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**Senior Trust Retirement Village Fund
Senior Trust Portfolio C**

19 October 2010

Prospectus

Before making an investment in any security, investors should consider the special trade factors and risks for that investment against the returns offered. Investors should be aware that there is a direct relationship between the risks of the investment and the return offered. Prospective Unitholders should consider the special trade factors and risks outlined in the section headed "Risk" on page 27 before investing in units (Units) in Senior Trust Portfolio C.

The information set out in this Prospectus is required by Schedule 4 of the Securities Regulations 2009, and is set out in the same order as that Schedule. The securities which are the subject of this Prospectus have not been approved for trading on a securities market operated by a registered exchange.

All legislation referred to in this Prospectus can be viewed at www.legislation.govt.nz.

A glossary of defined terms is set out on page 35 of this Prospectus.

1. Description of the Unit Trust

- (1) This Prospectus relates to the offer of Units in Senior Trust Portfolio C of the Senior Trust Retirement Village Fund (the **Fund**).
- (2) The Fund was established in Auckland on 19 October 2010 under the Unit Trusts Act 1960 (the **Act**), a Master Trust Deed dated 19 October 2010 and an Establishment Deed dated 19 October 2010, each between Perpetual Trust Limited (**Trustee**) as trustee and Senior Trust Management Limited (**Manager**) as manager.

The Fund will be divided into separate portfolios. Each such portfolio is part of the Fund. As at the date of this Prospectus there is only one portfolio being Senior Trust Portfolio C (**Portfolio**). All terms and conditions applying to the Fund referred to in this Prospectus apply also to the Portfolio. The Portfolio was established in Auckland under the Establishment Deed mentioned above.

- (3) The period of each of the Fund and the Portfolio commenced on the date of establishment specified in (2) above and will terminate upon the earlier to occur of (the **Date of Termination**):
 - the date 80 years less 2 days from the date of the Master Trust Deed;
 - the date determined by the Unitholders of the Fund or the Portfolio (as applicable) by Extraordinary Resolution to terminate the Fund or Portfolio; and
 - the termination date notified by the Manager to the Trustee and the Unitholders of the Fund or the Portfolio (as applicable) by at least 30 days' notice in writing.

It is intended that Units in the Portfolio will be redeemed on 30 September 2013, but may be redeemed earlier at the Manager's sole discretion.

- (4) The Units offered in this Prospectus are units in the Portfolio. It is intended that the Portfolio will be invested in secured advances to retirement villages (**Loans**).

Priority of Loans

Residents in retirement villages usually occupy their unit under an occupation licence issued by the operator of the village. Under the Retirement Villages Act, a Statutory Supervisor is appointed to protect the security interests of village residents. The Statutory Supervisor usually holds an encumbrance, mortgage and/or general security agreement over the village land to secure payment to each resident of any money owing to the resident by the operator of the village under their occupation licences. This money usually becomes owing when the resident vacates their unit and generally is an amount which is a proportion of the re-licensing amount relating to the departing resident's unit. The Statutory Supervisor's security will rank ahead of the Loans and all references in this Prospectus to the Loans being secured must be read subject to this caveat.

Any enforcement of security registered over retirement village assets is required by the Retirement Villages Act (to the extent that it applies) and the Statutory Supervisor to be a sale of the retirement village as a going concern to a new operator.

The Fund may act as a second tier lender. This means that, in addition to the Statutory Supervisor's security, another party and/or financier will hold security interests that rank ahead of a Loan. The holder of a prior ranking security interest could, in a default situation, force the sale of the borrower's assets (but only as a going concern) and this may result in the borrower being unable to repay some or all of the Loan. In addition, should a borrower default on the terms of its Loan, the ability of the Manager to appoint a receiver or realise the assets of the borrower may be restricted or prohibited by the terms of any prior ranking facility and any relevant legislation.

The borrower may also be restricted from repaying the Loans by a prior ranking party or financier who has first claim on a borrower's funds available for loan repayment.

As a second tier lender, the Fund may provide finance to borrowers that are, for one reason or another, not able to obtain finance from elsewhere or borrowers that are not able to obtain finance to the degree desired by them

from a first tier lender, such as a registered bank. In the latter case this may be because the bank's lending policies restrict the amount of any advance to a specified percentage of the value of security given. The risks associated with such lending are higher.

See also the section headed "Risk" on page 27.

Loan terms

Under the terms of any Loans to be made, the amount of each Loan may not exceed an amount equal to 60% of the value of the relevant village land and buildings as assessed by an independent registered valuer, less the priority amount of prior ranking security (if any). After the first Loan advance is made, the Manager may advance further amounts under the Loan to the borrower, subject always to the maximum loan to value ratio of 60% (less any prior ranking security).

The directors of the Manager will require other Loan terms which will apply to, but not be restricted to, the following matters:

- Evidence that interest obligations can be met from sales or re-sales of residential units, or from other financial resources available to the borrower;
- An appropriate ratio of liquid assets to meet current liabilities;
- Approval of development, marketing and construction programmes to ensure timely completion and sale to meet loan repayments;
- Sales thresholds for both new dwellings and licence re-sales;
- Revaluation of secured assets at the Manager's discretion;
- Approval of capital expenditure and development plans;
- Employment by the borrower of suitably qualified staff and third party consultants;
- Ongoing compliance with the Retirement Villages Act;
- Maintenance of minimum levels of shareholders' equity; and
- Monthly certification by the relevant borrower that all Loan covenants have been met.

The liquid assets ratio thresholds and other detailed requirements of the Loan terms will vary from Loan to Loan in accordance with an assessment by the directors of the Manager of the credit risk relevant to the particular Loan.

Any cash held by the Portfolio, either pending advance of Loans or held after Loans have been advanced, will be deposited with registered banks or invested in any other debt security, each such investment being selected by

the Manager and approved by the Trustee. Please see page 4 below for details of possible distributions of cash.

Subscriptions

All subscription amounts will be held in trust for subscribers in the bank account of the Trustee until the Units are issued. Units will be issued to firstly meet the preliminary issue expenses and subsequently the drawdown requirements of the Loans. Until issue of Units, any interest earned on Unitholder application moneys whilst held in the bank account will be credited to the Fund, after deduction of any bank fees and charges. The credited interest will be paid to the Unitholder at the first Distribution Date following issue of the Unitholder's Units.

The aggregate maximum subscription for Units is \$10,000,000. Once this amount is received the issue of Units will be closed.

The minimum amount which must be raised for the issue to proceed is \$1,750,000. If subscriptions totalling this amount are not received within three months from the date of this Prospectus, the issue will not proceed and all subscription moneys will be returned to applicants (together with any interest earned on such application moneys whilst held in the bank account).

The minimum investment amount for each Unitholder is \$5,000 and multiples of \$1,000 thereafter. The Manager may, in its discretion, accept applications for amounts less than the minimum or may vary such minimum amount from time to time.

Issue of Units

Units are issued only on a date on which the value of the Portfolio is calculated, which is currently the last Business Day of each week and 30 September 2013 (a **Valuation Day**). The Manager has an absolute discretion whether or not to accept any application without giving any reason. If the Manager refuses an application, the application moneys will be returned to the applicant without interest.

The Issue Price of the first Units to be issued is \$1.00 per Unit. Subsequently, the Issue Price is determined by adding the market value of the Portfolio's investments (excluding any income earned but not distributed) on the relevant Valuation Day, deducting all liabilities of the Portfolio and dividing the net amount by the number of Units on issue on that day.

Distributions

The Manager will make distributions of income quarterly within 14 days of 31 March, 30 June, 30 September and 31 December in each year (each a **Distribution Date**). The first Distribution Date is intended to occur on 31 December 2010. Each distribution will be the net income of the Portfolio for the three months ending on the relevant Distribution Date (a **Distribution Period**). Distributions shall be made to each Unitholder who held Units during the relevant Distribution Period in proportion to the number of Units held and the number of days during such Distribution Period on which each such Unit was held.

The targeted distribution on each Unit is an amount equal to a before tax return on the Issue Price of each Unit of 9% per annum over the full Investment Period. The Manager aims to achieve this targeted distribution by setting the interest on the Loans with a view to providing the targeted distribution for the anticipated subscriptions for Units. However, the actual distributions may be more or less than this targeted amount. Please refer to the "Risk" section on page 27 for details of some anticipated risks which may impact on any actual distributions paid. The Manager does not guarantee repayment of the Units nor the payment of any earnings on the Units.

The Manager may also distribute surplus cash in the Portfolio to Unitholders if, in the Manager's sole discretion, the amount of cash in the Portfolio is in excess of the cash it should prudently retain in the Portfolio for working capital and contingencies. Any such distribution of cash will be made as and when the Manager so determines.

Redemptions of Units

It is intended that Units will be redeemed on 30 September 2013. The Manager may redeem Units earlier at its sole discretion. A Unitholder has no right to redeem Units prior to 30 September 2013. Redemption on 30 September 2013 may be delayed in the circumstances described under the heading "Deferral of redemptions" on page 10.

Redemptions will only be paid to the Unitholder's bank account or other nominated account on their application form or as advised subsequently to the Manager in writing.

- (5) The aggregate maximum number of Units which may be issued in the Portfolio is 10,000,000 Units.

- (6) Units are issued at the Issue Price. The Issue Price of a Unit is the Net Asset Value per Unit as at the day on which the Units are issued. The Issue Price of the first Units to be issued is \$1.00 per Unit.

The Net Asset Value per Unit is determined by taking the Gross Asset Value of the Portfolio, deducting all liabilities of the Portfolio and income earned but not distributed and dividing the result by the number of Units on issue.

The minimum investment for each Unitholder is currently \$5,000 and thereafter multiples of \$1,000. The Manager, in its discretion, may accept applications for amounts less than the minimum amount or may vary such minimum amount from time to time at its discretion.

The number of Units that a Unitholder will receive will be determined by dividing the Unitholder's subscription amount by the Issue Price on the Valuation Day on which the Units are issued.

- (7) No fees are charged for issuing or redeeming Units.
- (8) The offer of Units opens on the date of registration of this Prospectus. The offer closes on 31 March 2011, unless extended by the Manager, but will close earlier if the aggregate maximum subscription for Units of \$10,000,000 is reached or if subscriptions totalling \$1,750,000 are not received within three months from the date of this Prospectus.

2. Managers and Promoters

- (1) The Manager of the Fund is Senior Trust Management Limited. The address of the Manager is Level 2, 18 Broadway, Newmarket, Auckland.

The Directors of Senior Trust Management Limited are:

Kerry David Hitchcock (of Auckland) and John Llewellyn Jackson (of Auckland).

The above directors can be contacted at Senior Trust Management Limited, Level 2, 18 Broadway, Newmarket, Auckland.

The directors of the Manager may change from time to time. A current list of the directors of the Manager is available at www.companies.govt.nz.

The Manager (company number 3143986) was established in New Zealand under the Companies Act 1993 on 8 October 2010.

- (2) The Manager's sole shareholders are the trustees of the Dadrew Family Trust, which are interests associated with John Llewellyn Jackson. The trustees of the Dadrew Family Trust do not guarantee the Units being offered.
- (3) The Manager is the manager of all unit trust funds which are or may in the future be established under the Master Trust Deed, but is not the manager of any other unit trusts. The Executive Director John Jackson has been a director of the following companies which issued or managed securities related to retirement villages:
 - In 2001 VSL Finance (Waitakere Gardens) Limited issued \$7.750 million secured notes to fund construction at Vision Waitakere Gardens.
 - In 2002 VSL Finance (Dannemora Gardens) Limited issued \$8.450 million secured notes to fund construction at Vision Dannemora.
 - In 2003 Vision Securities Limited (in receivership) was the debt administrator for Vision Senior Living Limited and issued debenture stock of \$9 million.
 - In 2008 Vanguard Investment Management Limited, being the manager of the Senior Retirement Village Trust, Senior Portfolio A (a unit trust) issued \$6.5 million units.
 - In 2009 Vanguard Investment Management Limited, being the manager of Senior Retirement Village Trust, Senior Portfolio B (a unit trust) issued \$6.37 million units.
- (4) There is no promoter of the Fund.
- (5) There is no contracted administration manager or investment manager for the Fund. These functions are carried out by the Manager, Senior Trust Management Limited.
- (6) Neither the Manager, nor any director of the Manager, has during the five years preceding the date of registration of this Prospectus been adjudged bankrupt or insolvent, convicted of any crime involving dishonesty, prohibited from acting as a director of a company or placed in statutory management, voluntary administration, liquidation or receivership.
- (7) See clause 2(6) above.

3. Registrar, Custodian, Auditors, Advisors, and Experts

- (1) The names of the Registrar and Auditor of the Fund are as follows:

Registrar: Senior Trust Management Limited, Level 2, 18 Broadway, Newmarket, Auckland.

Auditor: BDO Spicers, Level 8, 120 Albert Street, Auckland 1010.

There is no custodian of the Fund.

- (2) The names of the solicitors involved in the preparation of this Prospectus are as follows:

Solicitors for the Trustee: Bell Gully, 48 Shortland Street, Auckland.

Solicitors for the Manager: Burke Melrose, Level 7, 52 Swanson Street, Auckland.

- (3) There are no experts named in this Prospectus.

4. Independence of Unit Trustee and any Custodians

The Trustee is independent of the Manager. There is no custodian for the Fund.

5. Unit Trustee

- (1) The name of the Trustee of the Fund is Perpetual Trust Limited, whose address is Level 12, AMP Centre, 29 Customs Street West, P O Box 3376, Auckland.

The directors of the Trustee are:

John Duncan of Auckland
Patrick Middleton of Auckland
Bryan William Mogridge of Auckland

All of the above directors can be contacted c/- Perpetual Trust Limited whose address is Level 12, AMP Centre, 29 Customs Street West, P O Box 3376, Auckland 1140.

The directors of the Trustee may change from time to time. A current list of the directors of the Trustee is available at www.companies.govt.nz.

- (2) The Trustee was incorporated in New Zealand on 16 April 1884 and was re-registered under the Companies Act 1993 on 26 June 1996.

- (3) The Trustee's ultimate holding company is Pyne Gould Corporation Limited, a company incorporated in New Zealand.
- (4) The Trustee is indemnified out of the Fund for all liabilities the Trustee may suffer or incur in its capacity as trustee of the Fund, except for liabilities arising from its wilful default or wilful breach of trust.
- (5) The Trustee does not guarantee repayment of the Units nor the payment of any earnings on the Units.

The Trustee and directors of the Trustee have relied on the Manager for the accuracy and truth of the contents of this Prospectus, and therefore the Trustee accepts no responsibility for any statement made in this Prospectus and makes no representation as to the accuracy or truth of the contents of this Prospectus other than those which refer directly to the Trustee.

6. Description of Unit Trust and its Development

- (1) The Fund was established under the Master Trust Deed dated 19 October 2010 and the Establishment Deed dated 19 October 2010. Both Deeds are made between the Manager and the Trustee.
- (2) Following is a brief description of the principal terms of the Master Trust Deed and the Establishment Deed for the Fund which are not otherwise set out in this Prospectus.

Separate Funds and Portfolios

The Master Trust Deed allows the Manager to establish unit trust funds on the terms set out in the Master Trust Deed and in the Establishment Deed which establishes the particular unit trust fund. Under the Establishment Deed which establishes the Fund, the Manager is able to create separate portfolios within the Fund. At the date of this Prospectus, the Manager has created one portfolio in the Fund, Senior Trust Portfolio C. Units in Senior Trust Portfolio C are the Units offered in this Prospectus within the Fund.

Applications, Issues of Units, Register and Certificates

Units are issued for cash. Investors wishing to apply for Units apply to the Manager who accepts the application and banks the application money on behalf of the Trustee. The Manager may, in its absolute discretion, accept or refuse or accept in whole or in part any application and the Manager is not required to give any reason for such refusal.

All application money is held by the Trustee for investment on behalf of investors. All investors are entered on the Unit Register which is kept by the Registrar. On issue of a Unit to a Unitholder, the Unitholder receives an initial statement which sets out the number of Units issued. Unitholders then receive periodic statements detailing the number of Units held, the current Unit price and the amount of distributions paid (if any).

Units will be issued on each Valuation Day from registration of this Prospectus (once the minimum subscription amount is reached) until the date the offer closes on 31 March 2011 (unless extended by the Manager).

Where a PIE Rebate is due to a Unitholder, the Manager may issue Units to the Unitholder on account of that PIE Rebate on such date as the Manager determines and in all cases at the Issue Price applicable on the date of issue of such Units.

Redemptions

It is intended that Units will be redeemed on 30 September 2013 (subject to the Manager's deferral rights referred to on page 10, but may be redeemed earlier at the Manager's sole discretion. A Unitholder has no right to redeem Units prior to 30 September 2013.

The Manager must pay to the Unitholder the Redemption Price of the Units within 7 Business Days after the redemption day. Redemptions will only be paid to the Unitholder's nominated bank account as advised to the Manager in writing.

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

Deferral of Redemptions

The Manager may suspend the redemption of Units at the end of the Investment Period if the Manager in good faith forms the opinion that it is not practicable, or would be materially prejudicial to the interests of any Unitholders, for the Manager to redeem the Units on the maturity date, by reason of any of a number of reasons set out in the Trust Deed including the following reasons:

- Financial, political or economic conditions applying in respect of any financial market;
- The nature of any Investment; or

- The occurrence or existence of any other circumstance or event relating to the Fund or the Portfolio, or generally (for example if a borrower fails to repay its Loan on the scheduled repayment date).

In the above circumstances, there is no express limit on the period of deferral.

The Manager may determine that such Units may be progressively redeemed by instalments with effect from one or more Valuation Days falling in a period determined by the Manager or in total at the expiration of a period determined by the Manager and in any such case the Redemption Price is to be calculated at the Valuation Day or Days on which Units are redeemed.

Distributions

The Manager will make distributions of income quarterly within 14 days of each Distribution Date. The first Distribution Date is intended to occur on 31 December 2010. Each distribution will be the net income of the Portfolio for the 3 months ending on the relevant Distribution Date (a **Distribution Period**). Distributions shall be made to each Unitholder who held Units during the relevant Distribution Period in proportion to the number of Units held and the number of days during such Distribution Period on which each such Unit was held.

The targeted distribution on each Unit is an amount equal to a before tax return on the Issue Price of each Unit of 9% per annum over the full Investment Period. The Manager aims to achieve this targeted distribution by setting the interest on the Loans with a view to providing the targeted distribution for the anticipated subscriptions for Units. However, the actual distributions may be more or less than this targeted amount. Please refer to the "Risk" section on page 27 for details of some anticipated risks which may impact on the actual distributions paid. The Manager does not guarantee repayment of the Units nor the payment of any earnings on the Units. The Manager may make a deduction from any distribution to a Unitholder on account of PIE Tax attributable to income allocated to that Unitholder.

The Manager may also distribute surplus cash in the Portfolio to Unitholders if, in the Manager's sole discretion, the amount of cash in the Portfolio is in excess of the cash it should prudently retain in the Portfolio for working capital and contingencies. Any such distribution of cash will be made as and when the Manager so determines.

Transfers of Units

Units may be transferred by transfer in the form approved by the Manager. Every transfer must be registered in the Unit Register and for this purpose the transfer, together with the transfer fee (if any), must be sent to the office of the Registrar, Level 2, 18 Broadway, Newmarket, Auckland. A transferor will remain the Unitholder until the transfer is registered in the Unit Register. The Registrar may charge a fee to process transfers. There is no limit on this fee.

The Unit Register will only be open for the purpose of registering transfers on Business Days provided that the Manager may decline to register transfers of Units for up to 28 days in each year.

Unitholders can transfer all or part of their Units. However if the transfer is less than all of the Unitholder's Units, the Unitholder must continue to hold at least 2,000 Units.

A transfer of Units will be treated as a partial or full withdrawal (as the case may be) for PIE tax purposes.

Any transfer may result in the Manager redeeming Units to pay any PIE tax liability in respect of a Unitholder. The Manager also has the right to decline a transfer if it would result in the loss of PIE status for the Fund.

Manager

The Manager is responsible for the day-to-day management and administration of the Fund subject to the provisions of the Trust Deed. For example, the Manager is responsible for:

- all investment decisions including the purchase and sale of Investments and exercising any voting rights attached to Investments;
- distributions;
- valuing the Fund and the Portfolio;
- calculating the relevant Issue and Redemption Prices;
- processing transactions including issuing, redeeming and transferring Units (and deferring redemption in certain circumstances);
- reporting on all Investments to the Trustee at regular intervals;
- maintaining the Unit Register;
- keeping records and accounts of all Investments of the Fund and the Portfolio; and
- appointing outside advisers (as required).

The Manager may delegate any of its functions but will remain responsible for the acts and omissions of its delegate whether or not the delegate is acting within the terms of its delegated authority.

The Manager has undertaken to ensure that the business of the Fund is carried on in a proper and efficient manner and to give the Trustee or Auditor such oral or written information as may be required relating to the Fund.

The Manager may retire upon giving 90 days' prior notice to the Trustee subject to the appointment of a new manager. The Manager may be removed from office by:

- the High Court on the application of the Trustee, any Unitholder or the Minister of Commerce;
- the Trustee on liquidation, receivership or winding up of the Manager or if the Trustee certifies that it is in the interest of Unitholders that the Manager should cease to hold office; or
- Unitholders, by a resolution under Section 18 of the Act.

The power of appointing a temporary new Manager is vested in the Trustee. A permanent new Manager must either be appointed by Unitholders or appointed by the Trustee and ratified by Unitholders, in either case by a resolution of Unitholders under Section 18 of the Act.

Trustee

The Portfolio's Investments will be held by the Trustee or its duly appointed nominee or such custodian as appointed from time to time by the Trustee, for the benefit of Unitholders.

The Trustee may retire upon giving 90 days' notice to the Manager, subject to the appointment of a new trustee. In addition, the Trustee may be removed from office by:

- the High Court on the application of the Minister of Commerce or the Manager; or
- Unitholders by an Extraordinary Resolution.

The power of appointing a new trustee is vested in the Manager but if the Manager fails or refuses to exercise this power then a new trustee may be appointed by an Extraordinary Resolution of the Unitholders. The Manager in itself has no power to remove the Trustee.

The responsibilities of the Trustee are set out in detail in the Trust Deed. In particular the Trustee undertakes to:

- Not do or cause to be done or omit to do any act, matter or thing which would or might cause it to be disqualified from acting as trustee under the Trust Deed or which might prevent it from so acting;
- Exercise reasonable diligence in carrying out its functions;
- Ensure that any documents of title for Investments are held in safe custody;
- Maintain the Fund and the Portfolio separate from any other property held by the Trustee;
- Not sell, mortgage, charge or otherwise part with the possession or ownership of any of the Investments, unless authorised by law or the Trust Deed;
- Hold the assets of the Fund on behalf of Unitholders on terms set out in the Trust Deed; and
- Comply with any directions of the Manager to acquire or dispose of assets unless, in the opinion of the Trustee, to comply would manifestly not be in the best interest of the Unitholders.

Borrowing

The Trustee has no power to borrow money on behalf of the Fund.

Accounts and Auditor

Both the Trustee and the Manager are required to account to Unitholders for all money received and expended, having regard to their respective functions. At the end of each financial year for the Fund, the accounts of the Fund must be prepared by the Manager, audited and sent to Unitholders and the Trustee within five months of the end of the financial year.

The Auditor is selected by the Manager and approved by the Trustee. The Auditor may retire upon giving 30 days' notice to the Manager. The Auditor may at any time be removed by the Manager with the approval of the Trustee or by the Manager on the instructions of the Trustee if the Trustee believes that removal is in the best interests of the Fund and/or the Unitholders. A replacement Auditor will be appointed by the Manager with the approval of the Trustee.

Expenses

The Manager and the Trustee are entitled to be reimbursed out of the Portfolio for costs incurred by them in performing their duties under the Trust Deed including:

- all costs incurred in forming the Fund and preparing and registering offer documents;
- all costs incurred with the purchase of any Investments;
- the fees and expenses of the Auditor;
- all taxes and duties paid;
- all interest and other costs associated with any borrowing;
- all costs of convening and holding meetings;
- any costs of third parties engaged by the Manager or Trustee;
- all costs of preparing, printing and distributing accounts, statements, cheques, offer documents and any other communications to Unitholders;
- costs incurred in running the Unit Register; and
- any other expenses reasonably incurred by the Trustee, Manager or any delegate of the Manager in carrying out their duties under the Trust Deed.

Meetings of Unitholders

The Manager is required to summon a meeting of Unitholders in a Portfolio upon the request in writing of the Trustee, or of one tenth in number of the Unitholders, or of a Unitholder or Unitholders holding not less than one tenth of the number of Units on issue in the Portfolio at the date of the request. The Manager may also convene a meeting of Unitholders.

Before convening a meeting of Unitholders the Manager shall give at least 14 days' notice of the meeting to the Unitholders and the Trustee. The notice of meeting shall specify the place, day and hour of the meeting and general nature of the business to be transacted but it shall not be necessary to specify in the notice the terms of the resolutions to be proposed.

The quorum for a meeting is Unitholders present in person or by proxy or by attorney or by authorised representative holding not less than 10% of the number of Units on issue.

Resolutions are determined by a show of hands unless a poll is demanded. On a poll every Unitholder has one vote for each Unit held.

Where a meeting of Unitholders is convened at the request of Unitholders or the Trustee, the Manager is required to make available at the meeting copies of the last financial statements of the Fund filed in accordance with Section 20 of the Act.

Amendments to Trust Deed

The Trustee and the Manager may at any time make any amendment to the Trust Deed if:

- in the opinion of the Trustee, the change is necessary to correct a manifest error or is of a formal or technical nature;
- in the opinion of the Trustee, the change is necessary or desirable for the more convenient, economical or advantageous working, management or administration of the Fund or the Portfolio or for safeguarding or enhancing the interests of the Fund or the Portfolio or Unitholders and is not or not likely to become materially prejudicial to the general interests of the unitholders under the Trust Deed;
- after a change in any law affecting unit trusts, the change is required to make any provision of the Trust Deed consistent with such law;
- in the case of a change affecting all unitholders under the Trust Deed, the change is authorised by an Extraordinary Resolution of all such unitholders as if they were beneficiaries of a single Fund;
- if, in the case of a change affecting Unitholders of the Fund or the Portfolio, the change is authorised by an Extraordinary Resolution of Unitholders of the Fund or of the Portfolio (as applicable);
- in the opinion of the Manager and the Trustee, the change is necessary to enable the Fund to remain in the PIE taxation regime; or
- the change is necessary to enable the Fund to be listed by NZX Limited.

An Extraordinary Resolution can only be passed by a 75% majority of persons voting at a meeting.

Authorised Investments

The Portfolio may only be invested in the Authorised Investments described in the Establishment Deed. Authorised Investments are secured loans to retirement villages, deposits with any registered bank or in any other debt security, each such investment being selected by the Manager and approved by the Trustee.

The Portfolio may be invested in secured loans to retirement villages of which the Trustee is the Statutory Supervisor under the Retirement Villages Act. The Manager is not prevented from making such an investment by the Trustee's role in relation to the relevant retirement village. Were this to occur, the Trustee will manage any conflicts arising in accordance with its normal procedures applying to such circumstances.

Winding Up

After the Date of Termination, the Trustee must realise the Investments of the Fund or the Portfolio (as applicable) as soon as practicable, provided however that the Trustee may postpone realisation of all of the Investments if it reasonably considers it is in the interests of Unitholders to do so.

The Trustee is entitled to retain out of the Fund or the Portfolio (as applicable) such amount that the Trustee considers necessary or appropriate to meet all claims and liabilities in connection with the Fund or Portfolio (as applicable) or arising out of the liquidation of the Fund or Portfolio (as applicable) including the Trustee's fees and the fees of any agents, solicitors, bankers, accountants, auditors or other Persons (including the Manager) whom the Trustee may employ in connection with the winding up of the Fund or Portfolio (as applicable). The Trustee is entitled to be indemnified in respect of the foregoing from the moneys or assets retained by the Trustee.

Subject to the retention of any moneys (as above), the net proceeds of realisation of Investments shall be applied by the Trustee as follows:

- first, in payment or retention of all costs, charges, expenses and liabilities incurred and payments made by or on behalf of the Trustee or the Manager and payable from the Fund or Portfolio and of all remuneration payable to the Trustee and the Manager; and
- secondly, in payment to the Unitholders pro rata to the number of Units held by them in the Fund or the Portfolio.

If in the opinion of the Trustee it is expedient to do so the Trustee may make interim payments or distributions on account of the moneys to be distributed.

- (3) There are no restrictions on investments of the Fund so long as the Fund is invested in Authorised Investments and the Manager complies with the investment policy as agreed from time to time by the Manager and the Trustee (see (5) below for details of the current policy).

(4) As the Portfolio offered under this Prospectus has not commenced business, the Fund has not undertaken any activities at the date of registration of this Prospectus.

(5) The investment objective for the Fund and the Portfolio is as follows:

The aim of the Fund is to produce a targeted distribution on each Unit of an amount equal to a before tax return on the Issue Price of each Unit of 9% per annum over the full Investment Period. The Manager aims to achieve this targeted distribution by setting the interest on the Loans with a view to providing the targeted distribution for the anticipated subscriptions for Units. However, the actual distributions may be more or less than this targeted amount. Please refer to the "Risk" section on page 27 for details of some anticipated risks which may impact on the actual distributions paid. The Manager does not guarantee repayment of the Units nor the payment of any earnings on the Units.

The current investment policy for the Fund and the Portfolio is as follows:

Under the terms of any Loans to be made, the amount of each Loan may not exceed an amount equal to 60% of the value of the relevant village land and buildings as assessed by an independent registered valuer, less the priority amount of prior ranking security (if any). After the first Loan advance is made, the Manager may advance further amounts under the Loan to the borrower, subject always to the maximum loan to value ratio of 60% (less any prior ranking security).

The directors of the Manager will require other Loan terms which will include, but not be restricted to, the following matters:

- Evidence that interest obligations can be met from sales or re-sales of residential units, or from other financial resources available to the borrower;
- An appropriate ratio of liquid assets to meet current liabilities;
- Approval of development, marketing and construction programmes to ensure timely completion and sale to meet loan repayments;
- Sales thresholds for both new dwellings and licence re-sales;
- Revaluation of secured assets at the Manager's discretion;
- Approval of capital expenditure and development plans;
- Employment by the borrower of suitably qualified staff and third party consultants;
- Ongoing compliance with the Retirement Villages Act;
- Maintenance of minimum levels of shareholders' equity; and

- Monthly certification by the relevant borrower that all Loan covenants have been met.

The liquid assets ratio thresholds and other detailed requirements of the Loan terms will vary from Loan to Loan in accordance with an assessment by the directors of the Manager of the credit risk relevant to the particular Loan.

Manager chooses Investments

Subject to obtaining the Trustee's approval of the Portfolio's investment policy and the Trustee's discretion to refuse to act on certain directions as set out below, the Manager may direct the Trustee to deal in any way and take any action required in respect of the Investments. The Trustee is not obliged to act on a direction to invest by the Manager if this would be contrary to the provisions of the Trust Deed or the Trustee Act 1956, outside the investment policy or would manifestly not be in the interests of the Unitholders.

The Manager may change the investment policy for the Portfolio or the Fund with the approval of the Trustee, provided Unitholders have been given one month's prior notice and the opportunity to withdraw their Units before the variation takes effect, and provided that the Portfolio or Fund remains invested in Authorised Investments. Any investment policy change may only take effect once all redemption requests relating to the change in policy have been actioned.

Alternatively the Manager, with the approval of the Trustee, may change the Portfolio's investment policy where the variation has been approved by Extraordinary Resolution.

- (6) As the Portfolio has not commenced business and the Fund has not completed its first financial period, there are no historical investment performance details to disclose.
- (7) The Manager will make distributions from the Fund within the first 14 days of the relevant Distribution Date in accordance with the Trust Deed as set out under the sub-heading Distributions in this section 6 of the Prospectus.
- (8) The Manager's obligations to redeem Units are described on page 10. No undertakings are given to Unitholders about the redemption value of Units.

7. Unitholder liability

Unitholders do not incur any liabilities (including contingent liabilities) from holding Units in the Fund, other than the liability to pay the Issue Price and in relation to their personal tax obligations as described below.

Every Unitholder indemnifies the Trustee, the Manager and the Fund on account of any PIE Tax attributable to income allocated to that Unitholder and related penalties or interest which has not been satisfied by deduction from distributions paid to that Unitholder. Unitholders may also have adjustments made to their Units to reflect tax paid or payable on their behalf by the Fund.

8. Summary financial statements

As the Portfolio has not commenced business and the Fund has not completed its first financial period, there are no financial statements for the Fund.

9. Minimum subscription

The minimum amount which must be raised for the issue to proceed, in the opinion of the Manager, is \$1,750,000, as specified in clause 1 above on page 4. This comprises:

- \$1,595,000 to be utilised as Loan advances; and
- \$155,000 for preliminary issue expenses, which are anticipated to be made up of legal expenses (\$60,000), Trustee's costs and expenses (\$10,000), communications with prospective Unitholders (\$55,000), printing of offer documents and marketing material (\$25,000) and tax advice (\$5,000) (see "Issue Expenses" on page 23).

No amounts are required for the purchase of property, commission payments, working capital or the repayment of any amounts borrowed.

10. Guarantors

Neither the Trustee, the Manager, nor any other person guarantees the payment of any money payable from the Fund or the Portfolio.

11. Acquisition of business or equity securities

No business or equity securities have been acquired for the purposes of the Fund or the Portfolio.

12. Options and units paid up otherwise than in cash

- (1) No options to subscribe for Units have been made or are to be issued.

- (2) No Units have been or are to be issued for a consideration other than cash.

13. Interested persons

(1) *Trustee's fees*

The Trustee's remuneration for carrying out the Trustee's functions in relation to the Portfolio is an annual fee agreed from time to time between the Manager and the Trustee. Until agreed otherwise, the Trustee's fee is \$12,500 per annum. The Trustee's fee accrues from day to day and is payable by the Trustee out of the Portfolio quarterly within 14 days of each Distribution Date.

In addition, the Trustee is entitled to charge special fees for services of an unusual or onerous nature outside the Trustee's regular services. There is no limit to the amount of special fees that may be charged.

GST will be added to the Trustee's fee and is currently levied at 15% on 75% of the Trustee's Fee.

The Trustee's annual fee cannot be increased unless agreed with the Manager and provided the Trustee gives 3 months' notice of the increase to all Unitholders.

Manager's Fee

The Manager will charge an annual fee for its services in managing the Portfolio.

The Manager's fee accrues from day to day and is payable by the Trustee out of the Portfolio quarterly within 14 days of each Distribution Date. The first Distribution Date, and therefore payment of the first instalment of the Manager's fee, is intended to occur on 31 December 2010.

The Manager's fee is calculated as:

- \$62,500.00 for the Distribution Period ending on 31 December 2010;
- \$62,500.00 for the Distribution Period ending on 31 March 2011;
- 2.5% per annum, calculated on the aggregate value of Units on issue at the end of the Distribution Period preceding the relevant Distribution Date, in respect of all Distribution Periods commencing after 31 March 2011.

GST will be added to the Manager's fee and is currently levied at 15% of the Manager's Fee.

Other Charges

The Manager and the Trustee are entitled to be reimbursed from the Portfolio for all costs and expenses incurred by them acting as manager and trustee respectively. Generally the amount of these costs and expenses cannot be ascertained until they are incurred and will vary from time to time. These reimbursable costs and expenses may include, but are not limited to:

- all costs incurred in forming the Fund and preparing and registering offer documents;
- all costs incurred with the purchase of any Investments;
- the fees and expenses of the Auditor;
- all taxes and duties paid;
- all interest and other costs associated with any borrowing;
- all costs of convening and holding meetings;
- any costs of third parties engaged by the Manager or Trustee;
- all costs of preparing, printing and distributing accounts, statements, cheques, offer documents and any other communications to Unitholders;
- costs incurred in running the Unit Register; and
- any other expenses reasonably incurred by the Trustee, the Manager or any delegate of the Manager in carrying out their duties under the Trust Deed.

There is no limit on the amount of these costs and expenses which may be charged.

These costs and expenses, together with the Manager's and Trustee's fees, are taken into account when the Portfolio's net income is calculated and will affect returns to Unitholders. Certain fees, charges or expenses referred to in this Prospectus are subject to GST.

The Manager may on dates that it determines:

- make deductions from redemption proceeds or distributions; or
- redeem Units,

to fund PIE Tax on income of the Fund in respect of the Portfolio allocated to Unitholders.

- (2) Neither the Manager nor the Trustee has any direct or indirect material interest in the Fund or any contract or arrangement entered into on behalf of the Fund as at the date of this Prospectus.
- (3) The Fund has not acquired any assets as at the date of this Prospectus.

(4) See clauses 13(1), 13(2) and 13(3) above.

14. Material contracts

The only material contracts which have been entered into during the two years preceding the date of registration of this Prospectus are:

- the Master Trust Deed.
- the Establishment Deed.

(The dates, parties and nature of these documents are as set out in the Glossary on page 35.)

15. Pending proceedings

There are no legal proceedings or arbitrations that are pending at the date of registration of this Prospectus that may have a material adverse effect on the Fund.

16. Issue expenses

Preliminary issue expenses are estimated to be \$155,000. This is made up of the amounts shown under "Minimum Subscription" on page 20.

If preliminary issue expenses are greater than the anticipated amount shown above, the Manager will reduce the amount available to be utilised as Loan advances so that the aggregate of preliminary issue expenses and the amount available for Loan advances is no more than \$1,750,000.

If preliminary issue expenses are less than the anticipated amount shown above, the excess funds will remain in the Portfolio and will be invested in Authorised Investments.

The preliminary issue expenses will be paid from the Portfolio after the initial issue of Units. That amount will be amortised in 30 equal monthly instalments commencing on 31 March 2011.

Commission is not payable by an investor or the Portfolio. Commission may be paid by the Manager out of its own funds to certain persons who introduce investors to the Portfolio. The maximum rate of commission is an amount equal to 1.5% of the relevant subscription amount.

17. Other terms of offer and units

All terms of the offer and all terms of the Units being offered are set out in this Prospectus except for those implied by law and those contained in the Trust Deed.

18. Financial statements and Auditor's report

As the Portfolio has not commenced business and the Fund has not completed its first financial period, there are no financial statements or Auditor's report.

19. Places of inspection of documents

Copies of the Master Trust Deed, the Establishment Deed, the financial statements for the Fund (when completed), the material contracts disclosed under clause 14, and the annual report for the Fund (when completed) may be inspected during normal business hours without payment of any fee at the office of the Manager at Level 2, 18 Broadway, Newmarket, Auckland. The Manager requests that any inspection be carried out after 24 hours' prior written notice. They can also be viewed on the Companies Office website at www.companies.govt.nz. Where relevant documents are not available on the website, a request for the documents can be made by telephoning the Companies Office Contact Centre on 0508 266 726 (toll-free). A fee may be payable.

20. Other material matters

Taxation

The following statements in relation to taxation are of a general nature only and are based on current tax legislation which may change. The impact of taxation will vary depending upon each person's individual circumstance. Unitholders are encouraged to seek professional tax advice. The Manager and the Trustee do not take any responsibility for the taxation liabilities of investors. Returns to Unitholders are likely to be affected by taxation.

The Fund has elected to become a PIE. As described on page 4 under "Distributions", the Fund will allocate all its taxable income (or losses) from the Portfolio between its investors based on the number of Units held by them and the period during which those Units were on issue.

The Manager will then calculate tax payable on such income allocated to each investor at their nominated Prescribed Investor Rate (PIR). Tax is then paid as described under the "Tax-paying investors" heading below.

Each investor must notify the Manager of their IRD number and applicable PIR when they join the Fund, and when these details change. Investors who do not

notify both their IRD number and PIR will be taxed on income allocated to them at the default rate of 28%. The Manager will seek reconfirmation of these details annually.

The Manager is required to provide every investor in a PIE with an annual tax certificate, which will include the PIE income allocated to each investor and the amount of tax paid at their PIR. This information will be necessary when determining what PIR can be selected in future.

Tax-paying investors

Investors with a PIR other than 0% are referred to as "tax-paying investors". The Fund's tax liability on PIE income allocated to its tax-paying investors will be deducted at the earliest of the following times:

- i) At the end of the income year;
- ii) Upon any full or partial withdrawal or transfer.

An amount equal to the Fund's PIE tax liability will be deducted from distributions made to tax-paying investors (but the Manager reserves the right to cancel Units if need be).

A refundable tax credit will be provided to the Fund to compensate for any PIE tax losses or excess tax credits relating to tax-paying investors, which is then allocated to such investors by issuing additional Units.

If the correct tax rate has been elected, the tax paid on income allocated to tax-paying investors will be a final tax and no obligation to include the income in a tax return will arise as a consequence. Nor will it impact on family assistance eligibility, student loan repayment obligations or child support payment obligations.

Tax-paying investors must advise the Manager if their PIR rate changes. Failure to advise, or providing a lower rate than that applicable, will mean the investor is personally liable to pay any resulting tax shortfall including penalties and interest and must include the full amount of the allocated PIE income in a tax return.

Similarly, tax-paying investors should advise the Manager if their PIR changes from a higher to a lower rate. PIE tax is a final tax in this case and no credit or refund is available if too much tax has been paid.

Where the value of a tax-paying investor's Units is not regarded as sufficient, or likely to be sufficient, to fund the PIE tax liability on income allocated to that investor, the Units will be redeemed to fund that liability.

If a Unitholder transfers Units prior to April in any year, the transferor will bear the cost of PIE tax on income allocated to those Units from the beginning of the income year to the date of transfer.

Zero-rated investors

Investors with a PIR of 0% are referred to as “zero-rated investors”. These entities must include the PIE income or loss allocated to them in a tax return and pay tax themselves. These entities will have a tax liability in respect of the PIE income allocated to them, regardless of whether the Fund makes any distributions to them. The Fund will not cancel any Units or otherwise adjust the interests of its zero-rated investors for PIE tax, as the Fund does not pay tax on the income allocated to such investors. Zero-rated investors will be entitled to claim their share of excess credits or PIE tax losses directly. They may also claim as a credit any PIE tax paid by the Fund on income allocated to them at the default rate of 28%.

Joint investors

For joint investors, income is allocated based on their notification to the first named person in the register only. Any joint investor can be selected if the PIR are the same, but if they are different joint investors must select the investor with the highest PIR. If no notice of election is received income will be allocated to the first named person at the default rate of 28%.

Redemption gains and distributions

Redemption gains and distributions (if any) from the Fund should not be separately taxable to investors. Withdrawals will be made by way of redemption of Units.

Income of the Fund

Debt securities held by the Fund are taxed under the financial arrangement rules. The financial arrangements rules require income from the debt securities to be spread over the term of the securities applying a prescribed spreading method.

A “base price adjustment” calculation must be performed in the income year in which the debt securities mature or are disposed of. The base price adjustment calculation brings to account any income from the debt securities which have not been accounted for over the term of the arrangement, including any gain arising upon disposal of the debt securities.

PIE regime restrictions

PIEs have restrictions on the percentage of Units any one investor, and associated parties holding interests of 5% or more, can hold. The Manager may redeem or void Units exceeding the permitted threshold so as to ensure PIE

status can be maintained. If Units are voided the Unitholder will receive a refund of subscription moneys but any additional compensation is at the discretion of the Trustee in consultation with the Manager.

Transfers of Units

Investors will be liable for any tax that crystallises on the transfer of their Units.

IRD Number

Units cannot be purchased without the investor providing an IRD number.

Additional tax information

Tax legislation and rates of tax are subject to change. The impact of these changes may vary depending on each investor's personal circumstances. It is therefore important that investors seek professional taxation advice before investing, as the taxation treatment of the investment is specific to each investor's circumstances and to the nature of the investment. Neither the Trustee nor the Manager can provide taxation or investment advice and as such take no responsibility for any tax consequences that may arise as a result of investing in the Fund.

Should additional information be required to determine whether the Fund continues to meet the PIE eligibility requirements, the Trust Deed stipulates that each investor shall supply such information within 30 days of request.

Risk

All investments carry risk. There are risks associated with the Fund which could affect Unitholders' ability to recover the amount of their investments or impact on the level of distributions payable from the Fund.

There are two principal risks faced by investors in Units – not recovering the money paid for Units in full and not receiving the targeted distributions. The value of the investment in Units may fluctuate and you may not receive the returns you expect. It is reasonably foreseeable that you may not recover in full the initial amount of money you pay for your Units if any of circumstances envisaged by the risk factors detailed in this section occur.

The ability of the Manager to redeem Units for the issue price and to pay distributions on the Units, is among other things, dependent on:

- (a) Borrowers meeting their interest payment and principal repayment obligations;
- (b) The returns the Fund may get from the Loans;

- (c) The Manager prudently managing the Fund's costs of operation; and
- (d) The Manager prudently managing the Fund's cash flow and liquidity.

The ability of the Fund to meet payments to Unitholders is therefore dependent on the ability of the board of the Manager to prudently manage these risks.

Some examples of risks that are involved in an investment in the Portfolio are set out below:

- *Investment specific risk:* The Portfolio will predominantly be invested in secured loans to retirement villages. Income from the Portfolio and redemption of Units will be dependent on the borrowers paying in full interest on, and repaying, their Loans on the agreed payment dates. A borrower may be reliant upon completing required development work and selling occupation licences for residences to prospective residents in order to fund the performance of their payment obligations under the Loans. A borrower may be further reliant upon the Fund or other financiers being in a position to refinance the Loans. The ability of the borrower to perform its obligations could be affected by adverse circumstances affecting its operations or by the business environment for retirement villages. The borrower's ability to perform could be further affected by an adverse change in the lending environment such as a contraction in the availability of loans or the imposition of more stringent lending criteria that impairs the borrower's ability to refinance the Loans.

In some cases the Manager may require a guarantor or guarantors to give security in relation to a borrower's obligations under a Loan. If so, reliance may be placed on such guarantee(s) depending on the quality of such guarantee(s) and the assets available to such guarantor(s) to satisfy the borrower's obligations.

As discussed on page 2, the Statutory Supervisor for each village will likely hold a mortgage, an encumbrance, or a general security agreement over the village to secure moneys owing to the residents of the village. The Trustee (on behalf of the Portfolio) and the Statutory Supervisor will enter into a deed regulating their respective rights under their securities. If a Loan was in default and the securities enforced, the Retirement Villages Act (to the extent that it applies) and the Statutory Supervisor will require the sale of the village as a going concern to a new operator, which may limit the nature and number of potential purchasers of the secured property and, as a result, negatively impact the value that could be realised on enforcement and the timing of such realisation. To facilitate the sale as a going concern, the borrower will be required to grant a general security agreement over the entities which operate the village in favour of the Trustee (on behalf of the

Portfolio).

The loan documentation for a Loan will stipulate that the maximum to be advanced may not exceed an amount equal to 60% of the value of the relevant village land and buildings as assessed by an independent registered valuer, less the priority amount of prior ranking security (if any).

- *Security position risk:* The Fund may act as a second tier lender. This means that, in addition to the Statutory Supervisor's security, another party and/or financier will hold security interests that rank ahead of the Loan. The holder of a prior ranking security interest could, in a default situation, force the sale of the borrower's assets and this may result in the borrower being unable to repay some or all of the Loan.

In addition, should a borrower default on the terms of its Loan, the ability of the Manager to appoint a receiver or realise the assets of the borrower may be restricted or prohibited by the terms of any prior ranking facility. The borrower may also be restricted from repaying the Loan by the prior ranking party or financier who has first claim on funds available for loan repayment.

As a second tier lender, the Fund may provide finance to borrowers that are, for one reason or another, not able to obtain finance from elsewhere or borrowers that are not able to obtain finance to the degree desired by them from a first tier lender, such as a registered bank. In the latter case this may be because the bank's lending policies restrict the amount of any advance to a specified percentage of the value of security given. The risks associated with such lending are higher.

- *Development risk:* The Manager may make Loans to retirement villages that are in the process being developed. This type of funding is more risky from a lending standpoint than typical bank funding. The risk is reflected in the interest rate charged on the Loans.

A borrower may be reliant upon sales in order to repay the Loans. As with any property development project, there will be attendant planning and construction risks that may result in the delay in the completion of construction and require modifications of the project. Further, increases in construction costs or delays could increase the cost to the borrower of undertaking the development which may result in the borrower requiring additional funding in order to complete the development. Each of these risks could impact on the borrower's ability to meet its payment obligations under its Loan.

Where funds are advanced for payment of costs to construct common facilities or dwellings, the Manager reserves the right to require a quantity surveyor's certificate certifying the value of the work to be completed which is to be funded by the relevant advance and the value of the work required in completing the particular facility. The Manager intends to ensure that developers the Portfolio lends to utilise a marketing and construction policy which, where possible, places emphasis on substantial expressions of interest before committing to a development.

Notwithstanding the controls imposed by the Manager, if a village was sold on enforcement of the securities securing the relevant Loan, a partially completed village will likely be more difficult to sell or may realise a reduced price. Another factor is the possible delays in marketing and selling the village with the resultant increase in the amount outstanding to the Portfolio as a result of accruing interest. The restriction of the advances to 60% of the value of each village established by an independent registered valuer should, in the opinion of the Manager, provide sufficient security to mitigate these risks.

To the extent that the Fund lends funds for development purposes, the success or otherwise of those developments will be important in the context of Loan repayments.

With start up developments often no income will be produced from the development until construction reaches a stage that enables the sale or utilisation of part or all of the development. During this period the developer may be reliant on support from third parties, such as investors, partners and shareholders, to meet its debt servicing obligations.

All developments are also subject to a number of usual risks, such as the securing of appropriate resource consents, the availability of skilled contractors to undertake the work, building risks (such as a builder becoming insolvent) and market forces relating to demand for a development of the nature undertaken. Should one or more of these or other usual development risks arise then the development may be delayed and the borrower's ability to service its Loan may be correspondingly compromised.

Investors should be aware that if a development fails, the developer may well be unable to repay some or all of the funding including the Loan, or any interest thereon.

It is possible that the value of secured assets may fall or the Manager may have difficulty locating a purchaser for those assets. A partially completed development will be particularly susceptible to these types of risks. The

Manager will be relying on its borrowers to repay or on its ability to realise borrowers' secured assets to make distributions.

- *Liquidity risk:* This is the risk associated with an inability on the part of the Portfolio to meet monetary obligations in a timely manner. Liquidity risk is relevant to payment of distributions from the Fund in respect of the Portfolio and redemption of Units at the end of the Investment Period. Any default by a borrower could affect the ability of the Portfolio to make distributions or to redeem the Units on the relevant due dates.

The prerequisite to satisfy the Manager as to the level of marketing success and the provision of sufficient funding facilities to meet the construction of the stages during the term of a Loan is intended to mitigate against a failure by the borrower to meet its obligations during the Investment Period.

Liquidity and cash flow risks are intended to be mitigated by setting Loan covenants as specified on page 2 and by monthly monitoring by the Manager of adherence by the borrower to the Loan covenants.

Repayment of Loans may be made from the proceeds of the sale of units in the Villages. To the extent that these sales do not generate sufficient funds to repay the Loan, the borrower may have to refinance the Loan in order to repay it. Refinancing will be dependent on a number of factors including the economic success of the particular village, support and capacity of the borrower's other financiers (if any), approval of the Statutory Supervisor, and the prevailing economic conditions at the date of Loan maturity.

- *Maintenance of revenue:* The Fund will derive income from its principal activities, namely the making of Loans. As the Fund is competing in the debt funding market with registered banks, finance companies and lending institutions, it must set its interest rates and fees on loans in a competitive manner. Should market interest rates or loan fees drop, the Manager may have to reduce the rates or fees to remain competitive and this may affect the Fund's revenue streams and margin of return on funds employed. The Manager intends to minimise the above risks, where possible, by offering fixed rate Loans so as to achieve stable revenue streams.
- *Capitalising loan risk:* The Manager may provide a capitalised Loan facility under which the borrower will not pay interest until the end of the Loan term. This means that the equity position relating to the secured assets is eroded during the term of the Loan, reducing the ability of the Manager to recover the Loan amount and interest due. Payments of distributions to Unitholders are therefore dependent on Loan principal repayments rather than interest receipts, which will have the effect of reducing distributions payable on Units until the Loan principal is repaid.
- *Security value risk:* Before making a Loan an independent registered valuer

assesses the market value of the assets offered by the borrower as security for the Loan. The Manager does so in order to determine if the security offered by the borrower is of sufficient value to cover the borrowers' indebtedness. The value of the assets over which security is taken may fluctuate due to market prices for the same. If the market price of the assets over which security is taken has decreased then it is possible the Manager will not recover all moneys owed to the Fund in a default situation where it seeks to realise that security. If property values on enforcement are materially lower than the value assessed by a valuer, then the Manager may recover less than the amount of the Loan.

- *Investment spread:* The Portfolio will be made up of a very small number of Loans. Accordingly, distributions and return of capital will be materially adversely affected by the failure or unfavourable performance of any one single borrower, or an industry specific downturn that affects a number of the borrowers.
- *General market risk:* The ability of borrowers to meet their principal and interest repayment obligations may also be affected by the state of the New Zealand and international economies. Economic slowdowns will have a negative impact on demand for retirement villages and thus, income, which may in turn adversely affect a borrower's ability to service its Loan and meet its payment obligations, or the ability of the Manager to realise the security for a Loan.
- *General political risk:* Policies and decisions of the Government and other regulatory bodies in New Zealand may impact on the performance and debt servicing ability of borrowers either in the retirement village industry or generally.
- *Catastrophic events risk:* Catastrophic events, which may include earthquakes or other natural disasters, may affect the value of secured assets. The Retirement Villages Act requires that all retirement villages are comprehensively insured for full reinstatement value to the satisfaction of the statutory supervisor.
- *Regulatory risk:* This is the risk of future changes to legislation or applicable regulations which could affect the operation of the Portfolio or Unitholders' distributions or the level or nature of distributions from the Fund in respect of the Portfolio.
- *Key personnel risk:* The performance of the Fund and the Portfolio is dependent, in part, on the abilities of the executive director, John Jackson. The loss or incapacity of the executive director may well have a material adverse effect on the Fund and the Portfolio. However, the Manager aims

to mitigate this risk by the division of responsibilities amongst a management team and by the functions carried out by the other director, the Fund's accountant and the Auditor.

- *Administrative risk:* This is the risk of technological or other administrative failure impacting on the Portfolio.
- *Tax Risks:* If PIE status is lost due to an event such as the number of Unitholders having an interest in the Portfolio reducing to below 20, the Fund would be taxed as a widely held unit trust at 30% rather than at an investor's PIR.

Refer to the Taxation section above for details of the risk of tax being deducted by cancelling Units where the value of your remaining Units is not regarded as sufficient to fund your tax liability.

PIEs have restrictions on the percentage of Units any one investor and associated parties holding interests of 5% or more can hold. Generally no investor, together with such associates, can hold more than 20% of the Units representing the Portfolio (although this restriction does not apply to investors who are other PIEs or fall within a narrow class of other specified entities).

The Manager may redeem or void Units exceeding the permitted threshold so as to ensure PIE status can be maintained. If your Units are voided you will receive a refund of your subscription moneys or any lesser value of your Units, but any additional compensation is at the discretion of the Trustee in consultation with the Manager.

An investor advising a lower PIR than that applicable or not advising a change to a higher rate, is obliged to pay the tax shortfall plus any interest and penalties, and will be required to include the income in a tax return. If an investor advises a higher rate than that applying the excess tax paid cannot be claimed back as PIE tax is a final tax in this case. Zero-rated investors may however obtain a credit for any PIE tax paid on income allocated to them.

A trust that elects a PIR of 28% will be unable to provide the PIE income to beneficiaries at rates lower than 28%.

Refer to the Taxation section above for details of the manner in which joint investors are allocated income to one investor only, which may impact on that investor's ability to retain a 10.5% or 17.5% PIR.

Any future change in taxation legislation could impact on the Fund's returns in respect of the Portfolio.

- *Insolvency of the Manager or Trustee:* Money invested in the Portfolio is held by the Trustee separately from the Manager's and the Trustee's assets, and would be unaffected by any insolvency of the Manager or the Trustee.

If the Manager becomes insolvent, is put into liquidation or has a receiver appointed, the Trustee is able to remove the Manager, if the Manager does not retire, and may appoint another Manager. Additionally, the Unitholders can direct that the Manager should cease to hold office by a resolution of Unitholders passed under section 18 of the Act.

Unitholders will not be liable to pay money to any person as a result of the insolvency of the Fund. In the event of the Fund being wound up or put into liquidation, creditors of the Fund (including the Manager and the Trustee) will rank ahead of the claims of Unitholders. Unitholders will rank equally amongst each other.

Before making an investment in any security, investors should consider the special trade factors and risks for that investment against the returns offered. Investors should be aware that there is a direct relationship between the risks of the investment and the return offered. Prospective Unitholders should consider the special trade factors and risks outlined above before investing in Units.

Unitholders should be aware of these risks when investing and that not all risks can be foreseen.

Except as set out above, there are no other material matters relating to the Fund other than those set out elsewhere in the Prospectus and any contracts entered into in the ordinary course of business of the Fund.

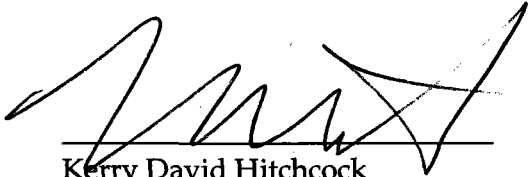
19. Manager's statement

Since the Portfolio has not commenced business and the Fund has not completed its first financial period, no Manager's statement is relevant.

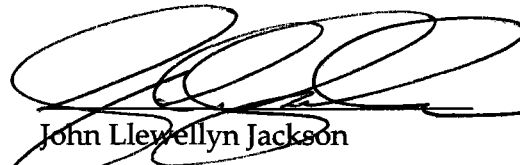
20. Unit Trustee's statement

Since the Portfolio has not commenced business and the Fund has not completed its first financial period, no Trustee's statement is relevant.

Signed by all the directors of Senior Trust Management Limited:



Kerry David Hitchcock



John Llewellyn Jackson

GLOSSARY

The following capitalised terms used in this Prospectus have the following meanings. Some of these terms are summaries of definitions in the Trust Deed. For complete definitions, reference should be made to the Trust Deed.

Act	The Unit Trusts Act 1960.
Auditor	The auditor of the Fund, being BDO Spicers.
Authorised Investments	Secured Loans over retirement villages, deposits with any registered bank or any other debt security, each such investment being selected by the Manager and approved by the Trustee.
Business Day	Any day (other than a Saturday or Sunday) on which banks are open in Auckland for business.
Date of Termination	In respect of each of the Fund or the Portfolio, the earlier of: <ul style="list-style-type: none">• the date 80 years less 2 days from the date of the Master Trust Deed;• the date determined by the Unitholders of the Fund or the Portfolio (as applicable) by Extraordinary Resolution to terminate the Fund or Portfolio; and• the termination date notified by the Manager to the Trustee and the Unitholders of the Fund or the Portfolio (as applicable) by at least 30 days' notice in writing.
Distribution Date	31 March, 30 June, 30 September and 31 December, or such other days which the Manager may determine by 1 month's written notice to Unitholders.
Distribution Period	Each 3 month period ending on a Distribution Date, or, in the case of the first Distribution Period, the period from the date of the Master Trust Deed to the

	first Distribution Date.
Establishment Deed	The Establishment Deed dated 19 October 2010 between the Manager and the Trustee, which sets out specific terms and conditions relating to the Fund.
Extraordinary Resolution	A resolution passed by Unitholders by a majority of 75% or more of the persons voting at a meeting.
Fund	Senior Trust Retirement Village Fund.
Gross Asset Value	In respect of each Valuation Day, the aggregate of the market value of the Investments and any income accrued or payable in respect of the Portfolio that is not included in such market value.
Investment	Each investment or other asset held by the Portfolio.
Investment Period	The period from the date the first Unit is issued to 30 September 2013, or any such earlier date that the Manager determines to redeem the Units, or if redemptions of Units are deferred or suspended under the Trust Deed, the day of actual redemption of the Units.
Issue Price	The price at which Units are issued, being the Net Asset Value divided by the number of Units on issue.
Loan	Any loan secured over a retirement village.
Manager	Senior Trust Management Limited.
Master Trust Deed	The Master Trust Deed dated 19 October 2010 between the Manager and the Trustee, which sets out the generic terms and conditions on which units in unit trusts managed by the Manager, such as the Fund, will be offered for subscription to the public.
Net Asset Value	The Gross Asset Value of the Portfolio on any Valuation Day less all income of the Portfolio which has not been distributed, all liabilities of the Portfolio determined on an accruals basis and such other provisions as the Manager or the Trustee thinks necessary or desirable for accrued or contingent liabilities or losses of the Portfolio, including a

	provision for the costs of realisation of any Investments and redemption of Units.
Ordinary Resolution	A resolution of Unitholders passed by a majority of 50% or more of the persons voting at a meeting.
PIE	A portfolio investment entity as defined in the Income Tax Act 2007.
PIE tax	Tax payable by the Fund, the Trustee or the Manager (whether deferred or current) which is determined by reference to Prescribed Investor Rates of Unitholders, or is otherwise determined by the Trustee or the Manager to be attributable to income allocated to Unitholders.
Portfolio	The Senior Trust Portfolio C, being a portfolio of the Fund.
Prescribed Investor Rate	The rate a Unitholder has or may elect under the Income Tax Act 2007 in relation to income allocated to them by a PIE.
Redemption Price	The price at which Units are redeemed, being the Net Asset Value divided by the number of Units on issue.
Retirement Villages Act	Retirement Villages Act 2003 and its related legislation.
Trust Deed	Together the Master Trust Deed and the Establishment Deed.
Trustee	Perpetual Trust Limited.
Unit	A unit in the Portfolio.
Unitholder	A person for the time being registered in the Unit Register as the holder of a Unit and includes persons jointly registered.
Unit Register	The register of Unitholders in the Portfolio maintained in accordance with the Master Trust Deed.

Establishment Deed

For the Senior Trust Retirement Village Fund

Senior Trust Management Limited

and

Perpetual Trust Limited

19 October 2010

This **Deed** is made on 19 October 2010

between (1) **Senior Trust Management Limited** (the **Manager**)

and (2) **Perpetual Trust Limited** (the **Trustee**)

RECITALS:

- A. The Manager and the Trustee are parties to a Master Trust Deed dated 19 October 2010 (the **Trust Deed**) which sets out the terms and conditions on which units in unit trusts managed by the Manager will be offered for subscription to the public.
- B. The Trust Deed provides that each unit trust shall be established by the Manager and the Trustee entering into an Establishment Deed setting out the specific terms and conditions relating to that Fund.
- C. The Manager has resolved to establish a Fund to be known as the "Senior Trust Retirement Village Fund" (the **Fund**) which will have separate Portfolios and the Trustee and the Manager have entered into this Deed for the purpose of establishing the Fund and the terms and conditions applicable to it.

It is agreed

1. Interpretation

1.1 Trust Deed Definitions

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

1.2 Additional Definitions

In this Deed, unless the context otherwise requires:

C Unitholder means each Unitholder of a C Unit;

C Units means an undivided part or share in the beneficial interest in the Senior Trust Portfolio C;

Distribution Period means a period of 3 months commencing on the day following a Distribution Date or, in the case of the first Distribution Period, on the date of this Deed and ending on the first Distribution Date;

Distribution Date means each of 31 March, 30 June, 30 September and 31 December in each year while the relevant Units are on issue, or such other day or days which the Manager may determine by 1 month's written notice to the relevant Unitholders;

Fund means the unit trust fund established by this Deed;

Income means, in respect of a Portfolio, the income of the Portfolio determined in accordance with clause 6.2;

Investment Period means, in respect of a Unit, the period from the date on which the Unit is issued to the Maturity Date, or if redemptions of Units are deferred or suspended under clause 8.10 of the Trust Deed, the day of actual redemption of the Unit;

Maturity Date means, in respect of a Portfolio, the date specified in the Offer Document as the date on which the relevant Units are intended to be redeemed;

Net Asset Value means, on any Valuation Day and in respect of a Portfolio, the Gross Asset Value on that Valuation Day less the aggregate of:

- (a) all Liabilities of the Portfolio determined on an accruals basis on that Valuation Day;
- (b) Income of the Portfolio which has not been distributed to Unitholders (including income allocated, but not distributed to Unitholders); and
- (c) such other provisions as the Manager or the Trustee thinks necessary or desirable for accrued or contingent liabilities or losses of the Portfolio including a provision for the costs of realisation of any Investments and redemption of Units;

Senior Trust Portfolio C means that part of the Trust fund in respect of which C Units are issued.

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

2. Creation of Fund

2.1 Establishment of Unit Trust

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

2.2 Name of the Fund

The Fund established under this Deed is named the Senior Trust Retirement Village Fund.

2.3 Separate Portfolios

- (a) There shall be separate Portfolios within the Fund, each of which will be held on trust exclusively for the Unitholders in that Portfolio. As at the date of this Deed, there is only one Portfolio called the Senior Trust Portfolio C. The Senior Trust Portfolio C is held in trust exclusively for the C Unitholders. In future the Manager may establish one or more additional Portfolios with a distinctive name and in respect of which a separate class of Units is created.
- (b) Each Unit shall confer an equal interest in a Portfolio of which it forms part and is of equal value. A Unit does not confer any interest in any particular part of a Portfolio or in the assets of any other Portfolio.
- (c) The Trustee will at all times (including, without limitation, for the purposes of a winding up the Fund under clause 34 of the Trust Deed) treat a Portfolio as a separate and distinct trust fund with its separate property and liabilities governed by the terms and conditions of this Deed and the Trust Deed.

3. Authorised Investments

3.1 Authorised Investments

For the purposes of the Fund, **Authorised Investments** are secured loans over retirement villages, deposits with any registered bank or any other debt security, each such investment being selected by the Manager and approved by the Trustee.

3.2 Amendment to Authorised Investments

The Manager and the Trustee agree that clause 15.10 of the Trust Deed does not apply to Senior Trust Portfolio C.

3.3 Trustee's Role as Statutory Supervisor

The Fund may invest in secured loans over retirement villages of which the Trustee is the appointed statutory supervisor under the Retirement Villages Act 2003 and shall not be prevented from doing so because of the Trustee's role in relation to the relevant retirement village.

4. Issue and Valuation Dates and Issue Price

4.1 Issue dates

Units may only be issued on, or with effect from, a Valuation Day. Provided the minimum subscription amount (as set out in the Offer Documents for the relevant Portfolio) has been reached, Units will be issued on the Valuation Day following receipt of application moneys or, if application moneys are received by 2pm on a Valuation Day, Units will be issued on that Valuation Day. If an application is received after 2pm on a Valuation Day, the application will be processed on the next Valuation Day. All application moneys will be held on trust for subscribers in the applications bank account established by the Trustee until the Units are issued. Any interest earned on application moneys pending issue of Units will be credited to the Fund, after deduction of any bank fees and charges.

4.2 Valuation Days

The Valuation Day for the Fund is the last Business Day of each week and the Maturity Date.

4.3 Alternative Valuation Days

The Manager may determine that Valuation Dates will be less frequent than as set out in clause 4.2 if, for reasons beyond the Manager's control, valuation is impossible on the day in question.

4.4 Issue Price

The Issue Price for the first Units issued in each Portfolio will be as disclosed under the Offer Documents for the Portfolio and for Senior Trust Portfolio C will be \$1.00. The Issue Price of Units in each Portfolio calculated on each Valuation Day shall equal the Net Asset Value per Unit of that Portfolio on that day.

4.5 Number of Units issued

The number of Units that a Unitholder will receive will be determined by dividing the Unitholder's application moneys by the Issue Price on the Valuation Day on which the Units are issued. Fractions of Units will be rounded up or down to two or more decimal places, at the discretion of the Manager.

5. Minimum investment and minimum transfers

5.1 Minimum Amount

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

5.2 Minimum Transfer

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

6. Distributions

6.1 Distributable Income

The Manager shall determine the Income of each Portfolio for each Distribution Period.

6.2 Determination of Income

In determining Income of a Portfolio, there shall be taken into account all interest and other income received or receivable by the Portfolio determined on an accruals basis, and all costs, charges and expenses due or accrued and charged, or intended to be charged, to the Portfolio including, without limiting the generality of the foregoing:

- (a) all costs and expenses incurred in respect of Investments;
- (b) all costs and disbursements incurred in connection with the Portfolio or the administration thereof and chargeable against income, including the Manager's fees and the Trustee's fees;
- (c) any taxes or duties paid or payable by or in respect of the Portfolio other than PIE Tax;
- (d) such other provisions as the Trustee deems necessary to bring to account in order that the net income for the particular period may fairly represent the results of the Portfolio for that period; and

- (e) the fees and expenses of the Auditor in connection with the audit of the Portfolio.

If any question shall arise as to whether any money or property constitutes Income or not or whether any expense is chargeable against Income or not, such question shall be determined by agreement between the Manager and the Auditor.

6.3 **Quarterly distributions**

The Manager shall distribute the Income for each Distribution Period to the Unitholders entered on the Register at any time during each Distribution Period. Income will be distributed within 14 days from the relevant Distribution Date.

6.4 **Distribution of capital**

The Manager may also distribute surplus capital in a Portfolio to Unitholders if, in the Manager's sole discretion, the amount of capital in that Portfolio is in excess of the capital it should prudently retain in that Portfolio for working capital and contingencies. Any such distribution of capital will be made as and when the Manager so determines.

6.5 **Calculation of each Unitholder's distribution**

Distributions shall be made to each Unitholder who held Units during the relevant Distribution Period in proportion to the number of Units held and the number of days during such Distribution Period on which each such Unit was held.

7. **Redemption of Units**

7.1 **Redemption dates**

Subject to clause 8.10 of the Trust Deed, Units will be redeemed with effect from the Maturity Date. A Unitholder has no right to redeem Units prior to the Maturity Date. The Manager may redeem Units earlier than the Maturity Date at its sole discretion.

7.2 **Redemption Price**

The Redemption Price of Units in each Portfolio calculated on the Maturity Date shall equal the Net Asset Value per Unit of that Portfolio on that day.

7.3 **Payment of Redemption Price**

The Redemption Price shall be paid within 7 Business Days of the date of redemption.

8. **Borrowing**

The Trustee has no power to borrow on behalf of the Fund.

9. **Fees**

9.1 **Application, Entry, Exit and Break Fees**

There shall be no Application, Entry, Exit or Break Fees for the Fund.

9.2 **Manager's Fee**

- (a) The Manager will charge an annual fee for its services in managing Senior Trust Portfolio C. The Manager's fee accrues from day to day and is payable by the Trustee out of Senior Trust Portfolio C quarterly within 14 days of each Distribution Date. The Manager's fee is calculated as:
- \$62,500.00 for the Distribution Period ending on 31 December 2010;
 - \$62,500.00 for the Distribution Period ending on 31 March 2011;
 - 2.5% per annum, calculated on the aggregate value of Units on issue at the end of the Distribution Period preceding the relevant Distribution Date, in respect of all Distribution Periods commencing after 31 March 2011.
- (b) For each other Portfolio, details of calculation of the Manager's fees will be specified in the Offer Document for the relevant Portfolio.

9.3 **Trustee's Fee**

- (a) The Trustee shall be paid a fee at the times and in the amounts agreed in writing by the Manager and the Trustee. As at the date of this Deed, the fee is \$12,500 per annum per Portfolio. The Trustee's fee accrues from day to day and is payable by the Trustee out of the relevant Portfolio quarterly within 14 days of each Distribution Date.
- (b) There is no maximum amount for the Trustee's fee.
- (c) The Trustee may also charge special fees in accordance with clause 22.2 of the Trust Deed.

10. **Trust Deed**

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


Execution and delivery

Executed and delivered as a Deed

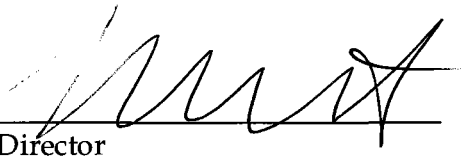
**Senior Trust Management
Limited by**



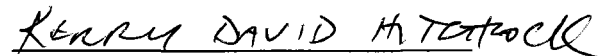
Director



Print Name

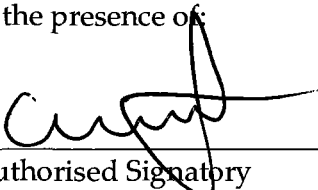


Director

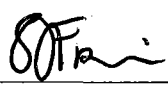


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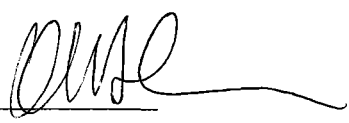
Signed for and on behalf of
Perpetual Trust Limited
in the presence of:



Authorised Signatory



Authorised Signatory



Witness Signature

Print Name
KAREN ANDERSEN
ASSOCIATE ANALYST
AUCKLAND
SIGNED IN THE PRESENCE OF

Witness Occupation

Place of residence

Master Trust Deed

Senior Trust Management Limited

Manager

and

Perpetual Trust Limited

Trustee

Date 19 October 2010

Contents

1.	Interpretation.....	1
2.	Creation of the Funds.....	8
3.	The Funds.....	10
4.	Nature of Units.....	10
5.	Issue of Units.....	12
6.	Valuations.....	15
7.	Transfer, transmission and registration of Units.....	16
8.	Redemption of Units.....	19
9.	Joint holders of Units.....	23
10.	Registered holder absolute owner.....	24
11.	Holding Statements.....	24
12.	Unit registers.....	24
13.	Management.....	26
14.	Borrowing powers of the trustee.....	27
15.	Manager's and trustee's powers to invest.....	28
16.	Investment records.....	31
17.	Distributions.....	31
18.	Trustee's powers and covenants.....	33
19.	Manager's powers, duties and covenants.....	34
20.	Removal and retirement of Manager.....	36
21.	Removal and retirement of trustee.....	38

22.	Remuneration of Trustee	39
23.	Remuneration of Manager.....	40
24.	Trustee's and Manager's responsibilities and indemnities.....	42
25.	Unitholders bound by this Deed	47
26.	Liability of Unitholders.....	47
27.	Accounts and Reports.....	47
28.	Auditor	53
29.	Meetings of Unitholders and directions to trustee.....	54
30.	Notices to Unitholders.....	54
31.	Notices between Manager and Trustee.....	56
32.	Amendment to Deed.....	57
33.	Period of trusts	58
34.	Procedure on winding up.....	58
35.	Payments to Unitholders.....	59
36.	Deductions and adjustments for taxes	60
37.	Election to become a PIE	60
38.	Law applicable.....	61
	Schedule 1: Meeting Procedures (clause 30.1).....	62
1.	Convening of meetings	62
2.	Notice of meetings	62
3.	Quorum	62
4.	Trustee and manager may attend and speak.....	62
5.	Chairperson.....	62

6.	Adjournment of meetings.....	62
7.	Voting rights.....	62
8.	Proxies	62
9.	Power of attorney	62
10.	Procedure.....	62
11.	Resolutions	62
12.	Resolutions bind all Unitholders.....	62
13.	Minutes to be kept	62
	Schedule 2: Form of Establishment Deed (clause 1.1).....	62
1.	Interpretation.....	62
2.	Creation of Fund	62
3.	Authorised Investments.....	62
4.	Issue and Valuation Dates and Issue Price.....	62
5.	Minimum investment and minimum transfers.....	62
6.	Distributions.....	62
7.	Borrowing	62
8.	Redemption of Units	62
9.	Fees.....	62
10.	Trust Deed.....	62

This Deed is made on 19 October 2010

between (1) **Senior Trust Management Limited (the Manager)**

and (2) **Perpetual Trust Limited (the Trustee).**

Introduction

- A. The Manager wishes to establish unit trusts under the Unit Trusts Act 1960 and to offer units for subscription to the public.
- B. Each unit trust fund is to be invested in a manner that is consistent with its investment policy.
- C. The Trustee has agreed to be the trustee and the Manager to be the manager, of each of the individual unit trusts.
- D. The terms and conditions applying to all unit trusts are to be set out in this master trust deed.
- E. Each individual unit trust is to be established by, and any terms or conditions specific to that individual unit trust are to be set out in, a separate deed which will adopt the terms and conditions set out in this master trust deed.

It is agreed

1. Interpretation

1.1 Definitions

In this Deed, unless the context otherwise requires:

Accounts means, in respect of a Fund, general purpose financial statements of the Fund prepared in accordance with NZ IFRS and generally accepted accounting practice in New Zealand for each Financial Year.

Act means the Unit Trusts Act 1960.

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

Application Fee means, in respect of a Fund, the Manager's fee (if any) for issuing Units in the Fund determined in accordance with clause 23.1.

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

Authorised Investments means, in respect of a Fund or a Portfolio, the investments which may be included in the Fund or Portfolio as specified in the relevant Establishment Deed (as may be amended pursuant to clause 15.10).

Break Fee means, in respect of a Fund or a Portfolio, the Manager's fee (if any) for redeeming Units in the Fund or Portfolio determined in accordance with clause 23.3.

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

Date of Termination means, in respect of a Fund or a Portfolio, the date of its termination determined in accordance with clause 33.

Distribution Period means, in respect of a Fund or a Portfolio, such period or periods (if any) that the Manager from time to time determines for a Distribution in terms of clause 17.1.

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

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

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

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

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

Financial Year means, in respect of a Fund, a period of 12 months ending on 31 March (or such other date as the Manager determines) in each year (or the Date of Termination of the Fund, if earlier) and includes the period commencing on the date of this Deed and ending on 31 March 2011.

Fund means each unit trust fund created by an Establishment Deed.

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

- (a) the Market Value of the Investments of that Fund or Portfolio on that Valuation Day; and
- (b) any income accrued or payable in respect of that Fund or Portfolio on that Valuation Day but not included in such Market Value;

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

Investment means, in respect of a Fund or a Portfolio, each asset held on trust by the Trustee (or its nominee appointed under clause 2.6) in respect of the Fund or Portfolio.

Issue Price means, in respect of a Fund or a Portfolio, the price at which the Manager sells or issues Units in the Fund or Portfolio determined in accordance with clause 5.10.

Liability means, in respect of a Fund or a Portfolio, each liability which should be classified as such by NZ IFRS and generally accepted accounting practice in New Zealand but does not include:

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

Market Value of an Investment on any Valuation Day means:

- a) in respect of Investments which are listed on an Exchange, either the bid, sell or the last sale price (as determined by the Manager and approved by the Trustee) quoted in the relevant currency for that Investment at the close of day trading on the relevant Exchange on that Valuation Day or if the Exchange is not open for day trading on that Valuation Day, on the

immediately preceding day on which the Exchange was open for day trading , or if there is no bid price or sell price (as the case may be) then the last sale price, or if such bid price, sell price or last sale price is not considered by the Manager or the Trustee to be an accurate measure, the value determined by the Manager, in consultation with the Trustee, having regard to such information as the Manager considers appropriate, including without limitation, if the Trustee considers it necessary, the advice of an Independent Expert;

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

- e) in respect of any other Investment, the value fixed by the Manager according to proper prudent principles of valuation agreed to by the Trustee or failing such agreement according to principles of valuation determined by an Independent Expert,

and where in respect of an Investment to which sub-paragraph (a), (b) or (d) applies the relevant information as to value is not received within 2 Business Days of the Valuation Day, means the value of that Investment which applied on the preceding day closest to the Valuation Day (**Adopted Value**). An Adopted Value shall not be applied on more than one successive Valuation Days, without the approval of the Trustee. Where any Adopted Value is not considered by the Manager to be an accurate measure, the value shall be determined by the Manager (having consulted with the Trustee) having regard to such information as the Manager considers appropriate, including without limitation, if the Trustee considers it necessary, the advice of an Independent Expert.

Month means calendar month.

Net Asset Value means, in respect of a Fund or a Portfolio, the net asset value of the relevant Fund or Portfolio as determined from time to time in accordance with clause 6.1, unless specified otherwise in the relevant Establishment Deed.

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

Number of Units on Issue means, in respect of a Fund or a Portfolio, the total of all Units issued in the Fund or Portfolio and remaining on issue.

NZ IFRS means New Zealand equivalents to the International Financial Reporting Standards as approved by the New Zealand Accounting Standards Review Board.

Offer Document means, in relation to a Fund or one or more Funds, the document or documents, however described, issued by the Manager by which Units may be offered for issue.

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

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

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

PIE Credit means tax credits attributable to income/losses allocated to Unitholders

as determined by the Income Tax Act 2007 and other amounts determined by the Trustee or Manager to be equivalent to PIE Credits.

PIE Effective Date means the relevant date each Fund is recognised as a PIE for income tax purposes.

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

Portfolio means a part of a Fund in respect of which a separate class of Units are issued being a Portfolio Investor Class as defined in section YA 1 of the Income Tax Act 2007.

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

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

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

Related Company has the meaning given to that term in Section 2(3) of the Companies Act 1993.

Section 18 Resolution has the meaning given to it in paragraph 11.3 of Schedule 1.

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

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

Unit Register means, in respect of a Fund or a Portfolio, the register of Unitholders in the Fund or Portfolio maintained pursuant to clause 12.

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

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

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

Withdrawal Suspension Notice means a notice given in accordance with clause 8.10.

1.2 Interpretation

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

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

this Deed includes a reference to each Establishment Deed;

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

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

the singular includes the plural and vice versa; and

parties to this Deed includes their successors and permitted assigns and, in the case of the Trustee, any nominee of the Trustee appointed in accordance with clause 2.6;

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

1.3 Currency

Where for the purposes of any provision of this Deed it is necessary to determine the New Zealand currency equivalent of a sum expressed in a non-New Zealand currency, such sum shall be converted to New Zealand currency on a basis fixed from time to time by the Manager and approved by the Auditor and any Liability which is payable in a non-New Zealand currency is for the purposes of this Deed to be treated as being a Liability of an amount equal to the New Zealand currency

equivalent determined in the same way with the exception that in determining the New Zealand currency equivalent of a Liability payable or an amount expressed in a non-New Zealand currency, account may be taken of any contractual arrangement in force for covering the risk of fluctuations between New Zealand currency and the non-New Zealand currency of the Liability.

2. Creation of the Funds

2.1 Appointment of Trustee

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

2.2 Appointment of Manager

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

2.3 Establishment Deeds

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

- (a) a description of the Authorised Investments for the Fund;
- (b) the method of determining the Market Value of Investments;
- (c) the method of calculation of the Issue Price for each type of Unit;
- (d) the determination of the Valuation Days;
- (e) the date for delivery of Redemption Requests and the Valuation Day on which Redemption Requests are effective;
- (f) the rights attaching to different classes (if any) of Unit;
- (g) the provisions applicable to determination of the Distribution Period and the amount of Distributions;
- (h) the maximum amount of the Manager's fees (including the Application Fee

and management fees);

- (i) the maximum amount of the Trustee's fees;
- (j) the procedure for the distribution of Investments upon termination of the Fund;
- (k) any applicable borrowing restrictions or requirements; and
- (l) any other matters which the Manager and the Trustee deem appropriate or which the Trustee deems necessary.

2.4 Information in Offer Documents

The Offer Document for a Fund shall include such of the following matters as shall be applicable to the relevant Fund:

- (a) a statement of the investment policy of the Fund;
- (b) the minimum subscription amount for Units and any other restrictions relating to the amount of subscription moneys; and
- (c) the minimum number or value of Units which may be held and/or transferred.

2.5 Conflict Provisions

An Establishment Deed may amend any provision of this Deed in relation to the Fund established by that Establishment Deed. To the extent that any provision of an Establishment Deed conflicts with any provision of this Deed, the provision of the Establishment Deed shall prevail.

2.6 Trustee's Nominee Company

The Trustee may from time to time nominate a company in which is to be vested any of the Funds, subject to compliance with section 6 of the Act and without prejudice to the liability of the Trustee in terms of section 6(3) of the Act and this Deed.

3. The Funds

3.1 Authorised Investments

The Investments of each Fund or Portfolio must at all times be Authorised Investments for the Fund or Portfolio. Consequently the investment obligations of the Trustee under this Deed constitute a contrary intention for the purpose of sections 2(5) and 2(5A) of the Trustee Act 1956.

3.2 The Constitution of the Funds

The Investments for a Fund or Portfolio shall consist of all of the cash, property, assets and rights for the time being held by the Trustee in respect of the Fund or Portfolio including:

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

4. Nature of Units

4.1 Beneficial interests in Funds

The beneficial interest in each Fund is divided into Units.

4.2 Equal but not specific Fund interests

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

Fund.

4.3 **Consolidation or division of Units**

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

4.4 **No interest in other Funds**

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

4.5 **Portfolios**

If so provided in the relevant Establishment Deed, a Fund may be divided into separate portfolios (**Portfolios**) with a different class of Unit being entitled to an undivided part or share in the beneficial interest in each Portfolio. When a Fund has separate Portfolios:

- (a) the beneficial interest in each Portfolio is divided into Units;
- (b) each Unit shall confer an equal interest in a Portfolio to which it relates and is of equal value;
- (c) a Unit does not confer any interest in any particular part of the Portfolio to which it relates or of any Investment and no Unitholder is entitled to require the transfer to such Unitholder of any of the Investments nor (subject to the rights of Unitholders created by this Deed and by law) is any Unitholder entitled to interfere with or question the exercise or non-exercise by the Manager or the Trustee of any of the trusts, powers, authorities or discretions conferred upon them or either of them by this Deed or in respect of that Portfolio;
- (d) the Trustee will at all times (including, without limitation, for the purposes of a winding up the Fund under clause 33 of the Trust Deed) treat a Portfolio as a separate and distinct trust fund with its separate property and liabilities governed by the terms and conditions of the Establishment Deed and this Deed; and

- (e) all investments made with the funds of each Portfolio shall be held by the Trustee as the exclusive property of that Portfolio and such investments shall be held exclusively for the benefit of the Unitholders within that Portfolio. A Unitholder's interest in one Portfolio does not confer any rights or claims on the Unitholder in relation to any other Portfolio.

5. Issue of Units

5.1 Application Procedure

Units are to be issued for cash or, where the Offer Document so provides, by the transfer of securities to the Fund. Every Person wishing to apply for or acquire Units must:

- (a) complete and lodge with the Manager an Application in writing or by Electronic Communication in the form from time to time prescribed by the Manager specifying the application moneys to be applied by the Trustee to the purchase of Units or the securities to be transferred; and
- (b) forward to the Manager for payment to the Trustee the aggregate of the Application Fee (if any) and the Issue Price and ensure that any cheque is made payable to the Trustee or its nominee appointed pursuant to clause 2.6 or transfer to the Trustee any securities which are to be transferred to the relevant Fund in subscription for Units.

5.2 Manager's Discretion

The Manager may in its absolute discretion:

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

5.3 Refund of Application Moneys

- (a) Once the Manager has made a decision to reject an Application, the Manager must as soon as practicable refund or arrange for the Trustee to refund the relevant Application moneys (without interest).

- (b) Where Units are redeemed under clause 5.2(b), the Manager must request the Trustee to pay the Redemption Price for such Units to the relevant Unitholder.
- (c) Where Units are voided under clause 5.2(b) the Trustee shall refund the Application moneys to the relevant Unitholder:
 - (i) less any amount which the Trustee determines appropriate after consultation with the Manager to reflect any decrease in value of the Units as if they had been issued and redeemed; or
 - (ii) plus such additional compensation as the Trustee determines appropriate after consultation with the Manager, provided that the Trustee shall be under no obligation whatsoever to pay any compensation.

5.4 Number of Units

If the Manager accepts an Application, the number of Units issued shall be that number of Units that have an aggregate Issue Price equal to the application moneys received or the value of securities transferred to the relevant Fund, after deduction of any Application Fee, with fractions rounded up or down to two or more decimal places, at the discretion of the Manager.

5.5 Payment to Trustee; Registration and Issue of Units

The Manager must:

- (a) pay all Application moneys to the bank account for the Fund or the Portfolio which is controlled by the Trustee within 7 days of receipt of such moneys;
- (b) on issue of a Unit, enter the name of the Unitholder on the appropriate Unit Register; and
- (c) comply with applicable laws relating to the notification, or certification to Unitholders, of their respective holdings of Units.

5.6 Minimum Application Amounts

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

5.7 Restrictions on Sale or Issue of Units

- (a) The Manager may at any time or times by notice in writing to the Trustee determine that no further Units shall be issued pursuant to this Deed or any Establishment Deed in respect of any Fund or Portfolio after a date specified in the notice to the Trustee. In such event the Manager will not after the date specified in the notice issue any further Units in respect of that Fund or Portfolio.
- (b) No Unit in a Fund or Portfolio may be sold or issued by the Manager after receipt by the Trustee of a notice of termination in relation to that Fund or Portfolio given by the Manager pursuant to clause 33(d) except with the prior consent in writing of the Trustee.

5.8 Issue or Purchase of Units

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

- (a) a subscription for Units to be issued from the relevant Fund or Portfolio; or
- (b) a request for the purchase from an existing Unitholder of Units in the relevant Fund or Portfolio owned by that Unitholder.

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

5.9 Issue Date

The dates on which Units are issued in a Fund or Portfolio are the dates specified in the relevant Establishment Deed.

5.10 Issue Price of Units

The Issue Price of each Unit sold or issued by the Manager from the relevant Fund or Portfolio shall be determined by the Manager in accordance with the relevant Establishment Deed.

5.11 Commission etc

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

5.12 **Compliance With Securities Laws**

The Manager must not issue or offer to the public for subscription or purchase, any Unit unless an Offer Document in relation to that Unit has been issued in accordance with the requirements of applicable law. Each such Offer Document must be in a form approved in all respects by the Trustee.

5.13 **Issue of Units for PIE Credits**

Where a PIE Credit is due to a Unitholder, the Manager may issue Units to the Unitholder on account of that PIE Credit on such date as the Manager determines and in all cases at the Issue Price applicable on the date of issue of such Units.

6. **Valuations**

6.1 **Net Asset Valuation**

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

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

6.2 **Period of Effectiveness of Valuations**

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

6.3 **Determination of Market Value**

- (a) The Manager will determine the Market Value of each Investment and the Net Asset Value of each Fund or Portfolio in accordance with the provisions of this Deed and the provisions (if any) in the relevant Establishment Deed.

- (b) The Manager may with the approval of the Trustee alter the basis of determination of the Market Value of an Investment and/or the Net Asset Value of a Fund or Portfolio.

7. Transfer, transmission and registration of Units

7.1 Units may be Transferred

Subject to clause 7.6 and to the other provisions of this Deed, a Unit may be transferred.

7.2 Form of Instrument of Transfer

The instrument of transfer of any Unit must be:

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

7.3 Registration of Instrument of Transfer

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

7.4 Transfer Fee

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

7.5 Payment of Sums Owed as a Condition to Transfer

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

7.6 Power to Decline Transfer

The Manager may decline to register any transfer:

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

7.7 Retention of Instrument of Transfer

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

7.8 Closing of the Unit Register for Transfer

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

7.9 Transmission Upon Death

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

7.10 Transmission by Operation of law

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

7.11 Refusal of Registration of Transmissions of Units

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

8. Redemption of Units

8.1 Redemption Request

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

8.2 Undertaking to Redeem

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

in each case for an amount equal to the Redemption Price as at the Valuation Day on which such Unit is redeemed.
- (b) The Manager is not obliged to offer to repurchase Units at any time.

8.3 Exit Date

Subject to clauses 8.10, 8.11 and 8.13, when a Redemption Request is received by the Manager, the Manager must repurchase or request the Trustee to redeem the Units with effect from the date on which the Redemption Request is received.

8.4 Redemption Price

The Redemption Price of each Unit redeemed from the relevant Fund or Portfolio is to be determined by the Manager in accordance with the relevant Establishment Deed.

8.5 Payment of the Redemption Price

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

8.6 Disposition of Repurchased Units by the Manager

If Units are repurchased by the Manager for its own benefit, the Manager is entitled then or at any time thereafter to sell any or all of those Units in accordance with clauses 5 and 7 or to have them redeemed in accordance with clause 8.8.

8.7 Cancellation of Redeemed Units

All Units redeemed are to be cancelled by the Manager and cannot thereafter be re-issued but this does not restrict the creation and issue of new Units. Details of all cancelled Units are to be entered in the Unit Register.

8.8 Redemption of Manager's Units

- (a) The Manager is entitled to request the Trustee to redeem Units held by the Manager in the procedure set out in the Establishment Deed provided that the same procedures and valuation provisions apply to both the Manager and Unitholders.
- (b) If the Trustee is satisfied that such a request by the Manager relates solely to

the redemption of Units held by the Manager then the Trustee must release from the relevant Fund or Portfolio and pay to the Manager the aggregate Redemption Price of the Units to be redeemed within 7 Business Days of the relevant Valuation Day.

8.9 **Surpluses and Deficiencies on Redemption of Manager's Units**

The Manager is entitled to the benefit of any surplus and is liable for any deficiency of the Redemption Price of a Unit owned by the Manager and redeemed under clause 8.8 over or below the price at which that Unit was acquired by the Manager (the **Manager's Acquisition Price**) and the Manager is not obliged to account to the Trustee, the relevant Fund or Portfolio or any Unitholder for any excess over the Manager's Acquisition Price nor is the Trustee, the relevant Fund or Portfolio or any Unitholder obliged to recompense the Manager, for any deficiency below the Manager's Acquisition Price.

8.10 **Deferral of Redemption**

If by reason of:

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

the Manager shall in good faith form the opinion that it is not practicable, or would be materially prejudicial to the interests of any Unitholders in a Fund or Portfolio, for the Manager to give effect to Redemption Requests or to redeem any Units in the relevant Fund or Portfolio with a fixed redemption date (**Term Units**) on their scheduled redemption date, then the Manager may give notice (**Withdrawal Suspension Notice**) to that effect to any Unitholder in the relevant Fund or Portfolio who gives or has given a Redemption Request or to Unitholders

who hold Term Units. A Withdrawal Suspension Notice in respect of any Fund or Portfolio shall have the effect of suspending the operation of all Redemption Requests given in respect of that Fund or Portfolio and redemptions of Term Units (as applicable) until such time as the Manager gives to the Unitholders who gave those Redemption Requests or to the Unitholders holding Term Units, notice to the effect that the Withdrawal Suspension Notice is cancelled. The Manager may determine that such Units may be progressively redeemed by instalments with effect from one or more Valuation Days falling in a period determined by the Manager or in total at the expiration of a period determined by the Manager and in any such case the Redemption Price is to be calculated at the Valuation Day or Valuation Days on which Units are redeemed.

8.11 Suspension of Redemption

Notwithstanding anything contained in this Deed, if a Redemption Request is received or a series of Redemption Requests have been received within a period of 3 months that in aggregate relate to more than 20% of the Number of Units on Issue at the date of receipt by the Manager of the Redemption Request or last Redemption Request in such series, then the Manager may suspend the right of the Unitholders in the Fund or Portfolio to make Redemption Requests on the following conditions:

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

8.12 Suspension in relation to Manager's Units

While there is any deferral or suspension in operation pursuant to clauses 8.10 or 8.11, the Manager shall not be entitled to redeem any Units held by it.

8.13 Redemption not applicable

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

8.14 Redemption on account of PIE Tax or PIE status

The Manager may compulsorily redeem a Unitholder's Units including a fraction of a Unit:

- (a) on account of any PIE Tax attributable to income allocated to that Unitholder on such date as the Manager determines and in all cases at the Redemption Price applicable on the date of redemption of such Units; and
- (b) if the number of Units held by that Unitholder and its associated persons (as defined in the Income Tax Act 2007) would cause the Fund to lose its status as a PIE.

9. Joint holders of Units

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

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

10. Registered holder absolute owner

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

11. Holding Statements

The Manager must:

- (a) On issue of any Units, provide to the Unitholder a written statement detailing the number of Units issued within 35 days of the issue of the Units; and
- (b) provide to each Unitholder periodically, as required by applicable law, a statement of the number of Units held by that Unitholder and details of any redemptions or purchases of Units by that Unitholder within the period covered by the statement.

12. Unit registers

12.1 The Register

- (a) A Unit Register of Unitholders in respect of each Fund or Portfolio must be kept by the Manager in a form and manner approved by the Trustee.
- (b) The Manager may appoint a person to keep the Unit Registers on its behalf.
- (c) Such Unit Registers may take the form of a computer printout or any other computer based information storage and retrieval system compiled in a manner approved by the Trustee and such approved printout or system is deemed to be the Unit Register.

12.2 Details to be entered into Register

There must be entered in each Unit Register:

- (a) the names and addresses of the Unitholders, or in the case of joint Unitholders the address of the Unitholder first mentioned in the Unit Register;

- (b) the number and type of Units held by each Unitholder;
- (c) the Prescribed Investor Rate and tax file IRD number for each Unitholder;
- (d) the date on which each parcel of Units was issued or transferred to the relevant Unitholder; and
- (e) such other matters as the Manager and Trustee may agree.

12.3 Reliance upon the Register

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

12.4 Audit of the Register

The Manager must ensure that each Unit Register is audited by the Auditor at intervals of not more than 12 months.

12.5 Inspection

Each Unit Register must be open for inspection by any Unitholder, free of charge, during the business hours of the Unit Registrar.

12.6 Copies of Registers

The Manager will deliver to the Trustee as requested by the Trustee a copy of each Unit Register in such form as the Trustee may require.

12.7 No recognition of trusts

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

13. Management

13.1 Manager's Duties

Subject to the powers reserved to the Trustee and the provisions of this Deed, the Funds are to be managed and administered by the Manager and without limiting the generality of the foregoing the Manager must:

- (a) manage and make all decisions relating to Investments including the investment, reinvestment or realisation of any Investment and the exercise of any voting rights associated with any Investment;
- (b) make all decisions relating to borrowing, the terms of such borrowing and any securities relating thereto;
- (c) determine the terms of all contracts, rights and other matters relating to Investments or Liabilities;
- (d) appoint and engage solicitors and other consultants and advisers on such terms as the Manager determines;
- (e) use its best endeavours and skill to ensure that the affairs of each Fund are conducted in a proper and efficient manner;
- (f) use due diligence and vigilance in the exercise and performance of its functions, powers, and duties as manager;
- (g) account to the relevant Unitholders for all money that the Manager receives on behalf of each Fund or Portfolio;
- (h) not pay out, invest, or apply any money belonging to a Fund or Portfolio for any purpose that is not directed by, or authorised in, this Deed or the relevant Establishment Deed; and
- (i) supply to the relevant Unitholders, in a general meeting, any reasonable oral or written information relating to the affairs of the relevant Fund or Portfolio that any Unitholder has given the manager reasonable notice to supply.

13.2 Delegation by Manager

All or any of the powers, authorities, functions and discretions exercisable by the Manager under this Deed may be delegated by the Manager to its officers and employees or to any other Person nominated by the Manager but the Manager remains liable for the acts and omissions of any such officer, employee or Person

whether or not the delegate is acting within the terms of its delegated authority.

14. Borrowing powers of the trustee

14.1 Borrowing powers

Subject to clauses 14.2 and 14.3 in respect of any Fund or Portfolio and unless prohibited by the relevant Establishment Deed, the Trustee has power to, and must, if so directed by the Manager:

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

14.2 Limitation on borrowings

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

14.3 Conditions of borrowing

There is no obligation upon the Trustee to comply with any direction given pursuant to clause 14.1 or to complete any loan or security documents unless the Trustee is satisfied that:

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

14.4 Third Parties Need not Inquire

No Person from whom the Trustee has or intends to borrow in respect of any Fund or Portfolio needs to enquire as to whether or not the limitation set out in clauses 14.2 and 14.3 have been observed or complied with.

15. Manager's and trustee's powers to invest

15.1 Investment Policy

- (a) The Manager and the Trustee may from time to time agree on a general investment policy for the Manager to follow in connection with the investment of each Fund or Portfolio. The Manager shall comply with such agreed policy.
- (b) The policy shall be set out in the Offer Documents.
- (c) The Manager and the Trustee may change the policy from time to time provided that the Manager provides the Unitholders of the relevant Fund or Portfolio at least one month's notice before implementing any change in policy and does not implement such change until all Redemption Requests received within that one month notice period have been actioned.
- (d) For a Fund that has elected to become a PIE, the Manager will not acquire investments on behalf of the Fund if these investments would cause the Fund to lose its PIE status due to a breach of the PIE tax eligibility requirements under the Income Tax Act 2007

15.2 Trustee's Discretion as to Investments

The Trustee is not obliged to act on any direction of the Manager to invest, acquire or dispose of any Investment if in the opinion of the Trustee, given in writing to the Manager, the proposed Investment, acquisition or disposition or transfer of assets into that Fund or Portfolio:

- (a) is manifestly not in the interests of the Unitholders of the Fund or Portfolio;
- (b) is contrary to the provisions of this Deed or the relevant Establishment Deed or any relevant investment policy agreed between the Manager and the Trustee; or
- (c) would result in a breach by the Trustee of any obligations or duties imposed on the Trustee by the Trustee Act 1956.

The Trustee is not liable to the Unitholders or the Manager for so refusing to act on any direction or for acting on any such direction or for its opinion.

15.3 Investment Directions by the Manager

Subject to clauses 3.1, 15.1 and 15.2, the Manager will manage each Fund and as necessary may direct the Trustee to:

- (a) purchase, acquire, sell, transfer or dispose of Investments;
- (b) enter into any commitments or liabilities in respect of Investments;
- (c) execute and deliver such contracts, documents, bills, notes, Deeds or other instruments as may be necessary in respect of the foregoing; and
- (d) take any other action which may be required in respect of Investments,

and the Trustee will from time to time, to the extent of the respective Funds in its hands or control, act as directed in writing by the Manager.

15.4 Advisers

In relation to the purchase, sale and other dealings with any Authorised Investments by the Trustee, the Manager may determine the time and mode and the consultants, agents, brokers and professional advisors (if any) for the purchase, sale and other dealing.

15.5 Dealing with Related Parties

The Manager may, provided that any proposed transaction is on normal commercial arms length terms or is in accordance with the investment policy for the relevant Fund or Portfolio agreed in accordance with clause 15.1:

- (a) cause any part of any of the Fund or Portfolio to be invested or lodged with the Manager, any director of the Manager, any Related Company of the Manager, or any company or unit trust in which any director of the Manager owns or holds more than 10% of the issued equity capital (together a **Related Person**);
- (b) sell, purchase or otherwise dispose of or acquire any asset or Investment to or from a Related Person or group investment fund, unit trust or other trust or superannuation scheme registered under the Superannuation Schemes Act 1989 and managed by the Manager or by a Related Person; and
- (c) enter into any contract, agreement or other arrangement with a Related Person to provide management or consultancy or other services.

15.6 Investments in Trustee's Name

The Manager shall cause Investments to be vested in the Trustee or its nominee appointed in accordance with clause 2.6 and to be registered in the name of the Trustee or such nominee as soon as reasonably practicable after receipt of the necessary documents and must deliver all certificates or other documents of title for safe custody as directed by the Trustee.

15.7 Bank Accounts

A bank account or accounts in the name of the Trustee or its nominee appointed in accordance with clause 2.6 must be opened and maintained for each Fund or Portfolio. All moneys belonging to the relevant Fund or Portfolio and coming into the hands of the Manager or the Trustee must be paid to the credit of such bank account. The Trustee shall determine the Persons authorised to operate such bank accounts.

15.8 Notice of Investments to Trustee

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

15.9 Trustee's Right to Limit Liability

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

15.10 Amendment to Authorised Investments

- (a) Where the Manager determines that it is in the interests of the Unitholders in a particular Fund or Portfolio to vary any part of the definition of Authorised Investments relating to that Fund or Portfolio so as to exclude or include any type of Investment the Manager shall give notice to the Unitholders of the relevant Fund or Portfolio in such form as the Trustee approves setting out details of the proposed variation and stating that if Unitholders of the relevant Fund or Portfolio holding 10% or more of the Number of Units on Issue at the date of the notice give notice to the Manager within one month of the date of the notice that they disapprove of the proposed variation then the Manager may call a meeting of Unitholders to consider the variation.

- (b) Unless Unitholders of the relevant Fund or Portfolio holding 10% or more of the Number of Units on Issue give notice disapproving the variation, the variation shall be deemed to be approved and the Trustee and the Manager shall execute a deed amending the definition of Authorised Investments for that Fund or Portfolio to give effect to the variation proposed.
- (c) If Unitholders holding 10% or more of the Number of Units on Issue give notice disapproving the variation, the proposed variation shall not be implemented and the Manager may convene a meeting of Unitholders to consider the variation. If at a meeting duly convened and held, the Unitholders by Extraordinary Resolution approve the proposed variation the Trustee and the Manager shall execute a deed amending the definition of Authorised Investments for that Fund or Portfolio to give the effect to the variation proposed.
- (d) If the definition of Authorised Investments is amended pursuant to this clause 15.10, the Manager will notify the Unitholders and register the amending deed as provided in clause 32.2.

16. Investment records

16.1 Manager to Keep Records

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

16.2 Inspection by Trustee

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

16.3 Reliance on Records

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

17. Distributions

17.1 Determination of Distribution Period and Distributions

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

17.2 Allocation and Distribution

- (a) Subject to the terms of this Deed and the applicable Establishment Deed, the Manager will determine the amount of each Distribution (if any).
- (b) Unless otherwise specified in the relevant Establishment Deed, a Unit on issue on the last day of the relevant Distribution Period entitles its Holder to participate in the distribution for the period in full irrespective of the number of days it has been on issue.
- (c) Distributions may be made in cash or by the issue of Units as provided in the applicable Establishment Deed.
- (d) Payment of cash Distributions must be made within 14 days after the last day of the Distribution Period to which they relate. Issues of new Units must be made on a Valuation Day.
- (e) The provisions of clause 5, with such changes as are necessary, apply to the Units issued in accordance with this clause.
- (f) The Manager may make a deduction from any Distribution to a Unitholder on account of PIE Tax attributable to income allocated to that Unitholder.

17.3 Reinvestment of Distributions

- (a) If the relevant Establishment Deed or Offer Document so provides, Unitholders may elect to reinvest their Distributions (less any deductions on account of PIE Tax which the Manager is obliged or permitted to deduct) by subscribing for further Units in the relevant Fund or Portfolio by making a written request in that behalf to the Manager in their initial Application or in such other form as may from time to time be determined by the Manager. Any request in such other form must be submitted to the Manager prior to the expiration of the Distribution Period. Any request (whether in an initial Application or at a later date) may be varied or terminated by notice in writing to the Manager at any time.
- (b) The Manager will treat such a request as though it were an application to subscribe for further Units in the relevant Fund or Portfolio with the relevant Distribution (less any tax) and accordingly the provisions of clause 5, with such changes as are necessary, apply to the Units issued in accordance with this clause.
- (c) Notwithstanding the foregoing, the Manager may decline to effect any reinvestment of a Distribution without giving any reason.

17.4 Disclosure of Information to Tax Authorities

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

18. Trustee's powers and covenants

18.1 Trustee's Powers

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

18.2 Waivers

The Trustee may, whenever it thinks expedient in the interests of the Unitholders, waive at any time and on any terms or conditions any breach of the covenants or obligations binding on the Manager under this Deed where such waiver will not, in the opinion of the Trustee, be materially prejudicial to the interests of the Unitholders.

18.3 Custodians

The Trustee may employ custodians to hold any Investment on such terms as the Trustee may determine provided that no such appointment will absolve the Trustee from any of its obligations relating to the Investments under this Deed or at law. The Trustee shall cause any such company to comply with all the covenants and obligations on the part of the Trustee expressed or implied in this Deed. Any fees payable to the custodian will be determined on an arm's length basis.

18.4 Trustee's covenants

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

- (a) the Trustee has power to act continuously as trustee under the trusts herein

set forth and will not do or cause to be done or omit to do any act, matter or thing which would or might cause it to be disqualified from acting as trustee under this Deed or which might prevent it from so acting and will act continuously as trustee under the trusts herein set forth until such trusts are determined as herein provided or until it has retired or been removed from office;

- (b) the Trustee will exercise reasonable diligence in carrying out its functions and duties hereunder;
- (c) the Trustee will ensure that any documents of title relating to the Investments are held in safe custody;
- (d) the Trustee will keep each Fund and Portfolio separate from all other assets, investments and other property vested in or held by the Trustee;
- (e) except as herein provided or as authorised by law the Trustee will not sell, mortgage, charge or otherwise part with the possession or ownership of any of the Investments;
- (f) the Trustee without delay will forward to the Manager all notices and other information relevant to the Manager and received by or on behalf of the Trustee in connection with each Fund.

19. Manager's powers, duties and covenants

19.1 Manager's powers of management

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

19.2 Appointment of agents

Without in any way affecting the generality of the foregoing, or without in any way releasing the Manager from its obligations under this Deed, the Manager may,

in carrying out and performing its duties and obligations:

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

19.3 Voting Rights on Investments

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

19.4 Manager's covenants

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

- (a) the Manager will use its best endeavours to ensure that each Fund is carried on in a proper and efficient manner;
- (b) the Manager will not issue a Unit otherwise than at a price calculated in accordance with the provisions of this Deed;
- (c) the Manager will prepare or cause to be prepared all distributions, cheques (if any) and notices which are to be issued pursuant to this Deed and stamp them as required by law and produce them to the Trustee or a person authorised by the Trustee for this purpose so as to afford the Trustee or such authorised person reasonable time to examine and check the same and to sign those cheques for despatch on the day on which they ought to be despatched, and the Trustee may rely on the report of the Auditor or the Manager given in respect of the accuracy of the particulars of such cheques if such reliance is based upon a reasonable belief that the report is genuine;
- (d) the Manager will pay to the Trustee all moneys belonging to each Fund or Portfolio coming to the hands of the Manager;
- (e) the Manager will retain in safe keeping all Applications and instruments of transfer and transmission, or copies or reproductions thereof, and will make those documents available for inspection by or on behalf of the Trustee at any time during normal business hours, but on the expiration of 7 years from the date of any such document the Manager may in its discretion (subject to any law to the contrary and first obtaining the Trustee's approval) destroy such documents; and
- (f) the Manager will ensure that at all times the liability of the Trustee in relation to any contract or agreement or any borrowing entered into by the Trustee at the direction of the Manager, is limited to the Investments.

20. Removal and retirement of Manager

20.1 Removal

- (a) The Manager will cease to hold office as Manager of the relevant Fund if:
 - (i) the Manager is removed from office by the High Court pursuant to section 19(1) of the Act on the application of the Trustee, any

Unitholder, or the Minister responsible for the time being for the administration of the Act or otherwise as may be permissible by law; or

- (ii) the Trustee certifies, in respect of the relevant Fund, that it is in the interests of Unitholders that the Manager should cease to hold office. Without in any way limiting the generality of the foregoing it will be sufficient and valid grounds for such a certificate to be given if the Manager has a receiver or manager or statutory manager appointed or if an order is made or a resolution is passed for the liquidation or winding-up of the Manager; or
 - (iii) the Unitholders of the relevant Fund by a Section 18 Resolution direct that the Manager should cease to hold office.
- (b) If the Manager ceases to hold office pursuant to clause 20.1(a), the Manager must immediately desist from all management activities.

20.2 Retirement

The Manager may retire as manager of a Fund at any time without assigning any reason upon giving 90 days' notice in writing to the Trustee of its intention to do so. No such retirement will take effect until a new Manager has been appointed pursuant to clauses 20.3, 20.4 or 20.5 and has executed the Deed referred to in clause 20.6.

20.3 Temporary Manager

The power of appointing a temporary Manager of a Fund where a vacancy in the office of Manager arises is vested in the Trustee. No Person can be appointed as a new Manager unless that Person is qualified pursuant to section 4 of the Act.

20.4 New Appointment by Trustee

Upon any vacancy occurring in the office of Manager in respect of any Fund, the Trustee must summon a meeting of the relevant Unitholders and must take such steps as that meeting or any subsequent meeting of Unitholders may require to secure the appointment of any temporary Manager appointed by the Trustee or some other qualified Manager of the relevant Fund. Any meeting of Unitholders may ratify the appointment of any Manager appointed by the Trustee or may appoint a new Manager. Any directions given to the Trustee by any such meeting of Unitholders must be given by way of a Section 18 Resolution.

20.5 Appointment by Unitholders

If the Trustee fails or refuses to appoint a temporary Manager or if the Unitholders

require a new Manager to be appointed, then the power of appointing a new Manager is vested in the relevant Unitholders who must exercise such power by a Section 18 Resolution.

20.6 New Manager to Execute a Deed

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

20.7 Retiring Manager Released

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

21. Removal and retirement of trustee

21.1 Removal

The Trustee may be removed from office as trustee by:

- (a) the High Court on the application of the Manager or the Minister responsible for the time being for the administration of the Act pursuant to section 10 of the Act or otherwise as may be permissible by law; or
- (b) an Extraordinary Resolution of Unitholders.

21.2 Retirement

- (a) The Trustee may retire at any time without assigning any reason upon giving 90 days' notice in writing to the Manager of its intention so to do. No such retirement will take effect until a new Trustee has been appointed pursuant to clause 21.3 and has executed the Deed referred to in clause 21.4 and all of the Investments of the relevant Fund have been transferred to the new Trustee.
- (b) The Trustee may only retire in respect of all the Funds.

21.3 New Appointment

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

21.4 New Trustee to Execute a Deed

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

21.5 Retiring Trustee Released

From the date of execution by the new Trustee of a Deed in accordance with clause 21.4, the retiring Trustee is absolved and released from all such covenants under this Deed (except in respect of any prior breach) and the new Trustee must thereafter exercise all the powers and enjoy and exercise all the rights and is subject to all the duties and obligations of the Trustee under this Deed in all respects as if such Trustee had been originally named as a party to this Deed.

22. Remuneration of Trustee

22.1 Fees Applicable to Specific Funds and Portfolios

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

22.2 **Special Fees**

In addition to any fees payable to the Trustee under clause 22.1, the Trustee is entitled to charge, in respect of each Fund or Portfolio, such special fees for services of an unusual or onerous nature outside the Trustee's regular services (including by way of example, convening meetings of Unitholders, breaches of trust and exercising discretions), calculated and payable as set out in the relevant Establishment Deed.

22.3 **Goods and Services Tax etc**

The Trustee is entitled to receive, in addition to the fees referred to in clause 22.1 and clause 22.2 any Goods and Services Tax or duty or similar tax or duty payable in respect of such fee.

22.4 **Fees paid from Income or Capital**

The Trustee's fees shall be payable from the gross income of the relevant Fund or Portfolio, or, insofar as that may be insufficient, from the capital of the relevant Fund or Portfolio.

23. **Remuneration of Manager**

23.1 **Manager's Application Fee**

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

23.2 **Management Fee**

In addition to the remuneration payable under clause 23.1, the Manager may charge for its services as manager of the relevant Fund or Portfolio such management fees as are specified in the relevant Establishment Deed. The fee shall be payable from the gross income of the relevant Fund or Portfolio, or, insofar as that may be insufficient, from the capital of the relevant Fund or Portfolio.

23.3 **Manager's Break Fee**

On the redemption of any Units after any specified period, the Manager may charge the Unitholder a Break Fee as set out in the relevant Establishment Deed.

23.4 **Other Fees**

The Manager may charge the Unitholders or the relevant Fund or Portfolio such

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

23.5 Alteration or Waiver of Fees

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

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

23.6 Goods and Services Tax etc

The Manager is entitled to receive, in addition to the fees referred to in clauses 23.1 to 23.4 (as altered from time to time in accordance with clause 23.5) any Goods and Services Tax or duty or similar tax or duty payable in respect of such fees.

23.7 Expenses of each Fund or Portfolio

In respect of each Fund, the Manager and the Trustee are entitled to be reimbursed out of the relevant Fund or Portfolio (whether from income or capital or both) for and in respect of:

- (a) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the formation of the Fund, the preparation and registration of any Offer Document, the acquisition, registration, custody, disposal of or other dealing with Investments of the Fund or Portfolio, including bank charges and stamp duty, and the expenses of any agents or nominated company of the Trustee or the Manager both within and outside New Zealand but excluding any incidental expense which is not an out-of-pocket expense or disbursement incurred (by deduction or otherwise) by the Manager or the Trustee;
- (b) all costs, charges and expenses (including legal and valuation fees) incurred in connection with the investigation and negotiation for the acquisition for the Fund or Portfolio of any asset which comes within the definition of Authorised Investments, whether or not it is in fact acquired;

- (c) the fees and expenses of the Auditor relating to the audit of the Fund;
- (d) all taxes, duties and imposts charged to or payable by the Trustee or Manager (whether by any taxing authority or any other Person) in connection with the Fund or the relevant Investments on any account whatsoever;
- (e) interest and other expenses relating to borrowing and discounts and acceptance and other fees in respect of bill facilities;
- (f) the costs of convening and holding any meeting of Unitholders;
- (g) the costs of postage in respect of all cheques, accounts, distribution statements, notices, quarterly and other reports and other documents posted to all or any Unitholders in accordance with the provisions of this Deed;
- (h) the fees and expenses of any solicitor, barrister, valuer, accountant or other Person from time to time engaged by the Manager or by the Trustee in the discharge of their respective duties under this Deed;
- (i) all costs of preparing, printing and distributing certificates, accounts, distribution statements, cheques, any Offer Document and any Unitholder communications;
- (j) expenses in connection with the keeping of the Unit Register, including any fee paid to a third party to maintain the Unit Register; and
- (k) any other expenses properly and reasonably incurred by the Trustee or the Manager in connection with carrying out their respective duties under this Deed.

23.8 Collective Costs

Where any costs, charges, fees or expenses referred to in clause 23.7 relate to the Funds collectively rather than any one individual Fund or to a Fund collectively rather than any one individual Portfolios within that Fund, then such costs, charges, fees or expenses are to be apportioned between each of the Funds or Portfolios (as the case may be) on such fair and equitable basis as may be determined by the Manager.

24. Trustee's and Manager's responsibilities and indemnities

24.1 No Personal Liability

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

24.2 Indemnity

If contrary to the provisions of clause 24.1 either the Trustee or the Manager is held personally liable to any other person in respect of any debt, liability or obligation incurred by or on behalf of any Fund or any action taken or omitted in connection with any Fund, (other than in respect of the Trustee or Manager's negligence) then the Trustee or the Manager (as the case may be) is entitled to indemnity and reimbursement out of the relevant Fund or Portfolio to the full extent of such liability and the costs of any litigation or other proceedings in which such liability has been determined including without limitation legal fees and disbursements.

24.3 Wilful Breach

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

24.4 Reimbursement of expenses

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

24.5 Breach of Duty

No provision of clauses 24.1 to 24.4 has the effect of exempting the Trustee or Manager or any director or officer of the Trustee or Manager from, or indemnifying the Trustee or Manager or any such director or officer against, any

liability for breach of trust where it or that director or officer fails to show the degree of care and diligence required of it or that director or officer in that capacity, having regard to the provisions of and the powers, authorities and discretions conferred by this Deed.

24.6 Manager's Liability

The Manager shall have the same liability for its acts and omissions in the exercise and performance of its functions, powers and duties as manager of each Fund as it would have if it exercised those functions, powers and duties as a trustee of the Fund and shall be entitled to the same relief from liability as it would be if it were a trustee.

24.7 Reliance on Manager by Trustee

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

24.8 Reliance Upon Advice

The Trustee and the Manager may accept and act upon the opinion or advice of or information obtained from barristers or solicitors or other consultants in the employ of the Trustee and the Manager or instructed by the Trustee or the Manager and upon any statement of, or information obtained from, any bankers, stockbrokers, accountants, valuers or other persons appointed or approved by the Trustee or the Manager and believed by the Trustee or the Manager in good faith to be expert or suitably qualified in relation to the matters upon which they are consulted. Neither the Trustee nor the Manager is liable for anything done or suffered by either of them in good faith in reliance upon any such opinion, advice, statement or information.

24.9 Reliance Upon Documents

Whenever pursuant to any provision of this Deed any certificate, notice, instruction, direction or other communication shall be given by the Manager to the

Trustee, the Trustee may accept as sufficient evidence thereof a document signed on behalf of the Manager by any one of its directors on behalf of all the directors or by any other person or persons duly authorised by the Manager and approved by the Trustee.

24.10 Manager's Discretion and Authority

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

24.11 Trustee's Discretion and Authority

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

24.12 Dealing in Units: The Manager

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

24.13 Dealing in Units: The Trustee

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

24.14 Trustee's Limited Liability to Unitholders

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

24.15 No Respective Liabilities of Trustee and Manager

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

24.16 Reliance Upon Apparently Genuine Documents

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

25. Unitholders bound by this Deed

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

26. Liability of Unitholders

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

27. Accounts and Reports

27.1 Accounting Records

The Manager must, in respect of each Fund:

- (a) keep or cause to be kept proper records of or relating to the Fund and each Portfolio including records of all sales, purchases and other transactions relating to the Investments and the Liabilities of the Fund or Portfolio and issue or transfer of Units;

- (b) keep or cause to be kept true accounts of all sums of money received and expended by or on behalf of the Fund and each Portfolio within the Fund; and
- (c) prepare annual financial statements for the Fund and arrange for such statements to be audited by the Auditor.

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

27.2 Inspection by the Auditor

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

27.3 Accounts to be Sent to Unitholders and Trustee

At the end of each Financial Year, the Manager must prepare the relevant Accounts and arrange for them to be audited and sent to the Unitholders in the relevant Fund or Portfolio and the Trustee within 5 months from the end of the financial year together with all other documents and reports in the manner required by any applicable law.

27.4 Information to Trustee

The Manager shall from time to time:

- (a) give or cause to be given to the Trustee copies of any financial statements, report, notice or circular issued to the Unitholders at the time of such issue;
- (b) give or cause to be given to the Trustee a copy of the monthly portfolio valuation including a list of investments to be received within 20 days of each month end;
- (c) give to the Trustee such other information as the Trustee requires with respect to all matters relating to each Fund;

- (d) at the request of the Trustee by not less than 14 days' notice in writing (which request shall only be made when the Trustee considers that special circumstances warrant such request and so certifies in writing to the Manager specifying such special circumstances), give to the Trustee:
 - (i) copies of the financial statements of any Fund or Portfolio specified by the Trustee, each duly audited and signed and made up as at the end of the next month occurring after the expiry of the said notice, or as at such other date as the Trustee and the Manager agree, together with all documents and reports required by the Financial Reporting Act 1993 to be annexed to or to accompany such statements; and
 - (ii) a report by the Auditors setting out the information referred to in clause 27.5 in respect of the financial statements so requested with such adaptations as may be necessary or such of that information as may be required by the Trustee,

such financial statements and Auditors report to be provided within two months after the relevant accounting date, or within such longer period as the Trustee may in its discretion agree;

27.5 Auditor's Reports to Trustee

The Manager shall from time to time during the currency of each Fund, give to the Trustee at the same time as the Manager gives the audited Accounts to the Trustee a separate report by the Auditor stating:

- (a) in the performance of their duties as auditors they have not become aware of any matter which in their opinion is relevant to the exercise or performance of the powers or duties conferred or imposed on the Manager or the Trustee by the Act, the Financial Reporting Act 1993, the Securities Act 1978 or by this Deed or in any guidelines, policy statements or similar agreements entered into by the Manager and the Trustee in relation to this Deed or the Offer Document (copies of which have been provided to the Auditor) and if so, giving particulars thereof;
- (b) that their audit has not disclosed any matter (and if so particulars thereof) calling in their opinion for further investigation by the Trustee in the interests of the Unitholders;

- (c) that they have perused the Manager's certificates given pursuant to clause 27.6 since the last report by the Auditor and so far as matters which they have observed in the performance of their duties as auditors are concerned, they have no reason to believe that:
 - (i) the statements made in sub-clauses (x), (y), (z), (aa) and (bb) of the certificate referred to in clause 27.6 are incorrect; and
 - (ii) the remaining statements made in such certificate, excluding the statements made in sub-clauses (j), (r) and (w), are unreasonable;
- (d) whether or not from the normal audit tests they have conducted to issue an opinion on the financial statements as a whole, they are satisfied that all amounts due to the Unitholders whether by way of Distribution, redemption or otherwise have been paid; and
- (e) whether or not the method of valuation of the Investments and Liabilities of the Fund or Portfolio has been in accordance with this Deed; and
- (f) that for the relevant financial year, they have audited each Register which has been maintained in accordance with the requirements of Section 51 of the Securities Act 1978.

27.6 Manager's Report

Within one calendar month of the end of each financial quarter of each Fund, the Manager shall give to the Trustee a certificate, signed by a senior executive of the Manager and by one Director of the Manager on behalf of all of the Directors of the Manager, stating, as at the date to which the certificate relates (and for the period from the date to which the previous certificate relates (or in the case of the first of such certificates since the date of this Deed) up to the date to which the present certificate relates), to the best of the Manager's knowledge and belief after having made all due enquiry, whether or not in relation to each Fund or Portfolio:

- (a) in the Manager's opinion, any matters have occurred to adversely affect the interests of the Unitholders;
- (b) all amounts due and payable to the Unitholders have been paid;
- (c) the Manager has duly maintained the Unit Register or has procured that the Unit Register has been duly maintained, in each case in accordance with this Deed;

- (d) the Manager has duly observed and performed all covenants, conditions and agreements and provisions binding upon it under this Deed and any guidelines, policy statements or other agreement between the Manager and the Trustee entered into in relation to this Deed and any Offer Document;
- (e) there has been any deviation in the accounting method or method of valuation of Investments or Liabilities of the Fund or Portfolio;
- (f) any material trading or capital loss has been sustained by the Fund and if so particulars thereof;
- (g) any material contingent liabilities have been incurred by the Fund and if so the amount thereof and whether or not any contingent liability has or is likely to mature within the succeeding twelve months which will materially affect the Fund;
- (h) any circumstances which affect the Fund or Portfolio have occurred which materially and adversely affect the interests of the Unitholders and whether any circumstances have arisen which render adherence to the existing method of valuation of any part of the Investments or Liabilities of the Fund or Portfolio misleading or inappropriate and if so particulars of those circumstances;
- (i) full and adequate provision for taxation liabilities to be paid or reclaimed (including deferred taxation and PIE Tax) has been made;
- (j) the directors of the Manager:
 - (i) consider that their policies and investment strategy are currently appropriate and have been adhered to at all times;
 - (ii) consider that the Investments of the Fund or Portfolio at all times have been dealt with or invested in accordance with any policies agreed to by the directors and with other representations contained in the relevant Offer Document;
- (k) all moneys intended for the Fund or Portfolio have been paid into the relevant Trustee's bank account and no such moneys have been applied in any other way;

- (l) (i) all moneys paid out of the relevant bank account have been paid for Authorised Investments or for fees or expenses authorised by this Deed and in no other way;
- (ii) all moneys paid out of the relevant bank account for Authorised Investments are held in accordance with the provisions of this Deed or, if not, their absence is accounted for; and
- (iii) all Investments are vested in the name of the Trustee or its nominee;
- (m) all fees have been calculated in accordance with the provisions of this Deed and the relevant Establishment Deed;
- (n) all calculations of the Distributions of the Unitholders and the valuation of the Units have been carried out in accordance with the provisions of this Deed and the relevant Establishment Deed;
- (o) all Unitholders who have given appropriate notice of their desire to be repaid have received payment of the amounts to which they are entitled in accordance with the provisions of this Deed;
- (p) statements have been issued to all Unitholders in accordance with clause 11;
- (q) appropriate control procedures are in place for the operation of each trust bank account, held in the name of the Trustee or its nominee (this includes the unit trust bank accounts and the Applications bank account), have been reviewed and reconciled daily (or such other frequency as is agreed by the Trustee) and there are no material unreconciled items. Reconciling items are being followed up regularly and there are no material reconciling items over one month old other than unrepresented cheques;
- (r) procedures are in place to ensure compliance with the Financial Transactions Reporting Act 1996;
- (s) the Manager has taken all reasonable steps to comply fully with the Income Tax Act 2007 and the Tax Administration Act 1994 during the period and that PIE Tax has been paid by due date;
- (t) the Fund and each Portfolio has met the PIE eligibility requirements for the period, and that reasonable measures were in place to monitor and manage any potential breaches of the PIE eligibility criteria;

- (u) the Manager has taken all reasonable steps to equitably allocate income, expenses, losses and tax credits to Unitholders, calculate tax, and adjust Unitholder's interests in accordance with the Income Tax Act 2007 and the Tax Administration Act 1994 and in a manner that is fair and equitable to Unitholders generally;
- (v) within the last 12 months, the Manager has requested all Unitholders to confirm their Prescribed Investor Rate and that the correct Prescribed Investor Rates have been entered in the Unit Register; and
- (w) the current Offer Documents include all material issues, including any issues which have arisen after the Offer Documents were prepared and otherwise comply in full with the Securities Act 1983,

and also stating in respect of each Fund and Portfolio as at the quarterly or other date to which the certificate relates:

- (x) the Net Asset Value;
- (y) the Number of Units on Issue;
- (z) the Net Asset Value per Unit;
- (aa) the aggregate Distributions paid to Unitholders since the previous certificate provided under this clause; and
- (bb) such other matters as are specified in the relevant Establishment Deed.

28. Auditor

28.1 Appointment and Remuneration

A Person or firm of chartered accountants selected by the Manager and approved by the Trustee and as otherwise qualified under section 2C of the Securities Act 1978 must be appointed Auditor of the Funds. The remuneration of the Auditor shall be determined by the Manager on an arm's length basis.

28.2 Removal/Retirement

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

28.3 New Appointment

Any vacancy in the office of Auditor must be filled by the Manager with the approval of the Trustee appointing a Person or firm of chartered accountants to be Auditor qualified under section 2C of the Securities Act 1978.

28.4 Restrictions on Auditor

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

29. Meetings of Unitholders and directions to trustee

29.1 Meetings

Meetings of the Unitholders shall be convened and conducted in accordance with the provisions in Schedule 1 or as otherwise prescribed by law.

29.2 Unitholders' Directions to the Trustee

By means of a Section 18 Resolution passed at a meeting of Unitholders, the Unitholders have the power to give to the Trustee their opinions or directions in relation to the exercise of the Trustee's powers.

29.3 Compliance with Directions

Where any direction is given to the Trustee pursuant to clause 29.2 in respect of any matter, the Trustee may comply with the direction and is not liable for anything done or omitted by it by reason of its following the direction.

30. Notices to Unitholders

30.1 Notice of Meetings

A minimum 14 days' notice of every meeting of Unitholders must be given to every Unitholder or the Unitholders of the relevant Fund or Portfolio (where the meeting relates only to those Unitholders) by sending it addressed to the Unitholder at the Unitholder's registered address by ordinary, prepaid post or, if that address is outside New Zealand, by airmail, prepaid post.

30.2 Other Notices

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

30.3 Manner of Notice

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

30.4 Signature of Notice

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

30.5 Calculation of Notice Periods

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

30.6 Binding Nature of Notice

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

30.7 Receipt of Notice

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

31. Notices between Manager and Trustee

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

32. Amendment to Deed

32.1 Power to Change the Deed

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

- (a) If, in the opinion of the Trustee the change is made to correct a manifest error or is of a formal or technical nature;
- (b) If, in the opinion of the Trustee the change is necessary or desirable for the more convenient, economical or advantageous working, management or administration of any Fund or Portfolio or for safeguarding or enhancing the interests of any Fund or Portfolio or the relevant Unitholders and is not or not likely to become materially prejudicial to the general interests of the Unitholders;
- (c) if, in the case of a change affecting all Unitholders, the change is authorised by an Extraordinary Resolution of all Unitholders as if they were beneficiaries of a single Fund, the provisions of the Schedule relating to meetings of Unitholders to be read accordingly;
- (d) if, after a change in any law affecting unit trusts, a change to this Deed is necessary to make any provision of this Deed consistent with such law;
- (e) if, in the case of a change affecting Unitholders in a particular Fund or Portfolio, the change is authorised by an Extraordinary Resolution of those Unitholders;
- (f) if, in the opinion of the Manager and the Trustee, the change is necessary to enable a particular Fund to elect into, or remain in, the Portfolio Investment Entity taxation regime;
- (g) if the change is necessary to enable the Fund to be listed by NZX Limited; or
- (h) if the change is authorised pursuant to clause 15.10.

32.2 Notice of Amendment

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

- (a) send a summary of the amendment to the relevant Unitholders at the same time as the Accounts of the relevant Fund are forwarded to those Unitholders; and
- (b) register a copy of the relevant amending deed in accordance with the Securities Act 1978.

33. Period of trusts

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

- (a) the date of termination (if any) specified in the relevant Establishment Deed;
- (b) the date falling eighty years less two days from the date of this Deed (the period so specified being the perpetuity period for the purposes of section 6 of the Perpetuities Act 1964);
- (c) the date determined by the Unitholders of the relevant Fund or Portfolio by Extraordinary Resolution to terminate the relevant Fund or Portfolio; or
- (d) the date determined by the Manager to terminate the relevant Fund or Portfolio as notified to the Trustee and the relevant Unitholders by not less than 30 days notice.

34. Procedure on winding up

34.1 Realisation of Investments

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

34.2 Retentions by Trustee

The Trustee is entitled to retain out of the relevant Fund or Portfolio such amount that the Trustee considers necessary or appropriate to meet all claims and Liabilities (including for this purpose contingent Liabilities) in connection with the relevant Fund or Portfolio or arising out of the liquidation of the relevant Fund or Portfolio including the Trustee's fees due under clause 22 and the fees of any agents, solicitors, bankers, accountants, auditors or other Persons (including the Manager) whom the Trustee may employ in connection with the winding up of the relevant Fund or Portfolio. The Trustee is entitled to be indemnified in respect of the foregoing from the moneys or assets retained by the Trustee.

34.3 Application of Realisation

Subject to the retention of any moneys as provided in clause 34.2, the net proceeds of realisation of Investments shall be applied by the Trustee as follows:

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

34.4 Interim Distributions

If in the opinion of the Trustee it is expedient to do so the Trustee may make interim payments or distributions on account of the moneys to be distributed in accordance with clause 34.3.

34.5 Receipts

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

35. Payments to Unitholders

- (a) Any moneys payable by the Trustee or by the Manager to a Unitholder under the provisions of this Deed may be paid by any method permitted by law.

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

36. Deductions and adjustments for taxes

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

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

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

37. Election to become a PIE

37.1 Election

The Manager may make an election pursuant to the Income Tax Act 2007 to the Inland Revenue Department in the prescribed form for a Fund to become a PIE. The Fund will be treated as a PIE from the PIE Effective Date.

37.2 New Zealand tax resident

Each Fund that elects to become a PIE will at all times be a resident of New Zealand for tax purposes as defined by the Income Tax Act 2007 and not treated under a double tax agreement as not being resident in New Zealand.

37.3 Business not Life Insurance

Each Fund that elects to become a PIE will at no time undertake the business activity of life insurance while a PIE, subject to any future exceptions provided for at a subsequent time under the Income Tax Act 2007.

37.4 Eligibility Requirements to become and remain a PIE

Each Fund that elects to become a PIE must satisfy the eligibility requirements to become a PIE contained in the Income Tax Act 2007 at the time of electing to become a PIE and at all other relevant times.

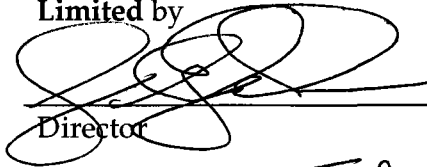
38. Law applicable

This Deed is governed by the law of New Zealand.

Execution and delivery

Executed and delivered as a Deed

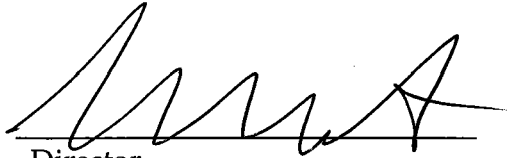
**Senior Trust Management
Limited by**



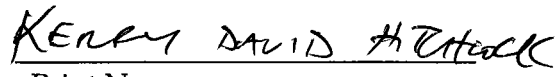
Director



Print Name

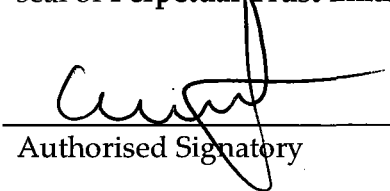


Director



Print Name

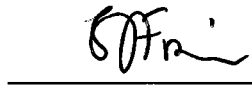
**Executed under the name and
seal of Perpetual Trust Limited**



Authorised Signatory



Print Name

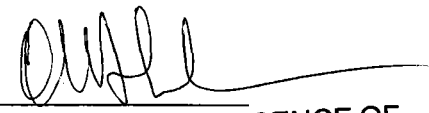


Authorised Signatory



Print Name

Witness to Authorised Signatories' signatures:

Signature: 

Occupation: 

SIGNED IN THE PRESENCE OF
KAREN ANDERSEN
ASSOCIATE ANALYST
AUCKLAND

Address: _____

Schedule 1: Meeting Procedures (clause 30.1)

1. Convening of meetings

- 1.1 The Manager must summon a meeting of Unitholders of the relevant Fund or Portfolio on:
- (a) the request in writing of the Trustee;
 - (b) the request in writing of one tenth in number of the Unitholders in the relevant Fund or Portfolio, or of a Unitholder or Unitholders in the relevant Fund or Portfolio holding not less than one tenth of the Number of Units on Issue in the relevant Fund or Portfolio at the date of such request.
- 1.2 The Trustee must summon a meeting of Unitholders of the relevant Fund or Portfolio on the request in writing of one tenth in number of the Unitholders in the relevant Fund or Portfolio, or of a Unitholder or Unitholders in the relevant Fund or Portfolio holding not less than one tenth of the Number of Units on Issue in the relevant Fund or Portfolio at the date of such request.
- 1.3 If the Manager fails to call a meeting in accordance with this clause the Trustee shall be entitled to call such a meeting on behalf of the Manager.
- 1.4 The Manager may at any time of its own volition convene a meeting of Unitholders to be held at such place as is acceptable to the Trustee.
- 1.5 The Manager shall in accordance with section 12(d)(ii) of the Act lay before any such meeting copies of the last statements and summaries filed with the Registrar of Companies in accordance with section 20(2A) of the Act.

2. Notice of meetings

- 2.1 Notice of every meeting must be:
- (a) approved by the Trustee; and
 - (b) given in the manner provided in the Deed to every Unitholder whose name is on the relevant Unit Register 3 Business Days prior to the date on which the notice is sent to Unitholders.
- 2.2 A copy of the notice must be sent to the Trustee.

- 2.3 Fourteen days' notice at least of every meeting must be given. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given. The notice must specify the place, day and hour of the meeting and the general nature of the business to be transacted but it is not necessary to specify in the notice the terms of the resolutions to be proposed.
- 2.4 The accidental omission to give notice to or the non-receipt of notice by any Person entitled to that notice does not invalidate proceedings at any meeting.

3. Quorum

- 3.1 No business shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
- 3.2 The quorum for meetings of Unitholders is Unitholders present in person or by proxy or by attorney or by authorised representative holding not less than 10% of the Number of Units on Issue.
- 3.3 If within 15 minutes from the time appointed for the meeting a quorum is not present the meeting if convened upon the request of Unitholders must be dissolved. In any other case it will stand adjourned to such day and time not being less than 14 days thereafter and to such place as may be appointed by the Chairperson and at such adjourned meeting the Unitholders present in person or by proxy or by attorney or by authorised representative and entitled to vote shall form a quorum.
- 3.4 Notice of any such adjourned meeting must be given in the same manner (except in respect of the period of notice which shall be approved by the Trustee) as of an original meeting and such notice must state that the Unitholders present at the adjourned meeting, in the case of a meeting of Unitholders, whatever their number and whatever the number of Units held by them shall form a quorum.

4. Trustee and manager may attend and speak

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

5. Chairperson

A Person nominated in writing by the Trustee or any other person appointed in that behalf by the Unitholders present at the meeting, must preside at every meeting.

6. **Adjournment of meetings**

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

7. **Voting rights**

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

8. **Proxies**

- 8.1 An instrument of proxy shall be in such form as the Manager may stipulate from time to time and need not be witnessed.
- 8.2 Whenever the chairperson of the meeting or an officer of the Trustee is appointed a proxy for a Unitholder and the Unitholder has not indicated in the instrument of proxy or in any other way prior to the time for taking the poll the manner in which such Person's proxy shall vote upon any resolution coming before the meeting such Person's vote must be used in favour of the resolution.
- 8.3 The instrument appointing a proxy must be in writing under the hand of the appointor or of such Person's attorney duly authorised in writing.
- 8.4 A Person appointed to act as a proxy need not be a Unitholder.
- 8.5
- (a) The instrument appointing a proxy and the power of attorney or other authority (if any) under which it is signed or a copy of such power or authority shall be deposited at such place as the Manager may in the notice convening the meeting appoint.

- (b) If no such place is appointed then it shall be deposited at the Manager's registered office not less than 48 hours before the time appointed for holding the meeting or adjourned meeting or for the taking of a poll at which the Person named in the instrument proposes to vote.
 - (c) In default of the above the instrument of proxy is not to be treated as valid with the exception that the Manager may waive the foregoing requirements in relation to the power of attorney or other authority.
- 8.6 Unless it states to the contrary a proxy is valid for the meeting to which it relates and for any adjournment of that meeting. Notwithstanding any provision contained in an instrument of proxy no instrument of proxy is valid after the expiration of 12 months from the date of its execution but this provision is not construed to apply to the appointment of any attorney or representative otherwise than by an instrument of proxy.
- 8.7 An instrument of proxy in favour of the chairperson of the meeting or the chairperson, (howsoever expressed) is valid and effective as though it were in favour of a named Person and constitutes the Person who chairs the meeting for which the proxy is used (whether on adjournment or not), the lawful proxy of the appointor.
- 8.8 A Person appointed proxy has the right to speak at a meeting and to demand or join in demanding a poll and (except and to the extent to which the proxy is specifically directed to vote for or against any proposal) has power generally to act at the meeting for the Unitholder concerned.
- 8.9 A vote given in accordance with the terms of an instrument of proxy or power of attorney is valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or power of attorney or of the authority under which the proxy was executed or, in the case of a meeting of the Unitholders, the transfer of the Units in respect of which the vote is given with the exception that no intimation in writing of such death, insanity, revocation or transfer must have been received by the Manager at its registered office before the commencement of the meeting or adjourned meeting at which the proxy is used.

9. **Power of attorney**

- 9.1
- (a) Any Unitholder may by power of attorney appoint an attorney (who need not be a Unitholder) to vote and act on his or her behalf at any meeting.
 - (b) Such power of attorney or proof thereof to the satisfaction of the Manager (unless such power of attorney or such proof has previously been produced to the Manager before the time of holding the meeting at which the attorney proposes to vote) be produced for inspection at such place as

the Manager may in the notice convening the meeting direct or (if no such place is appointed) then at the Manager's registered office. Such attorney if so empowered may appoint a proxy for the Unitholder granting the power of attorney.

10. Procedure

10.1

- (a) A resolution put to the vote of a meeting must be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairperson, the Trustee, any representative of the Trustee or by one or more Unitholders holding or representing not less than 10% of the Number of Units on Issue.
- (b) Unless a poll is so demanded a declaration by the chairperson that a resolution has been carried or carried unanimously or by a particular majority or lost is conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

10.2 If a poll is duly demanded it shall be taken in such manner as the chairperson may direct and the result of such poll is deemed to be the resolution of the meeting at which the poll was demanded.

10.3 In the case of an equality of votes whether on a show of hands or on a poll the chairperson of the meeting at which the show of hands takes place or at which the poll is demanded is entitled to a casting vote in addition to the votes (if any) to which the chairperson may be entitled for any reason whatsoever.

10.4 A poll demanded on the election of a chairperson or on a question of adjournment must be taken forthwith. A poll demanded on any other question must be taken either immediately or at such time (not being more than 30 days from the date of the meeting) and place as the chairperson may direct. The result of such poll is deemed to be the resolution of the meeting at which the poll was demanded. No notice need be given of a poll not taken immediately.

10.5 The demand for a poll does not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll has been demanded.

10.6 On a poll votes may be given either personally or by proxy or by attorney or by an authorised representative. On a poll a Person entitled to more than one vote need not use all such Person's votes or cast all the votes such Person uses in the same way.

10.7 On a show of hands every Person present at the meeting and entitled to vote

(whether as a Unitholder or as a proxy or attorney or authorised representative) has one vote only. On a poll every Unitholder who is present in person or by proxy or by attorney or by an authorised representative is entitled to one vote for every Unit of which such Unitholder is the holder.

10.8 In the case of joint Unitholders the vote of the senior who tenders a vote whether in person or by proxy or by attorney or by authorised representative shall be accepted to the exclusion of the votes of the other joint Unitholders. For this purpose seniority is determined by the order in which the names stand in the Unit Register in respect of the joint holding.

11. Resolutions

11.1 The expression **Extraordinary Resolution** means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule and carried by a majority of not less than 75% of the Persons voting at such meeting upon a show of hands or if a poll is duly demanded by a majority consisting of not less than 75% of the votes given on such poll.

11.2 The expression **Ordinary Resolution** means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule and carried by a majority of not less than 50% of the Persons voting at such meeting upon a show of hands or if a poll is duly demanded by a majority consisting of not less than 50% of the votes given on such poll.

11.3 The expression **Section 18 Resolution** means a resolution passed at a meeting duly convened and held in accordance with the provisions contained in this Schedule and carried on a poll by a majority consisting of not less than 75% of the votes given on such poll, being votes cast (whether in person or by proxy or attorney or authorised representative) by Unitholders holding at least 25% of the Units in existence.

11.4 A meeting of Unitholders has the following powers exercisable by Extraordinary Resolution:

- (a) To sanction the exchange of Units for, or the conversion of Units into, shares, stock, debentures, debenture stock or other obligations or securities of any company formed or to be formed or into units or other interests in any other unit trust or similar entity;
- (b) To sanction any alteration, release, modification, waiver, variation or compromise or any arrangement in respect of the rights of the Unitholders howsoever such rights arise;
- (c) To assent to any alteration, modification of, variation, or addition to the provisions contained in this Deed or any deed supplemental thereto or the

conditions attaching to the Units and to authorise the Manager and Trustee to concur in and execute any supplemental Deed or other document embodying any such alteration or addition;

- (d) To give any sanction, assent, release or waiver of any breach or default by the Manager or the Trustee under any of the provisions of this Deed;
- (e) Subject to the Securities Act 1978, to discharge, release or exonerate the Manager or the Trustee from all liability in respect of any act of commission or omission for which the Manager or the Trustee has or may become responsible under this Deed;
- (f) To appoint a new Trustee if a vacancy arises in the office of Trustee and the Manager fails to appoint a new Trustee pursuant to this Deed;
- (g) To sanction any variation to the Authorised Investments of a Fund or Portfolio;
- (h) To determine the date for termination of a Fund or Portfolio.

11.5 A meeting of Unitholders has the following powers exercisable by a Section 18 Resolution:

- (a) To give such directions to the Trustee as they think proper concerning the Fund or Portfolio being directions that are consistent with this Deed and the Act; and
- (b) To direct the appointment or removal of the Manager of the Fund.

11.6 A resolution may take effect as both an Extraordinary Resolution and a Section 18 Resolution if the requirements of both types of resolutions are complied with.

12. **Resolutions bind all Unitholders**

- (a) An Ordinary Resolution, Section 18 Resolution and an Extraordinary Resolution passed at a meeting of the Unitholders of a Fund or Portfolio duly convened and held in accordance with this Schedule is binding upon all Unitholders of the Fund or Portfolio present or not present at the meeting. Each of the Unitholders of the Fund or Portfolio, the Trustee and the Manager is bound to give effect to such resolution accordingly.

- (b) The passing of any such resolution shall as between the Manager, the Trustee, and the Unitholders be conclusive evidence that the circumstances justify the passing of the Ordinary Resolution, Extraordinary Resolution or Section 18 Resolution as the case may be, the intention being that it will rest with the meeting to determine without appeal whether or not the circumstances justify the passing of such resolution.

13. **Minutes to be kept**

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

Schedule 2: Form of Establishment Deed (clause 1.1)

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

This Deed is made on

between (1) Senior Trust Management Limited (the Manager)

and (2) Perpetual Trust Limited (the Trustee).

RECITALS:

- A. The Manager and the Trustee are parties to a Master Trust Deed dated 18 October 2010 (the **Trust Deed**) which sets out the terms and conditions on which units in unit trusts managed by the Manager will be offered for subscription to the public.
- B. The Trust Deed provides that each unit trust shall be established by the Manager and the Trustee entering into an Establishment Deed setting out the specific terms and conditions relating to that Fund.
- C. The Manager has resolved to establish a Fund to be known as the “[]” (the **Fund**) and the Trustee and the Manager have entered into this Deed for the purpose of establishing the Fund and the terms and conditions applicable to it.

It is agreed

1. Interpretation

1.1 Trust Deed Definitions

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

1.2 Additional Definitions

In this Deed, unless the context otherwise requires:

Distribution Period means a period of 12 months commencing on the day following a Distribution Date or, in the case of the first Distribution Period, on the date of this Deed and ending on the first Distribution Date;

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

Fund means the unit trust fund established by this Deed.

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

2. **Creation of Fund**

2.1 **Establishment of Unit Trust**

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

2.2 **Name of the Fund**

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

3. **Authorised Investments**

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

4. **Issue and Valuation Dates and Issue Price**

4.1 **Issue dates**

Units may only be issued on, or with effect from, a Valuation Day. Units will be issued on the Valuation Day following receipt of application moneys or, if application moneys are received by 2pm on a Valuation Day, Units will be issued on that Valuation Day. If an application is received after 2pm on a Valuation Day, the application will be processed on the next Valuation Day. All application moneys will be held on trust for subscribers in the "[] Applications" bank account until the Units are issued. Any interest earned on application moneys pending issue of Units will be credited to the Fund.

4.2 **Valuation Days**

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

4.3 Alternative Valuation Days

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

4.4 Issue Price

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

4.5 Number of Units issued

The number of Units that a Unitholder will receive will be determined by dividing the Unitholder's application moneys by the Issue Price on the Valuation Day on which the Units are issued. Fractions of Units will be rounded up or down to two or more decimal places, at the discretion of the Manager.

5. Minimum investment and minimum transfers

5.1 Minimum Amount

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

5.2 Minimum Transfer

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

6. Distributions

6.1 Distributable Income

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

6.2 Capital or income

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

6.3 Distributions

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

6.4 Period for Distribution

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

7. Borrowing

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

8. Redemption of Units

8.1 Redemption dates

Subject to clauses 8.10 and 8.11 of the Trust Deed, Units will be redeemed with effect from the first Valuation Day which occurs following the day which is 30 days after the date on which the relevant Redemption Request is received by the Manager. If a Redemption Request is received after 5pm on any day, it will be deemed to have been received on the following Business Day. The Manager may in its sole discretion redeem Units with effect from an earlier Valuation Day.

8.2 Redemption Price

The Redemption Price of Units calculated on each Valuation Day shall equal the Net Asset Value per Unit on that day [less % the Net Asset Value per Unit].

8.3 Payment of Redemption Price

The Redemption Price, less any Break Fee, shall be paid within 7 Business Days of the relevant Valuation Day.

9. **Fees**

9.1 **Application Fee**

There shall be no Application Fee for the Fund.

9.2 **Management Fee**

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

9.3 **Trustee's Fee**

- (a) The Trustee shall be paid a fee at the times and in the amounts agreed in writing by the Manager and the Trustee but not exceeding []% per annum of the Gross Asset Value of the Fund, subject to minimum quarterly fees of \$5,000.
- (b) The Trustee may also charge special fees in accordance with clause 22.2 of the Trust Deed for the services and in the amounts agreed in writing by the Manager and the Trustee.

10. **Trust Deed**

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

Execution and delivery

Executed and delivered as a Deed

**Senior Trust Management
Limited by**

Director

Director

Print Name

Print Name

Signed for and on behalf of
Perpetual Trust Limited
in the presence of:

Authorised Signatory

Authorised Signatory

Witness Signature

Print Name

Witness Occupation

Place of residence

CERTIFICATE OF REGISTRATION OF PROSPECTUS

(Under Section 42(5) of the Securities Act 1978)

SENIOR TRUST MANAGEMENT LIMITED 3143986

This is to certify that a Prospectus for SENIOR TRUST MANAGEMENT LIMITED dated the 19th day of October 2010 was registered on the 21st day of October 2010.



Neville Harris
Registrar of Companies
Dated this 1st day of November 2010

