

Master Trust Deed

For the Aspiring Trusts

Aspiring Asset Management Limited

Manager

and

The New Zealand Guardian Trust Company Limited

Supervisor

Date 17 September 2015

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This **Deed** is made on 17 September 2015

between (1) **Aspiring Asset Management Limited** (the **Manager**)

and (2) **The New Zealand Guardian Trust Company Limited** (the **Supervisor**).

Introduction

- A. The Manager and the Supervisor are parties to an amended and consolidated master trust deed dated 21 September 2007, as amended on 31 March 2009 and 9 September 2014 (the **Existing Deed**).
- B. Clauses 33.1(b) and (d) of the Existing Deed provides that the Supervisor and the Manager may make an alteration, modification, variation or addition to the provisions of the Existing Deed if:
- (a) in the case of clause 33.1(b), in the opinion of the Supervisor the change is necessary or desirable for the more convenient, economical or advantageous working, management or administration of any of the Funds or for safeguarding or enhancing the interests of any of the Funds or Unitholders and is not or not likely to become materially prejudicial to the general interests of all Unitholders of the relevant Funds; and
 - (b) in the case of clause 33.1(d), after a change in any law affecting unit trusts, a change to the Existing Deed is necessary to make any provision of the Existing Deed consistent with such law.
- C. The Manager and the Supervisor wish to amend the Existing Deed by substituting this Deed for the Existing Deed with effect from 18 September 2015 (**Effective Date**) to:
- (a) reflect the requirements of the Financial Markets Conduct Act 2013 (**Act**), in order to allow the Funds to become registered as managed investment schemes under the Act;
 - (b) consolidate the amendments made to the Existing Deed since its last consolidation; and
 - (c) make a number of other amendments that the Supervisor and the Manager consider appropriate in connection with the Fund becoming registered as a managed investment scheme under the Act.
- D. The amendments recorded in this Deed have been approved by the Supervisor and it has confirmed that in its opinion the amendments recorded in this Deed are necessary or desirable for the more convenient, economical or advantageous working, management or administration of the Funds or for safeguarding or enhancing the interests of the Funds or Unitholders and is not or not likely to become materially prejudicial to the general interests of all Unitholders of the Funds in existence as at the date of this Deed and the Effective Date, or such change is necessary to make any provision of the Existing Deed consistent with a change of law affecting unit trusts, being the Act.
- E. Accordingly, the Supervisor and the Manager have agreed to enter into this Deed to amend and restate the Existing Deed.

It is agreed

In accordance with the powers of amendment contained in clauses 33.1(b) and (d) of the Existing Deed it is declared that with effect from the Effective Date the Existing Deed is amended by substituting the provisions of the Existing Deed with all of the provisions of this Deed so that from the Effective Date the Funds will be administered in accordance with the provisions of this Deed.

1. Interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Accounts means, in respect of each Fund, general purpose financial statements of such Fund prepared in accordance with NZ GAAP for each Financial Year.

Act means the Financial Markets Conduct Act 2013.

Application means an application for Units in a Fund made in the form from time to time prescribed by the Manager.

Application Fee means, in respect of each Fund, the Manager's fee (if any) for issuing Units in such Fund determined in accordance with clause 24.1.

Applications Bank Account means a trust account in the name of the Supervisor in its capacity as supervisor of the Funds and maintained in accordance with the Act for the purposes of holding application moneys paid pursuant to this Deed.

Associated Person has the meaning given to that term in the Act.

Auditor means the Person for the time being holding the office of auditor of each Fund.

Authorised Investments means, in respect of each Fund, the investments which may be included in the relevant Fund as specified in the relevant Establishment Deed (as may be amended pursuant to clause 16.9).

Business Day means any day (other than a Saturday or Sunday) on which banks in Auckland are open for business.

Custodian has the meaning given to that term in clause 15.1.

Date of Termination means, in respect of each Fund, the date of its termination determined in accordance with clause 35.

Distribution Period means such period or periods (if any) that the Manager from time to time determines for a Distribution in terms of clause 18.1.

Distribution means, in relation to a Unit, the amount of income (if any) to be distributed to a Unitholder in respect of such Unit as more particularly specified in the relevant Establishment Deed.

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

Establishment Deed means a Deed executed by the Manager and the Supervisor by which each Fund is established in or to the effect of the form set out in Schedule 2 or such other form as the Manager and Supervisor may agree.

Exchange means any recognised market in New Zealand or anywhere else in the world, which brings together buyers and sellers of Investments including without limitation, any stock exchange, sovereign debt market, corporate debt market, options market, futures market or foreign exchange market.

Financial Year means, in respect of each Fund, a period of 12 months ending on 31 March (or such other date as the Manager determines) in each year (or the Date of Termination of the relevant Fund, if earlier).

FMA means the Financial Markets Authority.

Fund means each managed investment scheme created by an Establishment Deed.

Gross Asset Value means, in respect of each Fund, and in respect of each Valuation Day, such sum as is ascertained and fixed by the Manager being the aggregate of:

- (a) the Market Value of the Investments of that Fund on that Valuation Day; and
- (b) any income accrued or payable in respect of that Fund on that Valuation Day but not included in such Market Value; and
- (c) if the Manager so determines, any deferred tax assets of that Fund.

Independent Expert means an appropriately qualified person nominated by the Manager and agreed to by the Supervisor.

Investment means, in respect of each Fund, each asset held on trust by the Supervisor (or a Custodian or a Sub-Custodian) in respect of such Fund and for the avoidance of doubt can include deferred tax assets.

Issue Price means, in respect of each Fund, the price at which the Manager sells or issues Units in such Fund determined in accordance with clause 5.11.

Issuer Obligations has the meaning given to that term in the Act.

Liability means, in respect of each Fund, each liability which should be classified as such by NZ GAAP but does not include:

- (a) PIE Tax, except for PIE Tax in respect of which a deduction has been made from a Distribution or Redemption Price paid to a Unitholder or in respect of which any Units have been redeemed by the Manager; or

- (b) a contingent liability or any amount of unitholders' funds which was not classified as a liability prior to the adoption of the International Financial Reporting Standards.

Management Agreement means a separate written management agreement recording the reporting and other information the Manager shall provide to the Supervisor in accordance with clause 29.4.

Market Value of an Investment on any Valuation Day means (subject always to clause 1.4):

- (a) in respect of Investments which are listed on an Exchange, the last sale price quoted in the relevant currency for that Investment at the close of day trading on the relevant Exchange on that Valuation Day or if the Exchange is not open for day trading on that Valuation Day, on the immediately preceding day on which the Exchange was open for day trading, or if there is no last sale price then the bid price, or if the last sale price or bid price is not considered by the Manager or the Supervisor to be an accurate measure, the value determined by the Manager, in consultation with the Supervisor, having regard to such information as the Manager considers appropriate, including without limitation, if the Supervisor considers it necessary, the advice of an Independent Expert;
- (b) in respect of Investments in a unit, sub-unit or other interest in a unit trust scheme (including an interest in another fund issued by the Manager), managed investment scheme, mutual fund, flexible capital company, group investment fund or similar undertaking or scheme, whether carrying on business within or outside New Zealand, which are valued by the issuer of those Investments, the most recent valuation so made of which the Manager is aware, provided that the Manager and the Supervisor may in accordance with proper prudent principles of valuation agree upon some other form of appropriate determination as to value in respect of any specific Investment from time to time;
- (c) in respect of real property Investments, the value of that property fixed by an independent registered valuer as at a date not more than twelve months preceding that Valuation Day subject to the Manager being required to obtain a new valuation where in the Manager's opinion there has been a material change in the value of real property Investments;
- (d) in respect of Investments, not being Investments covered by sub-paragraphs (a), (b) or (c) of this definition, traded on any other market in which bargains are made on a trading floor or by direct contact between buyer and seller (or their respective agents or brokers) the last sale price quoted or recorded in the relevant currency on that Valuation Day or if the relevant market is not open for trading on that Valuation Day, on the immediately preceding day on which the relevant market was open for trading, or if there is no last sale price the bid price of that Investment or if the last sale price or bid price is not considered by the Manager or the Supervisor to be an accurate measure, the value determined by the Manager, in consultation with the Supervisor and in accordance with proper prudent principles of valuation, having regard to such information as the Manager considers appropriate, including without limitation, if the Supervisor considers it necessary, the advice of an Independent Expert;
- (e) in respect of any other Investment, the value fixed by the Manager according to proper prudent principles of valuation agreed to by the Supervisor or failing such agreement according to principles of valuation determined by an Independent Expert,

and where in respect of an Investment to which sub-paragraph (a), (b) or (d) applies the relevant information as to value is not received within 2 Business Days of the Valuation Day, means the value of that Investment which applied on the preceding day closest to the

Valuation Day (**Adopted Value**). An Adopted Value shall not be applied on more than one successive Valuation Day without the approval of the Supervisor. Where any Adopted Value is not considered by the Manager to be an accurate measure, the value determined by the Manager (having consulted with the Supervisor) having regard to such information as the Manager considers appropriate, including without limitation, if the Supervisor considers it necessary, the advice of an Independent Expert.

Month means calendar month.

Net Asset Value means, in respect of each Fund, the net asset value of the relevant Fund as determined from time to time in accordance with clause 6.1.

Net Asset Value per Unit means, in respect of each Fund, the Net Asset Value of the relevant Fund on any day divided by the Number of Units on Issue in that Fund on that day.

Number of Units on Issue means, in respect of each Fund, the total of all Units issued in such Fund and remaining on issue.

NZ GAAP means generally accepted accounting practice as defined in Section 8 of the Financial Reporting Act 2013.

Offer Document means, in relation to each Fund or one or more Funds, the document or documents, however described, issued by the Manager by which Units may be offered for issue, and includes a PDS and a register entry (as defined in the Act).

Ordinary Resolution has the meaning given to it in paragraph 11.1 of Schedule 1.

PDS has the meaning given to that term in the Act.

Person includes a natural person, a company, a corporation, a corporation sole, a firm, a unit trust, a government or a body of persons (whether corporate or unincorporate).

PIE means Portfolio Investment Entity as defined in the Income Tax Act 2007.

PIE Rebate means tax rebates paid or payable to a Fund which are determined by the Supervisor or Manager to be attributable to income/losses allocated to Unitholders and other amounts determined by the Supervisor or Manager to be equivalent to PIE Rebates.

PIE Tax means tax payable by a Fund, the Supervisor or the Manager (whether deferred or current) which is determined by reference to Prescribed Investor Rates of Unitholders or is otherwise determined by the Supervisor or the Manager to be attributable to income allocated to Unitholders.

Prescribed Investor Rate has the meaning given to the term by section YA 1 of the Income Tax Act 2007.

Redemption Price means, in respect of each Fund, the price at which Units in such Fund are redeemed, determined in accordance with clause 8.4.

Redemption Request means a request that the Manager redeem Units, delivered to the Manager in accordance with clause 8.

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

SIPO means a statement of investment policy and objectives agreed with the Supervisor for a Fund pursuant to clause 16.1(a).

Special Resolution has the meaning given to it in paragraph 11.2 of Schedule 1.

Sub-Custodian has the meaning given to that term in clause 15.2.

Unit means, in respect of each Fund, an undivided part or share in the beneficial interest in the relevant Fund.

Unitholder means each Person for the time being registered in the Unit Register under the provisions of this Deed as the holder of a Unit and includes Persons jointly registered.

Unit Register means, in respect of each Fund, the register of Unitholders in such Fund maintained pursuant to clause 12.

Unit Registrar means the Manager or such other Person appointed under clause 12.1(b) who keeps the relevant Unit Register.

Valuation Day means, in respect of each Fund, each day on which the Net Asset Value is calculated being:

- (a) such days specified in the relevant Establishment Deed; and
- (b) each other day as the Manager decides (being additional to or in substitution for the days referred to in (a) above).

Withdrawal Suspension Notice means a notice given in accordance with clause 8.11.

1.2 Interpretation

In this Deed, unless the context otherwise requires, references to:

borrow includes the raising of money by any means including acceptances, deposits, financial leases, debt factoring with recourse and the deferral of the purchase price of assets or services;

this Deed includes a reference to each Establishment Deed;

clauses, sub-clauses, paragraphs and schedules are to clauses, sub-clauses, paragraphs and schedules to this Deed;

any legislation includes a modification and re-enactment of, legislation enacted in substitution for and a regulation, order-in-council and other instrument from time to time issued or made under, that legislation, and, in the case of the Act, to any framework or methodology issued by the FMA under the Act;

the singular includes the plural and vice versa; and

parties to this Deed includes their successors and permitted assigns;

The Index to and headings in this Deed are used for convenience only and do not affect its interpretation in any way.

1.3 Currency

Where for the purposes of any provision of this Deed it is necessary to determine the New Zealand currency equivalent of a sum expressed in a non-New Zealand currency, such sum shall be converted to New Zealand currency on a basis fixed from time to time by the Manager and approved by the Auditor and any Liability which is payable in a non-New Zealand currency is for the purposes of this Deed to be treated as being a Liability of an amount equal to the New Zealand currency equivalent determined in the same way with the exception that in determining the New Zealand currency equivalent of a Liability payable or an amount expressed in a non-New Zealand currency, account may be taken of any contractual arrangement in force for covering the risk of fluctuations between New Zealand currency and the non-New Zealand currency of the Liability.

1.4 Frameworks or methodologies

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

2. Creation of the Funds

2.1 Appointment of Supervisor

The Supervisor is appointed as the supervisor of each of the Funds and agrees to act as supervisor for the Unitholders to hold each Fund in trust as trustee in accordance with the Act for the relevant Unitholders upon the terms and conditions contained in this Deed and the relevant Establishment Deed.

2.2 Appointment of Manager

The Manager is appointed as the manager of each of the Funds and agrees to act as manager upon the terms and conditions contained in and to perform its obligations in this Deed and the relevant Establishment Deed.

2.3 Establishment Deeds

Subject to clause 2.4, each Fund shall be established by an Establishment Deed which shall include, where otherwise not provided in this Deed, such of the following matters as shall be applicable to the relevant Fund:

- (a) a description of the Authorised Investments for the Fund;
- (b) the method of determining the Market Value of Investments;

- (c) the method of calculation of the Issue Price for each type of Unit;
- (d) the determination of the Valuation Days;
- (e) the date for delivery of Redemption Requests and the Valuation Day on which Redemption Requests are effective;
- (f) the rights attaching to different classes (if any) of Unit (including the manner in respect of which the provisions of this Deed will apply to each class);
- (g) the provisions applicable to determination of the Distribution Period and the amount of Distributions;
- (h) the maximum amount of the Manager's fees (including the Application Fee and management fees);
- (i) the maximum amount of the Supervisor's fees;
- (j) the procedure for the distribution of Investments upon termination of the Fund;
- (k) any applicable borrowing restrictions or requirements;
- (l) if applicable, any other matters required in order for the relevant Fund to become a registered scheme under the Act; and
- (m) any other matters which the Manager and the Supervisor deem appropriate or which the Supervisor deems necessary.

2.4 Information in Offer Documents

The Manager must ensure that the Offer Documents for a Fund include the matters required by this Deed and the Act, and otherwise comply with all applicable requirements of the Act.

2.5 Conflict Provisions

Subject to the provisions of the Act and clause 34, an Establishment Deed may amend any provision of this Deed in relation to the Fund established by that Establishment Deed. To the extent that any provision of an Establishment Deed conflicts with any provision of this Deed, the provision of the Establishment Deed shall prevail.

3. The Funds

3.1 Authorised Investments

The Investments of each Fund must at all times be Authorised Investments for such Fund. Consequently the investment obligations of the Supervisor under this Deed (including, for the avoidance of doubt, the Authorised Investments and SIPO for a Fund) constitute a contrary intention for the purpose of sections 2(5), 2(5A) of the Trustee Act 1956.

3.2 The Constitution of the Funds

The Investments for a Fund shall consist of all of the cash, property, assets and rights for the time being held by the Supervisor, a Custodian, or a Sub-Custodian in respect of that Fund including:

- (a) the proceeds of sale of any Investments;
- (b) all additions or accretions (if any) to the Fund which arise by way of dividend, interest, premium or distribution, or which are otherwise received and are for the time being retained by the Supervisor, Custodian, or Sub-Custodian; and
- (c) all income from the Fund held pending distribution or reinvestment.

4. Nature of Units

4.1 Beneficial interests in Funds

The beneficial interest in each Fund is divided into Units.

4.2 Equal but not specific Fund interests

- (a) Subject to the rights attaching to unpaid or partly paid Units and other Units with special rights, every Unit confers an equal interest in the Fund to which it relates and is of equal value.
- (b) A Unit does not confer any interest in any particular part of the Fund to which it relates or of any Investment and no Unitholder is entitled to require the transfer to such Unitholder of any of the Investments nor (subject to the rights of Unitholders created by this Deed and by law) is any Unitholder entitled to interfere with or question the exercise or non-exercise by the Manager or the Supervisor of any of the trusts, powers, authorities or discretions conferred upon them or either of them by this Deed or in respect of that Fund.

4.3 Consolidation or division of Units

The Manager may, by written notice to the Supervisor, determine that, in respect of any Fund, all holdings of Units in such Fund are to be consolidated or divided proportionately so as to alter the Number of Units on Issue with effect from the close of business on the relevant day. Where such consolidation or division involves a fraction of a Unit in relation to any particular Unitholder, the number of Units which that Unitholder is entitled to shall be rounded down to two decimal places and the remainder disregarded.

4.4 No interest in other Funds

A Unit in one Fund shall not confer any right or interest in any other Fund.

5. Issue of Units

5.1 Application Procedure

Every Person wishing to apply for or acquire Units in any Fund must:

- (a) complete and lodge with the Manager an Application in writing or by Electronic Communication in the form from time to time prescribed by the Manager specifying the application moneys to be applied by the Supervisor, Custodian, or Sub-Custodian (as applicable) to the purchase of Units in the particular Fund. An initial Application shall be signed, authorised or authenticated by or on behalf of the applicant in such manner as the Manager may prescribe from time to time or may be required by law; and
- (b) forward to the Manager for prompt payment in accordance with clause 5.6 to the Applications Bank Account the aggregate of the Application Fee (if any) and the Issue Price and ensure that any cheque is made payable to the Supervisor in its capacity as supervisor of the Funds.

5.2 Manager's Discretion

- (a) The Manager may in its absolute discretion accept or refuse to accept in whole or in part any Application and the Manager is not required to give any reason or ground for such refusal.
- (b) The Manager may in its absolute discretion redeem Units or treat as void ab initio the issue of Units which would or could result in a Fund losing its status as a PIE if remedial action was not taken.

5.3 Refund of Application Moneys

- (a) Once the Manager has made a decision to reject an Application, the Manager must as soon as practicable (and in any event, no later than one month after the obligation to refund arises) refund or arrange for the Supervisor, Custodian, or Sub-Custodian (as applicable) to refund the relevant Application moneys in accordance with the Act (without interest).
- (b) Where Units are redeemed under clause 5.2(b), the Manager must request the Supervisor, Custodian, or Sub-Custodian (as applicable) to pay the Redemption Price for such Units to the relevant Unitholder.
- (c) Where Units are voided under clause 5.2(b) the Supervisor, Custodian, or Sub-Custodian (as applicable) shall refund the Application moneys to the relevant Unitholder and pay such additional compensation to the relevant Unitholder as it determines appropriate after consultation with the Manager.

5.4 Entry Fee

The Manager may charge the Unitholders an entry fee on the issue of Units of the amount set out in the relevant Establishment Deed. This fee will be paid into the relevant Fund.

5.5 Number of Units

If the Manager accepts an Application, the number of Units issued shall be that number of Units that have an aggregate Issue Price equal to the application moneys received less any applicable Application Fee and/or entry fee, with fractions rounded to the nearest whole number of Units (or rounded in such other manner as the Manager may determine in respect of a particular Fund as set out in the Establishment Deed for that Fund).

5.6 Payment to Supervisor: Registration and Issue of Units

The Manager must:

- (a) pay all Application moneys to the Applications Bank Account promptly on receipt of such moneys;
- (b) hold all Application moneys paid to the Manager on trust for the relevant applicant in accordance with the Act;
- (c) on issue of a Unit, enter the name of the Unitholder on the appropriate Unit Register; and
- (d) comply with applicable laws relating to the notification, or certification to Unitholders, of their respective holdings of Units.

5.7 Minimum Application Amounts

An Application for Units must be in respect of a minimum number of Units or dollar value as set out in the relevant Establishment Deed. The Manager may vary such minimum amount from time to time in its discretion.

5.8 Restrictions on Sale or Issue of Units

- (a) The Manager may at any time or times by notice in writing to the Supervisor determine that no further Units shall be issued pursuant to this Deed or any Establishment Deed in respect of any Fund after a date specified in the notice to the Supervisor either for any specified period or until the Fund is terminated. In such event the Manager will not after the date specified in the notice issue any further Units under this Deed or any Establishment Deed in respect of any Fund for the specified period or until this Deed is terminated whichever situation applies.
- (b) No Unit may be sold or issued by the Manager after receipt by the Supervisor of a notice of termination given by the Manager pursuant to clause 35(d) except with the prior consent in writing of the Supervisor.

5.9 Issue or Purchase of Units

Applications for Units accepted by the Manager may at the option of the Manager be treated as:

- (a) a subscription for Units to be issued from the relevant Fund;
- (b) a request for the purchase from the Manager of Units in the relevant Fund owned by

the Manager; or

- (c) a request for the purchase from an existing Unitholder of Units in the relevant Fund owned by that Unitholder.

Regardless of the alternative adopted by the Manager the purchase or subscription price payable by Unitholders must always be the Issue Price.

5.10 Issue Date

Subject to clause 1.4, the dates on which Units are issued in the relevant Fund are the dates specified in the relevant Establishment Deed.

5.11 Determination of Issue Price of Units

Subject to clause 1.4, the Issue Price of each Unit sold or issued by the Manager shall be determined in accordance with the relevant Establishment Deed. The Issue Price shall be rounded down to the nearest four decimal places.

5.12 Different Classes of Units

Where there are different classes of Units in any Fund, subject to clause 1.4, the method of calculating the Issue Price in respect of each such different class shall be set out in the relevant Establishment Deed.

5.13 Manager's Application Fee

- (a) To the extent an Application is satisfied by the sale of Units owned by the Manager, the Manager is entitled to receive and retain for its own benefit the whole of the aggregate Issue Price and Application Fee of those Units.
- (b) To the extent an Application is satisfied by the issue of Units or the sale of Units owned by an existing Unitholder, the Manager is entitled to receive and retain for its benefit the Application Fee in respect of those Units and, such Application Fee shall be paid to the Manager by the Supervisor from the Fund into which the relevant Issue Price is paid.
- (c) Any moneys due to the Manager under this clause will be paid to the Manager by the Supervisor as soon as practicable after the date when the relevant Units are issued or sold (as the case may be).

5.14 Commission etc

The Manager is free, at its own cost and not that of any of the Funds, to pay such commission or brokerage to any Person for subscribing for or underwriting the subscription for or obtaining purchases or subscriptions for any Units as the Manager may from time to time determine.

5.15 Compliance With Relevant Laws

The Manager must not issue or make any regulated offer (as defined in the Act) of any Unit unless an Offer Document in relation to that Unit has been issued in accordance with the requirements of applicable law. Each PDS must be in a form that the Supervisor has reviewed and approved. The Manager undertakes to provide the Supervisor with a list of register entries in respect of the Funds on a monthly basis (or more often, on request by the Supervisor).

5.16 Issue of Units for PIE Rebates

Where a PIE Rebate is due to a Unitholder, the Manager may issue Units to the Unitholder (or refund that PIE Rebate to the Unitholder in another manner it determines appropriate) on account of that PIE Rebate on such date as the Manager determines and in all cases at the Issue Price applicable on the date of issue of such Units.

6. Valuations

6.1 Net Asset Valuation

Subject to clause 1.4, on each Valuation Day in respect of each Fund and at the time of day (if any) set out in the relevant Establishment Deed, the Manager shall calculate the Net Asset Value of the relevant Fund as at that time and day by taking the Gross Asset Value of the Fund on the relevant Valuation Day and deducting the aggregate of:

- (a) all Liabilities of the relevant Fund determined on an accruals basis up to the time of the day (if any) set out in the relevant Establishment Deed on the relevant Valuation Day; and
- (b) such other provisions as the Manager or the Supervisor thinks necessary or desirable for accrued or contingent liabilities or losses including a provision for the costs of realisation of any Investments and redemption or repurchase of Units.

6.2 Period of Effectiveness of Valuations

Each determination of the Net Asset Value shall remain in force until the next determination on a Valuation Day.

6.3 Determination of Market Value

Subject to clause 1.4:

- (a) the Manager will determine the Market Value of each Investment and the Net Asset Value of each Fund in accordance with the provisions of this Deed and the provisions (if any) in the relevant Establishment Deed; and
- (b) the Manager may with the approval of the Supervisor alter the basis of determination of the Market Value of an Investment and/or the Net Asset Value of a Fund.

7. Transfer, transmission and registration of Units

7.1 Units may be Transferred

Subject to the consent of the Manager under clause 7.6 and to the other provisions of this Deed, a Unit in a Fund may be transferred.

7.2 Form of Instrument of Transfer

The instrument of transfer of any Unit must comply with the provisions of the Act and be:

- (a) in writing in any form which the Manager approves from time to time;
- (b) for the minimum number of Units or dollar value (if any) specified in the relevant Establishment Deed or Offer Document; and
- (c) be accompanied by the transfer fee (if any) payable under clause 7.4.

7.3 Registration of Instrument of Transfer and provision of information

- (a) Every instrument of transfer of Units must be delivered for registration to the Manager at its registered office or to the Unit Registrar. If the Manager is not also the Unit Registrar, the Manager will forward the transfer to the Unit Registrar.
- (b) The transferor is deemed to remain the Unitholder until the transfer of such Unit is entered in the Unit Register.
- (c) Subject to clause 7.6, the Manager shall forthwith:
 - (i) register or arrange the registration of each transfer delivered to it in accordance with this clause and to enter the relevant details in the appropriate Unit Register; and
 - (ii) comply with its obligations (if any) under clause 11.

7.4 Transfer Fee

The Unit Registrar may charge a fee determined by it and approved by the Manager in respect of any transfer or class of transfers. Such fee shall be paid by the transferee Unitholder at the time of delivery of the relevant transfer in accordance with clause 7.3(a).

7.5 Payment of Sums Owed as a Condition to Transfer

No transfer of any Units can be registered unless the Unitholder has paid all duties, taxes (including goods and services tax) and other commissions, fees and charges (in cleared funds) in respect of the transfer of the relevant Units.

7.6 Power to Decline Transfer

The Manager may decline to register any transfer:

- (a) for non-compliance with any law;
- (b) if the transferee fails to pay the transfer fee;
- (c) if the transfer would result in the transferee or transferor holding less than a minimum number of Units or Units having less than a minimum value, in either case specified by the Manager from time to time in relation to any Fund; or
- (d) if the transfer would or could result in a Fund losing its status as a PIE.

7.7 Retention of Instrument of Transfer

Every instrument of transfer of a Unit which is registered must be retained by the Manager for such period as the Manager may determine, after which (subject to the provisions of any law or this Deed to the contrary) the Manager may destroy it.

7.8 Closing of the Unit Register for Transfer

- (a) Each Unit Register shall be closed for transfers during public holidays and on Saturdays and Sundays.
- (b) Each Unit Register may also be closed for transfers for as many days and at such time or times (not exceeding in the aggregate 28 days in each year) as the Manager thinks fit.
- (c) Notwithstanding clause 7.8(b), a Unit Register may be closed for transfers for longer periods with the consent of the Supervisor.
- (d) The Manager may decline to register any transfer during any period when the relevant Unit Register is closed.

7.9 Transmission Upon Death

- (a) The executor or administrator of a deceased Unitholder (not being one of several joint Unitholders) and (in the case of the death of one or more joint Unitholders) the survivor or survivors of those Unitholders are the only Persons recognised by the Manager as having any title to the Units registered in the name of that Unitholder.
- (b) If a Unitholder has sold or otherwise disposed of some or all of those Units and has delivered to the transferee a transfer of the Units so sold or otherwise disposed of and the transfer of the Units is not registered before the death of that Unitholder, the Manager may register that transfer notwithstanding that at the time of such registration the Manager has notice of that Unitholder's death.

7.10 Transmission by Operation of law

- (a) Upon producing the evidence required by clause 7.10(b) the following persons may be registered as the Unitholder in respect of Units or may validly transfer Units (subject to the provisions of this Deed as to transfers):
 - (i) the committee, statutory representative or manager or attorney of a Unitholder of unsound mind or of a Unitholder whose person or estate is liable to be dealt with in any way under the laws relating to mental health; and
 - (ii) any Person becoming entitled to Units in consequence of insolvency, bankruptcy, liquidation, arrangement or composition with creditors or assignment for the benefit of creditors or scheme of arrangement of any Unitholder or otherwise than by transfer.
- (b) Any committee, statutory representative, manager or attorney or Person seeking registration pursuant to clause 7.10(a) as a Unitholder in respect of Units or the transfer of Units (as the case may be) must produce such evidence of capacity or of title as is considered by the Manager to be sufficient.

7.11 Refusal of Registration of Transmissions of Units

Registration of a transmission of Units to any Person may be refused by the Manager in the same circumstances that would apply if that Person was a transferee named in a transfer presented for registration under this Deed.

8. Repurchase or Redemption of Units

8.1 Redemption Request

- (a) Any Unitholder wishing to redeem his or her Units, must deliver an irrevocable Redemption Request to the Manager at its registered office, at the time specified in the relevant Establishment Deed or Offer Document. Each Redemption Request shall be in writing or by Electronic Communication and be in such form as the Manager may for the time being require.
- (b) The Manager may from time to time, in respect of any Fund, fix a minimum number or value of Units that may be repurchased or redeemed and the minimum number or value of Units which a Unitholder may hold after part redemption. If a Unitholder requests redemption of part of the Unitholder's Units and the remaining Units would be less than the minimum number or value fixed by the Manager, the Manager may decline to redeem any of that Unitholder's Units unless the Unitholder redeems all of the Unitholder's Units.

8.2 Undertaking to Repurchase or Redeem

- (a) The Manager undertakes to the Supervisor (for the benefit of the Unitholders as well as the Supervisor) that the Manager will, at its option, upon receiving a Redemption Request from a Unitholder and subject to, and upon compliance with, the terms of this clause 8 either:
 - (i) repurchase each Unit to which such Redemption Request relates; or

- (ii) request the Supervisor to redeem each Unit to which such Redemption Request relates,

in each case for an amount equal to the Redemption Price as at the Valuation Day on which such Unit is redeemed or repurchased.

- (b) The Manager is not obliged to offer to repurchase Units at any time.

8.3 Exit Date

Subject to clauses 1.4, 8.11, 8.12 and 8.14, when a Redemption Request is received at the registered office of the Manager, the Manager must repurchase or request the Supervisor to redeem the Units with effect from the Valuation Day specified in the relevant Establishment Deed.

8.4 Redemption Price

Subject to clause 1.4:

- (a) The Redemption Price of each Unit redeemed or repurchased from the relevant Fund is to be determined by the Manager as at the Valuation Day on which the Unit is redeemed as the Net Asset Value per Unit on that Valuation Day.
- (b) The Redemption Price shall be rounded up to the nearest four decimal places.

8.5 Exit Fees

The Manager may charge the Unitholders an exit fee on the redemption of Units of the amount set out in the relevant Establishment Deed. This fee will be paid into the relevant Fund.

8.6 Payment of the Redemption Price

- (a) The Redemption Price (less any applicable exit fee) must be paid within 7 Business Days of the Valuation Day on which a Unit is redeemed or repurchased except where the relevant Units have been paid for by cheque, in which case the Redemption Price must be paid within 7 Business Days of the date on which the cheque has been cleared.
- (b) Where the Units referred to in a Redemption Request by a Unitholder are purchased by the Manager, the Manager must pay to the Unitholder the Redemption Price (less any applicable exit fee) out of the Manager's own funds.
- (c) Where the Units referred to in a Redemption Request by a Unitholder are to be redeemed, the Manager must direct the Supervisor to apply any cash held by the Fund, dispose of Investments or borrow, to release the aggregate Redemption Price from the relevant Fund. The Manager may pay the Unitholder the aggregate Redemption Price out of the Manager's own funds and, if it does so, is entitled to retain for its own benefit the moneys released by the Supervisor from the Fund in accordance with clause 8.9(b).

8.7 Disposition of Repurchased Units by the Manager

If Units are repurchased by the Manager for its own benefit, the Manager is entitled then or at any time thereafter to sell any or all of those Units in accordance with clauses 5 and 7 or to have them redeemed in accordance with clause 8.9.

8.8 Cancellation of Redeemed Units

All Units redeemed are to be cancelled by the Manager and cannot thereafter be re-issued but this does not restrict the creation and issue of new Units. Details of all cancelled Units are to be entered in the Unit Register, and the requirements of clause 11 (if any) complied with.

8.9 Redemption of Manager's Units

- (a) The Manager is entitled to request the Supervisor to redeem Units held by the Manager in the procedure set out in the Establishment Deed for a Fund provided that the same procedures and valuation provisions apply to both the Manager and Unitholders.
- (b) If the Supervisor is satisfied that such a request by the Manager relates solely to the redemption of Units held by the Manager then the Supervisor must release from the relevant Fund and pay to the Manager the aggregate Redemption Price of the Units to be redeemed within 7 Business Days of the relevant Valuation Day.

8.10 Surpluses and Deficiencies on Redemption of Manager's Units

Subject to clause 14, the Manager is entitled to the benefit of any surplus and is liable for any deficiency of the Redemption Price of a Unit owned by the Manager and redeemed under clause 8.9 over or below the price at which that Unit was acquired by the Manager (the **Manager's Acquisition Price**) and the Manager is not obliged to account to the Supervisor, the relevant Fund or any Unitholder for any excess over the Manager's Acquisition Price nor is the Supervisor, the relevant Fund or any Unitholder obliged to recompense the Manager, for any deficiency below the Manager's Acquisition Price.

8.11 Deferral of Repurchase and Redemption

If by reason of:

- (a) the suspension of trading on any Exchange (whether generally or in respect of any specific Investment);
- (b) financial, political or economic conditions applying in respect of any financial market;
- (c) the nature of any Investment;
- (d) a Redemption Request is received or a series of Redemption Requests have been received within a period of 3 months that in aggregate relate to more than 5% (or such other percentage as the Manager specifies from time to time by not less than 30 days prior notice to Unitholders) of the Number of Units on Issue in the relevant Fund at the time of the Redemption Request or last Redemption Request in such series; or

- (e) the occurrence or existence of any other circumstance or event relating to the relevant Fund or generally,

the Manager shall in good faith form the opinion that it is not practicable, or would be materially prejudicial to the interests of any Unitholders, for the Manager to give effect to Redemption Requests then the Manager may give notice (**Withdrawal Suspension Notice**) to that effect to any Unitholder who gives or has given a Redemption Request. A Withdrawal Suspension Notice in respect of any Fund shall have the effect of suspending the operation of all Redemption Requests given in respect of that Fund until such time as the Manager gives to the Unitholders who gave those Redemption Requests notice to the effect that the Withdrawal Suspension Notice is cancelled. The Manager may determine that such Units may be progressively repurchased or redeemed by instalments with effect from one or more Valuation Days falling in a period determined by the Manager or in total at the expiration of a period determined by the Manager and in any such case the Redemption Price is to be calculated at the Valuation Day or Days on which Units are repurchased or redeemed.

8.12 Suspension of Repurchase and Redemption

Notwithstanding anything contained in this Deed, if a Redemption Request is received or a series of Redemption Requests have been received within a period of 3 months that in aggregate relate to more than 20% of the Number of Units on Issue at the date of receipt by

the Manager of the Redemption Request or last Redemption Request in such series, then the Manager may suspend the right of the Unitholders in such Fund to make Redemption Requests on the following conditions:

- (a) the Manager must notify the Supervisor of its intention to suspend the right of Unitholders to make Redemption Requests; and
- (b) the Manager must immediately call a meeting of Unitholders in the manner set out in this Deed to consider the winding up of the relevant Fund or such other action as the Unitholders deem appropriate.

8.13 Suspension in relation to Manager's Units

While there is any deferral or suspension in operation pursuant to clauses 8.11 or 8.12, the Manager shall not be entitled to redeem any Units held by it.

8.14 Redemption not applicable

If the relevant Establishment Deed so provides, Units or particular Units in the relevant Fund will not be redeemable and the provisions of this clause 8 will not apply to that Fund or the particular Units.

8.15 Redemption on account of PIE Tax

The Manager may compulsorily redeem a Unitholder's Units on account of any PIE Tax attributable to income allocated to that Unitholder on such date as the Manager determines and in all cases at the Redemption Price applicable on the date of redemption of such Units.

9. Joint holders of Units

Where 2 or more Persons are registered as the Unitholders of any Unit (**joint Unitholders**), they are for the purposes of the administration of the relevant Fund and not otherwise deemed to hold the Unit as joint tenants subject to the following provisions:

- (a) The Manager is not bound to register more than 2 Persons as the Unitholders of any Unit;
- (b) The joint Unitholders of any Unit are liable severally as well as jointly in respect of all payments which ought to be made in respect of the Unit;
- (c) On the death of any joint Unitholder, the survivor or survivors of them is or are the only Person or Persons recognised by the Manager as having any title to the Unit, but the Manager may require such evidence of death as it may deem fit;
- (d) Any one of the joint Unitholders may give effectual receipts for any Distribution payable to such joint Unitholders; and
- (e) Only the Person whose name stands first in the Unit Register as one of the joint Unitholders of any Unit is entitled to be allocated PIE income, receive notices, cheques or other communications from the Manager or the Supervisor, and any notice, cheque or other communication given to such Person is deemed to have been given to all the joint Unitholders. With the consent of all registered joint holders of a relevant Unit, the Manager may amend the name of the Person standing first in the Unit Register. Where one joint Unitholder has a higher Prescribed Investor Rate than the other the one with the higher rate will be required to stand first in the Unit Register.

10. Registered holder absolute owner

Except as otherwise provided in this Deed, the Manager and the Supervisor are entitled to treat the registered Unitholder of a Unit as its absolute owner and accordingly, except as ordered by a court of competent jurisdiction or as required by statute, are not bound to recognise (even upon notice) any equitable or other claim to or interest in the Unit on the part of any other Person.

11. Confirmation information

The Manager will provide a Unitholder with the confirmation information required by the Act following the issue, redemption, or purchase of a Unit, or otherwise in the circumstances required by the Act.

12. Unit registers

12.1 The Register

- (a) A Unit Register of Unitholders in respect of each Fund must be kept by the Manager in a form and manner required by the Act and approved by the Supervisor.
- (b) The Manager may appoint a person to keep the Unit Registers on its behalf.
- (c) The Unit Registers must be kept in New Zealand.
- (d) Such Unit Registers may be:
 - (i) an electronic register (including a computer based information storage and retrieval system compiled in a manner approved by the Supervisor); or
 - (ii) kept in any other reasonable manner the Manager thinks fit.

12.2 Details to be entered into Register

There must be entered in each Unit Register in respect of every Unit entered on the Unit Register:

- (a) the names and addresses of the Unitholders, or in the case of joint Unitholders the address of the Unitholder first mentioned in the Unit Register;
- (b) the number and nature of Units held by each Unitholder;
- (c) the date on which each parcel of Units was issued or transferred (as applicable) to the relevant Unitholder; and
- (d) such other matters as the Manager and Supervisor may agree or as may be required by the Act.

12.3 Reliance upon the Register

The Manager and the Supervisor are entitled to rely upon entries in the Unit Register as being correct.

12.4 Audit of the Register

- (a) The Manager must ensure that each Unit Register is audited by the Auditor in accordance with the Act (being at intervals of not more than 12 months or as otherwise required by the Act).
- (b) The Auditor, in completing its audit of each Unit Register, shall perform any other functions required by the Act, and comply with any obligations it has under the Act.

12.5 Inspection

Each Unit Register must be open for inspection by any Unitholder (and any other Person so entitled by the Act), free of charge, during the business hours of the Unit Registrar or as otherwise required by the Act.

12.6 Copies of Registers

The Manager will promptly deliver to:

- (a) the Supervisor on demand by the Supervisor, a copy of each Unit Register in such form as the Supervisor may require (including by way of a soft copy of the electronic Unit Register); and
- (b) any other person entitled under the Act, a copy of or an extract from a Unit Register in accordance with the Act.

12.7 No recognition of trusts

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

13. Borrowing powers of the Supervisor

13.1 Borrowing powers

Subject to clauses 13.2, 13.3, and 14 in respect of any Fund and unless prohibited by the relevant Establishment Deed, the Supervisor has the power to, and must, if so directed by the Manager:

- (a) borrow money from any Person (including a Unitholder);
- (b) for the purpose of such borrowing, enter into loan documents or securities, sell, discount, endorse or deal with bills of exchange, promissory notes and other securities and take all other steps necessary to give effect to any such borrowing; and
- (c) mortgage, charge, pledge or otherwise create a security interest over all or any of the Investments forming part of the relevant Fund as security for any moneys borrowed.

13.2 Limitation on borrowings

The aggregate of the principal moneys borrowed and outstanding in respect of any Fund or secured against the Investments of that Fund together with the principal moneys proposed to be borrowed may not exceed the limitation on borrowings (if any) set out in the relevant Establishment Deed.

13.3 Conditions of borrowing

There is no obligation upon the Supervisor to comply with any direction given pursuant to clause 13.1 or to complete any loan or security documents unless the Supervisor is satisfied that:

- (a) the Supervisor's liability is restricted to the Investments from time to time comprising the relevant Fund;
- (b) any loan security or other obligation binding on the Supervisor does not impose any unreasonable obligation upon the Supervisor; and
- (c) there has been compliance with any specific borrowing requirements set out in the relevant Establishment Deed.

13.4 Third Parties need not Inquire

No Person from whom the Supervisor has or intends to borrow in respect of any Fund needs to enquire as to whether or not the limitation set out in clauses 13.2 and 13.3 have been observed or complied with.

14. Related party transactions

14.1 General prohibition on Related Party Benefits

The Manager (or any other person to whom the Manager has contracted out some or all of its functions as Manager) must not enter into a transaction that provides for a Related Party Benefit to be given.

14.2 Certain benefits permitted

Clause 14.1 does not apply to a transaction or a series of transactions if the Manager gives prior written notice to the Supervisor of the transaction or transactions, including the Related Party Benefits given under the transaction or transactions, and either:

- (a) the Manager obtains the Supervisor's prior written consent to the transaction or transactions; or
- (b) an exemption under the Act applies to the transaction or transactions or all Related Party Benefits to be given.

14.3 Effect of permitted benefit

Where clause 14.2 applies, the Manager or other recipient of a Related Party Benefit is entitled to profit from the transaction or transactions concerned and is not liable to account to the relevant Fund or any Unitholder for the Related Party Benefit.

15. Custody

15.1 Supervisor may appoint Custodian

The Supervisor is entitled to, after giving prior written notice to the Manager, appoint a person (a **Custodian**) from time to time on such terms as the Supervisor may determine to hold any Investments of any Fund where the Custodian:

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

15.2 Custodian may appoint Sub-Custodian

A Custodian shall be entitled, if authorised in writing by the Supervisor, to appoint another person (a **Sub-Custodian**), to hold those Investments of any Fund that would otherwise be held by the Custodian where the Sub-Custodian:

- (a) is a body corporate that the Custodian believes, on reasonable grounds, to be appropriate to hold, and safeguard, the Investments; and
- (b) is not the Manager or an Associated Person of the Manager.

The Supervisor shall give the Manager prior written notice of its intention to authorise a Custodian to appoint a Sub-Custodian under this clause.

15.3 Duties of appointing entity

If a person contracts the holding of Investments to another person (in this clause, the **nominee**) under this section 15, the person contracting out that function shall take all reasonable steps to:

- (a) ensure that the function is performed by the nominee in the same manner and subject to the same duties and restrictions as if the person were performing it directly;
- (b) monitor the performance of that function; and
- (c) ensure that the nominee complies with sections 157 to 160 of the Act.

15.4 Fees and expenses of Custodian

- (a) If the Manager agrees, the fees and expenses of a Custodian or Sub-Custodian may be payable out of the Investments of the relevant Fund and shall be as agreed between the Supervisor, Manager, and the Custodian or Sub-Custodian from time to time provided that those fees are determined on an arm's-length basis.
- (b) The terms of appointment of a Custodian or Sub-Custodian may indemnify the Custodian or Sub-Custodian for liabilities or expenses incurred in relation to the performance of its contracted functions.

16. Manager's and Supervisor's powers to invest

16.1 Statement of Investment Policy and Objectives

- (a) The Manager will ensure that there is a SIPO agreed with the Supervisor which complies with the Act for the Manager to follow in connection with the investment of each Fund.
- (b) The Manager shall comply with such agreed SIPO.
- (c) The SIPO shall be referred to in the Offer Documents to the extent required by law.
- (d) The Manager and the Supervisor may amend or replace the SIPO from time to time provided that:
 - (i) the Manager gives prior written notice to the Supervisor of the proposed amendment or replacement;
 - (ii) the Manager provides Unitholders at least one month's notice before implementing any change in the SIPO (unless the Manager and the Supervisor agree the change is not material); and
 - (iii) the Manager does not implement such change until all Redemption Requests received within that one month notice period have been actioned.

16.2 Supervisor's Discretion as to Investments

The Supervisor will not act, and will direct any Custodian and Sub-Custodian not to act, on any direction of the Manager to invest, acquire or dispose of any Investment if in the opinion of the Supervisor, given in writing to the Manager and the FMA, the proposed Investment, acquisition or disposition or transfer of assets into that Fund would be:

- (a) manifestly not in the interests of the Unitholders;
- (b) in breach of any Issuer Obligation.

The Supervisor, Custodian, and Sub-Custodian is not liable to the Unitholders or the Manager for so refusing to act on any direction (and in the case of the Supervisor, for so directing any Custodian or Sub-Custodian).

16.3 Investment Directions by the Manager

Subject to clauses 3.1, 16.1 and 16.2, the Manager will manage each Fund and as necessary may direct the Supervisor to:

- (a) purchase, acquire, sell, transfer or dispose of Investments;
- (b) enter into any commitments or liabilities in respect of Investments;
- (c) execute and deliver such contracts, documents, bills, notes, Deeds or other

instruments as may be necessary in respect of the foregoing; and

(d) take any other action which may be required in respect of Investments,

and the Supervisor will from time to time, to the extent of the respective funds in its hands or control (including, for the avoidance of doubt, those held or controlled by a Custodian or Sub-Custodian), act as directed in writing by the Manager.

16.4 Advisers

Subject to the terms of this Deed, in relation to the purchase, sale and other dealings with any Authorised Investments by the Supervisor, the Manager may determine the time and mode and the consultants, agents, brokers and professional advisors (if any) for the purchase, sale and other dealing.

16.5 Investments in Supervisor's Name

The Manager shall cause Investments to be vested in the Supervisor, Custodian, or Sub-Custodian (as applicable) and to be registered in the name of the Supervisor, Custodian, or Sub-Custodian as soon as reasonably practicable after receipt of the necessary documents and must deliver all certificates or other documents of title for safe custody as directed by the Supervisor.

16.6 Bank Accounts

A bank account or accounts in the name of the Supervisor, Custodian, or Sub-Custodian (as applicable) must be opened and maintained for each Fund. All moneys belonging to the relevant Fund and coming into the hands of the Manager or the Supervisor must be paid to the credit of such bank account. The Supervisor shall determine the Persons authorised to operate such bank accounts.

16.7 Notice of Investments to Supervisor

The Manager must give notice to the Supervisor of any transaction required to be entered into by the Supervisor in relation to borrowing, the giving of securities or the purchase, acquisition, sale or disposition of, or dealing with, the Investments. The Supervisor may request any additional information which it may reasonably require regarding any transaction including the obtaining of such valuations or other expert advice as the Supervisor deems necessary or desirable.

16.8 Supervisor's Right to Limit Liability

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

16.9 Amendment to Authorised Investments

Where the Manager determines that it is in the interests of the Unitholders in a particular Fund to vary any part of the definition of Authorised Investments relating to that Fund so as to exclude or include any type of Investment the Manager will amend the relevant provisions of this Deed or the relevant Establishment Deed in accordance with clause 34.

17. Investment records

17.1 Manager to Keep Records

The Manager must keep complete, accurate and separate records of all Investments constituting each of the Funds in accordance with the Act.

17.2 Reliance on Records

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

18. Distributions

18.1 Determination of Distribution Period and Distributions

The length of a Distribution Period and the method of calculation of Distributions shall be those specified in the relevant Establishment Deed or as subsequently varied by the Manager.

18.2 Allocation and Distribution

- (a) Subject to the terms of this Deed and the applicable Establishment Deed, the Manager will determine the amount of each Distribution (if any).
- (b) Unless otherwise specified in the relevant Establishment Deed, a Unit on issue on the last day of the relevant Distribution Period entitles its Holder to participate in the distribution for the period in full irrespective of the number of days it has been on issue.
- (c) Distributions may be made in cash or by the issue of Units as provided in the applicable Establishment Deed.
- (d) Payment of cash Distributions must be made within 30 days after the last day of the Distribution Period to which they relate. Issues of new Units must be made on a Valuation Day.
- (e) The provisions of clause 5, with such changes as are necessary, apply to the Units issued in accordance with this clause.
- (f) The Manager may make a deduction from any Distribution to a Unitholder on account of PIE Tax attributable to income allocated to that Unitholder.

18.3 Reinvestment of Distributions

- (a) If the relevant Establishment Deed or Offer Document so provides, Unitholders may elect to reinvest their Distributions (less any deductions on account of PIE Tax which the Manager is obliged or permitted to deduct) by subscribing for further Units in the relevant Fund by making a written request in that behalf to the Manager in their initial Application or in such other form as may from time to time be determined by the

Manager. Any request in such other form must be submitted to the Manager prior to the expiration of the Distribution Period. Any request (whether in an initial Application or at a later date) may be varied or terminated by notice in writing to the Manager at any time.

- (b) The Manager will treat such a request as though it were an application to subscribe for further Units in the relevant Fund with the relevant Distribution (less any tax) and accordingly the provisions of clause 5, with such changes as are necessary, apply to the Units issued in accordance with this clause. No Application Fee shall be charged by the Manager.
- (c) Notwithstanding the foregoing, the Manager may decline to effect any reinvestment of a Distribution without giving any reason.

18.4 Disclosure of Information to Tax Authorities

The Manager and the Supervisor are authorised to make such disclosure as may be required by the Inland Revenue Department of the details of Unitholders, any Distributions to Unitholders or any other details or information arising out of any of the Funds.

19. Supervisor's powers, functions, and duties

19.1 Supervisor's Powers

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

19.2 Waivers

Subject to clause 34, the Supervisor may, whenever it thinks expedient in the interests of the Unitholders, waive at any time and on any terms or conditions any breach of the covenants or obligations binding on the Manager under this Deed where such waiver will not, in the opinion of the Supervisor, materially adversely affect the interests of the Unitholders.

19.3 Supervisor's functions

The Supervisor is responsible for the following functions:

- (a) acting on behalf of the Unitholders in relation to:
 - (i) the Manager;
 - (ii) any matter connected to this Deed, each Establishment Deed or the terms of any regulated offer (as that term is defined in the Act) of Units;
 - (iii) any contravention or alleged contravention by the Manager of its Issuer

Obligations; and

- (iv) any contravention or alleged contravention of the Act by any other person in connection with the Funds;
- (b) supervising:
 - (i) the performance by the Manager of its functions under this Deed, each Establishment Deed and its Issuer Obligations; and
 - (ii) the financial position of the Manager and each Fund to ascertain that it is adequate;
- (c) holding the Investments of each Fund in accordance with the Act, or ensuring those Investments are held in accordance with clause 15; and
- (d) performing or exercising any other functions, powers, and duties conferred or imposed on the Supervisor by or under the Act, the Financial Markets Supervisors Act 2011, this Deed, and each Establishment Deed.

The Supervisor must not delegate its functions under this clause, except to the extent permitted by the Act or the Financial Markets Supervisors Act 2011.

19.4 Supervisor's general duties

The Supervisor must:

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

19.5 Duty to act

The Supervisor must also:

- (a) do all the things it has the power to do to cause any contravention referred to in clause 19.3(a) to be remedied (unless it is satisfied that the contravention will not have a material adverse effect on the Unitholders); and
- (b) subject to any order of a court under section 210 of the Act, act in accordance with any direction given by a Special Resolution that is not inconsistent with any enactment, rule of law, this Deed, or an Establishment Deed in relation to:
 - (i) seeking a remedy to a contravention referred to in clause 19.3(b); and
 - (ii) any other matter connected with the Supervisor's functions.

The Supervisor is not liable for anything done, or omitted to be done, in good faith in giving

effect to a direction to it by Unitholders.

19.6 Supervisor's liability

The Supervisor has the same duties and liability in the performance of its functions as supervisor as it would if it performed those functions as a trustee (except to the extent that those duties are altered by or inconsistent with the Act).

19.7 Standard of care

The Supervisor must, in exercising its powers and performing its duties as the Supervisor, exercise the care, diligence and skill that a prudent person engaged in the business of acting as a licensed supervisor would exercise in the same circumstances.

19.8 Supervisor may engage experts

The Supervisor is entitled, in the performance of the Supervisor's functions, to engage an expert (for example, an auditor, investigating accountant, valuer, or actuary) if the Supervisor considers, on reasonable grounds, that it requires the assistance of the expert to:

- (a) determine the financial position of the Manager or a Fund; or
- (b) review the business, operation, or management systems, or the governance, of the Manager or a Fund.

19.9 Manager's obligations in relation to expert

If the Supervisor engages an expert under clause 19.8:

- (a) the Manager must provide reasonable assistance to the expert to allow the expert to provide the assistance under clause 19.8;
- (b) the Manager must pay the fees and expenses of the expert, which must be reasonable in the circumstances; and
- (c) subject to clause 26.5, the Manager is entitled to be indemnified for those fees and expenses out of the Investments of the relevant Fund.

20. Manager's powers, functions, and duties

20.1 Manager's powers of management

- (a) Each Fund shall be managed by the Manager (with full power to delegate to its officers, and employees all acts, matters and things whether or not requiring or involving the Manager's judgment or discretion) which hereby agrees to carry out and perform the duties and obligations on its part contained in this Deed during the period of each Fund, and, in particular, to be responsible for the following functions:
 - (i) offering Units in the Funds;

- (ii) issuing Units in the Funds;
 - (iii) managing the Investments; and
 - (iv) administering the Funds.
- (b) The Manager shall have all powers, authorities, and discretions necessary to enable it to carry out the purposes of each Fund or otherwise to perform and comply with the obligations and duties under this Deed.

20.2 Appointment of agents

Without in any way affecting the generality of the foregoing, or without in any way releasing the Manager from its obligations under this Deed and the Act, the Manager may, in carrying out and performing its duties and obligations:

- (a) by Power of Attorney appoint any Person to be the attorney or agent of the Manager for such purposes and with such powers, authorities and discretions (not exceeding those vested in the Manager) as it thinks fit with power for the attorney or agent to sub-delegate any such powers, authorities or discretions; or
- (b) appoint by writing or otherwise any Person to be an agent or sub-manager in respect of any Fund or the investments or any part thereof, and confer upon and delegate to such Person all or any of the powers, authorities or discretions of the Manager under this Deed or in respect of each Fund (including power for such Person to sub-delegate). Any such appointment shall be upon such terms as the Manager may in its discretion determine, and the Manager may enter into agreements or Deeds on such terms as it determines recording terms of any such appointment.

Except as provided below:

- (c) the fees and expenses of any such appointee may be payable out of the Investments;
- (d) the terms of appointment of any such appointee may indemnify the appointee for liabilities or expenses incurred in relation to its contracted functions; and
- (e) those terms will be as agreed between the Manager and the appointee from time to time.

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

20.3 Manager's obligations in relation to delegates

Where the Manager delegates or contracts out any of its functions as manager the Manager must take all reasonable steps to ensure that the functions are performed in the same manner, and are subject to the same duties and restrictions, as if the Manager were performing them directly, and must monitor the performance of those functions. The Manager remains liable for the performance of the functions delegated or contracted out.

20.4 Voting Rights on Investments

- (a) Except as otherwise expressly provided in this Deed and subject to the provisions of the Trustee Act 1956, all rights of voting conferred by the Investments or any of them are to be exercised in such manner as the Manager may determine. The Supervisor must from time to time execute and deliver or cause to be executed and delivered to the Manager or its nominees in a form or forms approved by the Supervisor such proxies or powers of attorney as the Manager may request.
- (b) Neither the Manager nor the Supervisor is under any liability or responsibility in respect of the management of the corporations or bodies in which the Fund or any part thereof is for the time being invested nor in respect of any vote or action taken or consent given by the Manager in person by proxy or attorney.
- (c) Neither the Supervisor nor the Manager nor the holder of any such proxy or power of attorney will incur any liability or responsibility by reason of any error of law or mistake of fact or any matter or thing done or omitted or approval voted or given or withheld by the Supervisor or Manager or by the holder of such proxy or power of attorney under this Deed and neither the Supervisor nor the Manager are under any obligation to anyone with respect to any action taken or caused to be taken or omitted by the Manager or by any such holder of a proxy or power of attorney except to the extent that such obligation may be attributable to failure to comply with their duties under clause 20.5 or 20.8 (in the case of the Manager) or 19.4 or 19.7 (in the case of the Supervisor).

20.5 Manager's general duties

The Manager must:

- (a) act honestly in acting as Manager;
- (b) in exercising any powers or performing any duties as Manager:
 - (i) act in the best interests of the Unitholders; and
 - (ii) treat the Unitholders equitably;
- (c) not make use of information acquired through being the Manager in order to, and ensure that no director or senior manager of the Manager makes use of information acquired through being a director or senior manager in order to:
 - (i) gain an improper advantage for itself, himself, herself, or any other person; or
 - (ii) cause detriment to the Unitholders.
- (d) not make improper use of its position as Manager, and ensure that no director or senior manager of the Manager makes improper use of the position as a director or senior manager of the Manager, to gain, directly or indirectly, an advantage for itself, himself, herself or any other person or to cause detriment to the Unitholders.

20.6 Compliance with relevant requirements

The Manager must carry out its functions as manager of each Fund in accordance with this Deed, the relevant Establishment Deed, the Fund SIPO, and all other Issuer Obligations.

20.7 Manager's liability

The Manager has the same duties and liability in the performance of its functions as manager as it would if it performed those functions as a trustee (except to the extent that those duties are altered by or inconsistent with the Act).

20.8 Standard of care

The Manager must, in exercising any powers, or performing any duties, exercise the care, diligence and skill that a prudent person engaged in that profession would exercise in the same circumstances.

20.9 Other trusts

Nothing contained in this Deed shall be construed to prevent the Manager and the Supervisor in conjunction or the Manager or the Supervisor separately from establishing or acting as manager or trustee for trusts whether of a nature similar to or different from the Funds.

20.10 Action on limit breaks

The Manager must take any action required by the Act if a limit break (within the meaning of section 167 of the Act) or material pricing error or non-compliance (in terms of section 168 of the Act) occurs. For the purposes of section 168 of the Act and regulation 99 of the Financial Markets Conduct Regulations 2014, the minimum compensation level for pricing errors or non-compliance is \$20.

20.11 Information Given on Demand

The Manager will:

- (a) promptly make available to the Supervisor (or other authorised person) all documents and records relating to the Manager and the Funds, including:
 - (i) the records of Investments kept under this Deed; and
 - (ii) all documents and records relating to the Manager and the Funds held by an investment manager or administration manager;
- (b) within the time and in the manner (which must be reasonable in the circumstances) specified by the Supervisor give to the Supervisor (or other authorised person) such other reports or information as the Supervisor (or other authorised person) requires; and
- (c) give to the Supervisor any other reports or information required by the Act.

20.12 Contractual liability

The Manager will ensure that at all times the liability of the Supervisor in relation to any contract or agreement or any borrowing entered into by the Supervisor at the direction of the Manager, is limited to the Investments.

21. Appointment, removal and retirement of Manager

21.1 Qualifications of Manager

Each Fund must have a single Manager, who:

- (a) must hold a licence under the Act that covers management of the Fund; and
- (b) must not be the Supervisor or an Associated Person of the Supervisor.

Aspiring Asset Management Limited is the Manager of each Fund in existence as at the Effective Date.

21.2 Removal

- (a) The Manager will cease to hold office as Manager of the relevant Fund if:
 - (i) the Manager is removed by a written direction of the Supervisor after the Supervisor certifies that it is in the best interests of the Unitholders of that Fund that the Manager be removed. Without in any way limiting the generality of the foregoing it will be sufficient and valid grounds for such a certificate to be given if the Manager has a receiver or manager or statutory manager appointed or if an order is made or a resolution is passed for the liquidation or winding-up of the Manager;
 - (ii) the Manager is removed by a Special Resolution of Unitholders of that Fund; or
 - (iii) the Manager is substituted by the High Court under section 209 of the Act.
- (b) If the Manager ceases to hold office pursuant to clauses 21.2(a) or 21.3, the Manager and any delegate of the Manager must immediately desist from all management activities relating to the relevant Fund, unless the Supervisor agrees to the contrary.

21.3 Retirement

The Manager may retire as manager of a Fund at any time without assigning any reason upon giving 90 days' notice in writing to the Supervisor of its intention to do so. No such retirement will take effect until a new Manager has been appointed pursuant to clauses 21.4, 21.5 or 21.6 and has executed the Deed referred to in clause 21.7.

21.4 Temporary Manager

The power of appointing a temporary Manager of a Fund where a vacancy in the office of Manager arises is vested in the Supervisor. No Person can be appointed as a new Manager unless that Person is entitled by the Act to act as manager.

21.5 New Appointment by Supervisor

Upon any vacancy occurring in the office of Manager in respect of any Fund, the Supervisor must summon a meeting of the relevant Unitholders and must take such reasonable steps as that meeting or any subsequent meeting of Unitholders may require to secure the appointment of any temporary Manager appointed by the Supervisor or some other Manager entitled by the Act to act as manager of the relevant Fund. Any meeting of Unitholders may ratify the appointment of any Manager appointed by the Supervisor or may appoint a new Manager entitled by the Act to act as manager. Any directions given to the Supervisor by any such meeting of Unitholders must be given by way of an Ordinary Resolution.

21.6 Appointment by Unitholders

If the Supervisor fails or refuses to appoint a temporary Manager or if the Unitholders require a new Manager to be appointed, then the power of appointing a new Manager is vested in the relevant Unitholders who must exercise such power by an Ordinary Resolution.

21.7 New Manager to Execute a Deed

Any new Manager must forthwith upon such appointment execute a Deed in such form as the Supervisor may require whereby the new Manager undertakes to the Supervisor and the relevant Unitholders to be bound by all the covenants on the part of the Manager under this Deed from the date of such appointment.

21.8 Retiring Manager Released

From the date of execution by the new Manager of a deed in accordance with clause 20.6, subject to the Act the retiring Manager is absolved and released from all such covenants under this Deed in relation to the relevant Fund (except in respect of any prior breach) and the new Manager must thereafter exercise all the powers and enjoy and exercise all the rights and is subject to all the duties and obligations of the Manager under this Deed in all respects as if such Manager had been originally named as a party to this Deed as manager of the relevant Fund.

22. Appointment, removal and retirement of Supervisor

22.1 Qualifications of Supervisor

Each Fund shall have a single Supervisor, who:

- (a) must hold a licence under the Financial Markets Supervisors Act 2011 that covers supervision of the Fund; and
- (b) must not be the Manager or an Associated Person of the Manager.

The New Zealand Guardian Trust Company Limited is the Supervisor of each Fund in existence as at the Effective Date.

22.2 Removal

The Supervisor may be removed from office as supervisor by:

- (a) the FMA, if the FMA is satisfied that the Manager and the Supervisor no longer meet the requirements of section 127(1)(e) of the Act;
- (b) the FMA or the Manager under Part 2 of the Financial Markets Supervisors Act 2011; or
- (c) a Special Resolution of Unitholders of the Fund, if:
 - (i) all functions and duties of the position have been performed;
 - (ii) a new supervisor has been appointed, and accepted the appointment, in its place and all of the Investments of the relevant Fund have been transferred to it; or
 - (iii) the High Court consents.

22.3 Retirement

- (a) The Supervisor may retire at any time without assigning any reason upon giving 90 days' notice in writing to the Manager of its intention so to do if:
 - (i) all functions and duties of the position have been performed;
 - (ii) a new supervisor has been appointed, and accepted the appointment, in its place and all of the Investments of the relevant Fund have been transferred to it; or
 - (iii) the High Court consents.
- (b) The Supervisor may only retire in respect of all the Funds.

22.4 New Appointment

Subject to any applicable laws, the power of appointing a new Supervisor of the Funds (in place of a Supervisor which has retired or been removed from office) is vested in the Manager. No Person can be appointed as a new Supervisor unless qualified to act as such pursuant to the Act. If the Manager fails or refuses to appoint a new Supervisor, such new Supervisor may be appointed by a Special Resolution of the Unitholders.

22.5 New Supervisor to Execute a Deed

Any new Supervisor must forthwith upon such appointment execute a Deed in such form as the Manager may require whereby the new Supervisor undertakes to the Manager and the Unitholders to be bound by all the covenants on the part of the former Supervisor under this Deed from the date of such appointment.

22.6 Retiring Supervisor Released

From the date of execution by the new Supervisor of a Deed in accordance with clause 22.5, the retiring Supervisor is absolved and released from all such covenants under this Deed (except in respect of any prior breach) and the new Supervisor must thereafter exercise all the powers and enjoy and exercise all the rights and is subject to all the duties and obligations of the Supervisor under this Deed in all respects as if such Supervisor had been originally named as a party to this Deed.

23. Remuneration of Supervisor

23.1 Fees Applicable to Specific Funds

- (a) The Supervisor is entitled to charge in respect of each Fund the annual or other fees calculated and payable as set out in the relevant Establishment Deed.
- (b) The Supervisor may, in respect of any Fund, after agreement with the Manager and by giving at least 3 months' notice to that effect to all Unitholders in the relevant Fund increase (subject to the maximum amounts set out in the relevant Establishment Deed) or decrease the fees payable in respect of any Fund.
- (c) If the Supervisor wishes to increase its fees and the Manager and the Supervisor are unable to agree on the amount of the Supervisor's fees, the matter shall be referred to the arbitration of a single arbitrator if one can be agreed on, otherwise to two arbitrators and their umpire, such arbitration to be conducted in accordance with the provisions of the Arbitration Act 1996.

23.2 Special Fees

In addition to any fees payable to the Supervisor under clause 23.1, the Supervisor is entitled to charge, in respect of each Fund, such special fees for services of an unusual or onerous nature outside the Supervisor's regular services (including by way of example, convening meetings of Unitholders, breaches of trust and exercising discretions), calculated and payable as set out in the relevant Establishment Deed.

23.3 Goods and Services Tax etc

The Supervisor is entitled to receive, in addition to the fees referred to in clause 23.1 and clause 23.2 any Goods and Services Tax or duty or similar tax or duty payable in respect of such fee.

24. Remuneration of Manager

24.1 Manager's Application Fee

On the issue of any Units, the Manager may charge the Unitholder an Application Fee (however described) as set out in the relevant Establishment Deed.

24.2 Management Fee

In addition to the remuneration payable under clause 24.1, the Manager may charge for its services as manager of the relevant Fund such management fees as are specified in the relevant Establishment Deed. The fee shall be payable from the gross income of the relevant Fund or, insofar as that may be insufficient, from the capital of the relevant Fund.

24.3 Performance Fee

In addition to the management fee payable under clause 24.2, the Manager may charge a performance fee as specified in the relevant Establishment Deed. The fee may be payable from the gross income of the relevant Fund or, insofar as that may be insufficient, from the capital of the relevant Fund or by Unitholders directly to the Manager.

24.4 Other Fees

The Manager may charge the Unitholders or the relevant Fund such other fees as are set out in the relevant Establishment Deed provided that those fees are limited to a fair and reasonable reward for the services performed by the Manager or expenses properly incurred by the Manager in connection with the Fund.

24.5 Alteration or Waiver of Fees

The Manager may, in respect of any Fund and either generally or in respect of any particular Unitholder or Unitholders, waive part or all of any Application Fee or management fee and may, by giving at least 3 months' notice to that effect to all Unitholders in the relevant Fund:

- (a) increase (subject to the maximum amounts set out in the relevant Establishment Deed) or decrease the fees payable in respect of any Fund or by the relevant Unitholders; or
- (b) provided that any such fee is permitted under the relevant Establishment Deed, commence charging any such fee which is not currently being charged.

24.6 Goods and Services Tax etc

The Manager is entitled to receive, in addition to the fees referred to in clauses 24.1 to 24.3 (as altered from time to time in accordance with clause 24.5) any Goods and Services Tax or duty or similar tax or duty payable in respect of such fees.

25. Reimbursement of expenses

25.1 Expenses of Each Fund

In respect of each Fund, except as otherwise expressly provided in this Deed, the Manager and the Supervisor are entitled to be reimbursed out of the relevant Fund (whether from income or capital or both) for and in respect of:

- (a) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the formation of the Fund, the preparation and registration of any Offer Document, the acquisition, registration, custody, disposal of or other dealing with Investments of the Fund, including bank charges and stamp duty, and the expenses of any agents or nominated company of the Supervisor or the Manager both within and outside New Zealand but excluding any incidental expense which is not an out-of-pocket expense or disbursement incurred (by deduction or otherwise) by the Manager or the Supervisor;
- (b) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the investigation and negotiation for the acquisition for the Fund of any asset which comes within the definition of Authorised Investments, whether or not it is in fact acquired;
- (c) the fees and expenses of the Auditor relating to the audit of the Fund;
- (d) all taxes, duties and imposts charged to or payable by the Supervisor or Manager (whether by any taxing authority or any other Person) in connection with the Fund or the relevant Investments on any account whatsoever;
- (e) interest and other expenses relating to borrowing and discounts and acceptance and other fees in respect of bill facilities;
- (f) the costs of convening and holding any meeting of Unitholders;
- (g) the costs of postage in respect of all cheques, accounts, distribution statements, notices, quarterly and other reports and other documents posted to all or any Unitholders in accordance with the provisions of this Deed;
- (h) the fees and expenses of any solicitor, barrister, valuer, accountant or other Person from time to time engaged by the Manager or by the Supervisor in the discharge of their respective duties under this Deed;
- (i) all costs of preparing, printing and distributing certificates, accounts, distribution statements, cheques, any Offer Document and any Unitholder communications;
- (j) expenses in connection with the keeping of the Unit Register; and
- (k) any other expenses properly and reasonably incurred by the Supervisor or the Manager in connection with carrying out their respective duties under this Deed.

25.2 Collective Costs

Where any costs, charges, fees or expenses referred to in clause 25.1 relate to the Funds collectively rather than any one individual Fund then such costs, charges, fees or expenses are to be apportioned between each of the Funds on such fair and equitable basis as may be determined by the Manager.

26. Supervisor's and Manager's responsibilities and indemnities

26.1 No Personal Liability

Except as otherwise expressly provided in this Deed, the Supervisor and the Manager, in incurring any debts, liabilities or obligations or in taking or omitting any other action for or in connection with the affairs of any Fund, are, and are deemed to be, each acting for and on behalf of the Fund and not in their own respective capacities. Except as otherwise expressly provided in this Deed, neither the Supervisor nor the Manager is under any personal liability, nor may resort be had to their private property, for the satisfaction of any obligation of the Funds, but the relevant Fund only is liable or subject to levy or execution.

26.2 Indemnity

Except as otherwise expressly provided in this Deed, if contrary to the provisions of clause 26.1 either the Supervisor or the Manager is held personally liable to any other person in respect of any debt, liability or obligation incurred by or on behalf of any Fund or any action taken or omitted in connection with any Fund then the Supervisor or the Manager (as the case may be) is entitled to indemnity and reimbursement out of the relevant Fund to the full extent of such liability and the costs of any litigation or other proceedings in which such liability has been determined including without limitation legal fees and disbursements.

26.3 Wilful Breach

The Supervisor and the Manager are each liable to each Fund for any loss arising out of wilful default or wilful breach of trust but subject thereto and except as otherwise expressly provided in this Deed, neither the Supervisor nor the Manager are liable to any Fund or to any Unitholder for any act or omission or are subject to any liability whatsoever at law or in equity in connection with the affairs of any Fund or as a result of acting as Supervisor or Manager (as the case may be) under this Deed.

26.4 Reimbursement of expenses

Except as otherwise expressly provided in this Deed, the Supervisor and the Manager are each entitled to be reimbursed out of each Fund for all expenses, costs or liabilities incurred by them respectively in or about acting as Supervisor or Manager (as the case may be) under this Deed for the relevant Fund, and without prejudice to the generality of the foregoing are entitled to be indemnified against any expense or liability which may be incurred by the Supervisor or the Manager (as the case may be) in bringing or defending any action or suit in respect of any Fund or the provisions of this Deed.

26.5 Breach of Duty

No provision of this Deed has the effect of exempting the Supervisor or Manager or any director or officer of the Supervisor or Manager from, or indemnifying the Supervisor or Manager or any such director or officer against, any liability or expense where it or that director or officer has failed to comply with their duties under clause 20.5 or 20.8 (in the case of the Manager) or 19.4 or 19.7 (in the case of the Supervisor).

26.6 Reliance on Manager by Supervisor

Subject to the provisions of the Trustee Act 1956, the Supervisor is not and will not be responsible for any loss incurred as a result of any act, omission, deceit, neglect, mistake or default of the Manager (including, for the avoidance of doubt and not by way of limitation, any decision of the Manager to invest any Fund or any part thereof in any futures contracts, foreign exchange contracts and options, interest rate and currency swap contracts or options entered into for the purpose of hedging) or any agent of the Manager or for checking any information, document, form or list supplied to it by the Manager or by any agent of the Manager that is reasonably believed by the Supervisor to be genuine (notwithstanding that an error in the information, document, form or list is reproduced by the Supervisor in any step taken by it) except to the extent that the loss is attributable to the Supervisor's own negligent or wilful act or default.

26.7 Reliance Upon Advice

The Supervisor and the Manager may accept and act upon the opinion or advice of or information obtained from barristers or solicitors or other consultants in the employ of the Supervisor and the Manager or instructed by the Supervisor or the Manager and upon any statement of, or information obtained from, any bankers, stockbrokers, accountants, valuers or other persons appointed or approved by the Supervisor or the Manager and believed by the Supervisor or the Manager in good faith to be expert or suitably qualified in relation to the matters upon which they are consulted. Neither the Supervisor nor the Manager is liable for anything done or suffered by either of them in good faith in reliance upon any such opinion, advice, statement or information except in the case of a failure to comply with their duties under clause 20.5 or 20.8 (in the case of the Manager) or 19.4 or 19.7 (in the case of the Supervisor).

26.8 Reliance Upon Documents

Whenever pursuant to any provision of this Deed any certificate, notice, instruction, direction or other communication shall be given by the Manager to the Supervisor, the Supervisor may accept as sufficient evidence thereof a document signed on behalf of the Manager by any one of its directors or by any other person or persons duly authorised by the Manager.

26.9 Manager's Discretion and Authority

Except insofar as is otherwise expressly provided in this Deed or the Act the Manager as regards all the powers, authorities and discretions vested in it by this Deed has absolute and uncontrolled discretion as to their exercise, whether in relation to the manner or as to the mode of and time for their exercise subject to the giving of any notice to the Supervisor and the approval of or supervision by the Supervisor wherever required.

26.10 Supervisor's Discretion and Authority

Except insofar as is otherwise expressly provided in this Deed or the Act the Supervisor as regards all the Funds, powers, authorities and discretions vested in it by this Deed has absolute and uncontrolled discretion as to their exercise whether in relation to the manner or as to the mode of and time for their exercise.

26.11 Dealing in Units: The Manager

Subject to clause 14, nothing in this Deed prevents any members of the Manager, or in their own right, any officers of the Manager from subscribing for, purchasing, holding, dealing in or disposing of Units or from otherwise at any time contracting or acting in any capacity as representative or agent or entering into any contract or transaction whatsoever with any other of them or with any Unitholder or from being interested in any such contract or transaction or otherwise and none of them are in any way liable to account either to any other of them or to the Unitholders or any of them for any profits or benefits howsoever made or derived.

26.12 Dealing in Units: The Supervisor

Subject to the provisions of this Deed (including clause 14) and to the Trustee Act 1956, nothing in this Deed is deemed to prohibit the Supervisor or any Associated Person of the Supervisor or any shareholder or officer of either (in this clause included in the expression the **Supervisor**) from being a Unitholder or from acting in any representative capacity for a Unitholder and in particular and without prejudice to the generality of the foregoing from acting on its own account or as executor, administrator, trustee, receiver, attorney or agent or in any other fiduciary, vicarious or other professional capacity. Nor shall the acting in any such capacity as aforesaid be deemed a breach of any of the obligations arising out of the fiduciary relationship between the Supervisor and the Manager on the one hand or the Supervisor and the Unitholders on the other by this Deed established or otherwise imposed or implied by law.

26.13 Supervisor's Limited Liability to Unitholders

Notwithstanding anything contained in this Deed, save and except in the case of fraud or of dishonesty or unless the Supervisor has failed to show the degree of care and diligence required of a trustee having regard to the powers, authorities and discretions conferred on the Supervisor by this Deed and by the Trustee Act 1956, in no event is the Supervisor bound to make any payment to Unitholders except out of the relevant Fund or be liable to the Unitholders to any greater extent than the Investments, vested in or received by the Supervisor in accordance with this Deed.

26.14 No Respective Liabilities of Supervisor and Manager

Subject to the Trustee Act 1956 and any other applicable law, the Manager is not liable for any act or omission of the Supervisor and the Supervisor is not liable for any act or omission of the Manager.

26.15 Reliance Upon Apparently Genuine Documents

Neither the Manager nor the Supervisor is liable for any action taken or thing suffered by the Manager or Supervisor in reliance upon any document or writing of any type reasonably believed by the Manager or the Supervisor to be genuine except in the case of a failure to comply with their duties under clause 20.5 or 20.8 (in the case of the Manager) or 19.4 or

19.7 (in the case of the Supervisor).

27. Unitholders bound by this Deed

The terms and conditions of this Deed and each Establishment Deed are for the benefit of and binding on the Supervisor, the Manager and each Unitholder and all Persons claiming through them respectively and as if each Unitholder had been party to and had executed this Deed and each Establishment Deed.

28. Liability of Unitholders

- (a) Except as expressly provided by this Deed no Unitholder is, by reason alone of being a Unitholder or by reason alone of the relationship hereby created with the Supervisor or with the Manager, under any personal obligation to indemnify the Supervisor or the Manager or any creditor of them or of either of them in the event of there being any deficiency of assets of the Funds as compared with the Liabilities to be met therefrom.
- (b) The rights (if any) of the Supervisor or Manager or of any creditor to seek indemnity are limited to having recourse to the Funds and do not extend to a Unitholder personally in such Person's capacity as a Unitholder.
- (c) On a winding-up of the Fund, no Unitholder has any liability to contribute to any shortfall in the Fund if the Liabilities of the Fund exceed the Gross Asset Value of the Fund except for any liability for any unpaid calls or instalments owing in respect of any Unit.
- (d) Every Unitholder indemnifies the Supervisor, the Manager and the relevant Fund on account of any PIE Tax attributable to income allocated to that Unitholder and related penalties or interest which has not been satisfied by redeeming Units or by deduction from monies paid to them.

29. Accounts and Reports

29.1 Accounting Records

The Manager must, in respect of each Fund and in accordance with the Act:

- (a) keep or cause to be kept proper records of or relating to the Fund including records of all sales, purchases and other transactions relating to the Investments, the Liabilities of the Fund, the issue or transfer of Units, and any additional matters required by the Act;
- (b) keep or cause to be kept true accounts of all sums of money received and expended by or on behalf of the Fund; and
- (c) prepare annual financial statements for the Fund and arrange for such statements to be audited by the Auditor.

The Supervisor must give to the Manager from time to time any information necessary for these purposes.

29.2 Inspection by the Auditor

The accounting and other records of the Manager and of the Supervisor in respect of the Funds are open to the inspection of each other and the Auditor. The Auditor is entitled to require from the Manager and the Supervisor such information, accounts and explanations as may be necessary for the performance of the duties of the Auditor.

29.3 Accounts and other information to be provided

At the end of each Financial Year, the Manager must:

- (a) within four months after each Financial Year or as otherwise required by law:
 - (i) prepare, date, and sign the relevant Accounts and arrange for them to be audited in accordance with all applicable auditing and assurance standards (within the meaning of the Act); and
 - (ii) send the relevant Accounts to the Supervisor together with all other documents and reports (including the Auditor's report on the Accounts, which must comply with the requirements of all applicable auditing and assurance standards (within the meaning of the Act)) in the manner required by any applicable law; and
- (b) by the date specified in the relevant requirement:
 - (i) file, lodge, or report or cause to be filed, lodged, or reported with or to the relevant authority; and
 - (ii) send or otherwise make available to every Unitholder in relation to the relevant Funds,

any information required by the Act or any other law to be filed, lodged, reported, sent, or made available.

29.4 Manager's Report and Information to Supervisor

- (a) The Manager shall provide to the Supervisor certain reports and other information in relation to a Fund as agreed between the parties in the Management Agreement.
- (b) The Manager undertakes to the Supervisor to comply fully with its obligations under the Management Agreement.

30. Auditor

30.1 Appointment and Remuneration

- (a) A qualified auditor in terms of the Act who is not precluded by the Act from acting as Auditor of a Fund selected by the Manager and approved by the Supervisor must be appointed Auditor of the Funds.
- (b) The Manager must consult with the Supervisor in accordance with the Act prior to the Auditor's appointment.

- (c) The Manager and the Supervisor must agree upon the services to be performed by the Auditor and their scope, and the Auditor's terms of appointment must:
 - (i) include any matters required by the Act; and
 - (ii) require the Auditor to, in addition to its functions as set out in this Deed, perform any other functions required by the Act and comply with any obligations it has under the Act.
- (d) The remuneration of the Auditor shall be determined by the Manager on an arm's length basis.

30.2 Removal/Retirement

The Auditor may at any time and from time to time be removed by the Manager on approval of the Supervisor or if the Supervisor believes it to be in the interests of the Funds and/or Unitholders it may instruct the Manager to remove the Auditor. The Auditor may retire upon giving the Manager 30 days' notice in writing.

30.3 New Appointment

Any vacancy in the office of Auditor must be filled by the Manager with the approval of the Supervisor following consultation in accordance with the Act. Any Auditor must be qualified for appointment in terms of clause 30.1.

30.4 Restrictions on Auditor

The Auditor may be the auditor of the Manager, or of the Supervisor, or of any other trust whether of a similar nature to the Funds of this Deed or otherwise.

31. Meetings of Unitholders and directions to Supervisor

31.1 Meetings

Meetings of the Unitholders shall be convened and conducted in accordance with the provisions in Schedule 1 or as otherwise prescribed by law. Those provisions shall apply notwithstanding anything to the contrary in the Act.

31.2 Restrictions on voting

Except where permitted by the Act, the Manager and its Associated Persons are not entitled to, and must not, vote their interest on a resolution of Unitholders if they have an interest in the resolution or matter other than as a Unitholder.

32. Notices to Unitholders

32.1 Notice of Meetings

Notice of every meeting of Unitholders must be given to every Unitholder or the Unitholders

of the relevant Fund (where the meeting relates only to those Unitholders) in accordance with Schedule 1 by sending it addressed to the Unitholder at the Unitholder's registered address by ordinary, prepaid post or, if that address is outside New Zealand, by airmail, prepaid post.

32.2 Other Notices

In any other case a notice may be given under this Deed to any Unitholder personally by leaving it at the Unitholder's registered address or by sending it addressed to the Unitholder at the Unitholder's registered address by ordinary prepaid post, or, if that address is outside New Zealand, by airmail, prepaid post, by Electronic Communication, or by advertisement with the prior written approval of the Supervisor. A Unitholder must notify the Manager of any change of the Unitholder's registered address and the relevant Unit Register shall be altered accordingly. Any notice given to Unitholders by the Manager must be copied to the Supervisor by the Manager provided that, where notices are given to Unitholders in substantially the same form but with personalised details in respect of each Unitholder, it shall be sufficient to provide the Supervisor with a sample of such a notice.

32.3 Manner of Notice

Any notice or communication sent by:

- (a) post will be deemed to have been given at the expiration of 48 hours after posting, and in proving service it will be sufficient to prove that the envelope or wrapper containing the notice was properly addressed and posted;
- (b) email will be deemed to have been given on the Business Day on which it was despatched or, if despatched after 5.00pm (in the place of receipt) on a Business Day or, if despatched on a non-Business Day, on the next Business Day (in the place of receipt) after the date of despatch provided in each case the computer system used to transmit the communication has not generated a record that the communication has failed to be transmitted.

32.4 Signature of Notice

The signature to any notice to be given by the Manager or the Supervisor may be written or printed.

32.5 Calculation of Notice Periods

Where a given number of days' notice or notice extending over any other period is required to be given, neither the day of giving the notice nor the day upon which the notice will expire shall be reckoned in the number of days or other period.

32.6 Binding Nature of Notice

Every Person who by operation of law, transfer or other means whatsoever becomes entitled to any Units is bound by every notice which, prior to such Person's name and address being entered in the Unit Register in respect of the Units, has been given to the Person from whom such Person derives the title to the Units.

32.7 Receipt of Notice

Any notice or document delivered or sent by post to or left at the registered address for

service of any Unitholder in pursuance of the provisions of this Deed will (notwithstanding that the Unitholder is then deceased and whether or not the Manager has notice of such deceased Unitholder's death) be deemed to have been duly given in respect of such Unitholder's Units, whether held by such Unitholder solely or jointly with another Person or Persons, until some other Person is registered in the place of the Unitholder as the new Unitholder or joint Unitholder.

33. Notices between Manager and Supervisor

Any certificate, notice, communication or information required by this Deed to be given by the Manager to the Supervisor or by the Supervisor to the Manager must be given in writing and addressed to the secretary, director or principal officer of the party to whom it is intended to be given at its registered office or other usual place of business (or such other address as may from time to time be notified by one party to the other as the address for service of notices pursuant to this Deed) and must be signed by a duly authorised officer on behalf of the party giving it provided that the Manager and the Supervisor may agree that certain notices or communications may be given by Electronic Communication.

34. Amendment to Deed

34.1 Power to Change the Deed

The Supervisor and the Manager may at any time make any alteration, modification, variation or addition to the provisions of this Deed or any Establishment Deed (by means of a deed executed by the Supervisor and the Manager) in any of the following cases:

- (a) if the Supervisor is satisfied that the change does not have a material adverse effect on the Unitholders; or
- (b) if the change is approved by, or contingent on approval by, separate Special Resolutions of the Unitholders that are or may be adversely affected by the change (or, if applicable, of each separately affected class of Unitholders in each Fund).

34.2 Procedural requirements

Prior to any change to this Deed or any Establishment Deed being made, the Supervisor will provide and/or obtain any certificates required under the Act.

34.3 Other Variations

This Deed or any Establishment Deed may also be altered, modified, varied, or added to in any other manner permitted by the Act, the Financial Markets Supervisors Act 2011, or any other enactment.

34.4 Notice of Amendment

If any amendment is made to this Deed or a particular Establishment Deed, the Manager must:

- (a) Include a description of the amendment in the annual report sent to Unitholders in accordance with Part 5, Schedule 4 of the Financial Markets Conduct Regulations

2014; and

- (b) Lodge with the Registrar notice of, and a copy of the certificate for, the relevant amending or replacement deed in accordance with section 141 of the Act.

35. Period of trusts

Each Fund commences on the date of its creation and will continue until whichever of the following dates occurs first (the **Date of Termination**):

- (a) the date of termination (if any) specified in the relevant Establishment Deed;
- (b) the date falling eighty years less two days from the date of this Deed (the period so specified being the perpetuity period for the purposes of section 6 of the Perpetuities Act 1964);
- (c) the date determined by the Unitholders by Ordinary Resolution to terminate the Fund;
- (d) the date determined by the Manager to terminate the Fund as notified to the Supervisor and the relevant Unitholders by not less than 30 days' notice; or
- (e) the date on which the Fund is wound up by operation of law.

36. Procedure on winding up

36.1 Notice to Authorities

If a Fund is to be wound up, the Supervisor must, as required by the Act, give a copy of the relevant winding-up resolution or order by the High Court to the FMA.

36.2 Realisation of Investments

From and after the Date of Termination in relation to a Fund, the Manager must realise the Investments of the Fund as soon as practicable, provided however that the Manager may postpone realisation of all of the Investments if it reasonably considers it is in the interests of Unitholders to do so. In this circumstance, until such realisation of the Investments, the terms of the Fund will continue to apply with such changes as the context may require.

36.3 Retentions by Supervisor

The Manager is entitled to retain out of the relevant Fund such amount that the Manager, following consultation with the Supervisor, considers necessary or appropriate to meet all claims and Liabilities (including for this purpose contingent Liabilities) in connection with the relevant Fund or arising out of the liquidation of the Fund including the Supervisor's fees due under clause 23, the Manager's fees under clause 24, and the fees of any agents, solicitors, bankers, accountants, auditors or other Persons whom the Manager or Supervisor may employ in connection with the winding up of the Fund. The Manager and Supervisor are entitled to be indemnified in respect of the foregoing from the moneys or assets retained by the Manager.

36.4 Application of Realisation

Subject to the retention of any moneys as provided in clause 36.3, the net proceeds of realisation of Investments shall be applied by the Manager as follows:

- (a) first, in payment or retention of all costs charges, expenses and liabilities incurred and payments made by or on behalf of the Supervisor or the Manager and payable from the relevant Fund and of all remuneration payable to the Supervisor and the Manager as provided in this Deed; and
- (b) secondly, in the case of the relevant Fund, in payment to the Unitholders pro rata to the number of Units held by them in the relevant Fund.

36.5 Interim Distributions

If in the opinion of the Manager following consultation with the Supervisor it is expedient to do so the Manager may make interim payments or distributions on account of the moneys to be distributed in accordance with clause 36.4.

36.6 Receipts

Each distribution can be made only against delivery to the Manager of such form of receipt and discharge as may be required by the Manager.

36.7 Supervisor's obligations

Notwithstanding the above, the Supervisor will comply with its obligations as set out in the Act in respect of the winding up of the relevant Fund.

37. Payments to Unitholders

- (a) Any moneys payable by the Supervisor or by the Manager to a Unitholder under the provisions of this Deed may be paid by cheque that is crossed "non-transferable " and made payable to the Unitholder or their respective agents or other authorised Persons.
- (b) The moneys may be given or sent through the post to the Unitholder or their respective agents or other authorised Persons or may be credited to any bank account nominated by the Unitholder.
- (c) Payment of every cheque, if duly presented and paid, and in respect of direct credits, the giving by the Manager of the encoded payment instructions to the paying bank, will be due satisfaction of the moneys payable and will be good discharge to the Supervisor and to the Manager.
- (d) If any amount has been deducted on behalf of taxes from a payment to a Unitholder, details of such deduction shall be provided to the Unitholder when the relevant payment is made.

38. Deductions and adjustments for taxes

If the Manager or the Supervisor is obliged or permitted by law to:

- (a) make any deduction or withholding on account of taxes (including on account of PIE Tax attributable to income allocated to a Unitholder) from any payment to be made to a Unitholder; or
- (b) redeem any Units on account of PIE Tax attributable to income allocated to a Unitholder,

the Manager or Supervisor (as the case may be) may (and where required by law, shall) make such deduction or withholding or redeem such Units and shall pay the relevant amount of tax to the Commissioner of Inland Revenue or other taxing authority when due. On payment of the net amount to the relevant Unitholder and the amount deducted or withheld to the tax authorities, the full amount payable to the relevant Unitholder shall be deemed to have been duly paid and satisfied.

39. Law applicable

This Deed is governed by the law of New Zealand.

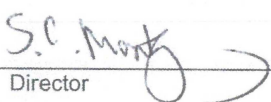
40. Counterparts

This Deed may be executed in two or more counterpart copies each of which will be deemed an original and all of which together with constitute one and the same instrument. A party may enter into this Deed by signing a counterpart copy and sending it to the other parties (including by email).

Execution

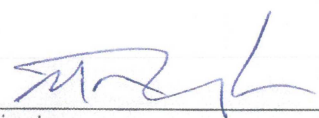
Executed as a Deed

Signed for and on behalf of
**Aspiring Asset Management
Limited** by two of its directors:



Director
STEPHEN MONTGOMERY

Print Name



Director
M. R. Doyle

Print Name

**Signed for and on behalf of The
New Zealand Guardian Trust
Company Limited** by its authorised
signatories in the presence of:



Authorised Signatory
MARK PATRICK JEPHSON

Print Name



Authorised Signatory
HRVOJE KOPRIVCIC

Print Name

Witness to both signatures: _____



Print name: _____

Simon Sherpa

Occupation: _____

Relationship Mgr

ACR405

Address: _____

1/38 Wake Rd, Torbay

Schedule 1: Meeting Procedures (clause 31.1)

1. Convening of meetings

- 1.1 The Manager must summon a meeting of Unitholders of the relevant Fund on the request in writing of:
- (a) the Supervisor;
 - (b) Unitholders holding Units in that Fund that have a combined value of no less than 5% of the value of Units on issue in that Fund; or
 - (c) any other person entitled by the Act to summon a meeting.
- 1.2 If the Manager fails to call a meeting in accordance with this clause the Supervisor shall be entitled to call such a meeting on behalf of the Manager.
- 1.3 The Manager may at any time of its own volition convene a meeting of Unitholders to be held at such place as is acceptable to the Supervisor.

2. Notice of meetings

- 2.1 Notice of every meeting must be approved by the Supervisor and given in the manner provided in the Deed to every Unitholder entered on the relevant Unit Register 3 Business Days prior to the date on which the notice is sent to Unitholders.
- 2.2 A copy of the notice and any other communications that a Unitholder receives in connection with the meeting must be sent to the Supervisor, the Manager, every director of the Manager, and an auditor of the Manager.
- 2.3 At least fifteen working days' notice of every meeting must be given. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice must specify:
- (a) the place, day and hour of the meeting;
 - (b) the nature of the business to be transacted at the meeting in sufficient detail to enable a Unitholder to form a reasoned judgement in relation to it;
 - (c) the text of any Special Resolution to be submitted to the meeting (but it is not necessary to specify in the notice the terms of any Ordinary Resolutions to be proposed); and
 - (d) the right of a Unitholder to appoint a proxy.
- 2.4 An irregularity in a notice of meeting is waived if:
- (a) all the Unitholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or if all such Unitholders agree to the waiver; or

- (b) the Supervisor indicates at the meeting that the Supervisor is satisfied that the irregularity has not resulted in and is unlikely to result in any material prejudice to the Unitholders.

2.5 The accidental omission to give notice to or the non-receipt of notice by a Unitholder entitled to that notice does not invalidate proceedings at any meeting.

2.6 A notice of meeting that contains a Special Resolution to approve a Related Party Benefit must contain, and be accompanied by, the matters required by the Act.

3. Quorum

3.1 No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.

3.2 The quorum for meetings of Unitholders is Unitholders present in person or by proxy or by attorney or by authorised representative holding not less than:

- (a) in the case of a meeting at which a Special Resolution is to be submitted, Unitholders holding Units in that Fund that have a combined value of no less than 25% of the value of the Units on issue in that Fund held by those Unitholders who are entitled to vote on the business to be transacted at the meeting; and

- (b) in any other case, 5% of the Number of Units on Issue.

3.3 If within 30 minutes from the time appointed for the meeting a quorum is not present the meeting if convened upon the request of Unitholders must be dissolved. In any other case it will stand adjourned to the day that is 10 working days after the date appointed for the meeting at the same time and place, or to such other date, time, and place as the Supervisor may appoint. At such adjourned meeting if a quorum is not present within 30 minutes after the time appointed for the meeting the Unitholders present in person or by proxy or by attorney or by authorised representative and entitled to vote shall form a quorum.

3.4 To avoid doubt, a Unitholder participating in a meeting by means of audio, audio and visual, or electronic communication is present at the meeting and part of the quorum.

3.5 If a meeting of Unitholders is adjourned for less than 30 days, it is not necessary to give notice of the time and place of the adjourned meeting other than by announcement at the meeting that is adjourned. Notice of any other adjourned meeting must be given in the same manner (except in respect of the period of notice which shall be approved by the Supervisor) as of an original meeting and such notice must state that the Unitholders present at the adjourned meeting, in the case of a meeting of Unitholders, whatever their number and whatever the number of Units held by them shall form a quorum.

4. Supervisor and manager may attend and speak

Any director, officer or solicitor of the Supervisor and any other Person authorised in that behalf by the Supervisor and any director, officer or solicitor of the Manager or any other Person authorised in that behalf by the Manager may attend any meetings and all such Persons have the right to speak at the meeting.

5. Chairperson

A Person nominated in writing by the Supervisor, or if the Supervisor declines to do so, any other person appointed by the Unitholders present at the meeting, must preside at every meeting.

6. Adjournment of meetings

- 6.1 The chairperson may with the consent of any meeting at which a quorum is present and must if so directed by the meeting adjourn the meeting from time to time and from place to place.
- 6.2 No business shall be transacted at any adjourned meeting except business which might have been lawfully transacted at the meeting from which the adjournment took place.

7. Voting rights

- 7.1 The only persons entitled to vote in person or by proxy or by attorney or by authorised representative at a meeting of the Unitholders are the Unitholders registered in the Unit Register at the date of the meeting (or if an adjourned meeting at the date the first meeting was first due to be held).
- 7.2 Votes may be given either personally or by proxy, attorney or authorised representative.

8. Proxies

- 8.1 An instrument of proxy shall be in such form as the Manager may stipulate from time to time and need not be witnessed.
- 8.2 Whenever the chairperson of the meeting or an officer of the Supervisor is appointed a proxy for a Unitholder and the Unitholder has not indicated in the instrument of proxy or in any other way prior to the time for taking the poll or show of hands the manner in which such Person's proxy shall vote upon any resolution coming before the meeting such Person's vote must be used in favour of the resolution.
- 8.3 The instrument appointing a proxy must be in writing under the hand of the appointor or of such Person's attorney duly authorised in writing.
- 8.4 A Person appointed to act as a proxy need not be a Unitholder.
- 8.5
 - (a) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority shall be deposited at such place as the Manager may in the notice convening the meeting appoint.
 - (b) If no such place is appointed then it shall be deposited at the Manager's registered office not less than 48 hours before the time appointed for holding the meeting or adjourned meeting or for the taking of a poll at which the Person named in the instrument proposes to vote.

- (c) In default of the above the instrument of proxy is not to be treated as valid with the exception that the Manager may waive the foregoing requirements in relation to the power of attorney or other authority.

- 8.6 Unless it states to the contrary a proxy is valid for the meeting to which it relates and for any adjournment of that meeting. Notwithstanding any provision contained in an instrument of proxy no instrument of proxy is valid after the expiration of 12 months from the date of its execution but this provision is not construed to apply to the appointment of any attorney or representative otherwise than by an instrument of proxy.
- 8.7 An instrument of proxy in favour of the chairperson of the meeting or the chairperson, (howsoever expressed) is valid and effective as though it were in favour of a named Person and constitutes the Person who chairs the meeting for which the proxy is used (whether on adjournment or not), the lawful proxy of the appointor.
- 8.8 A Person appointed proxy has the right to speak at a meeting and to demand or join in demanding a poll and (except and to the extent to which the proxy is specifically directed to vote for or against any proposal) has power generally to act at the meeting for the Unitholder concerned.
- 8.9 A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or power of attorney or of the authority under which the proxy was executed or, in the case of a meeting of the Unitholders, the transfer of the Units in respect of which the vote is given with the exception that no intimation in writing of such death, insanity, revocation or transfer must have been received by the Manager at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

9. Power of attorney

- 9.1 (a) Any Unitholder may by power of attorney appoint an attorney (who need not be a Unitholder) to vote and act on his or her behalf at any meeting.
- (b) Such power of attorney or proof thereof to the satisfaction of the Manager (unless such power of attorney or such proof has previously been produced to the Manager before the time of holding the meeting at which the attorney proposes to vote) be produced for inspection at such place as the Manager may in the notice convening the meeting direct or (if no such place is appointed) then at the Manager's registered office. Such attorney if so empowered may appoint a proxy for the Unitholder granting the power of attorney.

10. Procedure

- 10.1 (a) A Special Resolution must be taken as a poll. Any other resolution put to the vote of a meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson or the Supervisor or any representative of the Supervisor or in the case of a meeting of the Unitholders by one or more Unitholders holding or representing not less than 5% of the Number of Units on Issue.
- (b) Unless a poll is so demanded a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost is conclusive

evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 10.2 If a poll is required or is duly demanded it shall be taken in such manner as the chairperson may direct and the result of such poll is deemed to be the resolution of the meeting at which the poll was demanded.
- 10.3 To the extent permitted by law, in the case of an equality of votes whether on a show of hands or on a poll the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded is entitled to a casting vote in addition to the votes (if any) to which the chairperson may be entitled for any reason whatsoever.
- 10.4 A poll demanded on a question of adjournment must be taken forthwith. A poll demanded on any other question must be taken either immediately or at such time (not being more than 30 days from the date of the meeting) and place as the chairperson may direct. The result of such poll is deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.
- 10.5 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.
- 10.6 On a poll votes may be given either personally or by proxy or by attorney or by an authorised representative. On a poll a Person entitled to more than one vote need not use all such Person's votes or cast all the votes such Person uses in the same way.
- 10.7 In the case of a meeting of the Unitholders, on a show of hands every Person present at the meeting and entitled to vote (whether as a Unitholder or as a proxy or attorney or authorised representative) has one vote only. On a poll every Unitholder who is present in person or by proxy or by attorney or by an authorised representative is entitled to one vote for every Unit of which such Unitholder is the holder.
- 10.8 In the case of joint Unitholders the vote of the senior who tenders a vote whether in person or by proxy or by attorney or by authorised representative shall be accepted to the exclusion of the votes of the other joint Unitholders. For this purpose seniority is determined by the order in which the names stand in the Unit Register in respect of the joint holding.

11. Resolutions

- 11.1 The expression **Ordinary Resolution** means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule and carried by a majority of not less than 50% of the Persons voting at such meeting upon a show of hands or if a poll is duly demanded by a majority consisting of not less than 50% of the votes given on such poll.
- 11.2 The expression **Special Resolution** means a resolution passed by a poll at a meeting of Unitholders of the relevant Fund duly convened and held in accordance with the provisions of this Deed, and carried by a majority consisting of not less than 75% of the value of Units held by those Unitholders who are entitled to vote and who vote (whether in person or by proxy or attorney or authorised representative).

- 11.3 Subject to the Act, a meeting of Unitholders has the following powers exercisable by Special Resolution:
- (a) To sanction the exchange of Units for, or the conversion of Units into, shares, stock, debentures, debenture stock or other obligations or securities of any company formed or to be formed or into units or other interests in any other unit trust or similar entity;
 - (b) To sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Unitholders howsoever such rights arise;
 - (c) To give any sanction, assent, release or waiver of any breach or default by the Manager or the Supervisor under any of the provisions of this Deed;
 - (d) To discharge, release or exonerate the Manager or the Supervisor from all liability in respect of any act of commission or omission for which the Manager or the Supervisor has or may become responsible under this Deed; and
 - (e) The powers set out in clauses 19.5(b), 21.2(a)(ii), 22.2(c), 22.4, and 34.1 .
- 11.4 A written resolution is valid as if it has been passed at a meeting if it is signed in accordance with the Act by Unitholders holding Units in the relevant Fund that have a combined value of no less than 75% of the value of the Units on issue in that Fund held by those Unitholders who are entitled to vote on the resolution at a meeting.

12. Resolutions bind all Unitholders

- 12.1 Subject to the Act, an Ordinary Resolution or Special Resolution passed at a meeting of the Unitholders duly convened and held in accordance with this Schedule is binding upon all Unitholders present or not present at the meeting. Each of the Unitholders, the Supervisor and the Manager is bound to give effect to such resolution accordingly.
- 12.2 The passing of any such resolution shall as between the Manager, the Supervisor, and the Unitholders be conclusive evidence that the circumstances justify the passing of the Ordinary Resolution or Special Resolution as the case may be, the intention being that it will rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution.

13. Minutes to be kept

- 13.1 The Supervisor will cause to be kept the minutes of all resolutions and proceedings at every meeting or if the Supervisor is not present at any meeting the chairperson of such meeting will cause the minutes to be kept.
- 13.2 Any such minutes as if purporting to be signed by the chairperson of the meeting at which such resolutions were passed or proceedings had or by the chairperson of the next succeeding meeting are prima facie evidence of the matters in those minutes and until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made is deemed to have been duly held and convened and all resolutions passed or proceedings of the meeting had duly passed and conducted.

Schedule 2: Form of Establishment Deed (clause 1.1)

This is an indicative draft only. Certain provisions may need to be deleted or amended and new provisions may need to be added, or a new form adopted as the Manager and the Supervisor may agree.

This **Deed** is made on

between (1) **Aspiring Asset Management Limited** (the **Manager**)

and (2) **The New Zealand Guardian Trust Company Limited** (the **Supervisor**).

RECITALS:

- A. The Manager and the Supervisor are parties to a consolidated and amended Master Trust Deed dated [x] 2015 (the **Trust Deed**) which sets out the terms and conditions on which units in managed investment schemes managed by the Manager will be offered for subscription to retail investors.
- B. The Trust Deed provides that each scheme shall be established by the Manager and the Supervisor entering into an Establishment Deed setting out the specific terms and conditions relating to that Fund.
- C. The Manager has resolved to establish a Fund to be known as the “[]” (the **Fund**) and the Supervisor and the Manager have entered into this **Deed** for the purpose of establishing the Fund and the terms and conditions applicable to it.

It is agreed

1. Interpretation

1.1 Trust Deed Definitions

In this **Deed** all terms defined in the Trust **Deed** which are not separately defined in this **Deed** have the same meanings where used in this **Deed**.

1.2 Additional Definitions

In this **Deed**, unless the context otherwise requires:

Distribution Period means a period of 6 months commencing on the day following a Distribution Date or, in the case of the first Distribution Period, on the date of this **Deed** and ending on the first Distribution Date;

Distribution Date means the last day of September and March, or such other day which the Manager may determine by 1 month's written notice to the Unitholders; and

Fund means the managed investment scheme established by this Deed.

1.3 References to Trust Deed

References to the Trust Deed means the Trust Deed as from time to time amended or supplemented.

1.4 Frameworks or methodologies

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

2. Creation of Fund

2.1 Establishment of Unit Trust

Upon execution for this Deed, the trusts created by this Deed and the Trust Deed in respect of the Fund will be deemed to have been established.

2.2 Name of the Fund

The Fund established under this Deed is named the [] Fund.

3. Authorised Investments

For the purposes of the Fund, **Authorised Investments** means [any interest of any nature in any real or personal property of any nature whatsoever and includes derivatives or other treasury products and any right or option to acquire or take up any such interest].

4. Issue and Valuation Dates and Issue Price

4.1 Issue dates

Units may only be issued on, or with effect from, a Valuation Day.

4.2 Valuation Days

The Valuation Day for the Fund is the last Business Day of each month.

4.3 Alternative Valuation Days

The Manager may value the Fund less frequently if, for reasons beyond the Manager's control, valuation is impossible on the day in question.

4.4 Issue Price

The Issue Price of Units calculated on each Valuation Day shall equal the Net Asset Value per Unit on that day.

5. Minimum investment and minimum transfers

5.1 Minimum Amount

The minimum initial amount that can be invested in the Fund (if any) will be determined by the Manager and disclosed in the Offer Documents. The Manager, may accept applications for amounts less than the minimum initial amount so disclosed.

5.2 Minimum Transfer

The minimum number of Units which can be transferred (if any) will be determined by the Manager and disclosed in the Offer Documents. The Manager may waive any such minimum requirement at its discretion.

6. Distributions

6.1 Distributable Income

On or before each Distribution Date, the Manager shall decide whether to make a Distribution on that date and if so how much that Distribution should be. No prior notice to Unitholders is required of the Manager's decision.

6.2 Capital or income

Distributions may be of capital and/or income as determined by the Manager.

6.3 Distributions

- (a) On each Distribution Date, the Manager shall calculate the Distribution (if any) per Unit by dividing the gross amount to be distributed on such Distribution Date by the number of Units on Issue.
- (b) Each Unitholder on the relevant Distribution Date shall receive the same Distribution per Unit irrespective of the period during which the Unitholder has held the relevant Units.

6.4 Period for Distribution

Following calculation of the Distribution per Unit pursuant to clause 6.3, the Distributions shall be distributed by the Manager as soon as practicable (but no later than 30 Business Days) after the Distribution Date together with a distribution statement.

7. Borrowing

The aggregate of the principal money borrowed and outstanding in respect of the Fund or secured against the investments of the Fund may not exceed [20% of the Gross Asset Value of the Fund].

8. Redemption of Units

Subject to clauses 8.1 and 8.12 of the Trust Deed, Units will be redeemed with effect from the first Valuation Day which occurs following the day which is 30 days after the date on which the relevant Redemption Request is received by the Manager. If a Redemption Request is received after 5pm on any day, it will be deemed to have been received on the following Business Day. The Manager may in its sole discretion redeem Units with effect from an earlier Valuation Day. The Redemption Price shall be paid within 7 Business Days of the relevant Valuation Day.

9. Fees

9.1 Application Fee

There shall be no Application Fee for the Fund.

9.2 Management Fees

The Manager shall be entitled to charge the Fund and retain for its own use a monthly management fee of []% of the Net Asset Value of the Fund on the last Business Day of each month. The monthly management fee is payable by the Supervisor out of the Fund within 14 days of the end of each calendar month.

9.3 Performance Fee

9.4 Supervisor's Fees

- (a) The Supervisor shall be paid a fee at the times and in the amounts agreed in writing by the Manager and the Supervisor but not exceeding []% per annum of the Gross Asset Value of the Fund, subject to a minimum of \$[] per annum.
- (b) The Supervisor may also charge special fees in accordance with clause 22.3 of the Trust Deed for the services and in the amounts agreed in writing by the Manager and the Supervisor.

10. Trust Deed

Except as modified by the terms of this Deed, all the terms and conditions set out in the Trust Deed shall apply to the Fund.

Execution

Executed as a Deed

Signed for and on behalf of
**Aspiring Asset Management
Limited** by two directors:

Director

Director

Print Name

Print Name

Signed for and on behalf of **The
New Zealand Guardian Trust
Company Limited** by its authorised
signatories in the presence of:

Authorised Signatory

Authorised Signatory

Print Name

Print Name

Witness to Authorised Signatories' signatures:

Signature: _____

Name: _____

Occupation: _____

Address: _____