**

We refer to your email dated 24 August 2021 and letter 16 August 2021.

In respect of the orders enclosed with our letter of 19 August 2021 (**Orders**), we confirm that:

- 1 the purpose of orders 2 and 6 is to provide the proposed receivers with the power to sell the Real Properties (as that term is defined in the orders) and the XOXO Yacht; and
- 2 the reference to 'real' at orders 3(f) and 7(f) should state 'rent'.

In addition, the liquidators will include some language to clarify that to the extent that any property in the Real Properties is owned by the relevant entity in a trustee capacity, the receivers would have the power to sell that property.

We address below the other matters raised in your letter.

MAZ Trust and Eros Management Trust

- 3 At this stage the liquidators are not seeking to be appointed as receivers over the business and assets of the MAZ Trust and Eros Management Trust.

Sales process

- 4 As to the manner in which the sales process would be conducted:
  - (a) With a view to maximising the price that can be achieved, the liquidators are not proposing to include any restrictions as to the manner of the sales process in the orders; and
  - (b) As receivers, our clients would be content to engage with your client regarding the sales process, including the proposed method of sale and the provision of updates. The extent of that engagement, for example whether details of offers received are provided, will need to be assessed at the relevant time (one consideration relevant to this assessment will be whether your client or related parties are participating in the sale process).
- 5 As such, the liquidators are not in a position to provide the covenant requested at paragraph 4 of your letter.

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Atherton Road property

- 6 In respect of the property at Atherton Road, the first ranking mortgagee has enforced its mortgage and is undertaking a sales process.

Sale proceeds

- 7 As outlined in our previous correspondence, the liquidators will pay the net proceeds of the sale of the Real Properties into Court or if agreement can be reached between Westpac Banking Corporation and the beneficiaries of the relevant unit trusts, a joint account controlled by MinterEllison/Fortis Law.
- 8 The orders that we have provided set out the relevant costs and expenses to be paid out of the sales proceeds and prior to any payment into that joint account or into Court.
- 9 For the avoidance of doubt, noting that FGFS has contributed to the purchase price of the Real Properties, our clients reserve all of their rights in relation to the amounts paid into that joint account or into Court.

Askara, Judo bank and 14 James Street

- 10 In relation to Askara, our clients note the guarantees and cross-collateralisation of the financing provided by Askara. Following their appointment, the receivers would expect to liaise with both Askara, Judo Bank and the entities that own the various petrol station properties as to the appropriate sequence of realisations and the terms upon which those would occur. Our clients are willing to consider any proposals that your clients may wish to put forward, but given the loans provided by FGFS, retaining ownership of the relevant properties does not appear to be feasible.
- 11 In relation to the properties owned by 14 James Street Pty Ltd, the liquidators invite your client to outline any options which he proposes to preserve these properties. However, in circumstances where FGFS has paid substantial sums in respect of the acquisition of those properties, a strategy for the continued ownership of those properties and servicing of the first ranking mortgages does not appear to be feasible.

Yours sincerely



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Back to search Home QLD Bowen Hills 4006 Edmondstone Rd 26 Edmondstone Rd

SOLD

### 26 Edmondstone Road

Bowen Hills QLD 4006

809m<sup>2</sup>  
[Improve this data](#)

#### Sale Details

Sale Date 30 Nov 2021  
Sale Price Not Available

Sold By

Agent name not disclosed  
JONES LANG LASALLE



**ATHENA** Could you save on your home loan?  Add to favourites  Track this property  Track this suburb

### Property Details for 26 Edmondstone Rd, Bowen Hills

Building Type	Commercial	Land Size	809m <sup>2</sup>
Local Government	Brisbane Brisbane	Primary Land Use	Warehouse & Bulk Stores
Lot/Plan	1/RP41028		

#### Last Listing description (July 2018)

**OFFICE WAREHOUSE WITH HUGE EXPOSURE AND DEVELOPMENT POTENTIAL**  
On behalf of the vendor, CBRE are pleased to present the freehold property at 26 Edmondstone Road, Bowen Hills. The centrally located Office/Warehouse is in the heart of Bowen Hills with prime position to arterial roads in to and out of the city. The key investment criteria are outlined below:

- Excellent exposure to thousands of cars every day
  - 400 sqm\* of functional office/retail space with an additional 300sqm\* of double height warehouse on 809 sqm of land
- [Show More](#)

**Get the full picture**  
See more information about this property

**Domain**

### Property History for 26 Edmondstone Rd, Bowen Hills, QLD 4006

A timeline of how this property has performed in the market

**Domain** [View full history](#)

<b>Last Sold</b> 30 Nov 2021	Listed for Rent 28 Sep 2017
---------------------------------	--------------------------------

- Sold** 30 Nov 2021
- Listed for Sale Not Disclosed 05 Nov 2021
- Listed for Sale Not Disclosed 20 Jul 2018
- [Sign in](#) to see more transactions

**Domain** [View full history](#)

#### About Bowen Hills 4006

The size of Bowen Hills is approximately 1.7 square kilometres. It has 3 parks covering nearly 3.7% of total area. The population of Bowen Hills in 2011 was 1,744 people. By 2016 the population was 3,214 showing a population growth of 84.3% in the area during that time. The predominant age group in Bowen Hills is 20-29 years. Households in Bowen Hills are primarily childless couples and are likely to be repaying \$1800 - \$2399 per month on mortgage repayments. In general, people in Bowen Hills work in a professional occupation. In 2011, 25.6% of the homes in Bowen Hills were owner-occupied compared with 17.5% in 2016. Currently the median sales price of houses in the area is \$252,500.

[Bowen Hills Profile Page >](#)

**Commute Calculator**

Where to?

Car  Train  Motorcycle  Walk

### Similar properties nearby

For Sale For Rent Recent Sale Off Market



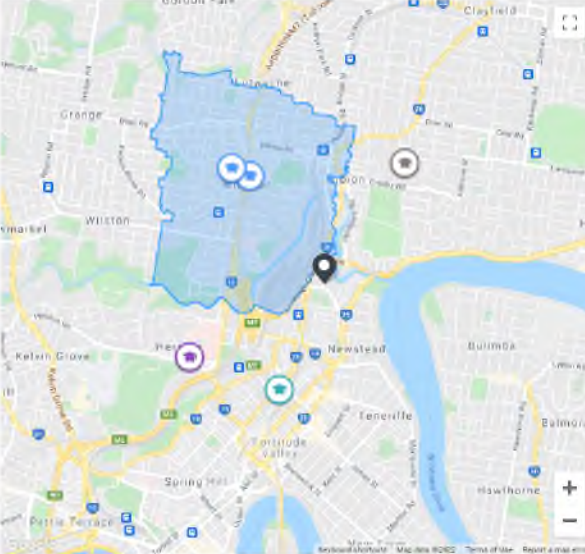
 <p>Price not disclosed 60 Edmondstone Rd. Bowen Hills, QLD 4006</p> <p>Commercial</p> <p>Fern Barr Star White Commercial Department</p>	 <p>OPENS TO OFFER 12/44 Brookes St. Bowen Hills, QLD 4006</p> <p>Apartment</p> <p>John Lawler Chinthee Property Group Pty Ltd</p>	 <p>Expression of interest 709/35 Campbell St. Bowen Hills, QLD 4006</p> <p>Apartment</p> <p>Matthew Groves Reckon Realty</p>
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 <p><b>ELU-BOOK SHOP</b> elubooks.com.au</p>	 <p>\$35</p>	 <p>\$159.95</p>	 <p>\$20</p>	 <p>\$194.70</p>	 <p>\$527.95</p>
---	---	---	--	---	---

What's around 26 Edmondstone Rd, Bowen Hills

Nearest Schools

Fortitude Valley State Secondary College Fortitude Valley 4006	1.2km
St Mary of the Cross School Windsor 4030	1.39km
St Margaret's Anglican Girls School Address not found	1.58km
Windsor State School Windsor 4030	1.57km
QCHS - Royal Brisbane and ACT for Kids Campus Herston 4006	1.61km

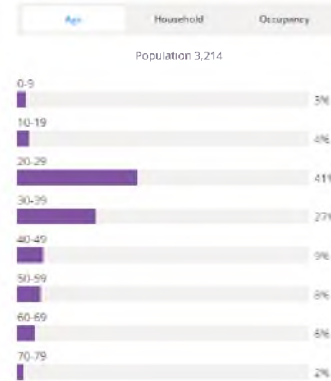


Suburb Insights for Bowen Hills 4006

Market Insights



Neighbourhood Insights



Stavros South Yarra  
**Riviera South Yarra**

LEARN MORE

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Industrial & Logistics

## 26 Edmondstone Road

26 Edmondstone Road Bowen Hills, QLD Australia 4006

Asking Price  
Contact for pricing

Area Size  
620 m<sup>2</sup>

NOI  
N/A

NIY  
N/A



Attributes

Building Area Gross	620 m <sup>2</sup>
Land Area Gross	0,08 HECTARES (809 m <sup>2</sup> )

Asset Description

JLL Metro Sales & Investments QLD, under instructions from Jason Ireland and Jason Preston of McGrathNicol acting as Receivers and Managers, have the exclusive pleasure to offer for sale 26 Edmondstone Road, Bowen Hills, QLD.

Investment Highlights

- Freestanding building with two levels of office accommodation and a highly functional warehouse totalling 620sqm\*
- High profile, corner land holding of 809sqm\*
- Approved for an 11-storey residential tower, with the added benefit of being located in the Bowen Hills Priority Development Area
- Generous on-grade parking for staff and customers
- Situated within a burgeoning medical and healthcare precinct anchored by the Bowen Hills Specialist Medical Centre and Life Fertility Clinic
- Emerging lifestyle precinct with surrounding amenity including the Mercedes-Benz Autohaus / Breakfast Creek Lifestyle Precinct, the recently approved Breakfast Creek Quarter development, along with cafe and food & beverage offerings
- Short 400 metres\* walk to Bowen Hills Train Station and surrounded by multiple bus services

\*Approximately

Auction to be held onsite 1 December 2021 at 10.30am (AEST) with registration commencing from 10am.

Last Updated Date: 13 Jan 2022

**Sam Byrne**  
Associate, Capital Markets

Contact Sam

**Tim Jones**  
Director, Metropolitan Sales & Investments - QLD

My photo is coming soon

Contact Tim



Do you have any questions? Visit our FAQ page [View FAQ Page](#)

### Similar Properties

View more

Industrial & Logistics

**116-130 Gilmore Rd, Berrinba, QLD (Stage 3)**  
AU - Berrinba

13 392 m<sup>2</sup>

Industrial & Logistics

**1-21 McPhee Dr, Berrinba, QLD (Stage 1 & 2)**  
AU - Berrinba

26 709 m<sup>2</sup>

Industrial & Logistics

**55 Brownlee Street, Pinkenba, QLD**  
AU - Pinkenba

597 m<sup>2</sup>

Industrial & Logistics

**9 Boron Street, Narangba, QLD**  
AU - Narangba

11 841 m<sup>2</sup>

### JLL - Brisbane

Central Plaza One Level 39, 345 Queen Street  
BRISBANE CITY, QLD 4000

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Sam Byrne

 04144211...

---



Tim Jones

 04787879... 

## Make an enquiry

What's your enquiry about?

- Sold price
- Return & outgoings
- Zoning
- Contract of sale

### Message

Add an additional message (optional)

Name (required)

Email address (required)

Phone number

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20 December 2021

Sazz Nasimi  
Partner  
Madgwicks Lawyers  
Level 6, 140 William Street  
Melbourne VIC 3000

**By Email**

Dear Mr Nasimi

**5 and 6 Bulkara Street, Wagstaffe NSW 2227 (Properties)**

We refer to our previous correspondence regarding the contents of the Properties including in particular, your email of 13 December 2021 (**Email**).

In response to your Email we note the following:

- 1 Jason Preston and Jason Ireland were appointed receivers of the Properties (**Receivers**) pursuant to orders of the Court made on 3 September 2021 (**Orders**).
- 2 In accordance with those Orders the Receivers are entitled to deal with the Properties to realise their value including, without limitation, to take possession of, maintain and sell the Properties and do all things necessary to achieve this purpose.
- 3 The Receivers have provided your client with sufficient notice and ample opportunity to explain the basis on which he claims that any contents at the Properties are his personal assets or arrange for an inspection of the Properties. In this regard:
  - (a) On 7 September 2021, the Receivers provided your client's former solicitor, a list of the contents of each of the Properties and provided images of those items;
  - (b) We wrote to your office regarding this matter on 26 October 2021 (**Letter**) which included a schedule outlining the contents of each of the Properties and provided images of these items (**Schedules**);
  - (c) On 15 November 2021, you noted that you were instructed that some of the items listed in the Schedules may be personal belongings of Mr Tesoriero and that a more substantive response would follow that week; and
  - (d) Notwithstanding this and our emails on 22 November 2021 and 10 December 2021 requesting this substantive response and any supporting documents, your client has not provided any explanation as to the basis on which he asserts any of the contents at the Properties are his personal possessions.
- 4 The Receivers have engaged agents to commence sale and marketing campaigns which are anticipated to commence on approximately 1 January 2022 in respect of 6 Bulkara and late January 2022 in respect of 5 Bulkara.

**Our Ref** 121031672-007:121031672  
CRTS 518048262v1 121031672 20.12.2021

Madgwicks Lawyers

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- 5 Having regard to the above, it is not reasonable for your client to continue to delay providing a substantive response or taking steps to verify his claim (including by arranging to inspect the Properties) where such delay may have the effect of prejudicing the sale and marketing campaign of the Properties.
- 6 In light of the above, we request that your client identify (with supporting documents) which documents he asserts to be personal assets by no later than 23 December 2021.

The Receivers reject any assertion that their dealing with the Properties within the scope and powers granted to them pursuant to the Orders may amount to trespass.

Yours sincerely



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Chris Prestwich & Kristy Prinsloo  
Allens  
Level 28, Deutsche Bank Place  
126 Phillip Street  
SYDNEY NSW 2000

Date: 23 December 2021  
File No: 047678  
Author: Alexandra Lawrence  
Partner: Sazz Nasimi

**By email: Chris.Prestwich@allens.com.au**  
**Kirsty.Prinsloo@allens.com.au**

Dear Mr Prestwich and Ms Prinsloo

**5 Bulkara Street Pty Ltd (In Liquidation); 6 Bulkara Street Pty Ltd (In Liquidation); and 14 James Street Pty Ltd (In Liquidation) (collectively ‘the Companies’)**

We refer to the above and note that you act on behalf of the liquidators of the Companies.

We note that the liquidators have indicated that they are taking steps to sell the following properties:

1. 8 Olive Street, Clayton South, Vic 3169
2. 5 Bulkara Street, Wagstaffe, NSW 2257
3. 6 Bulkara Street, Wagstaffe, NSW 2257

(collectively ‘**the Properties**’).

As your clients are aware, the Properties were held by the Companies as trustee for trusts of which our client, Mr Tesoriero, is the primary beneficiary (**‘Trusts’**). We **enclose** the following:

1. trust deeds for the Trusts; and
2. title searches for the Properties

The Companies were wound up on just and equitable grounds, on the basis that the former director of the Companies, Mr Papas, is overseas and unlikely to return unless a warrant issued against him can be executed by the Australian Federal Police.

By reason of the Court’s winding up orders and the fact that each of the corporate trustees is now in liquidation, the Companies hold the Properties as bare trustees on behalf of the beneficiaries, subject to their rights of indemnity and exoneration in respect of any claims which may be made with respect to the Properties.

In this regard, we note that Westpac claims an interest in the Properties pursuant to its principal claim in Federal Court Proceeding NSD 616/2021 (**‘the Westpac Proceeding’**), in which it alleges that Mr Tesoriero was engaged in a conspiracy with Mr Papas, in addition to allegations



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of knowing assistance and knowing receipt on behalf of Mr Tesoriero and his associated entities—allegations which are squarely denied by Mr Tesoriero.

The enclosed title searches show that mortgages have been raised against the Properties by the National Australia Bank. This indicates that at the very least, the Properties were partially acquired with funds which did not originate from Westpac, and which could not be the subject of any tracing remedy the liquidators might have.

Mr Tesoriero maintains that Westpac's claim against him, as currently pleaded, is hopeless, as is evident from: (a) his pending strike out application, which is to be heard by the Honourable Justice Lee on 9 March 2021, some weeks after the end of the Court vacation; and (b) the affidavit evidence and submissions filed in relation to the 12 November 2021 case management hearing.

Pursuant to the current orders of the Court dated 12 November 2021, Westpac's claim is not due to be particularised until 31 January 2022 (the first day of the 2022 legal term). Mr Tesoriero has not been required to file a defence to Westpac's claim to date, nor will he be required to do so should he prevail in his strike out application.

Even if Mr Tesoriero's strike out application is not successful, the claim against him will proceed to trial in the ordinary course, including the filing of a defence and, in all likelihood, cross-claims by Mr Tesoriero against Mr Papas and other individuals or entities.

The orders of 3 September 2021, giving the Liquidators the power to sell the Properties, were obtained without notice to Mr Tesoriero, and at a time before Mr Tesoriero had changed legal practitioners and squarely challenged the claim brought against him by Westpac.

Given the current state of Westpac's claim against Mr Tesoriero, its vulnerability to strike out on 9 March 2022 and the early stage of the Westpac Proceeding generally, it would be, in our view, premature to sell the Properties until, at the very least, Mr Tesoriero's strike out application has been heard and determined.

More generally, we are concerned that the Liquidators have an apparent conflict of interest in their liquidation of the Companies, in circumstances where:

1. as liquidators of the Companies, they have duties to act in the best interests of both the beneficiaries of the Trusts and the creditors of the Companies;
2. the potential creditors of the Companies include:
  - (a) Westpac (by virtue of its claim in the Westpac Proceeding); and
  - (b) other entities within the Forum Group;
3. the Liquidators have been appointed as liquidators to the other entities within the Forum Group which are potential creditors of the Companies, and have duties to act in the best interests of the creditors of those companies (which include Westpac);
4. it is in the interests of the beneficiaries of the Trusts to retain the Properties, and to defend any claims made by Westpac and the other Forum Group entities on the same basis as Mr Tesoriero;
5. it is in the interests of the creditors of the various companies to which the Liquidators have been appointed to seek to prosecute the claims against the Companies and liquidate the Properties; and

6. the Liquidators are funded by Westpac by the provision of loan capital to fund the Liquidators in their undertaking, which includes the commencement and maintenance of legal proceedings against Mr Tesoriero.

We otherwise do not understand there to be any urgency in the sale of the Properties.

The interest payments for the Olive Street property are being met. In respect of the Bulkara Street properties, we are instructed that Mr Tesoriero has been denied the opportunity to meet the interest payments for the mortgages over the properties, but remains willing to do so.

To the extent that the Liquidators are concerned about ongoing interest liability, we are instructed that, in exchange for confirmation that the Liquidators will not seek to sell the Properties, Mr Tesoriero is prepared to provide an undertaking to the liquidators to pay the interest arrears on the Bulkara Street properties, and to continue to make interest payments for the Properties until the final determination of the Westpac Proceeding.

We understand that your client is proposing to market the Bulkara properties in the January holiday period (and Court vacation period), which is traditionally a slow period for buyers in the Australian real estate market, and would appear to be an inappropriate time to market a property if the vendor intends to properly realise its value. We are instructed that Mr Tesoriero has serious concerns about the manner in which the liquidators have conducted the sale of properties to date, and specifically whether the liquidators have exercised their powers with due care, and in order to obtain the best price that is reasonably obtainable, pursuant to sections 420A and 579 of the *Corporations Act 2001*.

For the reasons set out above, we seek the liquidators' undertaking that the Properties will not be sold prior to the determination of the Westpac Proceeding. Mr Tesoriero would accept an undertaking from the liquidators conditional upon him maintaining the interest payments of the Properties.

Otherwise, should the liquidators refuse to provide such an undertaking and seek to proceed with the sale of the Properties, we anticipate receiving instructions to issue an urgent injunction preventing the sale, and to seek costs against the liquidators personally.

If you have any queries in relation to this letter please contact the writer.

Yours faithfully  
**MADGWICKS**



Alexandra Lawrence  
**Lawyer**

**T:** 03 9242 4720  
**E:** Alexandra.Lawrence@madgwicks.com.au

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Copy to: forumallens@allens.com.au

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**Allens > < Linklaters**

23 December 2021

Madgwicks Lawyers  
 Level 6, 140 William Street  
 Melbourne VIC 3000

Attention: Sazz Nasimi

Dear Colleagues

**5 Bulkara Street Pty Ltd (In Liquidation), 6 Bulkara Street Pty Ltd (In Liquidation) & 14 James Street Pty Ltd (In Liquidation) (Companies)**

We refer to your letter of 23 December 2021 (**Letter**) and adopt your definitions.

**Disqualification of the Companies as trustees of the Trusts**

- 1 As a result of the following sequence of steps, Jason Preston and Jason Ireland were appointed as receivers of the properties held by 14 James Street Pty Limited (In Liquidation) ATF the 14 James Street Unit Trust, 26 Edmonstone Road Pty Ltd (In Liquidation) ATF the 26 Edmonstone Road Unit Trust, 5 Bulkara Street Pty Ltd (In Liquidation) ATF 5 Bulkara Street Unit Trust and 6 Bulkara Street Pty Ltd (In Liquidation) ATF 6 Bulkara Street Unit Trust (together, the **Property Owning Trustee Entities**):
- (a) On 8 July 2021, by resolution of the directors pursuant to section 436A of the Corporations Act, Domenic Calabretta, Grahame Ward, and Thyge Trafford-Jones of Mackay Goodwin (**Former Administrators**) were appointed voluntary administrators of the Property Owning Trustee Entities;
  - (b) At a creditors' meeting convened on 20 July 2021 and adjourned to 21 July 2021, a resolution was passed by which Jason Preston, Katherine Sozou and Jason Ireland replaced the Former Administrators as voluntary administrators of the Property Owning Trustee Entities;
  - (c) On 28 July 2021, by order of the Federal Court of Australia, Jason Preston and Jason Ireland were appointed joint and several liquidators of the Property Owning Trustee Entities ;
  - (d) On 3 September 2021, by order of the Federal Court of Australia, Jason Preston and Jason Ireland were appointed as the receivers and managers of the various real properties owned by the Property Owning Trustee Entities (including the Bulkara Street properties). The order of the Court expressly gives the Receivers the power to sell the Properties.

**Our Ref** 121031672-007:121031672  
 CRTS 518197958v2 121031672 23.12.2021

- 2 Contrary to the assertions made in your letter:
- (a) the Companies were disqualified from being a trustee of each of the Unit Trusts following the appointment of the Former Administrators; and
  - (b) The Former Administrators were appointed following a resolution passed by the director/s of each of the Property Owning Trustee Entities pursuant to section 436A of the *Corporations Act 2001* (Cth).

**Mr Tesoriero's knowledge of the application for the appointment of the Receivers**

- 3 As to the appointment of the Receivers:
- (a) Between 30 July 2021 and 3 September 2021, we were in regular communication with Mr Tesoriero's then solicitors regarding the proposed appointment of the Receiver, including as to the precise form of orders to be made. This correspondence also included discussion of the powers which would be granted to the proposed receivers with respect of the sale of the Properties.
  - (b) Prior to the hearing on 3 September 2021, Mr Tesoriero's then lawyers noted that *'I confirm my client's instructions are to support the application'*.
  - (c) Mr McNally SC appeared on behalf of Mr Tesoriero at the hearing of the application to appoint the Receivers and stated that *"...Mr Tesoriero and Mangusta support and embrace the application by the receiver"* (see T7.1-3).
- 4 As such your assertion that the appointment of the Receivers and power of sale granted to them was made without notice to Mr Tesoriero is not correct. Mr Tesoriero:
- (a) had several months' notice of the application;
  - (b) participated in the negotiations regarding the form of orders and powers that would be granted to the Receivers (including the power of sale);
  - (c) consented to the appointment of the Receivers; and
  - (d) was legally represented at the hearing on 3 September 2021 during which orders were made appointing the Receivers.

**Sale of the Properties**

- 5 We do not agree that the sale of the properties can be appropriately deferred until after the resolution of the Westpac's proceedings:
- (a) Each of the Property Owning Trustee Entities is in liquidation and have substantial creditors which are entitled to be repaid;
  - (b) NAB has accelerated the debts in respect of 5 and 6 Bulkara Street and have issued default notices in respect of 5 and 6 Bulkara Street and demanded repayment of all amounts owing to it;
  - (c) Forum Group Financial Services Pty Ltd (In Liquidation) (**FGFS**) lent monies to each of the Property Owning Trustee Entities. Those loans were to purchase the properties and meet other acquisition costs and ongoing expenses associated with the Properties. FGFS has demanded repayment of the amounts owing to it.

**Process of the sale of the Properties**

- 6 We do not agree that any conflict arises with the Receivers selling the properties. We note that in accordance with order 3 of the orders made on 3 September 2021 appointing the Receivers, following the sale of the Properties and discharge of certain costs associated with the sale of the Properties, the balance is to be paid into a controlled monies account held by Allens.
- 7 The sale campaigns for 5 and 6 Bulkara Street are due to commence in January 2022. We are instructed that these properties are located in popular holiday destinations which are more heavily populated during the summer holiday period. Your client's views as to the appropriate timing of the sale are not consistent with the advice of the sales agents that the Receivers intend to use. In any event, if the sale was delayed, it seems likely that the first ranking mortgagee would take steps to sell the properties.

Yours faithfully

**Chris Prestwich**

Partner

Allens

Chris.Prestwich@allens.com.au

T +61 2 9230 4496

**Kirsty Prinsloo**

Managing Associate

Allens

Kirsty.Prinsloo@allens.com.au

T +61 2 9230 4735

Chris Prestwich & Kristy Prinsloo  
Allens  
Level 28, Deutsche Bank Place  
126 Phillip Street  
SYDNEY NSW 2000

Date: 19 January 2022  
File No: 047678  
Author: Alexandra Lawrence  
Partner: Sazz Nasimi

**By email: [Chris.Prestwich@allens.com.au](mailto:Chris.Prestwich@allens.com.au)  
[Kirsty.Prinsloo@allens.com.au](mailto:Kirsty.Prinsloo@allens.com.au)**

Dear Mr Prestwich and Ms Prinsloo

**Sale of 5 and 6 Bulkara Street, Wagstaffe NSW 2257 (“Properties”)**

We have considered the matters raised in your letter of 23 December 2021 in conjunction with the relevant correspondence which was exchanged between the parties and dispute the assertions you have made in paragraphs 3 and 4 of the letter. In particular, we note the following:

1. Our client never unconditionally consented to the sale of the Properties. In this regard we draw your attention to paragraph 18 of the letter from Fortis Law dated 5 August 2021 where our client’s rights were specifically reserved. We provide an extract of that paragraph as follows:

*“For the avoidance of doubt, our client expressly reserves his personal rights and the rights of the entities in which he controls and has authority to apply to the Court for orders relating to.... Any matter in respect of all properties including but not limited to conduct of the sales”.*

2. We otherwise note that in your letter of 10 August 2021 and your email of 3 September, your confirmed that the liquidator would agree to our client being involved in any sales processes and would consult with our client about the process.

Despite these assurances, your clients have taken no steps to involve our client in the sale of the Properties and even went as far as to sell 26 Edmonstone Road, Bowen Hills QLD 4006 without notice to our client.

3. Given the manner in which matters between our client and Westpac are currently poised, especially in light of a pending strike out application which is listed for 10 March 2022, our client wishes to preserve the status quo given his residual interest in the properties as the beneficiary.

In light of the above, we are in the process of preparing a court application with a view of it being returnable on 4 February 2021. We expect to be in a position to serve this application by either the end of this week or by Monday next week.



**MADGWICKS**  
ABN 82 199 611 971

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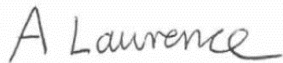


We once again seek your clients' undertaking by return that they will not sell any properties until this matter has been adjudicated upon by the Court. We look forward to hearing from you in this regard.

We reserve all of our client's rights.

Please contact our office with any queries.

Yours faithfully  
**MADGWICKS**

A handwritten signature in cursive script that reads "A Lawrence". The signature is written in black ink on a white background.

Alexandra Lawrence  
**Lawyer**

**T:** 03 9242 4720

**E:** Alexandra.Lawrence@madgwicks.com.au

Liability limited by a scheme approved under Professional Standards Legislation

Copy to: forumallens@allens.com.au



**Allens**

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GPO Box 50  
 Sydney NSW 2001 Australia

ABN 47 702 595 758

**Allens > < Linklaters**

24 January 2022

Madgwicks Lawyers  
 Level 6, 140 William Street  
 Melbourne VIC 3000

**By email**

Dear Colleagues

**Sale of 5 and 6 Bulkara Street, Wagstaff NSW 2257 (Properties)**

We refer to your letter dated 19 January 2022 (**Letter**).

Our clients are not willing to give the undertaking requested in the Letter in relation to the Properties. The reasons for that include the following:

- 1 It is not clear to us why your client's strike-out application in the proceedings brought by Westpac should result in any delay to the sale of the Properties:
  - (a) Each of the Companies are in liquidation (having first appointed voluntary administrators) and are plainly insolvent;
  - (b) The Properties were acquired using, in part, funds advanced by NAB which are secured by a mortgage. Those loans are not currently being serviced and NAB has accelerated the debts in respect of the Properties. Any delay in the sale of the Properties will likely result in NAB enforcing its rights and selling the Properties in its capacity as mortgagee; and
  - (c) To the extent that your client wishes to ensure that any residual interest that he has in the properties is preserved, that is already achieved by the orders made on 3 September 2021. Pursuant to those orders, any surplus sale proceeds are to be paid into a controlled monies account. To the extent that Mr Tesoriero contends that he is entitled to any part of those monies, he will have the opportunity to put those arguments forward at the appropriate time.
- 2 Any delay in the sale of the Properties would have obvious prejudice to creditors of the Companies:
  - (a) It would delay the return to the secured creditors (being NAB and, in the case of 5 Bulkara Pty Limited, Aksara which holds an unregistered real property mortgage over the 5 Bulkara property); and
  - (b) It has the potential to impact the unsecured creditors of the Companies (including Forum Group Financial Services Pty Limited (in liquidation) which provided loans that were used for the acquisition of the Properties).
- 3 As explained in our previous correspondence, Mr Tesoriero consented to the orders appointing the Receivers and their powers of sale in respect of, among others, the Properties.

**Our Ref** 121031672-007:121031672  
 CRTS 518378034v2 121031672 24.1.2022

Madgwicks Lawyers

Allens &lt; Linklaters

- 4 In the circumstances, the Receivers intend to continue with the sale of the Properties. Should Mr Tesoriero bring any application seeking to delay or otherwise effect the sale of the Properties, the Receivers will rely on this correspondence on the question of costs.
- 5 Insofar as the sale of the Edmonstone property is concerned, we note that was conducted by way of a public sale campaign taking place over almost one month and by public auction.

Yours faithfully

**Chris Prestwich**

Partner

Allens

Chris.Prestwich@allens.com.au

T +61 2 9230 4496

**Kirsty Prinsloo**

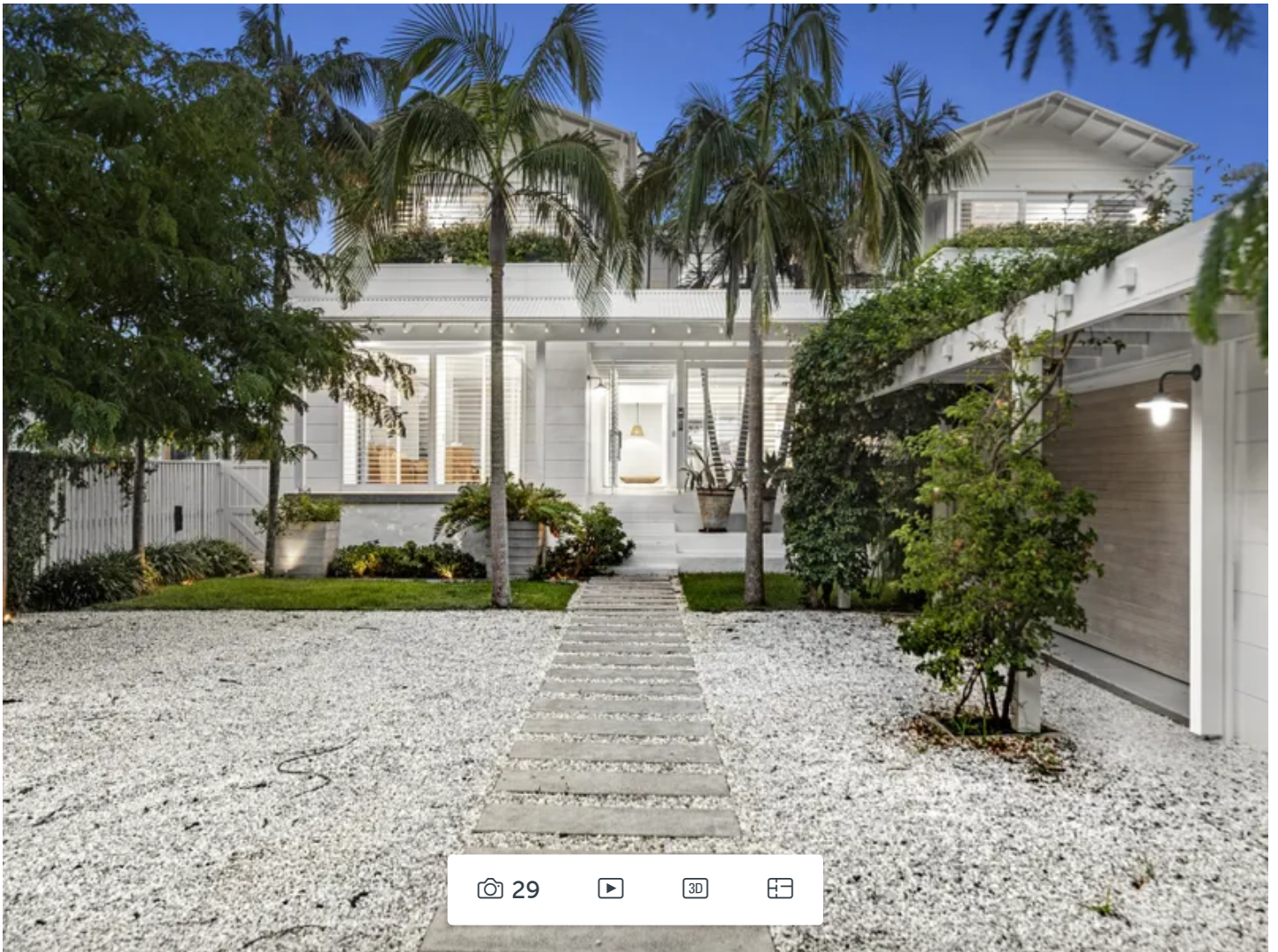
Managing Associate

Allens

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T +61 2 9230 4735

[← Back to results](#) Buy > NSW > Wagstaffe > House > 6 Bulkara Street



## 6 Bulkara Street, Wagstaffe, NSW 2257



7 5 4 2,188 m<sup>2</sup> House

**Expressions of Interest closing 7th February 5pm**

[Request an inspection](#)

HOME LOAN CALCULATOR  
\$2,551/month  
estimated repayment

[Calculate](#)

How much can you borrow?  
[We can help](#)

# BLACKRIDGE FINANCE



87 Neville Street, Middle Park VIC 3206 | Email: [support@blackridgefinance.com.au](mailto:support@blackridgefinance.com.au) | Office: 03 8658 8998

## FINANCE PROPOSAL

This proposal has been prepared by Blackridge Finance Pty Ltd for:

14 James Street Pty Ltd in its own capacity and as trustee for the 14 James Street Unit Trust  
Vincenzo Tesoriero

## PARTICULARS

Date of Proposal	3 February 2022
Our Reference	James2
Total Facility Amount	AUD\$4,000,000 (includes capitalised interest provision for loan term)
Summary of Transaction	To assist with a refinance of existing mortgage debts secured against properties located at 8 Olive Street, 10-18 James Street, 1-3/9 Parsons Street, Clayton South. We understand that 14 James Street Pty Ltd ACN 638 449 206 is currently under external administration and subject to freezing orders. We expect to engage with the external administrators and the Federal Court to confirm the purpose of the refinance and seek consent to obtain First Registered Mortgages over the Security Property in favour of our Lender and Mortgagee.
Expiration of this Proposal	14 days from date of proposal

We are pleased to offer you this Finance Proposal and look forward to working with you to procure a suitable finance solution.

Please feel free to contact us if you have any queries in relation to this Proposal.

Yours Faithfully,

Ben Witten

e: [bwitten@blackridgefinance.com.au](mailto:bwitten@blackridgefinance.com.au)

m: +61 435 962 975

## FACILITY

Loan Amount	\$4,000,000						
Loan Type	Commercial Refinance secured by Real Property						
Loan Term	12 Months, extendable to 18 Months						
Loan Purpose	<p>To assist with the refinance of existing mortgage debts and the capitalisation of Interest Payments and Lender Facility Management Fees for a minimum of 12 Months and extendable to 18 months, subject to agreement from appointed External Administrators and Court Consents.</p> <p>The lender will hold an amount of the Loan in an account in the name of the Borrower, but controlled by the Lender for the purposes of:</p> <ul style="list-style-type: none"> <li>- Paying Associated Loan Establishment and Legal Fees;</li> <li>- Payment of Interest through the Term of the Loan; and</li> <li>- Receiving Rental Payments from tenants through the Term of the Loan (if this is requested by the courts or administrators).</li> </ul>						
Borrower(s)	14 James Street Pty Ltd in its own capacity and as trustee for the 14 James Street Unit Trust						
Loan Fee Summary	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type</th> <th style="text-align: left;">% (inc GST)</th> <th style="text-align: left;"></th> </tr> </thead> <tbody> <tr> <td>BF &amp; Lender Loan Establishment Fee</td> <td>3.00%</td> <td>\$120,000 including GST</td> </tr> </tbody> </table> <p>Valuation and Legal Fees are additional and are to be borne by the borrower, unless otherwise agreed.</p>	Type	% (inc GST)		BF & Lender Loan Establishment Fee	3.00%	\$120,000 including GST
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BF & Lender Loan Establishment Fee	3.00%	\$120,000 including GST					
Interest and Repayment Summary	<table border="1" style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 50%;">Interest Rate:</td> <td>10%pa payable monthly in advance with a minimum term of 6 months.</td> </tr> </tbody> </table>	Interest Rate:	10%pa payable monthly in advance with a minimum term of 6 months.				
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Facility Management Fee	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Type</th> <th style="text-align: left;">% (inc GST)</th> </tr> </thead> <tbody> <tr> <td>Lender Facility Management Fee</td> <td>1.65%pa charged monthly in advance</td> </tr> </tbody> </table>	Type	% (inc GST)	Lender Facility Management Fee	1.65%pa charged monthly in advance		
Type	% (inc GST)						
Lender Facility Management Fee	1.65%pa charged monthly in advance						
Initial Discussions	BF has held initial discussions with a prospective lender and expects to be able to achieve a finance offer comparable with the Facility Details provided here.						

## SECURITY

Loan Facility Agreement	A Loan Facility Agreement from the Lender is to be executed by all borrowers and guarantors.
Property Security	<p>First Registered Mortgages over the individual land holdings at:</p> <ul style="list-style-type: none"> <li>• 8 Olive Street, Clayton South</li> <li>• 10 James Street, Clayton South</li> <li>• 12 James Street, Clayton South</li> <li>• 14 James Street, Clayton South</li> <li>• 16 James Street, Clayton South</li> <li>• 18 James Street, Clayton South</li> <li>• 1/9 Parsons Street, Clayton South</li> <li>• 2/9 Parsons Street, Clayton South</li> <li>• 3/9 Parsons Street, Clayton South</li> </ul>
Guarantors	<ul style="list-style-type: none"> <li>• Vincenzo Tesoriero</li> </ul>
Other Security	<ul style="list-style-type: none"> <li>• Relevant security interests to be provided from Borrowing Entity;</li> <li>• Such other loan Agreements, Certificates, Acknowledgements, Securities or other Documents as required by the Lender.</li> </ul>

## CONDITIONS

Financial Ratios	The LVR is to be no greater than 60.00%;
Valuation	<p>Valuation(s) acceptable to the lender are to be completed at the borrower's cost of all Property Security.</p> <p>The Valuation(s) are to be performed for First Mortgage Security Purposes and can be engaged by Blackridge Finance or the proposed lender.</p>
Takeout	An acceptable takeout strategy is to be confirmed and acceptable to the lender. This is expected to be through an undertaking to market the security properties at the end of month 9 of the loan term, unless a suitable refinance option is demonstrated.
Insurance	Evidence of appropriate Insurance Cover noting the Lender's interest is to be provided for all Property Security.
Property Information	<ul style="list-style-type: none"> <li>• Copies of endorsed development plans (where applicable);</li> <li>• Latest Rates Notices for properties; and</li> <li>• Any other information required by the Lender.</li> </ul>
Extension of Facility for a Further Term	The Facility may be extended for a further term of 6 months, so long as there remains sufficient funding to cover 6 months of Interest Payments and Facility Management Fees. This may be achieved through receiving rental payments associated with the security properties, or through a revaluation of the property and additional advance, or as otherwise agreed.

## FUNDING TABLE

Below is an indicative funding table as to the distribution of funds (please note that although Blackridge Finance expects these figures to be largely correct, they are subject to change):

COSTS		FUNDED BY	
Blackridge Finance and Lender Establishment Fee (inc. GST)	\$120,000.00	1st Mortgage Loan	\$4,000,000.00
Interest Set aside for 12 Months	\$400,000.00		
Facility Management Fee (inc. GST)	\$66,000.00		
Lender Legal Fees (inc. GST)	\$22,000.00		
Titles Office Registration Fees, and other Search/Disbursements	\$660.00		
Valuation Fees	\$2,750.00		
<b>Total Costs:</b>	<b>\$611,410.00</b>	Funds for Debt Refinance	<b>\$3,388,590.00</b>

Note: Each guarantor will be required to provide an Australian Legal Practitioner's Certificate at their own cost.

## DEFINITIONS

**Agreement** – This Finance Proposal.

**GST** – Goods and Services Tax.

**Client / You** – The Entities and/or Individuals that this Finance Proposal has been prepared for.

**Financial Close** – The date of the first

funding provided by the Lender.

**BF** – Blackridge Finance Pty Ltd ABN 19 629 591 019

**ICR** – Interest Cover Ratio, defined as the Rental Income of Property Security divided by the Interest Cost

**LCR** – Loan to [acceptable development] Cost Ratio

**LVR** – Loan to Value (of Property Security) Ratio

**WALE** – Weighted Average Lease Expiry of the Security Property

## TERMS & CONDITIONS

**ATO AND STATUTORY PAYMENTS** – You confirm that you and companies that you are associated with as a director have up to date records and payments with the ATO and any relevant state bodies in respect of properties you own (jointly or wholly), and any other Statutory Bodies as required by law. Should records or payments not be up to date you have duly informed BF in writing.

**BUSINESS OR INVESTMENT**

**PURPOSES** – You acknowledge that the Finance Proposal is to be used exclusively for business or investment purposes only.

**COMMISSION** – You acknowledge that BF may be paid a commission by a Lender.

**CONFIDENTIALITY** – Each party agrees to keep information confidential and will only disclose information to third parties to obtain Offers of Finance, or to obtain legal or financial advice as required. Information will only be disclosed to professionals in their respective industries.

**DELAYS OR FAILURE** – You shall not hold BF responsible for any delay or failure to procure the offer or for any delays on the part of the lender in giving effect to and settling the facility.

**EXCLUSIVITY** – You acknowledge that BF is exclusively engaged and mandated by you until financial close of the transaction. The Agreement

may be cancelled by either party with 30 days written notice; however, all obligations and payments as set out in this Agreement will remain in force. Furthermore, if BF has performed activities and/or provided you with information during the exclusive period, reasonable fees will become due and payable at the cessation of the exclusive period or at financial close (whichever is earlier).

**GST** – Fees and any Indicative Funding Tables are quoted excluding GST, unless otherwise specifically noted.

**INDEPENDENT ADVICE** – You acknowledge that you have had the opportunity to seek independent legal and financial advice as required in making a full appraisal and informed decision in relation to whether or not to proceed with this Agreement.

**MARKETING** – You acknowledge that BF has the right to disclose the client and procurement parameters for marketing purposes.

**NO WARRANTY** – BF gives no warranty to the success of project or business as to which finance is applied.

**NON CIRCUMVENTION** – In the case of a Lender being an Authorised Deposit-taking Institution (under the Banking Act 1959) non-circumvention does not apply. For any other lenders where Term Sheets and/or Finance Offers are

provided to you it is agreed that any borrower or associated entity (be it an associated company or individual) shall either: engage BF for any lending proposals provided to that lender; or, pay BF a fee which is to be reasonably established by BF in its sole discretion. This Non Circumvention Condition expires after a period of two years from this proposal.

**NOT A CREDIT OFFER** – BF uses its best endeavors to execute this Finance Proposal with its Lending Partners; however, BF does not provide any guarantees. This Agreement is not an Offer of Finance.

**OBLIGATION TO PAY** – You acknowledge that payments to BF are due and payable as documented in this Agreement. Any payments that are not paid as and when due will accrue at an interest rate of 1.5% per month.

**PRIVACY CONSENT** – You acknowledge that this Agreement acts as a consent under any Privacy laws for BF to undertake all enquiries of the Client BF may determine necessary including conducting searches of your credit file (including commercial credit file) and the disclosure of such information to any party BF determines necessary to do so.

**THIRD PARTIES** – You acknowledge that BF has the right to pay a third party for introducing the transaction





**ENGAGEMENT**

I/We hereby accept this Agreement and appoint Blackridge Finance Pty Ltd ABN 19 629 591 019 to procure the Finance as set out in this Proposal;

I/We warrant that we are duly authorised to execute this Agreement;

I/We will provide full and accurate information to BF in relation to the Finance Proposal;

I/We confirm that BF and its associated lenders may obtain (and disclose as necessary) credit reports from credit reporting agencies;

I/We understand that this Finance Proposal is subject to Credit Approval from undisclosed lenders, which BF cannot guarantee;

**Executed by:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



# BLACKRIDGE FINANCE



87 Neville Street, Middle Park VIC 3206 | Email: [support@blackridgefinance.com.au](mailto:support@blackridgefinance.com.au) | Office: 03 8658 8998

## FINANCE PROPOSAL

This proposal has been prepared by Blackridge Finance Pty Ltd for:

5 Bulkara Street Pty Ltd in its own capacity and as trustee for 5 Bulkara Street Unit Trust  
6 Bulkara Street Pty Ltd in its own capacity and as trustee for 5 Bulkara Street Unit Trust  
Vincenzo Tesoriero and Giovanni Tesoriero

## PARTICULARS

Date of Proposal	3 February 2022
Our Reference	Bulkara
Total Facility Amount	AUD\$10,500,000 (includes capitalised interest provision for loan term)
Summary of Transaction	To assist with a refinance existing mortgage debts secured against properties located at 5 and 6 Bulkara Street, Wagstaffe. We understand that both 5 Bulkara Street Pty Ltd ACN 630 982 160 and 6 Bulkara Street Pty Ltd ACN 639 734 473 are currently under external administration and subject to freezing orders. We expect to engage with the external administrators and the Federal Court to confirm the purpose of the refinance and seek consent to obtain First Registered Mortgages over the Security Property in favour of our Lender and Mortgagee.
Expiration of this Proposal	14 days from date of proposal

We are pleased to offer you this Finance Proposal and look forward to working with you to procure a suitable finance solution.

Please feel free to contact us if you have any queries in relation to this Proposal.

Yours Faithfully,

Ben Witten

e: [bwitten@blackridgefinance.com.au](mailto:bwitten@blackridgefinance.com.au)

m: +61 435 962 975

## FACILITY

Loan Amount	\$11,000,000		
Loan Type	Commercial Refinance secured by Real Property		
Loan Term	12 Months, extendable to 18 Months		
Loan Purpose	To assist with the refinance of existing mortgage debts subject to agreement from appointed External Administrators and Court Consents.		
Borrower(s)	5 Bulkara Street Pty Ltd in its own capacity and as trustee for 5 Bulkara Street Unit Trust and 6 Bulkara Street Pty Ltd in its own capacity and as trustee for 5 Bulkara Street Unit Trust		
Loan Fee Summary	Type	% (inc GST)	
	BF & Lender Loan Establishment Fee	3.00%	\$330,000 including GST
	Valuation and Legal Fees are additional and are to be borne by the borrower, unless otherwise agreed.		
Interest and Repayment Summary	Interest Rate:	10%pa payable monthly in advance with a minimum term of 6 months.	
Facility Management Fee	Type	% (inc GST)	
	Lender Facility Management Fee	1.65%pa charged monthly in advance	
Initial Discussions	BF has held initial discussions with a prospective lender and expects to be able to achieve a finance offer comparable with the Facility Details provided here.		

## SECURITY

Loan Facility Agreement	A Loan Facility Agreement from the Lender is to be executed by all borrowers and guarantors.
Property Security	First Registered Mortgages over the individual land holdings at: <ul style="list-style-type: none"> <li>• 5 Bulkara Street, Wagstaffe (NSW Folio: 2/1141260)</li> <li>• 6 Bulkara Street, Wagstaffe (NSW Folio: 3/1141260)</li> </ul>
Guarantors	<ul style="list-style-type: none"> <li>• Vincenzo Tesoriero</li> <li>• Giovanni Tesoriero</li> </ul>
Other Security	<ul style="list-style-type: none"> <li>• Relevant security interests to be provided from Borrowing Entity;</li> <li>• Such other loan Agreements, Certificates, Acknowledgements, Securities or other Documents as required by the Lender.</li> </ul>

## CONDITIONS

Financial Ratios	The LVR is to be no greater than 60.00%;
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Insurance	Evidence of appropriate Insurance Cover noting the Lender's interest is to be provided for all Property Security.
Property Information	<ul style="list-style-type: none"> <li>• Copies of endorsed development plans (where applicable);</li> <li>• Latest Rates Notices for properties; and</li> <li>• Any other information required by the Lender.</li> </ul>

## FUNDING TABLE

Below is an indicative funding table as to the distribution of funds (please note that although Blackridge Finance expects these figures to be largely correct, they are subject to change):

COSTS		FUNDED BY	
Blackridge Finance and Lender Establishment Fee (inc. GST)	\$330,000.00	1st Mortgage Loan	\$11,000,000.00
Interest Set aside for 12 Months	\$1,100,000.00		
Facility Management Fee (inc. GST)	\$181,500.00		
Lender Legal Fees (inc. GST)	\$22,000.00		
Titles Office Registration Fees, and other Search/Disbursements	\$660.00		
Valuation Fees	\$2,750.00		
<b>Total Costs:</b>	<b>\$1,636,910.00</b>	Funds for Debt Refinance	<b>\$9,363,090.00</b>

Note: Each guarantor will be required to provide an Australian Legal Practitioner's Certificate at their own cost.

## DEFINITIONS

**Agreement** – This Finance Proposal.

**GST** – Goods and Services Tax.

**Client / You** – The Entities and/or Individuals that this Finance Proposal has been prepared for.

**Financial Close** – The date of the first

funding provided by the Lender.

**BF** – Blackridge Finance Pty Ltd ABN 19 629 591 019

**ICR** – Interest Cover Ratio, defined as the Rental Income of Property Security divided by the Interest Cost

**LCR** – Loan to [acceptable development] Cost Ratio

**LVR** – Loan to Value (of Property Security) Ratio

**WALE** – Weighted Average Lease Expiry of the Security Property

## TERMS & CONDITIONS

**ATO AND STATUTORY PAYMENTS** – You confirm that you and companies that you are associated with as a director have up to date records and payments with the ATO and any relevant state bodies in respect of properties you own (jointly or wholly), and any other Statutory Bodies as required by law. Should records or payments not be up to date you have duly informed BF in writing.

**BUSINESS OR INVESTMENT**

**PURPOSES** – You acknowledge that the Finance Proposal is to be used exclusively for business or investment purposes only.

**COMMISSION** – You acknowledge that BF may be paid a commission by a Lender.

**CONFIDENTIALITY** – Each party agrees to keep information confidential and will only disclose information to third parties to obtain Offers of Finance, or to obtain legal or financial advice as required. Information will only be disclosed to professionals in their respective industries.

**DELAYS OR FAILURE** – You shall not hold BF responsible for any delay or failure to procure the offer or for any delays on the part of the lender in giving effect to and settling the facility.

**EXCLUSIVITY** – You acknowledge that BF is exclusively engaged and mandated by you until financial close of the transaction. The Agreement

may be cancelled by either party with 30 days written notice; however, all obligations and payments as set out in this Agreement will remain in force. Furthermore, if BF has performed activities and/or provided you with information during the exclusive period, reasonable fees will become due and payable at the cessation of the exclusive period or at financial close (whichever is earlier).

**GST** – Fees and any Indicative Funding Tables are quoted excluding GST, unless otherwise specifically noted.

**INDEPENDENT ADVICE** – You acknowledge that you have had the opportunity to seek independent legal and financial advice as required in making a full appraisal and informed decision in relation to whether or not to proceed with this Agreement.

**MARKETING** – You acknowledge that BF has the right to disclose the client and procreation parameters for marketing purposes.

**NO WARRANTY** – BF gives no warranty to the success of project or business as to which finance is applied.

**NON CIRCUMVENTION** – In the case of a Lender being an Authorised Deposit-taking Institution (under the Banking Act 1959) non-circumvention does not apply. For any other lenders where Term Sheets and/or Finance Offers are

provided to you it is agreed that any borrower or associated entity (be it an associated company or individual) shall either: engage BF for any lending proposals provided to that lender; or, pay BF a fee which is to be reasonably established by BF in its sole discretion. This Non Circumvention Condition expires after a period of two years from this proposal.

**NOT A CREDIT OFFER** – BF uses its best endeavors to execute this Finance Proposal with its Lending Partners; however, BF does not provide any guarantees. This Agreement is not an Offer of Finance.

**OBLIGATION TO PAY** – You acknowledge that payments to BF are due and payable as documented in this Agreement. Any payments that are not paid as and when due will accrue at an interest rate of 1.5% per month.

**PRIVACY CONSENT** – You acknowledge that this Agreement acts as a consent under any Privacy laws for BF to undertake all enquiries of the Client BF may determine necessary including conducting searches of your credit file (including commercial credit file) and the disclosure of such information to any party BF determines necessary to do so.

**THIRD PARTIES** – You acknowledge that BF has the right to pay a third party for introducing the transaction

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**ENGAGEMENT**

I/We hereby accept this Agreement and appoint Blackridge Finance Pty Ltd ABN 19 629 591 019 to procure the Finance as set out in this Proposal;

I/We warrant that we are duly authorised to execute this Agreement;

I/We will provide full and accurate information to BF in relation to the Finance Proposal;

I/We confirm that BF and its associated lenders may obtain (and disclose as necessary) credit reports from credit reporting agencies;

I/We understand that this Finance Proposal is subject to Credit Approval from undisclosed lenders, which BF cannot guarantee;

**Executed by:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Capacity: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

