

Constitution APT Investment Trust consolidated to 30 October 2009

Australian Pipeline Limited

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This trust deed

is made on 30 June 2005 by:

Australian Pipeline Limited
(Trustee)

Recital

The Trustee intends that this trust deed will be the constitution for a managed investment scheme to be registered under section 601EB(1) of the Corporations Act and known as the APT Investment Trust.

This deed witnesses that:

1 Definitions and Interpretation

1.1 Definitions

(a) In this deed, unless the context otherwise requires:

Application means any of the following, as the case requires:

- (1) an application for Units;
- (2) a notification of the exercise of or application to exercise Options;
or
- (3) an application for Options;

Application Moneys means the amount required to be paid to or the value of any cash or other property to be transferred to the Trustee by an applicant on the making of an Application for Units or Options;

Approved Valuer means a valuer appointed by the Trustee;

APT means Australian Pipeline Trust ARSN 091 678 778;

APT Unit means an ordinary unit in APT;

ASIC or **Commission** means the Australian Securities and Investments Commission or any regulatory body which replaces it or performs its functions;

ASIC Relief means an exemption or declaration granted by ASIC which gives relief from certain requirements of the Corporations Act;

ASTC means ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532;

ASTC Settlement Rules means the ASTC Settlement Rules and any other rules of ASTC which apply while the Units are CHES Approved Securities, each as amended from time to time;

Attached Security means a Security which is from time to time Stapled or to be Stapled to a Unit;

ASX means ASX Limited (or its successor) or the market operated by it as the context requires;

Auditor means the auditor from time to time appointed by the Trustee to audit the Trust;

Business Day has the meaning given to that term in the Listing Rules;

CHES Approved Securities means securities in respect of which approval has been given by the securities clearing house (being a licensed CS facility under Part 7.3 division 1 of the Corporations Act, namely, ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532) in accordance with the ASTC Settlement Rules;

Compliance Committee means the compliance committee (if any) for the Trust as required by section 601JA of the Corporations Act;

Compliance Plan means the compliance plan for the Trust as required by section 601HA of the Corporations Act;

Corporations Act means Corporations Act 2001 (Cth), and a reference to the Corporations Act or a provision of it includes a reference to the Corporations Act or that provision as modified by any applicable ASIC Relief;

Costs includes costs, charges, fees, expenses, commissions, Liabilities, losses, damages and Taxes and all amounts payable in respect of any of them or like payments;

Current Unit Value means the amount calculated as follows:

$$\text{CUV} = \frac{\text{NAV}}{\text{NU}}$$

where:

CUV is Current Unit Value

NAV is Net Asset Value

NU is the number of Units on Issue;

Disclosure Document means a prospectus lodged under Part 6D.2 Division 3 of the Corporations Act or a Product Disclosure Statement lodged under Part 7.9 of the Corporations Act in respect of an issue of Units or Options;

Distributable Amount means the amount determined in accordance with clause 9.3(a);

Distribution Calculation Date means 30 June and 31 December in each year or such other dates as the Trustee may determine;

Distribution Date means either:

- (1) a day not more than three calendar months after the Distribution Calculation Date for the relevant Distribution Period; or
- (2) if the Trustee determines that it is in the interests of Unitholders to delay the Distribution Date for a particular Distribution Period, the date determined by the Trustee as being the appropriate Distribution Date for that Distribution Period;

Distribution Entitlement means the entitlement to any Distributable Amount determined in accordance with clause 9.3(b);

Distribution Period means:

- (1) for the first Distribution Period, the period beginning on the date of this deed and ending on the next occurring Distribution Calculation Date;
- (2) for the last Distribution Period, the period beginning on the day after the preceding Distribution Calculation Date to the date of termination of the Trust; and
- (3) in all other circumstances, the period beginning on the day after the preceding Distribution Calculation Date to the next occurring Distribution Calculation Date;

Exercise Price in relation to a Unit issued on exercise of an Option, means the dollar value of the total consideration payable in respect of the issue of that Unit determined in accordance with clause 5;

Financial Year means:

- (1) for the first Financial Year, the period beginning on the date of this deed and ending on 30 June 2006;
- (2) for the last Financial Year, the period beginning on 1 July before the date the Trust terminates to the date the Trust terminates; and
- (3) in all other circumstances, the 12 month period ending on 30 June in each year;

Foreign Interests means the Units or Options a Foreign Unitholder would have been entitled to but for clause 4.7(a);

Foreign Unitholder means a Holder whose address appearing in the Register is in a country outside Australia;

Forfeited Unit means a Partly Paid Unit which is forfeited pursuant to clause 3.7(c) by non-payment of an Instalment;

Fully Paid Unit means a Unit on which the whole of the Issue Price has been paid;

Fund means all the cash, investments, rights and other property of the Trust (including, but not limited to, each Instalment in respect of each Partly Paid Unit);

Governmental Agency means any government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, bureau, tribunal, agency or entity in any part of the world;

Gross Asset Value means the value of the Fund not including assets of the Fund that relate to derivative instruments used for hedging;

Holder means a Unitholder or Optionholder (as the context may require);

Independent Adviser means an adviser (who may also be the Auditor) who is qualified to determine, and has relevant market experience in

determining, the issue price of securities and interests in managed investment schemes in circumstances similar to those in which the determination of the issue price of a Unit or Stapled Security (as applicable) is being made and who does not have an interest in the amount of the issue price of a Unit or Stapled Security so determined;

Instalment means, in relation to a Partly Paid Unit, each instalment of the Issue Price of that Unit which is not paid on Application for the Unit and must be paid at the time specified in the Terms of Issue;

Issue Price in relation to a Unit or an Option means the dollar value of the total consideration payable at any time in respect of the issue of that Unit or Option determined in accordance with the clause in part 5 pursuant to which the Unit or Option was issued and in respect of a Unit issued on the exercise of an Option, means the Exercise Price;

Liabilities means the liabilities in respect of the Trust and includes:

- (1) unpaid administrative costs and expenses including fees of the Trustee;
- (2) accrued charges in respect of or owing in relation to any asset of the Fund;
- (3) amounts required to meet present liabilities;
- (4) amounts of all borrowings;
- (5) any provision for Tax which in the opinion of the Trustee should be taken into account; and
- (6) any other amounts required to meet liabilities or other expenditure (including deferred liabilities) which in the opinion of the Trustee should be taken into account in determining the amount of liabilities in any of the preceding paragraphs;

Listing Rules means the Listing Rules of ASX and any other rules of ASX which are applicable while the Trust is admitted to the Official List of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX;

Market Price has the meaning given in clause 1.3;

Meeting means a meeting of Holders convened in accordance with this deed;

month means calendar month;

Net Asset Value means the Gross Asset Value less the following:

- (1) all amounts required to repay borrowings and to meet all Costs (including the amount of any provisions the Trustee determines, in consultation with the Auditor (if any), should be made) but excluding Liabilities (if any):
 - (A) to Unitholders in respect of Units, other than the liability to pay Unitholders the Redemption Price of Units in respect of which a redemption request has been made by a Unitholder and accepted by the Trustee; and

- (B) relating to derivative instruments used for hedging;
- (2) following any Distribution Calculation Date, the amount of any Distributable Amount payable but not paid to Unitholders on the day on which the Net Asset Value is determined; and
 - (3) any amount paid in advance of a call on a Partly Paid Unit;

Official List means the official list of ASX;

Official Quotation or **Officially Quoted** means official quotation by ASX of the Units or Options, as the case requires;

Option means an option granted by the Trustee in respect of unissued Units;

Operating Income means the gross income (including realised gains but excluding any unrealised gains) of the Trust from its operations including rent, interest, dividends, distributions and otherwise less expenses arising in deriving that income including, but not limited to:

- (1) property outgoings;
- (2) repairs and maintenance;
- (3) interest and other borrowing costs;
- (4) fees paid to the Trustee;
- (5) any other amount the Trustee considers prudent or appropriate to allow for contingencies or future expenses that will or may arise in respect of the Trust; and
- (6) realised (but not unrealised) losses on disposal of property or investments.

Optionholder means the person for the time being registered as a holder of an Option, including any persons jointly registered;

Paid-up Proportion in relation to a Unit means the fraction determined by dividing the amount to which the Unit has been paid (excluding any amount paid in advance of a call or any other amount credited in respect of the Unit) by the Issue Price of the Unit;

Partly Paid Unit means a Unit in respect of which any portion of its Issue Price remains unpaid;

Proposal means the restructuring proposal detailed in the explanatory memorandum relating to the meeting of unitholders of APT in relation to the Stapling of APT to the Trust;

Quarter means each 3 month period ending on the last day of March, June, September and December in each year.

Register means the register of Unitholders or Optionholders maintained by the Trustee pursuant to Chapter 2C of the Corporations Act, as the context requires;

Registrar means the body responsible for keeping the Register;

Security means a security as defined in section 92(1) of the Corporations Act and a financial product as defined in section 761A of the Corporations Act;

Stapled means, in relation to a Unit and an APT Unit (or, where the context requires, a Unit and any one or more Attached Securities), being linked together so that one may not be dealt with without the other;

Stapled Entity means any trust, corporation, managed investment scheme or other entity the Securities of which are Stapled to Units;

Stapled Security means one Unit and one APT Unit (and, if any other Attached Security is Stapled to a Unit, each Attached Security) that are Stapled together;

Stapled Security Register means the register of Stapled Securities to be established and maintained by or on behalf of the Trustee in accordance with clause 19.4;

Stapling Date means the date determined by the Trustee to be the day on which all Units on issue in the Trust will be Stapled to an equal number of APT Units on issue at that time and, if any other Attached Security is to be Stapled to a Unit, the date determined by the Trustee to be the day on which all Units on issue will be Stapled to an equal number of those Attached Securities on issue at that time;

Tax means any tax, levy, charge, impost, duty, fee, deduction, compulsory loan or withholding which is assessed, levied, imposed or collected by any Governmental Agency and includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in respect of any of the above;

Tax Act means the Income Tax Assessment Act (Cth) 1936 and the Income Tax Assessment Act (Cth) 1997;

Terms of Issue in relation to a Unit or an Option means the terms and conditions upon which that Unit or Option is issued (other than those contained in this deed);

Terms of Offer in relation to an offer to acquire an Option means the terms and conditions upon which the Option may be subscribed for and the conditions (if any) governing the transfer of the right to acquire the Option;

Trust means the trusts constituted under this deed;

Trustee includes the Trustee for the time being or any other company named in the Commission's record of registration for the Trust as the responsible entity or temporary responsible entity of the Trust;

Unit means an undivided interest in the Trust as provided for in this deed;

Unitholder means a person registered as the holder of a Unit, including any persons jointly registered;

Unit Holding means the total number of Units held by a Unitholder;

Units on Issue means the number of Units created under this deed and not cancelled;

Unstapled means, in relation to a Unit, not being Stapled to an APT Unit (or, where the context requires, a Unit and any one or more Attached Securities); and

Unstapling Date means the date determined by the Trustee to be the unstapling date pursuant to clause 19.3.

- (b) Unless otherwise specified in this deed, terms defined in the Corporations Act are used in this deed with the same defined meaning.

1.2 Interpretation

In this deed, unless the context otherwise requires:

- (a) headings and underlinings are for convenience only and do not affect the interpretation of this deed;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental or semi-governmental agency;
- (e) a reference to a part, clause or schedule is a reference to a part and clause of, and a schedule to, this deed and a reference to this deed includes any schedule;
- (f) a reference to any statute or regulation includes all statutes and regulations amending, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (g) a reference to a document includes an amendment or supplement to, or replacement or novation of, that document;
- (h) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding Business Day;
- (i) a reference to cash includes cheques and bank cheques;
- (j) references to sums of money are to amounts in Australian dollars; and
- (k) a reference to the proper performance of a duty is a reference to the proper performance of the duty after all available appeals from each judgment in respect of the matter have been exhausted.

1.3 Market Price

- (a) The “Market Price” for a Unit or Stapled Security on any Business Day is:
 - (1) for all purposes other than the purposes of clause 5.10, the weighted average traded price for a Unit or Stapled Security (as appropriate) for all sales on ASX for the period of 10 Business Days immediately preceding the relevant Business Day (whether or not a sale was recorded on any particular day);
 - (2) for the purposes of clause 5.10, the average of the daily volume weighted average traded price for a Unit or Stapled Security (as

appropriate) for all sales (excluding transactions referred to in clause 1.3(b)) on ASX for the period of 10 Business days including:

- (A) the 5 Business Days up to and including the relevant record date; and
- (B) the 5 Business Days after the relevant record date.

If in the circumstances the Trustee considers the period of 10 Business Days to be inappropriate it can extend or reduce the period or change the timing of the period.

- (b) For the purposes of clause 1.3(a)(2) the following transactions are excluded when calculating Market Price:
 - (1) any transaction defined in the ASX Business Rules as a “Special Crossing”;
 - (2) any transaction defined in the ASX Business Rules as a “Crossing” that occurs prior to the commencement of normal trading or during the closing phase or after-hours adjust phase;
 - (3) any transaction pursuant to the exercise of Options over Units; or
 - (4) any transaction which the Trustee considers is not reflective of natural supply and demand.
- (c) If the Trustee believes that the calculations in clauses 1.3(a)(1) or 1.3(a)(2) do not provide a fair reflection of the market price of a Unit or Stapled Security (as appropriate), the Market Price on any Business Day is an amount determined by an Approved Valuer, to be the fair market price of the Unit or Stapled Security (as appropriate).
- (d) For the purposes of clause 1.3(a) the “relevant record date” means the date for determination of entitlements to the distribution which will be applied in paying up Units to be issued pursuant to clause 9.5 at an issue price to be calculated by reference to the Market Price of Units or Stapled Securities (as appropriate).
- (e) Notwithstanding clause 1.3(a), for the purposes of clause 5, the Market Price for a Unit or Stapled Security (as appropriate) means an amount calculated in a manner which complies with the Corporations Act, is set out in the Terms of Issue and which in the opinion of an Approved Valuer will approximate the market price of Units or Stapled Securities (as appropriate) at or around the relevant date.
- (f) The “Market Price” of an Option on any Business Day must be determined in the same manner as the Market Price for a Unit is determined.

1.4 General compliance provision

- (a) A provision of this deed which is inconsistent with a provision of the Corporations Act does not operate to the extent of the inconsistency.
- (b) Clause 1.4(a) is subject to any declarations made by or exemptions granted by the Commission which are current in respect of or applicable to this deed.

- (c) This clause 1.4 prevails over all other provisions of this deed including any that are expressed to prevail over it.

1.5 Inconsistency with the Listing Rules

- (a) Notwithstanding anything to the contrary in this clause 1.5, this clause 1.5 has effect subject to clause 1.4
- (b) If the Trust is admitted to the Official List of ASX, the following clauses apply:
 - (1) notwithstanding anything contained in this deed, if the Listing Rules prohibit an act being done, the act must not be done;
 - (2) nothing contained in this deed prevents an act being done that the Listing Rules require to be done;
 - (3) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (4) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this deed is deemed to contain that provision;
 - (5) if the Listing Rules require this deed not to contain a provision and it contains such a provision, this deed is deemed not to contain that provision; and
 - (6) if any provision of this deed is or becomes inconsistent with the Listing Rules, this deed is deemed not to contain that provision to the extent of the inconsistency.

1.6 Additional Listing Rule requirements

At all times that the Trust is admitted to the Official List:

- (a) the Trustee must not remove or change the rights of a Holder to vote or receive distributions in respect of a Unit except in any of the following cases:
 - (1) an Instalment which is due and payable on that Unit under Part 3 has not been paid;
 - (2) in the case of the voting right, an instrument appointing a proxy in respect of that Unit has not been deposited in accordance with the Schedule;
 - (3) in the case of the voting right, the Holder became the holder of that Unit or Option after the time determined under Regulation 7.11.38 of the Corporations Regulations as the “specified time” for deciding who held the Unit or Option for the purpose of the meeting;
 - (4) the right is removed or changed under Australian legislation or under a provision in this deed that must be included to comply with Australian legislation;

- (5) the right is removed or changed under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable; or
- (6) the right is removed or changed under a court order;
- (b) a holder of a Unit must not be divested of that Unit except in any of the following cases:
 - (1) the divestment is under Australian legislation and the mechanism the Trustee adopts for divesting the Unit is set out in the legislation or is approved by ASX as appropriate and equitable;
 - (2) the divestment is under a provision in this deed that must be included to comply with Australian legislation;
 - (3) the divestment is under a provision in this deed that is permitted by the Listing Rules or that ASX has approved as appropriate and equitable;
 - (4) the divestment is under a court order; or
 - (5) the divestment is under clause 3.8;
- (c) the Trustee must not divest a Holder of Units or forfeit Units while those Units are in a “CHESS Holding” as that term is defined in the ASTC Settlement Rules. Without limitation to clause 1.5, at all times that the Trust is admitted to the Official List the Trustee must comply with ASTC Settlement Rule 5.12.

1.6A Corporations Act and ASIC Relief

- (a) If the Corporations Act requires that this deed contain certain provisions, or if any ASIC Relief on which the Trustee has determined to rely or which is expressly applicable to the Trust and the Trustee requires certain provisions to be contained in this deed in order for the ASIC Relief to apply; or
- (b) if any part of this deed is included to comply with any requirement of the Corporations Act, Listing Rules, ASIC or ASX and that regulatory requirement ceases or changes,

then, to the extent the Corporations Act allows, this deed is taken to be amended so that such required provisions referred to in clause 1.6A(a) are included, or such part referred to in clause 1.6A(b) is deleted or amended to reflected the amended regulatory requirement. The Holders authorise the Trustee to make the amendments referred to in this clause 1.6A in a deed and, if required, to lodge it with ASIC.

2 The Trust

2.1 Trustee

Australian Pipeline Limited is appointed and agrees to act as trustee of the Trust.

2.2 Name of Trust

The name of the Trust is “APT Investment Trust”. The Trustee may change the name of the Trust.

2.3 Declaration of trust

Each asset of the Fund is vested in, and is held by, the Trustee on behalf of the Unitholders.

3 Interest of Unitholder

3.1 Division into Units

- (a) The beneficial interest in the Fund is divided into Units. No Unit confers an interest in a particular part of the Trust or the Fund.
- (b) A Holder may not:
 - (1) interfere or seek to interfere with or question the rights, powers, authority or discretion of the Trustee;
 - (2) claim or exercise any right in respect of any asset of the Fund or lodge any caveat or other notice affecting any asset of the Fund; or
 - (3) require that any asset of the Fund be transferred to a Holder.
- (c) Holders may not give any directions to the Trustee (whether at a meeting convened pursuant to sections 252B, 252C and 252D of the Corporations Act or otherwise) if it would require the Trustee to do or omit doing anything which may result in:
 - (1) the Trust ceasing to comply with the Listing Rules or the Trustee acting inconsistently with clause 4.7; or
 - (2) the exercise of any discretion expressly conferred on the Trustee by this deed or the determination of any matter which under this deed requires the agreement of the Trustee.

3.2 Fractions and splitting

- (a) Units may be issued in fractions at the discretion of the Trustee, and the value of, and all rights and obligations attaching to, a fractional Unit will be in proportion to those of a whole Unit.
- (b) Where a holding comprises more than one fraction of a Unit, the Trustee may consolidate such fractions.
- (c) The Trustee may consolidate or split the Units or Options. The Trustee must in respect of any such consolidation or split:
 - (1) immediately amend the Register to record the consolidation or split;
 - (2) notify the Holder within 30 days of the consolidation or split; and
 - (3) ensure that each Unit or Option is consolidated or split on the same basis as each other Unit or Option.

Each Holder appoints the Trustee as his or her agent and attorney to execute all documents and do all things which the Trustee considers necessary, desirable or reasonably incidental to give effect to consolidation or split of the Units or Options.

3.3 Issue of Partly Paid Units

- (a) The Trustee may offer any Units which are offered for subscription as Partly Paid Units the Issue Price of which is payable on issue and by Instalments.
- (b) The Trustee must set out the Terms of Issue of the Partly Paid Units in the document offering those Units for subscription, which must include the amount and time for payment of the Instalments.
- (c) The whole of the unpaid Issue Price of each Partly Paid Unit is payable immediately upon termination of the Trust.
- (d) A Holder of a Partly Paid Unit must pay the Instalments of the Issue Price in accordance with the Terms of Issue and in accordance with this deed.
- (e) A Partly Paid Unit which forms part of a Stapled Security will not be credited or deemed to be fully paid until:
 - (1) the Trustee has received all moneys unpaid in relation to that Unit; and
 - (2) the Trustee, in its capacity as responsible entity of APT, has received any amounts unpaid in relation to the APT Unit to which it is Stapled.

3.4 Joint Holders

Where two or more persons are registered as the Holders of a Unit or an Option (“joint holders”) they are, for the purposes of the administration of the Trust and not otherwise, deemed to hold the Unit or Option as joint tenants, on the following conditions:

- (a) the Trustee is not bound to register more than three persons as the joint holders of the Unit or Option;
- (b) the joint holders are jointly and severally liable in respect of all payments, including payment of Tax, which ought to be made in respect of the Unit or Option;
- (c) on the death of a joint holder, the survivor or survivors are the only person or persons whom the Trustee will recognise as having any title to the Unit or Option, but the Trustee may require any evidence of death which it thinks fit;
- (d) any one of the joint holders may give an effective receipt which will discharge the Trustee in respect of any payment or distribution; and
- (e) only the person whose name appears first in the Register as one of the joint holders is entitled to delivery of any notices, cheques or other communications from the Trustee, and any notice, cheque or other communication given to that person is deemed to be given to all the joint holders.

3.5 Benefits and obligations of Unitholders and Optionholders

- (a) Except where expressly provided in this deed to the contrary, all benefits and obligations contained in this deed apply for the benefit of and bind each Unitholder to the extent provided in this deed.
- (b) Except where expressly provided in this deed to the contrary, all obligations contained in this deed bind each Optionholder to the extent provided in this deed. The benefits contained in this deed only apply for the benefit of Optionholders where expressly provided in this deed.
- (c) Subject to the Corporations Act, where the interests of Optionholders and Unitholders conflict, the Trustee must prefer the interests of Unitholders.

3.6 No further liability

- (a) This clause 3.6 is subject to any separate agreement between a Unitholder and the Trustee and to any call on Partly Paid Units which the Trustee is entitled to make under clauses 3.3 and 3.7 to 3.14.
- (b) The liability of each Holder in its capacity as such is limited to the Holder's investment in the Trust.
- (c) A Holder is not required to indemnify the Trustee or a creditor of the Trustee against any liability of the Trustee in respect of the Trust.
- (d) The recourse of the Trustee and any creditor of the Trustee is limited to the assets of the Fund.
- (e) Except as provided in clauses 3.8(a) and 3.12(i), nothing in or under this deed makes either the Trustee the agent of a Unitholder nor does it create any relationship other than that of beneficiary and Trustee.

3.7 Failure to pay instalment on Partly Paid Unit

- (a) The Trustee must serve each Holder of a Partly Paid Unit with a notice not later than 30 Business Days prior to the due date for payment of an Instalment. The omission to give such notice by the Trustee or the non-receipt of such notice by the Holder of a Partly Paid Unit does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.
- (b) If a Unitholder does not pay an Instalment on the due date, the Trustee must serve the Unitholder with a notice not later than 7 days after the due date containing:
 - (1) a demand for payment of all Instalments due and payable in respect of the Partly Paid Units and any interest payable;
 - (2) a statement that interest:
 - (A) runs from the due date of the Instalment until the date the Trustee receives payment of the overdue amount in full; and
 - (B) is payable at a fair market rate determined by the Trustee;
 - (3) a further due date for payment which may not be earlier than the expiration of 7 days after the date of service of the notice; and

- (4) a warning that if payment in full is not received by the due date specified in the notice:
 - (A) the Partly Paid Unit is forfeited;
 - (B) the Trustee may offer the Forfeited Unit for sale; and
 - (C) all Costs associated with the forfeiture and any proceedings that may be necessary to recover the amount due from the Unit Holder will lie with the Unit Holder.

The omission to give such notice by the Trustee or the non-receipt of such notice by the Unitholder does not in any way whatsoever affect the obligation of the Holder to pay the Instalment.

- (c) A Partly Paid Unit is forfeited and the Trustee may offer that Partly Paid Unit for sale:
 - (1) if payment in full is not received by the due date specified in the notice issued under clause 3.7(b); or
 - (2) if the Partly Paid Unit is Stapled to a partly paid APT Unit and that partly paid APT Unit is forfeited under the constitution of APT because of non payment of a call on that partly paid APT Unit.

3.8 Sale of Forfeited Unit

- (a) Notwithstanding clause 3.6(e), if the Trustee offers a Forfeited Unit for sale it does so as agent for the Holder of the Forfeited Unit;
- (b) Subject to clause 3.8(c) if the Trustee sells the Forfeited Unit, it must sell it by public auction in a manner and at a price determined by the Trustee;
- (c) The Trustee must ensure that the auction is in accordance with section 254Q of the Corporations Act (other than subsections 254Q(1), (10) and (13)) as if the Forfeited Unit was a share, the Trust was the company and the Trustee was the directors of the company;
- (d) The Trustee is not liable to the Unitholder for any loss suffered by the Unitholder as a result of the sale.

3.9 Income and Capital of a Forfeited Unit

Distribution of income and capital under part 9:

- (a) to which the Holder of a Forfeited Unit is entitled; and
- (b) which have not been paid to the Holder prior to forfeiture,

must be applied in accordance with clause 3.13 as if they formed part of the proceeds of sale of a Forfeited Unit.

3.10 Notice of sale of Forfeited Unit

At least 14 days but no more than 21 days before the date appointed for sale under clause 3.8(b), the Trustee must give notice of the sale of a Forfeited Unit:

- (a) to all Unitholders in writing; and

- (b) by placing an advertisement in a daily newspaper circulating generally throughout Australia.

3.11 Cancellation of Forfeiture

The Trustee must cancel the forfeiture of a Partly Paid Unit before a sale if the Holder of the Forfeited Unit pays the Trustee the full amount of the Instalment due together with interest on that Instalment calculated under clause 3.7(b) and any other amount payable in respect of the forfeiture.

3.12 Consequences of sale and continuing liability

- (a) On completion of the sale of the Forfeited Unit, the Holder ceases to be the Holder of that Unit but remains liable to the Trustee for the total amount set out in the notice served under clause 3.8(b).
- (b) The Unitholder's liability under this clause ceases as soon as the Trustee receives:
 - (1) payment in full of the amount set out in the notice under clause 3.8(b) (excluding any amount paid by an underwriter pursuant to an underwriting agreement entered into under clause 5.2);
 - (2) the Costs associated with the forfeiture; and
 - (3) the Costs of all proceedings instituted against the Unitholder to recover the amount due.
- (c) A statement signed by a director or secretary of the Trustee setting out:
 - (1) that a Partly Paid Unit has been forfeited; and
 - (2) the date of forfeiture,is conclusive evidence against any person claiming entitlement to the Forfeited Unit.
- (d) On completion of the sale the Trustee must apply the consideration paid for a Forfeited Unit in accordance with clause 3.13.
- (e) The Trustee is authorised to and must execute a transfer of a Forfeited Unit (and any APT Unit to which it is Stapled) to the purchaser thereof in accordance with clause 19.3.
- (f) If the Trustee executes a transfer of a Forfeited Unit, the Trustee must register the transferee as the Holder of the Forfeited Unit.
- (g) The transferee of the Forfeited Unit is not required to verify the application of the purchase money.
- (h) The title to a Forfeited Unit is not affected by an irregularity or invalidity in the proceedings relating to the sale or disposal of a Forfeited Unit.
- (i) The Trustee is authorised to and must execute a transfer of a Forfeited Unit to the purchaser thereof.

3.13 Proceeds of sale of Forfeited Unit

- (a) If a Forfeited Unit is sold under clause 3.8, the Trustee must apply the proceeds of the sale in the following order and manner:
 - (1) by paying any Costs incurred by the Trustee in relation to the sale or disposal of the Forfeited Unit including, but not limited to, commission, stamp duty, transaction duty, transfer fees and advertising and postal charges;
 - (2) by paying any Costs incurred by the Trustee in relation to the forfeiture or any proceedings brought against the Holder of the Forfeited Unit to recover unpaid Instalments;
 - (3) by holding as an asset of the Fund, the interest accrued in respect of the outstanding Instalments calculated under clause 3.7(b);
 - (4) by holding as an asset of the Fund, the balance of all Instalments due and payable in respect of the Forfeited Units; and
 - (5) by paying the balance to the Unitholder whose Units are forfeited.
- (b) If there is a sale of more than one Forfeited Unit, the Trustee must pay the expenses listed in clause 3.13(a)(1) and (2) pro rata to the number of Forfeited Units being sold.
- (c) Joint Holders of Partly Paid Units are jointly and severally liable for all amounts due and payable on their Partly Paid Units.

3.14 Lien for Amounts Owing

The Trustee has a first and paramount lien over Units for any amounts owing to the Trustee in respect of Units registered in the name of a Unitholder, including any fees or unpaid calls which are payable to the Trustee in respect of those Units and also for such amounts as the Trustee may be called upon by law to pay and has paid in respect of the Units of such Unitholders. The lien extends to distributions from time to time declared in respect of such Units but if the Trustee registers any transfer of any Units upon which it has a lien, those Units are freed and discharged from the lien.

4 Issue of Options and Units

4.1 Number of Units issued

- (a) If the Trustee accepts an Application for Units in whole or in part, the number of Units issued is the number determined by the Trustee by dividing the relevant Application Moneys by the Issue Price.
- (b) If the Trustee accepts an Application for Partly Paid Units in whole or in part, the number of Units issued is the number determined by the Trustee dividing the relevant Application Moneys by the amount of the Issue Price for a Unit which is to be paid on Application.
- (c) The number of Units issued on the exercise of an Option is to be determined in accordance with the Terms of Issue and Terms of Offer.

4.2 Application for Units or Options

A person who wishes to subscribe for Units or Options must:

- (a) complete or make an Application in the form or manner determined by the Trustee;
- (b) lodge or make the Application at the place or address and in the manner determined by the Trustee; and
- (c) include with the Application the Application Moneys in the form or manner specified by the Trustee or by the transfer of property to be vested in the Trustee.

4.3 Payments to the Trustee

- (a) The Trustee must hold the payment received or property to be transferred to the Trustee on an Application in accordance with the Corporations Act until the Trustee has accepted or rejected the Application.
- (b) If an applicant is to transfer property to the Trustee, the Trustee must not accept the Application unless it has received from the applicant:
 - (1) an effective transfer of the title to the property in favour of the Trustee; and
 - (2) a valuation acceptable to the Trustee stating the current market value of the property or other statement of its current market value.
- (c) Unless the applicant has paid all amounts payable in respect of the issue of Units or the transfer of property (if any) to the Trustee prior to the Trustee accepting the Application, the Trustee must deduct those amounts before determining the number of Units to be issued under clause 4.1.
- (d) If Units or Options are issued and:
 - (1) the Trustee has not received the Application Moneys in accordance with the Terms of Issue; or
 - (2) any payment for Units or Options is not cleared or property is not effectively transferred to the Trustee,the Units or Options are void as from their date of issue or such other date as the Trustee determines if the Trustee has not otherwise received payment of an amount equal to the Application Moneys for the Units or Options.
- (e) All income in respect of the payment or property received on an application for Units or Options (which has been accepted by the Trustee) prior to the issue of those Units or Options forms part of the Fund.
- (f) Applications Moneys for Units or Options issued pursuant to a Disclosure Document must be paid to the Trustee, to be placed by the Trustee in a special trust account until the earlier of:
 - (1) the minimum subscription, if any (to be specified in the Disclosure Document) has been reached and the Trustee decides to proceed to allotment of Units; or

- (2) the date by which the Application Moneys would need to be repaid under the Corporations Act.

Until the Trustee decides to proceed to the allotment of Units in accordance with this part 4, it holds such Application Moneys in accordance with the Corporations Act and the Trustee must comply with all obligations imposed on it in the same manner as it would be required to do if it were a company offering shares for subscription or purchase. Where Application Moneys are repayable under section 723(3) or 724 of the Corporations Act, no interest is payable on that money.

4.4 Issue and Allotment

A Unit is taken to be issued at a time which is the earlier of:

- (a) the time the issue of Units is recorded in the Register; and
- (b) the later of the time when:
 - (1) the Trustee accepts an Application for Units; and
 - (2) the Trustee or its agent receives the Application Moneys (even if paid into an account held for the purposes of section 1017E of the Corporations Act).

An Option created is regarded as issued or granted to the person entitled to it if and when the person's name is recorded in the Register. No rights whatsoever attach to a Unit until it is issued or Option until it is granted.

4.5 Trustee's discretion on Application

The Trustee may in its absolute discretion accept or refuse to accept in whole or in part any Application or subscription for Units or Options (other than on the exercise of an Option). Subject to the Listing Rules, the Trustee is not required to assign any reason or ground for such refusal.

4.6 Certificates

If it is not contrary to the Listing Rules, the Trustee may determine:

- (a) not to issue a certificate for a Unit; and
- (b) to cancel a certificate for a Unit and not to issue a replacement certificate.

4.7 Foreign Unitholders

- (a) The Trustee may elect, subject to the Corporations Act and the Listing Rules, that Foreign Unitholders are not to be offered Units, Options or Stapled Securities (as applicable) under clauses 5.8, 5.9, 5.10 or 5.11.
- (b) If the Trustee appoints a nominee to arrange for the sale of the Foreign Interests in accordance with clause 4.7(c), it must pay to each Foreign Unitholder the amount calculated as follows:

$$AF = NP \times \frac{NF}{N}$$

where:

AF is the amount to be paid to that Foreign Unitholder;

NP is the net proceeds of sale of the Foreign Interests being the amount (if any) remaining after deducting from the proceeds of sale of the Foreign Interests the aggregate of:

- (1) the Costs of the sale;
- (2) the amounts (if any) payable to the Trustee by any nominee appointed under clause 4.7(c) in respect of the Foreign Interest; and
- (3) any amounts the Trustee would be required by law or otherwise entitled to deduct or withhold under this deed;

N is the aggregate number of Foreign Interests; and

NF is the number of Foreign Interests to which that Foreign Unitholder would otherwise have been entitled.

- (c) If the Trustee elects not to offer Units, Options or Stapled Securities in accordance with clause 4.7(a), the Trustee may (and in the case of a renounceable pro rata issue, must) appoint a nominee to arrange for the sale of the Foreign Interests under, and pay to each Foreign Unitholder the amount calculated in accordance with the formula in, clause 4.7(b).
- (d) The Trustee must take reasonable steps to maximise the amount payable to each Foreign Unitholder under clause 4.7(b).

5 Power to issue Units and Options

5.1 Powers Cumulative

- (a) Subject to this deed, the Corporations Act and the Listing Rules, the Trustee may issue Units (or Stapled Securities if a Unit forms part of a Stapled Security) only in accordance with this part 5, but nothing in this part 5 or this deed limits the Trustee's power to issue Units or Stapled Securities in compliance with any ASIC Relief and the Listing Rules.
- (b) No clause of this part 5 (other than this clause 5.1) limits any other such clause.
- (c) In this part 5, where a Unit forms part of a Stapled Security, a reference to a Unit includes a reference to a Stapled Security.

5.2 Underwriting of Issue

- (a) The Trustee may arrange for:
 - (1) an offer for sale, subscription or issue of Units or Options;
 - (2) the payment of Instalments in respect of Partly Paid Units; or
 - (3) the exercise of Options,to be underwritten by an underwriter on terms determined by the Trustee.

- (b) The underwriter may:
 - (1) be the Trustee or a Related Body Corporate of the Trustee; and
 - (2) take up any Units or Options not subscribed for.
- (c) The Trustee may issue Units and Options pursuant to this clause 5.2 at an Issue Price equal to the Issue Price at which the Units or Options in relation to the underwritten issue or offer were or would have been issued to persons other than the underwriter or underwriters.

5.3 Issues of Options

The Trustee may offer Options for subscription in accordance with the Terms of Offer and Terms of Issue.

5.4 Issue of Units pursuant to Options

The Trustee may issue a Unit or Units in accordance with the Terms of Offer and Terms of Issue of an Option.

5.5 Issue at Market Price or Current Unit Value

In addition to any other power the Trustee has to issue Units under this deed, the Trustee may issue Units or Options at any time to any person at an Issue Price as follows:

- (a) for the initial issue of Units in the Trust, Units at an issue price of \$[] per Unit;
- (b) where the Trust has been admitted to the Official List and the Units form part of Stapled Securities and those Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily):
 - (1) Units at a price determined by the Trustee provided that the aggregate of the Issue Price of that Unit and the issue price of the APT Unit to which that Unit will be Stapled is equal to the Market Price for Stapled Securities on the Business Day prior to the day on which the offer or issue is made;
 - (2) Options at the consideration for the issue of the Option specified in the Terms of Offer and Terms of Issue, where the Units to be issued pursuant to the exercise of those Options are to be Stapled to APT Units and issued at a price determined by the Trustee provided that the aggregate of the Issue Price of that Unit and the issue price of the APT Unit to which that Unit will be Stapled is equal to the Market Price for Stapled Securities immediately prior to the date upon which the Option is issued; and
- (c) where Units form part of Stapled Securities and those Stapled Securities have been suspended from Official Quotation (other than temporarily) or have otherwise ceased to be Officially Quoted or the Trust has been removed from the Official List, Units at the Current Unit Value on the Business Day prior to the day the offer to issue the Units is made.

5.6 Placements of Units and Options without Unitholder approval

The Trustee may issue Units or Options at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5, where;

- (a) the Trust has been admitted to the Official List and the Units, Options or Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily);
- (b) the issue is not to the Trustee or any person associated with the Trustee unless the issue is permitted under any applicable instrument issued by ASIC;
- (c) the issue is of Units, Options or Stapled Securities that would not immediately before the issue (when aggregated with any other issue of Units pursuant to this clause 5.6 up to one year previously other than an issue that was subsequently ratified by the Holders) comprise more than 15% (or such greater percentage as may be permitted from time to time by both the Corporations Act and the Listing Rules) of either all of the Units, Options or Stapled Securities or the Units, Options or Stapled Securities in the same class.

5.7 Placements of Units and Options with Unitholder approval

The Trustee may issue Units or Options at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5, where;

- (a) the Trust has been admitted to the Official List and the Units, Options or Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily);
- (b) the issue is not to the Trustee or any person associated with the Trustee unless the issue is permitted under any applicable instrument issued by ASIC;
- (c) the Holders approve the issue;
- (d) any notice convening a Meeting to vote on the issue contains particulars of the use to be made of the money raised by the issue;
- (e) an approval for the purposes of clause 5.7(c) is given by special resolution of the Holders where Holders with at least 25% of the total value of all the Units or Options of Holders entitled to vote on the question vote on the question at the Meeting; and
- (f) if, in making the calculations referred to in clause 5.7(e), any vote of a person to whom the Units are to be issued or any vote of any associate of that person were not counted, the resolutions would be passed.

5.8 Rights issues of Units

The Trustee may issue Units at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5 pursuant to offers made to those Holders on a date determined by the Trustee not

being more than 20 Business Days immediately prior to the offer (subject to clause 4.7) if:

- (a) all the Units offered are in the same class;
- (b) the Issue Price of all the Units offered is the same;
- (c) the aggregate of the Issue Price of those Units and the issue price of APT Units to which those Units are Stapled is not less than 50% of the Market Price of Stapled Security on the Business Day preceding the day on which the intention to make the offer or issue is announced on ASX; and
- (d) the amount of Units offered to each Unitholder is proportionate to the value of that Unitholder's Unit Holding.

5.9 Rights issues of Options

The Trustee may issue Options and Units on the exercise of an Option at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5 if the Options are issued pursuant to offers made to those Holders on a date determined by the Trustee not being more than 20 Business Days immediately prior to the offer (subject to clause 4.7) in proportion to the value of their Unit Holding, and;

- (a) those Options will be issued simultaneously with an equal number of options over APT Units;
- (b) the Units to be issued pursuant to the exercise of those Options are to be Stapled to APT Units;
- (c) all the Options offered are in the same class;
- (d) the Issue Price of all the Options offered is the same;
- (e) the Exercise Price of all the Units to be issued on exercise of the Options is the same;
- (f) the means of calculating the Exercise Price is set out in the Terms of Issue; and
- (g) the aggregate of the Exercise Price on the date of exercise of the Options and the exercise price on the date of exercise of the options over the APT Units to which the Units to be issued pursuant to those Options will be Stapled is not less than 50% of the Market Price of a Stapled Security immediately prior to the date upon which the Option is issued.

5.10 Issues of Units - distribution reinvestment

The Trustee may issue Units at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5 pursuant to a distribution reinvestment arrangement referred to in clause 9.5 where:

- (a) the whole or part of a Unitholder's Distribution Entitlement is applied in payment for the subscription for Units;
- (b) each Unitholder (subject to clause 4.7) may from time to time elect to participate in that arrangement as to the whole, or some proportion, of the

Distribution Entitlement which is or would otherwise be, payable to that Unitholder;

- (c) all the Units issued under the arrangement are of the same class;
- (d) the Issue Price of each Unit issued pursuant to that arrangement at substantially the same time is the same; and
- (e) the aggregate of the Issue Price of those Units and the issue price of APT Units to which those Units will be Stapled is not less than 90% of the Market Price of a Stapled Security as at the Business Day immediately preceding the relevant Distribution Calculation Date.

5.11 Unitholder Purchase Plans

The Trustee may issue Units at an Issue Price determined by the Trustee, being a price other than the Issue Price calculated in accordance with clauses 5.2 and 5.5, while the Trust is included in the Official List and the Units form part of Stapled Securities and those Stapled Securities are Officially Quoted and have not been suspended from Official Quotation (other than temporarily), under an arrangement where:

- (a) an offer for the issue of Units is made to each Unitholder of Units in that class (subject to clause 4.7);
- (b) each offer is made on the same terms and conditions and on a non-renounceable basis;
- (c) the aggregate of the Issue Price and the issue price of APT Units to which the Units are Stapled is less than Market Price of Stapled Securities during a specified period in the 30 days prior to either the date of the offer or the date of the issue; and
- (d) no Unitholder may be issued Stapled Securities with an application price totalling more than \$15,000 (or such greater amount as may be permitted from time to time under the Listing Rules and the Corporations Act) in any consecutive 12 month period.

5.12 Interpretation

For the purposes of clause 5.11:

- (a) if a trustee or nominee is expressly noted on the Register as holding Units on account of another person (**beneficiary**):
 - (1) the beneficiary is taken to be the Unitholder in relation to those Units and thereby in relation to the relevant Stapled Securities; and
 - (2) any issue of Stapled Securities to the trustee or nominee is taken to be an issue to the beneficiary; and
- (b) a reference to an offer for the issue of Units includes a reference to inviting an application for the issue of the Unit.

5.13 Issues of Units - Bookbuilds

- (a) The Trustee may issue Units as part of Stapled Securities pursuant to a bookbuild arranged by a reputable merchant bank with experience in

arranging bookbuilds in the Australian equity market under which a majority of Units are issued to persons who are not associates (as that term is defined in sections 11 to 16 of the Corporations Act) of the Trustee at an Issue Price determined by the Trustee provided that the issue price for the Stapled Securities of which the Units will form a part is determined in accordance with the terms of the bookbuild (**Bookbuild Price**) and provided that the Independent Adviser has provided written certification that the bookbuild was conducted in accordance with normal market practice for bookbuilds and that the Bookbuild Price is, in the Independent Adviser's opinion, a fair market price having regard to the number of Stapled Securities being issued in, and the circumstances of, the proposed offer of Units or Stapled Securities.

- (b) The Trustee may issue Units at an Issue Price determined by the Trustee provided that the issue price for the Stapled Securities of which the Units will form a part is equal to the Bookbuild Price determined in accordance with clause 5.13(a) if the issue is:
 - (1) a placement to wholesale clients (as that term is defined in section 761G(4) of the Corporations Act, which may include an associate of the Trustee) announced at the same time as, or within 15 Business Days of the date as at which the Bookbuild Price is determined in accordance with clause 5.13(a); or
 - (2) made pursuant to a Disclosure Document lodged with the Australian Securities and Investments Commission pursuant to sections 718 or 1015B of the Corporations Act respectively within 15 Business Days of the date as at which the Bookbuild Price is determined in accordance with clause 5.13(a); or
 - (3) made pursuant to an offer without a Disclosure Document lodged with ASIC pursuant to section 708AA or 1012DAA of the Corporations Act within 15 Business Days of the date as at which the Bookbuild Price is determined in accordance with clause 5.13(a).

5.14 Apportionment of Issue Price

If Units form part of Stapled Securities, the Issue Price determined by the Trustee under part 5 is to be apportioned between the Unit and any Attached Securities as the Trustee determines.

6 Trustee's Powers

6.1 General powers of Trustee

- (a) Subject to this deed, the Trustee has all the powers that it is possible to confer on a trustee and has all the powers that are incidental to ownership of the Fund as though it were the absolute and beneficial owner of the Fund.
- (b) In the exercise of its powers the Trustee may, without limitation, acquire or dispose of any real or personal property and borrow or raise money,

encumber any asset of the Fund, incur any liability, enter into joint venture arrangements or fetter any power.

6.2 Delegation by Trustee

- (a) The Trustee may appoint a person, including an Associate of the Trustee, as its delegate, attorney or agent to exercise its powers and perform its obligations.
- (b) The Trustee may appoint an agent, custodian or other person, including an Associate of the Trustee (each of whom may, with the approval of the Trustee, sub-delegate to any person any of its functions as it thinks fit), to acquire, hold title to, dispose of or otherwise deal with any asset of the Fund on behalf of the Trustee and perform any action incidental or ancillary thereto or otherwise approved by the Trustee.

6.3 Guarantees

Without limiting the generality of the powers of the Trustee contained in clause 6.1, the Trustee may:

- (a) guarantee the obligations of any entity controlled by the Trustee; or
- (b) guarantee the obligations of any other entity if the Trustee believes that the provision of such a guarantee is in the best interests of the Unitholders.

6.4 Ancillary Powers

- (a) Without limiting this clause 6, the Trustee may enter into without approval from Unitholders:
 - (1) a transaction which enables all Unitholders to realise all or a substantial portion of their investment in the Trust;
 - (2) a proposal to exchange Units for an equivalent value of units in a trust of which the Trustee is also the trustee, and of which, following the implementation of the proposal, the only assets are all of the Units on issue at that time; or
 - (3) a proposal to transfer or redeem some or all of Units in consideration of units, options or interests in another entity, cash payments and/or a transfer of assets,and any other reorganisation proposal with approval from Unitholders.
- (b) Without limiting this clause 6 but subject to the Corporations Act, the Trustee's common law duties and the Listing Rules, in the exercise of the powers conferred on the Trustee by this deed:
 - (1) the Trustee may make distributions and other payments to Unitholders (either generally or to specific Unitholders) out of the assets of the Trust (either in cash or in specie);
 - (2) each Unitholder appoints the Trustee as his or her agent and attorney to apply the distribution or payment under clause 6.4(b)(1) to subscribe for securities and to consent to become a member of a company or other body on behalf of Unitholders; and

- (3) the Trustee has power to execute all documents and do all things which it considers necessary, desirable or reasonably incidental to give effect to any proposal or transaction under clause 6.4(a) or to distribution or payment under this clause 6.4(b), including amending this deed to give effect to any proposal or transaction under clause 6.4(a).

7 Trustee's responsibilities and indemnities

7.1 No limitation of other undertakings

This Part 7 does not limit or affect any other indemnities given to the Trustee in this deed or at law.

7.2 Limitation of liability

- (a) Except where the Corporations Act expressly provides otherwise:
 - (1) the Trustee and each director and officer of the Trustee are not personally liable to a Holder or any other person in connection with the office of the Trustee or director or officer of the Trustee; and
 - (2) the Trustee will not be liable to any Holder to any greater extent than the extent to which it is entitled to be and is in fact indemnified out of the assets of the Fund actually vested in the Trustee in respect of the Trust.

7.3 Indemnities

- (a) The Trustee is not responsible for:
 - (1) any Costs incurred by any fraud, negligence, breach of duty or breach of trust or otherwise, by any agent, delegate, attorney or custodian and any of their agents or delegates;
 - (2) any Costs incurred by relying on any notice, resolution, information, documents, forms or lists unless it reasonably believes such item not to be genuine or not to have been passed, executed or signed by the proper parties; or
 - (3) Costs if a person fails to carry out an agreement with the Trustee or an agent or delegate of the Trustee,except where the Corporations Act provides otherwise.
- (b) The Trustee will not be liable to anyone in respect of any failure to perform or do any act or thing which by reason of:
 - (1) any provision of any present or future law or statute of Australia or any State or Territory; or
 - (2) of any decree, order or judgement of any competent court,the Trustee is prevented, forbidden or hindered from doing or performing.

7.4 Trustee may rely on advice

The Trustee may take and act upon:

- (a) the opinion or advice of counsel or solicitors instructed by the Trustee in relation to the interpretation of this deed or any other document (whether statutory or otherwise) or generally as to the administration of the Trust or any other matter in connection with the Trust; and
- (b) the opinion, advice, statements or information from any bankers, accountants, auditors, valuers architects, engineers and other persons consulted by the Trustee who are in each case believed by the Trustee in good faith to be expert in relation to the matters upon which they are consulted,

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

7.5 Interested dealings by Trustee

The Trustee or an officer or employee or Associate of the Trustee may:

- (a) be a Holder;
- (b) act in any capacity including without limitation as a representative, delegate or agent of the Trustee or any Holder;
- (c) have an interest in or enter into a contract or transaction with:
 - (1) the Trustee or an Associate of the Trustee;
 - (2) any Holder; or
 - (3) any other person, including one whose shares or other securities form an asset of the Fund; or
- (d) hold or deal in or have any other interest in an asset of the Fund, and may retain and is not required to account for any benefit derived by doing so.

8 Valuation of the Fund

8.1 Valuation of assets

- (a) The Trustee may at any time, cause the valuation of any asset of the Fund.
- (b) In determining whether a valuation accurately reflects the current value of an asset of the Fund, the Trustee is not to be regarded as having the knowledge of a valuer or any other expertise in respect of the valuation of assets of the Fund.
- (c) Each asset of the Fund must be valued at its market value unless the Trustee determines:
 - (1) there is no market in respect of the asset of the Fund; or
 - (2) the market value does not represent the fair value of the asset of the Fund.

- (d) Where the Trustee makes a determination under clause 8.1(c), the Trustee must at the same time determine the method of valuation of the asset of the Fund.
- (e) Where any asset of the Fund is to be valued or the Net Asset Value of the Trust and the number of Units on Issue is to be determined, the valuation or determination is to be as at a time determined by the Trustee.
- (f) Where the calculation of the Issue Price is to be made as at a particular date, the Trustee need not cause a valuation of the Fund to be performed as at that date but may rely on the most recent valuations for the purposes of that calculation.

8.2 Currency Conversion

Where it is necessary for any purposes to convert one currency to another, the conversion must be made at a time and at such rates quoted by a bank or other financial institution nominated by the Trustee.

8.3 Trustee to determine Current Unit Value

The Trustee may determine the Current Unit Value at any time.

9 Income and Distributions

9.1 Determination of income and reserves

The Trustee is to determine whether any item is income or capital and the extent to which reserves or provisions need to be made.

9.2 Distribution of income

The Trustee may at any time distribute pro rata to Unitholders income or capital out of the Fund. For each Distribution Period the Trustee must calculate and distribute each Unitholder's Distribution Entitlement.

9.3 Distribution Entitlement

- (a) **Distributable Amount** for a period is to be determined in accordance with the following formula:

$$DA = I + C$$

Where:

DA is the amount of Distributable Amount.

I is the Operating Income of the Fund.

C is any additional amount (including capital) that the Trustee has determined is to be distributed.

- (b) Subject to the Terms of Issue for any Unit, the Distribution Entitlement of each Unitholder is to be determined in accordance with the following formula:

$$DE = DA \times \frac{UH}{UI}$$

where:

DE is the Distribution Entitlement.

DA is the Distributable Amount.

UH is the aggregate of the Paid-up Proportion of each relevant Unit Holding of the Unitholder at the close of business on the Distribution Calculation Date.

UI is the aggregate Paid-up Proportion of all Units on issue in the Trust at the close of business on the Distribution Calculation Date.

9.4 Distribution of Entitlement

- (a) The Trustee must pay to each Unitholder its Distribution Entitlement on or before the Distribution Date.
- (b) For the purpose of determining the entitlement to the Distribution Entitlement for a Distribution Period, the persons who are Unitholders on the record date for that Distribution Period will have an absolute, vested and indefeasible interest in the Operating Income of that Distribution Period.
- (c) The Trustee must retain from each Unitholder's Distribution Entitlement all amounts which are necessary to avoid distributing a fraction of a cent or which the Trustee determines it is not practical to distribute on a Distribution Date. Any sum so retained will for all purposes be treated as income for the next following Distribution Period.
- (d) The Trustee may retain from the amounts to be distributed to a Unitholder an amount in or towards satisfaction of any amount payable by the Unitholder to the Trustee under this deed or required to be deducted by law.

9.5 Distribution Reinvestment Arrangements

The Trustee may advise Unitholders from time to time in writing that Unitholders may on terms specified in the notice participate in an arrangement under which Unitholders may request that all or a proportion of specified distributions due to them be satisfied by the issue of further Units.

9.6 Discharge of Trustee's obligation

The Distributable Amount for each Distribution Period shall be distributed to persons who are Unitholders on the Distribution Calculation Date for that Distribution Period. It is acknowledged by Unitholders that such payments of Distributable Amounts shall be good and complete discharge to the Trustee in respect of any liability to any person in respect of an entitlement to such Distributable Amount.

9.7 Trust taxed as a company

Notwithstanding clauses 9.3 and 9.4, if in any Financial Year the Trustee in its capacity as trustee becomes taxable as if it were a company under the Tax Act:

- (a) the Trustee has complete discretion as to how much, if any, of:
 - (1) the Distributable Amount for that Financial Year; or
 - (2) in years subsequent to that Financial Year, amounts which have not previously been distributed from prior Financial Years,
is to be distributed to Unitholders on the Distribution Date.
- (b) Each Unitholder's Distribution Entitlement to the Distributable Amount (calculated in accordance with clause 9.7(a)) is to be determined in accordance with clause 9.3(b).
- (c) The Trustee must pay on or before the Distribution Date the Distribution Entitlement (determined in accordance with clause 9.7(b)) to the persons who are Unitholders on the record date for that Distribution Period.

10 Remuneration of Trustee

10.1 Indemnity

- (a) The Trustee is entitled to receive out of the Assets of the Fund a fee calculated at the rate of 0.50% per annum of Gross Asset Value of the Fund.
- (b) The Trustee's fee is calculated and accrued on a monthly basis on the last day of each month and is payable in arrears on a quarterly basis.

10.2 Waiver of remuneration

The Trustee may waive the whole or any part of the remuneration to which it would otherwise be entitled.

10.3 Priority of Trustee's remuneration

The remuneration of the Trustee has priority over the payment of all other amounts payable from the Fund.

10.4 Indemnity

In addition to any other right of indemnity which it may have under this deed or at law, the Trustee is indemnified and entitled to be reimbursed out of or have paid from the Fund for all Costs incurred in the performance of its duties or the exercise of its powers, the course of its office or in relation to the administration or management of the Trust.

10.5 Proper performance of duties

The rights of the Trustee to be paid fees out of the Fund, or to be indemnified out of the Fund for liabilities or expenses incurred in relation to the performance of its duties, are available only in relation to the proper performance of those duties.

10.6 Reimbursement of GST

If GST is levied or imposed on or in respect of a supply made under or in connection with this deed, the recipient of that supply must pay to the supplier (or, the representative member if the supplier is a member of a GST group), in addition to any consideration provided for under this deed such amount as is necessary to ensure that the supplier (after payment of any GST which is imposed or levied in respect of the supply) is in the same financial position it would have been in had the GST not been imposed or levied.

11 Indemnity and insurance

11.1 Persons to whom clauses 11.2 and 11.4 apply

Clauses 11.2 and 11.4 apply to each person who is or has been a member of the Trust's Compliance Committee (if any).

11.2 Indemnity

The Trustee must, from the Fund indemnify, on a full indemnity basis and to the full extent permitted by law, each person to whom this clause 11.2 applies for Costs (other than Taxes) incurred by the person as a member of the Trust's Compliance Committee (in any) including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred:

- (a) in defending proceedings, whether civil or criminal, in which judgment is given in favour of the person or in which the person is acquitted; or
- (b) in connection with an application, in relation to such proceedings, in which the Court grants relief to the person under the Corporations Act.

11.3 Extent of indemnity

The indemnity in clause 11.2:

- (a) is a continuing obligation and is enforceable by a person to whom clause 11.2 applies even though that person may have ceased to be a member of the Trust's Compliance Committee (if any); and
- (b) operates only to the extent that the loss or liability is not covered by insurance.

11.4 Insurance

The Trustee may, from the Fund and to the extent permitted by law:

- (a) purchase and maintain insurance; or
- (b) pay or agree to pay a premium for insurance,

for any person to whom this clause 11.4 applies against any liability incurred by the person as a member of the Trust's Compliance Committee (if any) including, but not limited to, a liability for negligence or for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal and whatever their outcome.

11.5 Savings

Nothing in clauses 11.2 or 11.4:

- (a) affects any other right or remedy that a person to whom those clauses apply may have in respect of any loss or liability referred to in those clauses; or
- (b) limits the capacity of the Trustee to indemnify or provide insurance for any person to whom those clauses do not apply.

12 Transfers

12.1 Transfer

- (a) All transfers of Units and Options must be effected by a proper instrument of transfer and in a manner approved by the Trustee. The Trustee may decline to register a transfer of Units or Options under this clause 12.1(a) unless the instrument of transfer:
 - (1) is duly stamped; and
 - (2) is accompanied by such evidence as the Trustee requires to prove the title of the transferor.
- (b) While the Trust is admitted to the Official List all transfers of Units or Options must be effected in accordance with the Listing Rules.
- (c) A transferor of Units or Options remains the Holder until the transfer is registered and the name of the transferee is entered in the Register in respect of the Units or Options.

12.2 Transaction advice after transfer

If the Trustee accepts a transfer under this part, the Trustee may issue a transaction advice for:

- (a) the Units or Options which have been transferred; and
- (b) the balance of any Units which were not transferred.

12.3 No General Restriction on Transfer

- (a) There is no restriction on the transfer of Units and, subject to clause 12.4, the Trustee may not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of Units effected under clause 12.1(b).
- (b) Except as otherwise set out in this part 12, there is no restriction on any other transfer of Units or Options.

12.3A Holding lock

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

- (a) request ASTC or the Registrar, as the case may be, to apply a holding lock to prevent a transfer of Units or Options from being registered on ASTC's sub register or registered on an issuer-sponsored sub register, as the case may be; or
- (b) refuse to register a transfer of other Units or Options to which clause 12.3A(a) does not apply.

12.4 Restricted Securities

Notwithstanding any other provisions of this deed:

- (a) restricted securities (as defined in the Listing Rules) cannot be disposed of during the escrow period referred to in the Listing Rules except as permitted by the Listing Rules or ASX;
- (b) subject to the ASTC Settlement Rules in respect of CHESSE Approved Securities, the Trustee must refuse to acknowledge a disposal (including registering a transfer), of restricted securities during the escrow period except as permitted by the Listing Rules or ASX; and
- (c) in the event of a breach of the Listing Rules in relation to Units which are restricted securities, the Holder holding the Units in question ceases to be entitled to any distributions and to any voting rights in respect of those Units for so long as the breach subsists.

12.5 Death, legal disability

If a Holder dies, becomes subject to a legal disability, becomes bankrupt or is liquidated the survivor (in the case of joint Holders), legal personal representative or the person entitled to Units as a result of bankruptcy or liquidation, will be recognised as having a claim to Units or Options registered in the Holder's name. The Trustee need not register any transfer or transmission pursuant to this clause unless the transferee provides an indemnity in favour of the Trustee in a form determined by the Trustee in respect of any consequence arising from the transfer or transmission.

12.6 Recognition of Holder

- (a) The Trustee:
 - (1) must treat the person entered on the Register as a Holder as the absolute owner of all rights and interests of the Holder; and
 - (2) except as required by law or this deed, need not recognise any claim or interest in any Unit or Option by any other person.
- (b) Each transferor will be deemed to remain the Holder until the transfer is registered and the name of the transferee is entered in the Register.

12.7 Participation in Transfer Systems

The Trustee may determine that Units or Options which are Officially Quoted will participate in the "Clearing House Electronic Sub-register System" or any other computerised or electronic system of transfer or registration. The Trustee may

with the approval of the ASX, create rules to facilitate such participation which may be additional to or may override this part 12.

13 Options

13.1 Terms and Subscription

- (a) This part 13 applies to all Options.
- (b) The Terms of Offer and the Terms of Issue of any Options which may be issued must be notified to each person being offered Options at the time of the offer.
- (c) A person may subscribe for an Option in accordance with the Terms of Offer. Upon creation an Option binds the Trustee.

13.2 Nominees

- (a) An Option may be subscribed for by a nominee of the person entitled to subscribe for the Option unless the Terms of Offer provide otherwise.
- (b) An Option may be exercised by a nominee of the Optionholder unless the Terms of Issue provide otherwise.

13.3 Exercise

- (a) An Optionholder may only exercise an Option in accordance with the Terms of Issue.
- (b) On the termination of or winding up of the Trust, all Options lapse and, subject to any amounts specifically expressed to be payable to the Optionholder on the termination or winding up of the Trust, the liabilities of the Trustee cease in respect of each Option.

13.4 Optionholder's Rights and Interest

- (a) An Option does not confer on the Optionholder any interest in the Fund. Optionholders have only those rights conferred on them by this deed, their Terms of Offer and Terms of Issue and the Listing Rules.
- (b) Optionholders are not entitled to any distribution of income or capital gains or any distribution on winding up or termination of the Trust.
- (c) Optionholders are entitled:
 - (1) to inspect any document which may be inspected by; and
 - (2) to be sent any document which is sent to,
Unitholders in similar circumstances.
- (d) If Options have been issued which have not expired or been exercised or cancelled, then if a new Trustee is appointed under this deed, it must execute any documents and do all things reasonably required by the outgoing Trustee to ensure that it assumes the covenants and obligations of the outgoing Trustee under those Options.

13.5 Redemption or Repurchase

- (a) The Trustee may cancel or redeem or buy an Option or any of the rights of exercise of an Option in accordance with the Terms of Issue (provided the Terms of Issue have been approved by the ASX) whereupon the Trustee must make any payment to an Optionholder required under the Terms of Issue. Options and rights may only be cancelled, redeemed or purchased under this clause 13.5(a) in proportion to the number of the relevant Options held by each Holder on a date determined by the Trustee and the Trustee may round the result to the nearest multiple of 10 (5 being rounded up) or of 1 (0.5 being rounded up).
- (b) Options and rights redeemed or purchased under clause 13.5(a) will form part of the Fund and the Trustee must be recognised as the Holder and may exercise, reissue, resell and otherwise deal with them as it determines. The Trustee will retain title in law to each and every Option and right so purchased in its name until the Option or right is resold or lapses and such title in law will not merge in such choses as are constituted by the grant of such Options and rights.

14 Retirement or Removal of Trustee

14.1 Retirement of Trustee

- (a) Despite any other law, the Trustee may only retire as responsible entity of the Trust in accordance with section 601FL of the Corporations Act.
- (b) On retirement or removal the Trustee must give the new responsible entity all books, documents and records relating to the Trust.

15 Alterations to Trust

Subject to section 601GC of the Corporations Act and any approval required by law, the Trustee may by deed replace or amend this deed (including this clause).

16 Term of Trust and termination of Trust

16.1 Term of Trust

The term of the Trust ends on the earlier of:

- (a) the date determined by the Trustee as the date on which the Trust is to be terminated; and
- (b) the date on which the Trust is terminated under this deed or by law.

16.2 Procedure on winding up of Trust

- (a) In winding up the Trust the Trustee must:
 - (1) realise the Fund;

- (2) pay any amount due to it under clause 16.2(c);
 - (3) pay all Costs of the Trustee in its capacity as Trustee of the Trust including, but not limited to, liabilities owed to any Unitholder otherwise than in their capacity as a Unitholder; and
 - (4) subject to any special rights or restrictions attached to any Unit or the direction in writing of all Unitholders, distribute the net proceeds of realisation among the Unitholders pro rata in accordance with the Paid-Up Proportion of Units held by Unitholders.
- (b) The Trustee may distribute an asset of the Trust to a Unitholder in specie. The Trustee must determine the value of the asset of the Fund to be distributed in specie. Any costs payable on an in specie distribution must be paid by the Unitholders before the distribution is made.
- (c) The Trustee is entitled to:
- (1) be paid from the proceeds of realisation of the Trust before any payment is made to the Unitholders all Costs incurred or which it establishes will be incurred:
 - (A) by it before the winding up of the Trust which it has not recouped;
 - (B) by it in connection with the winding up of the Trust and the realisation of the Fund;
 - (C) by or on behalf of any creditor of the Trustee in relation to the Trust;
 - (D) by or on behalf of any agent, solicitor, banker, accountant or other person employed by the Trustee in connection with the winding up of the Trust;
 - (2) an indemnity against the amounts referred to in clause 16.2(c)(1) which may be satisfied out of those proceeds before any distribution under clause 16.2(a)(4) is made; and
 - (3) following the termination of the Trust and until the winding up is completed, its remuneration provided for in Part 10;
- (d) The Trustee may postpone the realisation of the Fund for as long as it thinks fit and is not liable for any loss or damage attributable to the postponement.
- (e) The Trustee may retain for as long as it thinks fit any part of the Fund which in its opinion, may be required to meet any actual or contingent liability of the Trustee or any amounts payable actually or contingently to the Trustee under this deed, including but not limited to under clause 16.2(c).
- (f) The Trustee must distribute among the Unitholders in accordance with clause 16.2 anything retained under clause 16.2(e) which is subsequently not required.

16.3 Audit of accounts of Trust

The Trustee must ensure that the final accounts of the Trust following the winding-up are audited by a registered company auditor, or a firm at least one of whose members is a registered company auditor, who is independent of the Trustee.

17 Meetings

17.1 Meetings

- (a) The Trustee may convene a Meeting at any time.
- (b) Part 2G.4 of the Corporations Act, the Listing Rules and the provisions of the Schedule apply to a Meeting.

17.2 Resolution by Postal Ballot

- (a) A resolution of Holders of the Trust may be passed by the Holders completing, signing and returning copies of a written resolution which has been sent by the Trustee within a period specified by the Trustee.
- (b) In respect of such a resolution a Holder has the number of votes determined in accordance with section 253C(2) of the Corporations Act. The value of a Holder's total interests must be determined at such time as the Trustee specifies.

17.3 Passing of resolution

A resolution passed at a meeting of Holders held in accordance with this deed, the Corporations Act and the Listing Rules or by postal ballot under clause 17.2 is binding on all Holders.

18 Complaints

18.1 Complaints handling

The Trustee must establish and maintain a procedure for dealing with complaints by Holders in relation to a Trust which is consistent with AS4269 Australian Standard on Complaints Handling or such other standard which satisfies the requirements (if any) of the Corporations Act or any Governmental Agency from time to time.

18.2 Holder Complaints

- (a) A Holder may by notice in writing to the Trustee (or by such other method as the Trustee may approve) lodge a complaint in relation to the Trust.
- (b) The Trustee must:
 - (1) record the complaint and the date it was received in a register maintained for that purpose; and

- (2) send the Holder an acknowledgment of receipt of the complaint.

18.3 Handling of Complaints

- (a) The Trustee must use reasonable endeavours to deal with a complaint by a Holder under clause 18.2 in accordance with this Part 18, any rules and regulations made for that purpose and any complaints handling procedures in the Compliance Plan.
- (b) The Trustee must use reasonable endeavours to deal with and resolve the complaint within a reasonable time from the date of receipt of the complaint.
- (c) The Trustee must inform the Holder by notice in writing of:
 - (1) its decision in relation to the complaint;
 - (2) the remedies available to the Holder in relation to the complaint; and
 - (3) any avenues of appeal that may be available to the Holder if the Holder is dissatisfied with the decision.

18.4 Assistance and Information

- (a) The Trustee must provide a Holder with all reasonable assistance and information that the Holder may require for the purpose of making a complaint and understanding the complaints handling procedures adopted by the Trustee.
- (b) A Holder lodging a complaint in relation to a Trust must provide the Trustee with all information the Trustee may require in order to properly deal with and resolve the complaint.

19 Stapling

19.1A Power to Staple Securities

The Trustee may, subject to the Corporations Act and, if Units are Officially Quoted, the Listing Rules, cause the Stapling of any Security to the Units and may cause the Stapling of further Securities to the Units whether those Securities are a different class of Securities of a Stapled Entity from those Stapled at the time or Securities of an entity that is not a Stapled Entity but so that in every case, the identical number of Attached Securities of every kind is Stapled to each Unit.

19.1B Distributions in Specie

- (a) For the purposes of Stapling, the Trustee may make an in specie distribution of Securities to all Unitholders.
- (b) The Trustee must effect the distribution to all Unitholders in the same way and Securities transferred to each Unitholder must be of the same type, have the same rights and be fully paid.

- (c) Where Securities are to be transferred to Unitholders, each Unitholder authorises the Trustee to act as the Unitholder's agent:
 - (1) to agree to obtain the Securities; and
 - (2) agree to become a member of the relevant Stapled Entity.

19.1C Distribution of purposes of Stapling

For the purposes of creating or adding a new Attached Security to Stapled Securities, the Trustee may apply the proceeds of a pro-rata distribution under clause 9.2 in subscribing as agent and attorney of each Unitholder for Securities which are to be Stapled to Units.

19.1D Appointment of Trustee as agent and attorney

The Trustee is irrevocably appointed as agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Stapling of Attached Securities to Units, including in relation to:

- (a) executing an application for or transfer of Securities which are to be Attached Securities to a Unitholder as subscriber or transferee;
- (b) the Stapling of each Unit held by that Unitholder on the Stapling Date to the Corresponding Number of Attached Securities; and
- (c) arranging for each Unitholder to be registered as the holder of those Attached Securities.

The Trustee is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders, including amending this deed to give effect to the Stapling of Attached Securities to Units.

19.1E Operation of the Stapling provisions

- (a) Clauses 19.1 to 19.7 apply only, and for so long as, a Unit is a component of a Stapled Security.
- (b) If any Security other than an APT Unit is Stapled to a Unit to form a Stapled Security:
 - (1) for the purposes of clauses 19.1 to 19.4, all references to "APT Units" or "APT Unit" are taken to be references to "Attached Securities" or "Attached Security", respectively; and
 - (2) for the purposes of clause 19.5, the reference to "the Trustee, in its capacity as trustee or responsible entity of APT" is taken to be a reference to "each other Stapled Entity".
 - (3) in the exercise of the powers conferred on the Trustee under clause 19.1D, the Trustee is authorised to make any necessary amendment to this deed to replace references to "APT Unit" and "APT Units" with references to "Attached Security" and "Attached Securities", respectively, in a deed and to lodge that deed with ASIC.

19.1 Units to be Stapled

- (a) The Trustee may at any time staple an Unstapled Unit to an APT Unit which is not Stapled.
- (b) On and from the Stapling Date and prior to the Unstapling Date, the Trustee must not issue Units unless satisfied that each of those Units will be Stapled to an APT Unit to form a Stapled Security.
- (c) On and from the Stapling Date and prior to the Unstapling Date, the Trustee and the Unitholders must neither do any act, matter or thing nor refrain from doing any act, matter or thing if to do so or refrain from doing so (as the case may be) would result directly or indirectly in any Unit no longer being Stapled as a Stapled Security. In particular:
 - (1) the Trustee must not offer any Units for subscription or sale unless an offer is made at the same time and to the same person for an identical number of APT Units for issue or sale;
 - (2) any offer of Units for subscription or sale must require each offeree to subscribe for or buy a number of APT Units equal to the number of Units subscribed for or bought;
 - (3) the Trustee must not issue or sell any Units to any person unless an identical number of APT Units are also issued or sold to the same person at the same time; and
 - (4) the Trustee must not consolidate, sub-divide, cancel or otherwise reorganise any Units unless at the same time there is a corresponding consolidation, subdivision, cancellation or other reorganisation of APT Units,

but nothing in this clause 19.1(c) prohibits the Trustee from determining the Unstapling Date.

19.2 Unstapling Date

- (a) Subject to the Corporations Act, the Listing Rules and approval by a special resolution of the Unitholders and the members of each Stapled Entity respectively, the Trustee may determine that the Stapling provisions of this deed will cease to apply and that a particular date is to be the Unstapling Date.
- (b) On and from the Unstapling Date, each Unit ceases to be Stapled to an APT Unit and the Trustee must do all things reasonably necessary to procure that each Unit is Unstapled.
- (c) If the Trustee determines to Unstaple the Stapled Securities pursuant to this clause 19.2, this does not prevent the Trustee from:
 - (1) subsequently determining that the Stapling provisions should recommence; and
 - (2) stapling an Unstapled Unit to an APT Unit which is not Stapled.

19.3 Transfer of Stapled Securities

- (a) Until the Unstapling Date:

- (1) A transfer of a Unit forming part of a Stapled Security will only be accepted as a proper transfer in registrable form if, in addition to the requirements of clause 12, the transfer is accompanied by a transfer of the APT Unit to which the Unit is stapled in favour of the same transferee.
 - (2) A transfer of a Unit which is not accompanied by a transfer of the APT Unit to which the Unit is Stapled will be taken to authorise the Trustee as agent for the transferor to effect a transfer of the APT Unit to which the Unit is Stapled to the same transferee.
 - (3) A transfer of any APT Unit to which a Unit is Stapled (other than a transfer of the APT Unit to the Trustee as trustee of the Trust) which is not accompanied by a transfer of the Unit will be taken to authorise the Trustee as agent for the transferor to effect a transfer of the Unit to which the APT Unit is Stapled to the same transferee.
- (b) Each Unitholder irrevocably appoints the Trustee as its agent and attorney for the purposes of taking all necessary action (including executing necessary documentation) to effect on a date to be determined by the Trustee the transfer to the Trustee (as trustee of the Trust) or to a person nominated by the Trustee of any APT Unit which was Stapled to a Forfeited Unit which has been cancelled or sold.

19.4 Stapled Security Register

The Trustee must cause to be kept and maintained a Stapled Security register which:

- (a) may incorporate or form part of the Register;
- (b) records the names of the Unitholders, the number of Units held, the number of APT Units held by the Unitholders to which each Unitholder's Units are Stapled and any additional information required by the Corporations Act or the Listing Rules or determined from time to time by the Trustee.

19.5 Variation of Stapling provisions

Prior to the Unstapling Date, the consent of the Trustee, in its capacity as trustee or responsible entity of APT, must be obtained to any amendment to this deed which:

- (a) directly affects the terms on which Units are Stapled; or
- (b) removes any restriction on the transfer of a Stapled Security unless that restriction also exists for Unstapled Units and is simultaneously removed for Unstapled Units.

19.6 Maintenance of Listing and consistency with constitutions of Stapled Entities

The Trustee must use reasonable endeavours to procure that, if Stapled Securities are and continue to be Officially Quoted as such, Units are dealt with under this deed in a manner consistent with the provisions relating to the Attached Securities in the constitutions of the Stapled Entities.

19.7 Stapling provisions paramount

Subject to clauses 1.4 and 1.5, this clause 19 has effect notwithstanding any other clause of this deed and any clause of this deed which is inconsistent with it does not operate to the extent of any inconsistency.

20 Restructuring Proposal

20.1 Power to implement the Proposal and limitation of liability

- (a) Having regard to the functions of the Trustee and without limiting anything else in this clause 20, the Trustee has power to do all things which it considers are necessary, desirable or reasonably incidental to effect the Proposal and those powers apply notwithstanding, and are not limited by, any provision of this deed other than clauses 1.4, 1.5 and 1.6.
- (b) Subject to the Corporations Act, the Trustee will not have any liability of any nature whatsoever beyond the assets of the Fund to Unitholders arising, directly or indirectly, from the Trustee doing or refraining from doing any act (including the execution of a document), pursuant to or in connection with the implementation of the Proposal.

20.2 Appointment of Trustee as agent and attorney

The Trustee is irrevocably appointed the agent and attorney of each Unitholder to execute all documents and do all things which it reasonably considers are necessary or desirable to be executed or done on behalf of the Unitholder to effect the Proposal, including in relation to:

- (a) the Stapling of each Unit held by that Unitholder on the Stapling Date to a corresponding number of APT Units; and
- (b) arranging for each Unitholder to be registered as the holder of those APT Units.

The Trustee is authorised to execute these documents and do these things without needing further authority or approval from the Unitholders.

20.3 Paramountcy

Subject only to clauses 1.4, 1.5 and 1.6, this Clause 20 has effect notwithstanding any other provision of this deed and any provision of this deed which is inconsistent with this Clause 20 does not operate to the extent of any inconsistency.

21 General

21.1 Service of notices

- (a) Any application, notice or other communication to or by the Trustee or a Holder:
 - (1) must be in legible writing and in English addressed:

- (A) if to the Trustee, to its registered office or to such other address as the Trustee may prescribe from time to time;
- (B) if to a Holder, to the Holder's address specified in the register of Unitholders or Optionholders,
or as specified to the sender by any party by notice and in the case of a Holder, with the Trustee's prior consent;
- (2) must be signed personally or, in the case of a corporation, by a duly authorised officer or under the common seal of the sender;
- (3) is regarded as being given by the sender and received by the addressee:
 - (A) if by delivery in person, when delivered to the addressee; or
 - (B) if by prepaid post, 3 Business Days from and including the date of postage to the addressee; or
 - (C) if by facsimile transmission, when transmitted to the addressee but where the sender's machine indicates a malfunction in transmission or the addressee notifies the sender of an incomplete transmission within 3 hours after transmission is received, the facsimile transmission is regarded as not given or received;
 - (D) if sent by electronic messaging system, when the electronic message is received by the addressee,
but if the delivery, receipt or transmission is on a day which is not a Business Day or is after 5.00pm (addressee's time) it is regarded as received at 9.00 am on the following Business Day; and
- (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) A notice or other communication to joint Holders is validly given if it is given only to the joint Holder whose name appears first on the Register.

21.2 Method of payment, repayment or redemption

- (a) Any money payable by the Trustee to a Unitholder under this deed may be paid by a crossed "not negotiable" cheque made payable to the Unitholder and posted to the Unitholder's registered address.
- (b) A Unitholder, with the consent of the Trustee, may nominate in writing (or in such other manner approved by the Trustee) that money owing to it under this deed be paid by cheque or otherwise into a designated account with a financial institution or to a nominated person.
- (c) A cheque issued to a Unitholder which is presented and paid, or where the payment is to a financial institution or nominated person, payment to the institution or person, discharges the Trustee in respect of the payment.
- (d) The Trustee may determine that any cheque not presented within 9 months is cancelled. If the Trustee so determines the amount of the cheque may be

reinvested in Units. The reinvestment is deemed to be made on the day the cheque is cancelled.

21.3 Binding conditions

The terms and conditions of this deed and any amending deed are binding on the Trustee, each relevant Holder and any other person claiming through any of them as if each was a party to this deed and each supplemental deed.

21.4 Governing law and jurisdiction

The rights, liabilities and obligations of the Trustee and the Holders are governed by the law of New South Wales.

21.5 Severability

If any provision of this deed is held or found to be void, invalid or otherwise unenforceable so much hereof as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this deed will remain in full force and effect.

22 Sale of small holdings comprising non marketable parcels¹

22.1 Sale of small holdings

Subject to the provisions of this clause 22, the Trustee may in its discretion from time to time sell any Units (and any Attached Securities) held by a Holder without request by the Holder where, while the Trust is Listed, the Units (together with any Attached Securities Stapled to those Units) held by a Holder comprise less than a marketable parcel as provided in the Listing Rules and the procedures set out in this clause 22 are observed. In this case, the Trustee may only sell Units (together with any Attached Securities Stapled to those Units) on one occasion in any 12 month period.

22.2 Procedure

- (a) The Trustee must notify a Holder in writing who on the date of the notice holds less than a marketable parcel as provided in the Listing Rules of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 22. The notice must explain the effect of this clause 22.
- (b) The Trustee may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
 - 1. before the expiry of 6 weeks from the date of notice given under clause 22.2(a); or

¹ Inserted by Amending deed dated 30 October 2008.

2. if, within the 6 weeks allowed by clause 22.2(b)(1);
 - A. the Holder advised the Trustee that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units); or
 - B. the market value of the Units (together with any Attached Securities Stapled to those Units) held by the Holder increases to at least the value of a marketable parcel as provided in the Listing Rules.
- (c) The power to sell lapses following the announcement of a takeover as provided in the Listing Rules, but the procedure may be started again after the close of the offers made under the takeover.
- (d) The Trustee, from the assets of the Trust, or the purchaser of the Units (together with any Attached Securities Stapled to those Units) must pay the costs of the sale as the Trustee so determines.
- (e) The Trustee is entitled to execute on behalf of a Holder any transfer of Units (together with any Attached Securities Stapled to those Units) under this clause 22.

23 Sale of newly created small holdings²

- (a) In addition to the powers of the Trustee in clause 22, the Trustee may sell the Units and any Attached Securities of a Holder if Units (together with any Attached Securities Stapled to those Units) comprise less than a marketable parcel of Units (and any Attached Securities), without complying with the procedures in clause 22 and may determine that a Holder's right to vote or receive distributions in respect of those Units (and any Attached Securities) is removed or changed if the following conditions are observed:
 1. a sale effected or a removal or change in voting or distribution rights, under this clause 23 only applies to Units (and any Attached Securities) in a holding created after the date on which this clause came into effect by a transfer of a parcel of Units (and any Attached Securities) that was less than a marketable parcel as provided in the Listing Rules at the time the transfer document was initiated or, in the case of a paper based transfer was lodged with the Trustee ("**New Small Holding**");
 2. the proceeds of a sale under this clause 23 less the cost of the sale, must be sent to the Holder after the sale subject to clause 24(e);

² Inserted by Amending deed dated 30 October 2008

3. any distributions that have been withheld under this clause 23 must be sent to the Holder after the sale, subject to the former Holder delivering to the Holder proof of the title acceptable to the Trustee; and
 4. the Trustee has given the Holder (as at the date of the notice) of the New Small Holding notice of its intention to sell Units (together with any Attached Securities Stapled to those Units) under this clause 23 and which notice explains the effect of this clause 23.
- (b) The Trustee may not sell the relevant Units (together with any Attached Securities Stapled to those Units):
1. before the expiry of 7 days notice from the date of notice given under clause 23(a); or
 2. if, within the 7 days allowed by clause 23(b)(1) the Holder advised the Trustee that the Holder wishes to retain the Units (together with any Attached Securities Stapled to those Units).

24 Procedure, title and proceeds of sale for sale of small holdings³

- (a) The Trustee may sell Units (and any Attached Securities) under clause 22 or clause 23 as soon as practicable on market or in any other way the Trustee so determines and at a price which the Trustee considers to be reasonably obtainable for the Units (and any Attached Securities) at the time they are sold.
- (b) When the Trustee sells a Unit (together with any Attached Security), the Trustee may:
- (1) receive the purchase money or consideration given for the Unit (and any Attached Security);
 - (2) effect a transfer of the Unit (and any Attached Security) or execute or appoint a person to execute, on behalf of the former holder, a transfer of the Units (and any Attached Securities);
 - (3) register as the holder of the Unit (and any Attached Security) the person to whom the Unit (and any Attached Security) is sold; and
 - (4) for the purpose of selling the relevant Units (and any Attached Securities) that are in a CS facility (as defined in the Corporations Act) holding initiate (after giving the notice specified in clause 22.2(a) or clause 23) a holding adjustment to move those Units (and any Attached Securities) to an issuer sponsored holding or certificated holding.
- (c) A person to whom the Trustee sells Units (and any Attached Securities) need not take any steps to investigate the regularity or validity of the sale, or to see how the purchase money or consideration for the sale is applied. That person's title to the

³ Inserted by Amending deed dated 30 October 2008

Units and any Attached Securities is not affected by any irregularity by the Trustee or by the broker or any agent in relation to the sale. A sale of the Units and its Attached Securities by the Trustee is valid even if a transmission event occurs to the Holder before the sale.

- (d) The only remedy of a person who suffers a loss because of a sale of Units and any Associated Securities by the Trustee is a claim for damages against the Trustee.
- (e) Subject to clause 24(f), the proceeds of a sale of Units (and any Attached Securities) by the Trustee must be applied in paying:
 - (1) first and only in respect of a sale of a New Small Holding under clause 23, the expenses of the sale;
 - (2) secondly, all amounts payable (whether presently or not) by the former holder to the Trustee,

and any balance must be paid to the former holder on the former holder delivering to the Trustee proof of title to the Units (and any Attached Securities) acceptable to the Trustee.

- (f) The proceeds of sale under clause 23 must not be applied in payment of the expenses of the sale and must be paid to the former holder on the former holder delivering to the Trustee proof of title to the Units (and any Attached Securities) acceptable to the Trustee.
- (g) Until the proceeds of a sale of the Unit (and any Associated Securities) sold by the Trustee are claimed or otherwise disposed of according to law, the Trustee may invest or use the proceeds in any other way for the benefit of the Trust.
- (h) The Trustee is not required to pay interest on money payable to a former holder under clause 22, 23 or 24.
- (i) A written statement by a director or secretary of the Trustee that a Unit (and any Attached Security) in the Trust has been duly sold under clause 22 or 23, on a date stated in the statement is conclusive evidence of the facts stated as against all person claiming to be entitled to the Unit (and any Associated Security), and of the right of the Trustee to sell, reissue or otherwise dispose of the Unit (and any Attached Securities).

Schedule - Meetings of Holders

(Part 17)

1 Notice of meeting

If the Trustee omits to give a Holder notice of a Meeting or if a Holder does not receive notice, the Meeting is still valid.

2 Who may attend and address meeting of Unitholders

The Trustee, the directors of the Trustee, the Auditor, the auditor of the Trust's Compliance Plan, and any person invited by any of them is entitled to attend and address a Meeting or an adjourned Meeting. While Units are Stapled, the directors, auditors and representatives of APT and its responsible entity may attend and speak at any Meeting, or invite any other person to attend and speak.

3 Quorum

- (a) No business may be transacted at any Meeting unless a quorum of Holders is present at the time when the meeting proceeds to business.
- (b) The quorum for a Meeting convened to consider a special resolution to modify, repeal or replace this deed under section 601GC(1)(a) of the Corporations Act is 20 Holders.
- (c) The quorum for a Meeting convened to consider any special or extraordinary resolution (other than the special resolution referred to in paragraph 3(b)) is 20 Holders.
- (d) The quorum for any Meeting (other than the meetings referred to in paragraphs 3(b) and (c)) is 10 Holders.
- (e) A Holder is counted towards a quorum even though the Holder may not be entitled to vote on the resolution at the Meeting.
- (f) If a quorum is not present within half an hour from the time appointed for the meeting, the Meeting must be adjourned as the chairman directs.
- (g) Other than for a meeting to consider an extraordinary resolution, at an adjourned Meeting the Holders with voting rights who are present either in person or by proxy constitute a quorum and are entitled to pass the resolution.

4 Adjournments

The chairman may adjourn a meeting for any reason to such time and place as the chairman thinks fit.

5 Proxies

- (a) Subject to paragraph 5(b), the provisions of the Corporations Act governing proxies for meetings of members of registered schemes (as that term is defined in the Corporations Act) apply to the Trust.
- (b) The Trustee may determine that the appointment of a proxy is valid even if it contains only some of the information required by the Corporations Act.

- (c) Subject to the Corporations Act, the form of proxy used to appoint a proxy to vote on behalf of a Holder in respect of an Attached Security may be the same form as they use to appoint a proxy in respect of the Attached Securities which they hold.

6 **Voting**

- (a) A poll is to be conducted as directed by the chairman at the meeting or any adjournment of the meeting.
- (b) The demand for a poll does not discontinue the meeting except to decide the question for which the poll is demanded.
- (c) The result of the poll is regarded as the resolution of the meeting.
- (d) A poll may not be demanded on any resolution concerning:
 - (1) the election of the chairman of a meeting; or
 - (2) the adjournment of a meeting.
- (e) If a Holder is of unsound mind or is a person whose person or estate is liable to be dealt with in any way under the law relating to mental health, the Holder's committee or Trustee or other person who properly has the management of the Holder's estate may exercise any rights of the Holder in relation to a Meeting as if the committee, Trustee or other person were the Holder.

7 **Joint Holders**

Joint Holders are counted as a single Holder for the purposes of calculating the number of Holders who have:

- (a) requested a Meeting under section 252B(1) of the Corporations Act;
- (b) given the Trustee notice of a special or extraordinary resolution they propose to move at a Meeting under section 252L(1) of the Corporations Act;
- (c) requested that a statement be distributed to members under section 252N of the Corporations Act; or
- (d) demanded a poll under section 253L of the Corporations Act.

8 **Class Meetings**

The provisions of Part 2G.4 of the Corporations Act, part 17 of this deed and this Schedule relating to Meetings apply so far as they can and with such changes as are necessary, to each separate meeting of Holders of Units or Options or in a class of Units or Options.

9 **Stapled Security Meetings**

While Units are Stapled, Meetings may be held in conjunction with meetings of the holders of APT Units and, subject to the Corporations Act, the Trustee is entitled to make such rules for the conduct of such Stapled Security holder meetings as it determines.

Executed as a deed:
Signed for
Australian Pipeline Limited
by its representatives:

Director

Director / Secretary

Name (please print)

Name (please print)