

5 April 2024

**The Trust Company (RE Services) Ltd
(ACN 003 278 831, AFSL 235150)**

Explanatory Memorandum and Notice of Meeting

Regarding the proposed delisting of Forager Australian Shares Fund (ARSN 139 641 491) (ASX: FOR) and amendments to the Constitution pertaining to fees.

Date of Meeting: 13 May 2024

Time of Meeting: 4:00pm (Sydney time) (which is 4:00pm AEST)

Address: Brookfield Place, Level 11 (Reception) 10 Carrington Street Sydney NSW 2000

IMPORTANT NOTICES

This document is issued by The Trust Company (RE Services) Ltd (ACN 003 278 831, AFSL 235150) (**Responsible Entity**) in its capacity as responsible entity of Forager Australian Shares Fund (ARSN 139 641 491) (ASX: FOR) (**Fund**).

Purpose of this Explanatory Memorandum

This Explanatory Memorandum and the notice of meeting annexed as Appendix 1 (**Notice**) provides unitholders of the Fund (**Unitholders**) with information about the proposed resolutions in the Notice (**Resolutions**) and the steps that will be required to implement the proposed transition of the Fund to an open-ended unlisted unit trust (**Delisting**). Following the Delisting, the investment manager, Forager Funds Management Pty Ltd (ACN 138 351 345; AFSL 459312) (**Manager**) will continue to manage the Fund in accordance with the investment strategy. The Responsible Entity recommends that you read the Explanatory Memorandum and the Notice in full and seek advice from a licensed financial adviser or other professional adviser before deciding how to vote on the Resolutions to be considered at the Meeting. Capitalised terms used in this Explanatory Memorandum are defined in Section 6.

This Explanatory Memorandum provides information about the objectives of the Delisting, the benefits, and risks of the Delisting to the Unitholders and details about how the Fund will operate as an open-ended unlisted unit trust.

Forward-looking statements

Certain statements in this Explanatory Memorandum are about the future. You should be aware that there are a number of risks (both known and unknown), uncertainties, assumptions and other important factors that could cause the actual conduct, results or performance of the Fund following implementation of the Delisting, to be materially different from the future conduct, results or performance expressed or implied by such statements or that could cause the future conduct to be materially different from historical conduct. Such risks, uncertainties, assumptions and other important factors include, among other things, the potential disadvantages described in Section 3.3. Changes to future matters are both normal and to be expected.

Neither the Responsible Entity nor its directors, officers and advisers nor any other person gives any assurance that the occurrence of the events expressed or implied in any forward-looking statements in this Explanatory Memorandum will actually occur.

The forward-looking statements in this Explanatory Memorandum reflect views held only as of the date of this Explanatory Memorandum. Subject to the Corporations Act and any other applicable laws or regulations, the Responsible Entity will not update these statements other than with respect to information that it becomes aware of prior to the Meeting which is material to the making of a decision regarding whether or not to vote in favour of the Resolutions.

Privacy and personal information

The Responsible Entity or its agents may collect personal information in the process of convening the meeting and implementing the Delisting. Such information may include the names, contact details and Unit holdings of Unitholders and the names of persons appointed to act as a proxy, corporate representative, or attorney at the Meeting. The primary purpose of the collection of personal information is to assist the Responsible Entity to conduct the Meeting and implement the Delisting. Personal information of the type described above may be disclosed to the print and mail service providers, registry service providers and related bodies corporate of the Responsible Entity. Unitholders have a right to access their personal information and should contact the Responsible Entity if they wish to access their personal information. Unitholders who appoint a named person to act as their proxy, corporate representative or attorney should ensure they inform that person of these matters. For further information on the Responsible Entity's privacy policy, please visit www.perpetual.com.au or you can obtain a copy free of charge by contacting the Responsible Entity.

Disclaimer

The information in this Explanatory Memorandum does not take into account your investment objectives, financial situation, tax position or needs. It also does not analyse the implications of the Delisting on "foreign persons" under the Foreign Acquisitions and Takeovers Act 1975 (Cth). It is important that you read the Explanatory Memorandum before making any voting decision. In particular, it is important that you consider the advantages and disadvantages of the Delisting (see Section 3 of this Explanatory Memorandum). If you would like to refer to current information about the Fund, the audited financial results for the year ended 30 June 2023 are available from the Fund's website, <https://foragerfunds.com/>, or by calling +61 2 8320 0555. To the maximum extent permitted by law, neither the Responsible Entity nor any of its directors, officers, employees, agents, or advisers accepts any liability for any loss arising from the use of this Explanatory Memorandum or its contents or otherwise arising in connection with it. The information in this Explanatory Memorandum remains subject to change. The Responsible Entity may vary the timetable for implementing the Delisting. We will notify you of any material changes in relation to this Explanatory Memorandum via the Australian Stock Exchange (**ASX**) announcements platform and on the Fund's website: <https://foragerfunds.com/>.

The information in this Explanatory Memorandum is current as at 5 April 2024 unless otherwise stated. Unless otherwise stated the figures used throughout this Explanatory Memorandum are as of 31 March 2024.

Additional Information

If after reading this Explanatory Memorandum and the Notice you have any further questions, please contact your financial adviser or the Manager on +61 2 8320 0555.

Timetable

Event	Date
Explanatory Memorandum and Notice issue date	5 April 2024
Despatch of the Notice of Meeting and the Explanatory Memorandum to Unitholders by post	10 April 2024
Record Date for voting (i.e. time and date for determining eligibility to vote at the Meeting)	11 May 2024 at 4pm (Sydney time)
Deadline for Proxy Forms	11 May 2024 at 4pm (Sydney time)
Meeting of Unitholders	13 May 2024 at 4pm (Sydney time)
Results of the Meeting announced	13 May 2024
<i>If unitholders approve the Delisting at the Meeting</i>	
Last day for trading in Units in the Fund on the ASX	11 June 2024 ¹
Suspension Date (date on which the Units are suspended from trading on the ASX)	11 June 2024 ¹ (after market close)
Delisting Date (date on which the Units are removed from the Official List and the Fund commences operating as an open-ended, unlisted unit trust)	14 June 2024
Issue of Product Disclosure Statement and Target Market Determination for the Fund as an open-ended, unlisted unit trust	14 June 2024

All dates following the issue date of this Explanatory Memorandum and Notice are indicative only and may be subject to change. The Responsible Entity will notify Unitholders of any change to the timetable via the ASX announcements platform and on the Fund's website:

<https://foragerfunds.com/>

All times refer to Sydney time unless indicated otherwise.

¹ These dates have changed since the Fund announced on ASX on 5 April 2024 that it had received in-principle confirmation from ASX for the Delisting.

Letter from the Responsible Entity

Dear Unitholder,

On behalf of the board of the Responsible Entity (**Board**), in its capacity as responsible entity of the Fund, it is my pleasure to provide you with a proposal to transition the Fund from a listed investment trust to an open-ended unlisted unit trust (**Delisting Proposal**).

The key reasons for the Delisting Proposal are that the Fund has low levels of liquidity and the Fund continues to trade at a significant discount to its net asset value (**NAV**).

The Delisting

If the resolutions required to implement the Delisting (**Resolutions**) are approved by Unitholders, the Fund will become an open-ended unlisted unit trust. The Manager will remain the manager of the Fund and there will be no change to the Fund's investment objective and strategy.

Further information about the Delisting is provided in Section 3 of the Explanatory Memorandum.

The Delisting is intended to provide Unitholders the ability to realise or redeem their investment in the Fund based on NAV per Unit adjusted for a Sell Spread (and less a transitional exit fee for a period of 6 months after Delisting) which has not been possible recently in the listed environment due to the Fund's ongoing discount to NAV and lack of liquidity.

The Fund will be responsible for the costs the Responsible Entity will incur in relation to the Delisting, including the Fund's tax and legal advice associated with the Delisting and the costs of the Fund's administrator (**Administrator**) and the Fund's unit registry (**Registry**) associated with the transition, and these will be paid from the assets of the Fund. If the Resolutions are not approved by Unitholders the Fund will still be responsible for the costs incurred up to that point.

The Delisting will mean that Units can no longer be bought or sold on the ASX through your stockbroker, and new information about the Fund will no longer be released on the ASX announcements platform. Instead, Unitholders will be able to apply for and redeem Units through an application and redemption process which will be set out in a new product disclosure statement (**PDS**). New information about the Fund will be published in the Registry's investor portal.

Reasons for the Delisting

The Delisting is considered by the Board to be in the best interests of Unitholders of the Fund for a number of reasons, including low levels of trading liquidity and Fund Units consistently trading below NAV which outweigh any benefits associated with remaining listed. More information on these reasons is set out in Section 3.1 of the Explanatory Memorandum.

The Board considers that the Fund would more appropriately operate as an unlisted unit trust with daily redemptions and subscriptions based on NAV.

After undertaking a review of the various options available to optimise the structure of the Fund, the Responsible Entity has decided to recommend that the Fund Delist from the ASX and convert to an open-ended unlisted unit trust structure.

For current Unitholders

Unitholders will be able to realise or redeem their investments at an exit price based on NAV per Unit adjusted for a sell spread of 0.2% to cover transaction costs for the Fund (**Sell Spread**), less a transitional exit fee for the first 6 months after Delisting starting at 6% and tailing down monthly to 1% (**Transition Fee**). The Transition Fee will be retained within the Fund for the benefit of remaining Unitholders. After the 6 month period, no Transition Fee will apply to redemptions from the Fund. All redemptions will occur on a daily basis subject to conditions outlined in Section 4.2 of the Explanatory Memorandum under 'Redemptions'.

Redemptions will not be subject to a limit (or 'gate') following the Delisting. However, Unitholders are reminded that the Responsible Entity may decide to limit or freeze redemptions in accordance with clause 6.9 of the Constitution.

After this initial transitional period, Unitholders will be able to realise or redeem their investments based on the NAV (adjusted for the Sell Spread), regardless of the trading volumes of other Unitholders.

The Delisting Proposal also includes changes to how historical underperformance is applied when calculating the performance fee with respect to the Fund (**Performance Fee**) and the size of the Recoverable Expenses Cap which will impact current Unitholders. See Sections 1.3 to 1.7 of the Explanatory Memorandum for more details.

For buyers

The open-ended unlisted unit trust structure will allow the Responsible Entity to issue new Units in the Fund.

Identification Information Required

We expect to make a **Transition Identification Form** available to Unitholders after the Meeting. This form must be completed to ensure you can apply for new Units, redeem existing Units, and participate in any distribution reinvestment plan after the Fund is Delisted. We do not expect that Unitholders who are already invested in the Forager International Shares Fund under the same name will be required to complete this form. Indirect investors who have invested via a platform (**IDPS**) should confirm their platform provider requirements for completion of the Transition Identification Form. Please refer to Section 3.5 below for further details on the transition identification process.

If a Unitholder does not wish to complete a Transition Identification Form as a result of the Delisting, they may consider selling their Units on ASX prior to the Delisting.

Factors in Deciding How to Vote

This Explanatory Memorandum is intended to assist Unitholders in considering all aspects of the Delisting and to decide whether to vote for or against the Delisting at the Meeting be held on 13 May 2024.

In this document you will find information concerning the Delisting including:

- A detailed description of the Delisting and the proposed steps to implement an open-ended, unlisted structure where Unitholders can redeem based on NAV;

- An overview of the open-ended unlisted unit trust and how it differs from the current structure of the Fund, including changes to how the Fund's fees and costs are calculated and paid;
- The advantages and disadvantages associated with the Delisting; and
- A summary of general tax considerations relevant to the Delisting.

For further information on the reasons for and against the Delisting see Sections 3.2 and 3.3 of the Explanatory Memorandum, respectively.

Voting on the Resolutions

The Meeting will be held at 4pm (Sydney time) on 13 May 2024 at Brookfield Place, Level 11 (Reception) 10 Carrington Street Sydney NSW 2000. Unitholders can vote by proxy or in person. Further details are set out in the documents accompanying this Explanatory Memorandum. We encourage you to read the attached Explanatory Memorandum and Notice in Appendix 1 carefully. If you have any questions, please contact your financial adviser or the Manager on +61 2 8320 0555.

EXPLANATORY MEMORANDUM

This Explanatory Memorandum should be read in conjunction with and forms part of the Notice. It has been prepared to provide Unitholders with information about the items of business to be considered at the Meeting.

Unless otherwise defined to the contrary, capitalised terms used in this Explanatory Memorandum have the same meaning given to them in the Notice.

1. OVERVIEW OF THE DELISTING

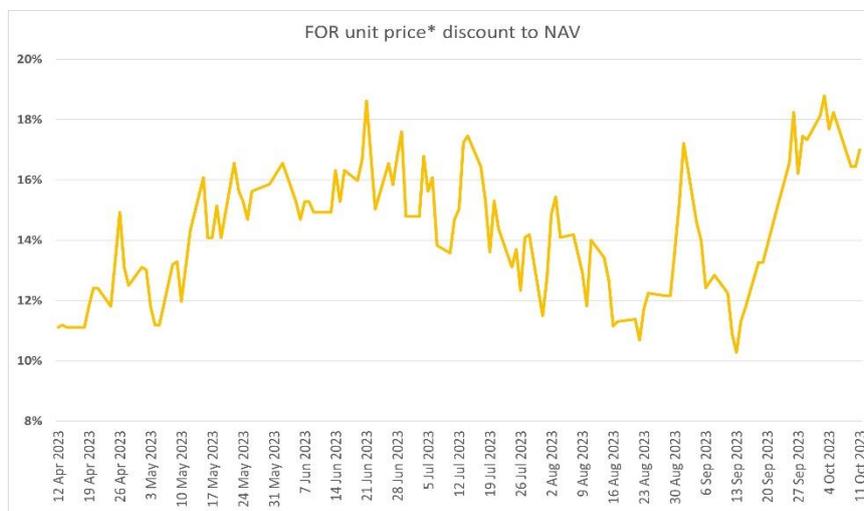
1.1. Background to the Delisting

The Delisting involves the transition of the Fund from a listed investment trust to an open-ended unlisted unit trust.

The Fund was launched in October 2009 with an investment strategy to provide investors access to a concentrated portfolio of undervalued securities listed on the ASX and NZX and to outperform the ASX All Ordinaries Accumulation Index over the medium-to-long-term.

In late 2016, investors voted in favour of the Manager’s recommendation to convert the Fund into a “closed-ended” listed investment trust (**LIT**). The main objective of this conversion was to enable the Fund to run a concentrated portfolio without needing the liquidity required to meet investor redemptions, particularly in dysfunctional markets where it has historically been close to fully invested.

The Manager considers that the LIT structure served this purpose well through several market cycles in the subsequent seven years. In the past four years, however, the Units have been trading at a meaningful discount to the underlying NAV. The Fund has implemented a number of initiatives in an effort to address this gap, including a semi-annual distribution policy and undertaking a regular buyback. Whilst there have been some periods of improved trading since those actions commenced, it has not been sustained. In the six months prior to the Responsible Entity announcing its intention to pursue a Delisting, the Units were trading at an average discount of more than 14% to NAV.



* Volume-weighted average price of Units on the ASX

It is the Manager's view that investor apathy towards closed-ended investment vehicles has become entrenched and that smaller, less liquid vehicles like the Fund are unlikely to trade at NAV for the foreseeable future. The Manager's current view is that the magnitude and sustained nature of the discount to NAV now outweighs the portfolio management benefits of remaining a closed-ended fund.

The Responsible Entity has considered the Manager's view, undertaken a review of the options available and the Fund's history as an open-ended unlisted unit trust and concluded that the Delisting Proposal is in the best interests of investors.

The Delisting is intended to provide Unitholders the following benefits:

- an ability to realise or redeem Unitholders' investment in the Fund at close to NAV;
- increased opportunities for new and existing Unitholders to invest;
- the opportunity for the Fund to grow; and
- continuity of the same investment program and team.

Importantly:

- the Fund will be responsible for the costs the Responsible Entity will incur in relation to the Delisting, including the Fund's tax and legal advice associated with the Delisting and the costs of the Fund's Administrator and Registry associated with the transition, and these will be paid from the assets of the Fund. If the Resolutions are not approved by Unitholders the Fund will still be responsible for the costs incurred up to that point;
- changes will be made to the Constitution to allow for the proposed Transition Fee following Delisting and to delete the Performance Fee calculation methodology in the Constitution (and the amended method for calculation of Performance Fees will be included in the PDS instead); and
- the Recoverable Expenses Cap will be increased from 0.1% p.a. to 0.2% p.a. of the net asset value of the Fund.

The Delisting will mean that Units can no longer be bought or sold through a stockbroker, and information about the Fund will be provided via the Fund's website <https://foragerfunds.com/> rather than on the ASX announcements platform.

1.2. Transition Fee

In order to facilitate an orderly redemption process after the Delisting has occurred and therefore balance the interests of those investors who wish to redeem in the near term with those who wish to remain invested, the Responsible Entity will apply a Transition Fee on redemption requests accepted during a period of 6 months after Delisting. The Transition Fee will be retained within the Fund for the benefit of remaining Unitholders.

The Transition Fee will be as follows:

Time since the Units cease to be officially quoted on ASX	Transition Fee applied
<i>Less than 1 month</i>	6%
<i>More than or equal to 1 month and less than 2 months</i>	5%
<i>More than or equal to 2 months and less than 3 months</i>	4%
<i>More than or equal to 3 months and less than 4 months</i>	3%
<i>More than or equal to 4 months and less than 5 months</i>	2%
<i>More than or equal to 5 months and less than 6 months</i>	1%
<i>More than or equal to 6 months</i>	0%

The Transition Fee will apply to redemption requests accepted during the 6 month period after Delisting. The Transition Fee will be charged by the Responsible Entity but will be retained as an asset of the Fund for the benefit of remaining Unitholders. The Transition Fee will be deducted from each redeeming Unitholder's redemption proceeds.

The Transition Fee can only be charged by the Responsible Entity following an amendment to the Constitution approved by Unitholders and considered concurrently with the resolution to Delist the Fund. Resolution 2 will seek approval to make amendments to the Constitution to:

- include a new definition of 'Transition Fee';
- provide a requirement for Unitholders to pay the Transition Fee if they redeem at any point during the first 6 months after Delisting; and
- delete the Performance Fee calculation provisions.

1.3. Changes to the Constitution relating to Performance Fees

The provisions in the Constitution which relate to payment and calculation of the Performance Fees will be deleted on Delisting. These provisions are not required to be contained in the Constitution and, rather than amend the Constitution to allow for calculation of Performance Fees for multiple Unit classes, the Fund's new product disclosure statement (**PDS**) will contain a summary of how the Performance Fees are calculated.

Except as set out below in Section 1.4 of the Explanatory Memorandum, the method for calculating Performance Fees and Prior Period Deficits for each class of Units will remain unchanged from Delisting.

1.4. Performance Fee calculations after Delisting

Unitholders will be aware that the Constitution provides for payment of a Performance Fee if the Fund's return exceeds a hurdle rate of 8% per annum (**Hurdle**). In periods where the Fund's return

is less than the Hurdle, a Prior Period Deficit (or “negative performance fee”) is calculated and “carried forward” to future periods.

As part of the Delisting Proposal, the method that will be applied when calculating the Performance Fee will change slightly. Currently, where the Fund’s return is less than the 8% Hurdle, the Prior Period Deficit is calculated as a dollar value. As such, the amount of future outperformance required to recoup the Prior Period Deficit increases if the number of Units on issue falls (due to redemptions) and shrinks if the number of units on issue increases (due to the issuance of new Units).

The proposed changes to the Performance Fee calculation mean the Prior Period Deficit will now be expressed as a percentage and the amount of future outperformance required to recoup the Prior Period Deficit will be independent of the number of Units on issue. This methodology is better suited for when the Fund becomes an open-ended, unlisted unit trust.

In practice, the Responsible Entity will also have the flexibility to issue different classes of Units where each new class of Units will have a different start date for calculating any Performance Fees (including recording the Prior Period Deficit or underperformance). If new classes of Units are issued, the start date for the Performance Fee calculations for that class of Units will be the date the first Units in that class are issued.

Fund returns and average funds under management will also be calculated for each class of Units as part of the Performance Fee calculations.

At Delisting there will only be the Existing Units in issue. Until a new class of Units is issued, the total Fund return and total funds under management will be used in calculating the Performance Fee. Note there is no obligation for the Responsible Entity to issue new classes of Units following Delisting, and therefore, the Fund may only ever have one class of Units.

From Delisting, the Performance Fee for a class of Units will be calculated as follows:

- the Hurdle remains 8% per annum;
- Performance Fees will continue to be calculated 6 monthly (the 6-month Hurdle is calculated as the $(\text{number of days in the period})/365 \times 8\%$);
- the Fund return for that calculation period for that class of Units will be calculated as a percentage;
- the **Net Percentage Outperformance** for that class of Units will be equal to the Fund return (as a percentage) less the Hurdle (as a percentage);
- the **Period Performance Fee Percentage** will remain 10% of the Net Percentage Outperformance (this number can be positive or negative);
- the **Net Period Performance Fee Percentage** will be calculated by subtracting any Prior Period Deficit from the Period Performance Fee Percentage;
- where the Net Period Performance Fee Percentage is positive, it will be applied to the average funds under management² (being a dollar amount) for that class of Units for that 6-month period to give the Performance Fee (if any) for that class of Units (in dollars); and
- where the Net Period Performance Fee Percentage is negative, that percentage will be the following period’s Prior Period Deficit.

² Average funds under management will be calculated using daily funds under management following the Delisting and issue of the new PDS. Currently the average is calculated using month-end funds under management.

1.5. Application of the Performance Fee Deficit to Existing Units

As at 31 March 2024 there was a Prior Period Deficit of \$4,104,951, or 2.54% of funds under management.

It is proposed that, after the Fund is Delisted, the Prior Period Deficit up to the date that the Units are removed from the Official List of the ASX (**Delisting Date**) will be calculated at the Delisting Date and will apply only to the Existing Units (or new Units of the same class as the Existing Units). Existing Unitholders will be notified of the Prior Period Deficit as at the Delisting Date (expressed as a percentage of funds under management as at the Delisting Date) in due course. This Prior Period Deficit at the Delisting Date will be used in calculating the Net Percentage Outperformance after Delisting.

Performance Fees calculated for new classes of Units issued after the Delisting Date will not take into account the Prior Period Deficit calculated at the Delisting Date.

1.6. Example Performance Fee Calculation

Item	Calculation Method	6-month Periods			
		1 st	2 nd	3 rd	4 th
Hurdle³	(number of days in the period)/365 x 8%	4.00%	4.00%	4.00%	4.00%
Fund return	% change in unit price over the six-month period	8.00%	-2.00%	6.00%	9.00%
Net Percentage Outperformance (%)	Hurdle – Fund return	4.00%	-6.00%	2.00%	5.00%
Period Performance Fee Percentage	10% of Net Percentage Outperformance	0.40%	-0.60%	0.20%	0.50%
Prior Period Deficit	Prior Period Deficit from previous period	0.00% ⁴	0.00%	-0.60%	-0.40%
Net Period Performance Fee Percentage	Period Performance Fee Percentage + Prior Period Deficit	0.40%	-0.60%	-0.40%	0.10%
Average FUM (\$m)	Daily average of FUM	150	140	160	160
Performance Fee payable (\$m)	Net Period Performance Fee Percentage x Average FUM	0.6	0.0	0.0	0.16

The above table demonstrates how the Performance Fee will be calculated if the Fund is Delisted. It is an example only. It is not a representation of likely future performance. The actual Performance Fee will depend on the performance of the Fund and may vary from this example.

³ Assumes a period of 6 months.

⁴ This table assumes no past underperformance.

1.7. Recoverable Expenses Cap

The Fund is responsible for all fees and expenses associated with its operations, including custody, administration and Responsible Entity fees. Historically, the ordinary expenses that have been paid by the Fund have been capped at 0.1% per annum of the Fund's net asset value (**Recoverable Expenses Cap**). Ordinary expenses incurred above the Recoverable Expenses Cap have been incurred by the Manager (these have been deducted from the management fees payable to the Manager).

If the Delisting occurs, the Responsible Entity has agreed to increase the Recoverable Expenses Cap to 0.2% per annum of the Fund's net asset value. The Fund's ordinary expenses have been more than the Recoverable Expenses Cap since the Fund's ASX listing in 2016. Whilst operating costs are expected to be lower once the Fund is delisted from the ASX, the Responsible Entity expects that, at its current size, the Fund's operating costs would still be between 0.15% and 0.20% per annum of the Fund's net asset value as an open-ended, unlisted unit trust.

The increase to the Recoverable Expenses Cap will enable the Manager to be paid the full Management Fee at the Fund's current size whilst providing Unitholders with a cap should:

- the ordinary expenses be higher than expected; or
- the Fund's net asset value decrease to a size where the ordinary expenses exceed the Recoverable Expenses Cap.

2. RESOLUTIONS

2.1. Overview

As announced on 5 April 2024, the Fund has obtained in principle advice from ASX regarding the removal of the Fund from the Official List of the ASX, pursuant to ASX Listing Rule 17.11 (**Delisting**). Subsequent to this announcement, the Fund applied for (and received) confirmation from the ASX that it has formalised its in principle confirmation for the Delisting.

The Fund now seeks approval from Unitholders for the Delisting.

In its formal approval ASX has advised that it agrees to the removal of the Fund from the Official List, on a date to be determined by ASX in consultation with the Fund, subject to compliance with the following conditions:

- (a) The request for removal of the Fund from the Official List of the ASX is approved by a special resolution of Unitholders of the Fund;
- (b) The Notice seeking Unitholder approval for the Fund's removal from the Official List of the ASX must include the following information, in form and substance satisfactory to ASX:
 - (i) a timetable of key dates, including the time and date at which the Fund will be removed from the Official List of the ASX if that approval is given;
 - (ii) a statement to the effect that the removal will take place no earlier than one month after approval is granted;

- (iii) a statement to the effect that if Unitholders wish to sell their securities on ASX, they will need to do so before the entity is removed from the Official List of the ASX; and if they don't, details of the processes that will exist after the Fund is removed from the Official List of the ASX to allow a Unitholder to dispose of their holding and how they can access those processes; and
 - (iv) the information prescribed in section 2.11 of ASX Guidance Note 33;
- (c) the Fund releases the full terms of this decision to the market upon making a formal application to ASX to remove the Fund from the Official List of the ASX,
- (together, the **Delisting Conditions**).

In accordance with the Delisting Conditions:

- Resolution 1 seeks Unitholder approval via a special resolution for the Delisting;
- the Explanatory Memorandum includes the statements that indicate compliance with the conditions of ASX's approval of the Delisting; and
- the Fund has released the full terms of ASX's confirmation of its in-principle advice in in this Explanatory Memorandum and Notice of Meeting.

Resolution 2 seeks Unitholder approval via a special resolution for amendments to the Constitution. Per Section 2.4, Resolutions 1 and 2 are inter-conditional and as such, neither Resolution will take effect unless both Resolutions are passed by the requisite majority.

If both Resolutions are passed, the Delisting will proceed even if some Unitholders have not voted in favour of it or if some Unitholders have not cast a vote.

Both Resolution 1 and 2 require 75% or more of votes cast by Unitholders (entitled to vote and present at the Meeting in person or by proxy) that vote in favour or "For" the Resolution.

2.2. Approvals needed for the Delisting

The Delisting is conditional on satisfying the Delisting Conditions. Details of ASX's Delisting Conditions attaching to the formal approval are described in Section 2.1 above. The Delisting Conditions include that the Delisting is approved by special resolution of Unitholders.

2.3. Board Recommendation and voting exclusions

Board Recommendation and Proxy Votes

The Board unanimously recommends that Unitholders vote in favour of Resolutions 1 and 2.

The Chairperson intends to vote all available proxies "FOR" Resolutions 1 and 2.

Voting exclusions

As set out in the Notice, a voting exclusion applies to both Resolutions by virtue of section 253E of the Corporations Act. This section provides that the Responsible Entity and its associates are not

entitled to vote their interest on a resolution at a meeting of the Unitholders if they have an interest in the resolution or matter other than as a member.

2.4. Inter-conditional Resolutions

Resolutions 1 and 2 are conditional on each other. If either one of the Resolutions fails to pass, votes cast in favour or against the other Resolution will be disregarded as if the Resolution had not been put to Unitholders at all.

3. RATIONALE AND ADVANTAGES AND DISADVANTAGES OF DELISTING

3.1. Key reasons for seeking approval of a Delisting

The Board considers the Delisting is in the best interests of Unitholders of the Fund for several reasons, including low levels of trading liquidity and Fund Units consistently trading below net asset value per Unit.

The key reasons for seeking to be removed from the Official List are therefore:

- (a) **Limited liquidity:** Trading in Units is limited in frequency and volume. In the six months prior to the Responsible Entity announcing its intention to pursue a Delisting (on 12 October 2023), the average daily traded volume of the Fund's Units on the ASX was 37,186 Units with an average daily value of approximately AUD\$46,057. This represents an average daily traded volume of 0.037% of the total issued units of 99,851,310 on 12 October 2023. Therefore, Unitholders are experiencing extremely limited liquidity despite the Fund's ASX listing; and
- (b) **Units consistently trading below net asset value:** The Units have been consistently trading at a significant discount to the Fund's net asset value. In the six months prior to the Responsible Entity announcing its intention to pursue a Delisting, the Units were trading at an average discount of more than 14% to NAV.

3.2. Potential advantages of Delisting

The benefits for the Fund and its Unitholders of the Fund being removed from the Official List will include the following:

- (a) **Increased opportunities for new and existing Unitholders:** Selling volumes of the Fund on market have been irregular and this has made it difficult for new investors to gain exposure to the Fund and for existing Unitholders wanting to increase their investment in the Fund. The open-ended, unlisted unit trust structure would allow new and existing Unitholders the ability to access the desired volume of investment;
- (b) **Improved ability to realise investment around NAV:** As set out in Section 3.1, Units have traded at an average discount to NAV of more than 14%. Under the open-ended, unlisted unit trust structure, Unitholders would be able to access liquidity at NAV less the Sell Spread, and less the proposed Transition Fee for a period of 6 months after Delisting, on a daily basis. Unitholders looking for liquidity should receive a higher price for their Units than if they were to sell on market at the current trading discount;
- (c) **Better focused management time and effort:** A portion of the Fund's management time is presently dedicated to matters relating to compliance directly associated with the Fund's

ASX listing. If the Fund proceeds with the Delisting, management's time may be more appropriately spent on matters for the benefit of the Fund and its Unitholders;

- (d) **Potential for scale benefits from an increased Fund size:** Shifting the Fund from a fixed pool of capital to an open-ended unlisted unit trust structure provides the ability for the Fund to grow. This may help the Fund to achieve greater scale and lower operating expenses per Unit. However, net capital inflows to the Fund cannot be guaranteed; and
- (e) **Reinstatement of distribution reinvestment plan:** The Fund's distribution reinvestment plan (**DRP**) was a popular feature for investors wishing to compound their investment over long periods of time. Due to the sustained discount to NAV, the DRP has been suspended since 20 December 2023. The Fund's return to an open-ended, unlisted unit trust structure will likely enable reinstatement of the DRP.

3.3. Potential disadvantages of the Delisting

The consequences for the Fund and its Unitholders of the Fund being removed from the Official List will include the following:

- (a) **Unable to trade Units on the ASX:** Units will no longer be publicly quoted or traded on the ASX. Unitholders will no longer be able to buy Units at a discount to NAV and Unitholders may not be able to buy new Units with the same entitlements as Existing Units, particularly with regards to the Prior Period Deficit (see Section 1.4);
- (b) **Limited means to raise capital:** The Fund will no longer be able to raise capital on the ASX;
- (c) **Additional registry administration and compliance requirements for Unitholders:** The process for investing in and withdrawing capital from an open-ended, unlisted unit trust, as compared with holding an ASX-listed investment, will involve additional registry administration and compliance requirements. For example, the Responsible Entity will require non-exempt, existing Unitholders and all future new Unitholders to complete a Transaction Identification Form before they can acquire Units (including through a distribution reinvestment plan) in order to satisfy AML/CTF legislation, and the same Transaction Identification Form may also be necessary to redeem Units in order to satisfy AML/CTF legislation as outlined in Section 3.5. Currently, the above requirements may not apply to investors holding, buying, and selling Units on the ASX either on market or via their broker as they should have already completed these requirements directly with their broker;
- (d) **Listing Rules to no longer apply:** If the Fund is delisted, the ASX Listing Rules will no longer apply. However, the Fund will be an "unlisted disclosing entity" for the purposes of the Corporations Act. This means that there will be an ongoing requirement for the Fund to give continuous disclosure of material matters under section 675 of the Corporations Act. The Fund's financial statements will be required to be reviewed by an auditor in accordance with the requirements of the Corporations Act;
- (e) **Settlement Time:** Currently the Fund is traded on the ASX, which has settlement timing of T+2. If the Delisting is successful, the application and redemption cycle will be daily and it is expected that the Responsible Entity will pay redemption requests within approximately 5 Business Days following acceptance of such request. In certain circumstances as permitted under the Constitution, redemptions may take longer e.g. up to 10 Business Days, or be suspended.

- (f) **Liquidity:** Currently the Fund is traded on the ASX with liquidity provided from the matching of buyers and sellers on price and volume on market. If the Fund is transitioned to an open-ended, unlisted unit trust, offering investors with daily liquidity creates a risk that the Fund may face large redemptions which may mean the Fund has insufficient scale to meet its objective and deliver the scale benefits outlined above. The Responsible Entity plans to mitigate this risk through the Transition Fee and its right to suspend redemptions under the Constitution.
- (g) **Portfolio Management challenges which can impact Fund performance:** From a portfolio management perspective, there are more challenges in managing a fund where the size of the Fund can change on a daily basis i.e. capital inflows and redemptions. Where there is significant additional capital added to the Fund this can potentially dilute the returns while the capital is deployed. Significant redemptions can also require assets to be sold at inopportune times or force the Manager to operate the Fund with more cash than would otherwise be optimal. The Responsible Entity notes that the Manager has significant experience in managing open-ended funds and that the Fund has a diverse investor base of more than 1,810 investors as at 31 March 2024. The Fund's largest investor represented 2.97% of Fund assets at 31 March 2024 and only 2 investors individually own more than 2% of the Fund's units, which mitigates the risk of significant redemptions in a short period of time.
- (h) **Increase in Unitholders' share of operating costs:** The Fund currently incurs expenses in relation to its ASX listing that will no longer be incurred, including ASX listing fees. As part of the Delisting Proposal, however, the Responsible Entity and Manager have agreed to increase the Recoverable Expenses Cap from 0.1% to 0.2% per annum of the Fund's net asset value. Whilst operating costs are expected to be lower once the Fund is Delisted from the ASX, the Responsible Entity expects that, at the Fund's current size, the total ordinary expenses are still expected to be in excess of 0.1% per annum of the Fund's net asset value after Delisting. See Section 1.7 for more details.

3.4. Tax Considerations

The following information assumes that you hold your investment in the Fund on capital account and are not considered to be carrying on a business of investing, trading in investments or investing for the purpose of profit making by sale. The information should be used as a guide only and does not constitute professional tax advice as individual circumstances may differ. Accordingly, it is recommended that Unitholders seek their own professional advice, specific to their own circumstances, of the taxation implications of investing in or continuing to invest in the Fund. This summary is based on the Australian taxation laws in effect as at the date of this Explanatory Memorandum.

The Fund is an Australian resident trust estate for Australian tax purposes, and has elected into the Attribution Managed Investment Trust (**AMIT**) regime. The Fund is expected to continue to be eligible as an AMIT if the Delisting is approved by unitholders, and it is not considered to be a public trading trust. Therefore, the Fund is required to determine the amount of assessable income, exempt income, non-assessable non-exempt income, and tax offsets (i.e. tax credits) of the Fund for each year of income.

On the basis that these amounts will be attributed to Unitholders on a "fair and reasonable basis" the Fund should be treated as a flow-through trust and should not be subject to Australian income tax. Further details are set out in the Taxation section of the PDS for the Fund. On the basis that the Fund is not changing its legal status, structure or the profile of its underlying investments, the

characterisation of the Fund as a “flow through” entity for Australian income tax purposes should not be impacted by the Delisting.

If the Delisting is approved, Unitholders will continue to hold the same Units in the Fund. However, if a sale or redemption of Units occurs, this will constitute a disposal for Capital Gains Tax (**CGT**) purposes and may result in a capital gain or capital loss for a Unitholder. A capital gain will arise to the Unitholder where the capital proceeds received from the sale or redemption of the units are greater than the cost base for CGT purposes. A capital loss will arise if the capital proceeds on sale or redemption are less than the reduced cost base of the units for CGT purposes.

After the Delisting, where a Unitholder redeems their Units in the Fund, some of the assessable income of the Fund for the year may be attributed to the redeeming Unitholder.

Unitholders should seek advice from their own professional taxation adviser regarding the Australian tax consequences of selling or holding Units, having regard to their particular circumstances.

3.5. Replacement identification information required – anti-money laundering laws

Once the Fund is delisted, the Responsible Entity will be required amongst other things, to verify Unitholders’ identity. In order to do so, the Responsible Entity and the Registry will require the necessary information under the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (**AML/CTF**) to be collected and verified relating to the Unitholders.

The Registry, on behalf of the Responsible Entity, will contact the Unitholder after the Meeting and request them to complete an online Transition Identification Form using the communication preferences nominated and held with the Registry. The type of information required by the Registry in the form depends on the Unitholder’s entity type (individual, trust, company etc). We do not expect that Unitholders who are already invested in the Forager International Shares Fund under the same name will be required to complete this form. Indirect investors who have invested via an IDPS should confirm their platform provider requirements for completion of the Transition Identification Form. Unitholders will be required to provide the information to the Registry online using a unique electronic link provided by the Registry. If required, a paper copy can also be requested from the Registry.

If a Unitholder does not provide the information and documentation necessary to verify their identity it will impact their ability to apply for Units. Specifically, the Responsible Entity will not be able to issue any new Units in the Fund (including through a distribution reinvestment plan) to that Unitholder. In order to comply with applicable AML/CTF requirements, the same information and documentation may be necessary to accept a redemption request from a Unitholder.

Unitholders are still entitled to the units they own in the Fund but after Delisting, the AML/CTF information must be provided in order to apply for more Units, including via a distribution reinvestment plan, or redeem existing Units.

If Unitholders do not wish to provide the required information and documents, they can seek to sell their Units on the ASX up until the last day of trading on the ASX.

3.6. On-market sale prior to Delisting

Unitholders will be able to trade their units on the ASX until the Suspension Date prior to the Delisting. Below is an extract of the Fund’s top 20 Unitholders and a distribution schedule as at 31 March 2024:

Top 20 Unitholders

Position	Unitholder Name	Holding	%IC
1	TRANSFIELD FINANCE PTY LTD	2,965,051	2.97%
2	BRAZIL FARMING PTY LTD	2,098,513	2.10%
3	BNP PARIBAS NOMINEES PTY LTD <IB AU NOMS RETAILCLIENT>	1,832,097	1.83%
4	CATRETA PTY LTD	1,575,319	1.58%
5	MR AARON SHELLEY & MRS TENNILLE SHELLEY <SHELLEY SUPER A/C>	1,384,519	1.39%
6	JELLY PTY LTD <MCLEOD SUPER FUND>	1,324,703	1.33%
7	SMALES TURNBULL SUPER FUND PTY LTD <SMALES TURNBULL SUPER FUND A/C>	1,280,747	1.28%
8	BIG MAX INDUSTRIES PTY LTD	1,229,428	1.23%
9	ONEILCO PTY LTD <O'NEIL FAMILY SUPER A/C>	1,140,000	1.14%
10	SUPER SUPER NO 1 PTY LTD <A&H FIELDING PL STF S/F A/C>	1,100,000	1.10%
11	PLATINUM MANAGEMENT GROUP PTY LTD <DIAMOND ASSOCIATES A/C>	1,044,561	1.05%
12	SENEFELDER SERVICES PTY LTD <SENEFELDER SUPER FUND A/C>	1,026,106	1.03%
13	JELLY PTY LTD <CHALE TRUST>	1,021,287	1.02%
14	MR JOHN MICHAEL WOODHEAD & MRS TUTZ WOODHEAD <JT WOODHEAD SUPER FUND A/C>	994,830	1.00%
15	MR GAVIN GERARD DOUGLAS & MRS SALLY MAREE DOUGLAS <DOUGLAS FAMILY S/FUND A/C>	980,000	0.98%
16	TROBER NO 57 PTY LTD <KEVANS SUPER FUND A/C>	900,752	0.90%
17	BNPP NOMS PTY LTD HUB24 CUSTODIAL SERV LTD	835,848	0.84%
18	NETWEALTH INVESTMENTS LIMITED <WRAP SERVICES A/C>	810,088	0.81%
19	MR SCOTT PLUNKETT	791,545	0.79%
20	RADELL PTY LIMITED < THE MACKAY FAMILY SUPER A/C>	760,632	0.76%
TOTALS		25,065,052	25.13%
Total Issued Capital		99,851,310	100.00%

Source: Automic Registry Issuer Reports

Distribution Schedule

Holding Ranges	Holders	Total Units	% Issued Capital
above 0 up to and including 1,000	160	68,039	0.07%
above 1,000 up to and including 5,000	254	737,165	0.74%
above 5,000 up to and including 10,000	226	1,722,072	1.72%
above 10,000 up to and including 100,000	983	35,510,886	35.56%
above 100,000	193	61,813,148	61.91%
Totals	1,816	99,851,310	100.00%

Source: Automic Registry Issuer Reports

3.7. Trading after Delisting

Unitholders will be able to sell their Units, or buy additional Units, in off-market private transactions, subject to the Australian laws and the Constitution. In addition, as the Fund will then be "open-ended", Unitholders will be able to request redemption of their Units on a daily basis. The redemption rights are disclosed in Section 4.4(c) and will be set out further in the new PDS that the Responsible Entity will issue after Delisting.

3.8. Effects of the Delisting

If Unitholders approve the Resolutions, the Fund will be removed from the Official List of the ASX on the Delisting Date, which is expected to be on or around 14 June 2024. The Delisting Date will be no earlier than one month after that such date Unitholder approval is obtained.

The Fund plans to conduct its business as per usual after the Delisting and the Fund is continually evaluating potential business opportunities. The Fund has no major business plans to date that have not been previously disclosed to the market.

3.9. Remedies available to Unitholders

If a Unitholder considers the removal of the Fund from the Official List of the ASX to be contrary to the interests of Unitholders as a whole or oppressive to, unfairly prejudicial to, or unfairly discriminatory against a Unitholder or group of Unitholders, or that it involves 'unacceptable circumstances', it can commence an action under the Corporations Act against the Fund.

Unitholders are encouraged to contact their respective legal representatives for further information. This does not constitute legal advice and is provided to assist Unitholders to decide how to vote only.

3.10. What happens if the Resolutions are not passed?

As outlined in Section 2.4, both Resolutions must be passed in order for either of the Resolutions to be effective.

If either of the Resolutions are not passed, unless a subsequent proposed delisting is approved by Unitholders or ASX determines that the Fund's securities should no longer be listed, the Units will remain listed on the ASX.

4. OPERATION OF THE FUND AFTER DELISTING

4.1. Open-ended, unlisted unit trust

- (a) Following the Delisting, the Fund will remain as a registered managed investment scheme and structured as an open-ended unlisted unit trust. It will not be listed on any security exchange.
- (b) Currently, each Unitholder's money is pooled together with other Unitholders' money, and the Manager invests that money and manages the assets of the Fund on behalf of all scheme members in accordance with the Fund's investment strategy. This will not change following Delisting. The tables below provide an overview of the key features of an investment in the Fund, and how some of the Fund's features will differ after Delisting.

4.2. Key terms

Fund Structure	Open-ended, unlisted unit trust.
Applications	<p>The Net Asset Value of the Fund will be priced daily (on each Business Day). A correctly completed application for Units in the Fund (including relevant supporting documents and application monies in cleared funds) received before 12:00pm (Sydney time) on any Business Day will generally be processed on the same day using the Unit price effective for that day. Otherwise, the application will be processed on the next Business Day.</p> <p>Unitholders should note that there is no guarantee that new Units will be issued in the same class as Existing Units and have the same rights, particularly with regards to the Prior Period Deficit, as Existing Units.</p> <p>The Unit price will be the NAV per Unit adjusted for a Buy Spread, currently equal to +0.20%.</p>
Redemptions	<p>Redemption requests for Units in the Fund can be made on any Business Day. Correctly completed redemption requests received before 12.00 pm Sydney time on any Business Day will generally be processed on the same day using the Unit price effective for that day. Correctly completed redemption requests received after 12:00pm (Sydney time) will be processed on the next Business Day. The redemption price of a Unit in the Fund is based on the NAV divided by the number of Units on issue adjusted for the Sell Spread, currently equal to -0.20%.</p> <p>Redemption requests are generally confirmed and paid within 5 Business Days following acceptance of such requests. However, the Constitution allows the Responsible Entity to make payment up to 90 days after acceptance of a redemption request (which may be extended in certain circumstances). The Responsible Entity reserves the right to change these redemption timeframes for the Fund subject to the above extensions of time. Unitholders should note that if the Delisting proceeds as expected, the first</p>

	redemption cutoff date following the Delisting will be 12:00pm on 14 June 2024 with proceeds paid on or around 21 June 2024.
Unit pricing and valuation frequency	The NAV of the Fund will be calculated daily.
Liquidity	Redemptions will not be subject to a limit (or a 'gate') following the Delisting but Unitholders are minded that the Responsible Entity may decide to limit or freeze redemptions in accordance with clause 6.9 of the Constitution.
Transition Fee	For a transitional period of 6 months after the Fund is Delisted, a Transition Fee will be applied to redemptions accepted during this 6 month period.
Buy/Sell Spread	+0.20% / -0.20%. The Buy/Sell Spread is a reasonable estimate of the transaction costs that the Fund will incur when buying or selling assets of the Fund. The Buy/Sell Spread can be altered by the Responsible Entity at any time. The Buy/Sell Spread will be levied from the date of Delisting and will be in addition to the Transition Fee.
New applications	Minimum initial investment of \$20,000. The minimum initial investment amount does not apply to Unitholders who elect to participate in a monthly savings plan (minimum of \$1,000/month).
Additional investment	Minimum additional investment \$1,000.
Savings plan	Investors may elect to make regular contributions to the Fund by establishing a recurring BPAY arrangement with their bank. Contributions are subject to the minimum additional investment amount of \$1,000.
Minimum balance	The minimum balance for Unitholders is \$10,000. However, it is not the intention of the Responsible Entity to withdraw existing Unitholders with balances below \$10,000 following the Delisting. For the avoidance of doubt, the Responsible Entity retains its right to fully withdraw a Unitholder's investment in the Fund if it falls below the \$10,000 minimum investment balance following the Delisting. The minimum balance does not apply to Unitholders who elect to participate in a monthly savings plan.
Minimum redemption	Minimum redemption amount of \$10,000. Unitholders with a total balance of less than \$10,000 will need to withdraw the entire amount when they elect to make a redemption.

Distributions

Frequency	Semi-annually.
Target	4% per annum (net of fees, costs and taxes).
Distribution reinvestment	<p>Existing Unitholders should note that if the Delisting proceeds the Responsible Entity is likely to lift the suspension of the DRP which occurred on 20 December 2023.</p> <p>Existing Unitholders will be required to re-elect into the DRP following Delisting through the Registry investor portal (existing elections will not be carried over) or by completing the relevant change request form.</p> <p>After Delisting, new Unitholders may elect to reinvest distributions by nominating to do so in the application form.</p> <p>However, Unitholders will only be eligible to participate in the DRP once they have completed the Transition Identification Form (or are exempt from completing the form). In the absence of a completed Transition Identification Form on a distribution date, a Unitholder's DRP election will be automatically cancelled on that distribution date and they will continue to receive their distributions as a cash payment.</p>

4.3. Comparison of key metrics before and after implementation of the Delisting

- (a) The table below provides a comparison of key metrics before and after implementation of the Delisting Proposal.

Metric	Current	Proposed	Expected Delisting Proposal Impact
Liquidity	Liquidity is dependent on on-market volume and price.	Daily liquidity.	Investors may acquire Units in the Fund without concern for available liquidity. Investors may invest in the Fund based on the NAV (subject to Buy/Sell Spread), rather than at a discount or premium to NAV when the Fund was ASX-listed.
Pricing	Live market available through the ASX trading platform, therefore price is dependent on supply	<p>Pricing is NAV per Unit plus or minus Buy/Sell Spread of +0.20%/-0.20%.</p> <p>Pricing is also adjusted for the Transition Fee for an initial 6 month period after</p>	Following the 6 month period after Delisting, Unitholders are able to redeem their investment based on NAV per Unit adjusted for the Sell

	and demand for the Units.	Delisting in the case of redemptions accepted during this 6 month period.	Spread without a Transition Fee.
Valuation frequency	NAV calculated and published weekly by Administrator; estimate calculated and published daily by Manager.	NAV calculated and published daily by Administrator.	NAV more frequently published by Administrator.
Settlement	T+2 settlement.	The Responsible Entity will aim to process all correctly completed application and redemption requests received before 12:00pm (Sydney time) on any Business Day on the same day using the Unit price effective for that day, and update the register of Unitholders the following Business Day. Redemption requests will generally be paid within approximately 5 Business Days following acceptance of such request.	Correctly completed application and redemption requests may be entered on the Unitholder register one Business Day earlier (under normal circumstances) in comparison to when the Fund was ASX-listed. However, the payment of redemption proceeds could take approximately 3 Business Days (under normal circumstances) in comparison to when the Fund was ASX-listed.
Minimum trading value	No minimum trading value.	Minimum initial investment of \$20,000. Minimum additional investment of \$1,000. Minimum redemption amount of \$10,000. Minimum balance of \$10,000. (Minimum amounts subject to some exceptions outlined in Section 4.2.)	The minimum amount Unitholders will be able to invest and withdraw will increase.
Trading hours	Trading during ASX trading hours of 10:00am – 4:00pm AEST (other than non trading days).	The Responsible Entity will aim to process daily (other than non-Business Days) with a cut off time of 12.00pm (Sydney time).	Application and redemption windows will be reduced to daily (other than non-Business Days).
DRP	Currently suspended.	Likely to be reinstated, subject to AML/CTF compliance. DRP elections prior to Delisting are invalid, Unitholders must re-elect to	Suspension of the DRP likely to be lifted. Only those Unitholders who have completed the Transition Identification Form (or are exempt

		participate in the DRP post-Delisting.	from completing the form) are eligible to participate.
Savings Plan	Administered via monthly direct debit from Unitholder's bank account.	Unitholders must administer the monthly contribution by establishing a recurring BPAY from their bank account.	Direct debit of monthly contribution no longer available. Contributions to be made via recurring BPAY.
Investment Management Fees	1% per annum of the net asset value of the Fund.	1% per annum of the net asset value of the Fund.	No change.
Performance Fee Deficit	Where Fund performance is worse than the Hurdle Rate, the Prior Period Deficit (or "negative performance fees") is calculated in total dollars and carried forward to offset future Performance Fees.	Negative performance will be carried forward as a percentage rather than negative dollar amounts. If new classes of Units are issued by the Fund, the calculation of the performance fee will not take into account historical underperformance of the Existing Units.	The Performance Fee calculation in respect of Existing Units only will take into account the historical underperformance of the Fund and will not be diluted by the issuance of new Units or enhanced by the redemption of Existing Units.
Costs and Expenses	The Fund pays for all costs and expenses of its operations. Recoverable expenses are currently capped at 0.1% per annum of the Fund's net asset value. Ordinary expenses incurred above the Recoverable Expenses Cap have been incurred by the Manager (these have been deducted from the management fees payable to the Manager).	The Fund pays for all costs and expenses of its operations up to the expense cap. Recoverable expenses will be capped at 0.2% per annum of the Fund's net asset value.	Whilst operating costs are expected to be lower once the Fund Delists from the ASX, the Responsible Entity expects that, at the Fund's current size, the total ordinary expenses are still expected to be in excess of 0.1% per annum of the Fund's net asset value. As a result of the increased cap on recoverable expenses, the Responsible Entity will expect a greater portion of ordinary expenses incurred by the Fund to be reflected in the Unit price. If the Fund FUM increases however, ordinary expenses as a percentage of the Unit price will be expected to

			decrease from prevailing levels.
Reporting	The Fund is subject to the ASX Listing Rules on Continuous Disclosure and Periodic Reporting.	The Fund will continue to be a "disclosing entity", subject to the continuous disclosure regime, under the Corporations Act. As a "disclosing entity", the Funds will be subject to regular reporting and disclosure obligations.	The Fund will no longer be subject to the ASX Listing Rules. However, the Corporations Act continuous disclosure regime will continue to apply. All disclosures relating to the Fund will be available via the Registry investor portal and the Manager's website.

4.4. Applications & redemptions

(a) Investments

Unitholders can acquire Units by completing the application form and paying the application money. The minimum initial investment in the Fund is \$10,000. The Responsible Entity is not bound to accept any application.

Unitholders can make additional investments at any time. The minimum additional investment amount is \$1,000. Forms will be available from the Registry. Completed forms should be sent to the Registry along with payment as per the instructions on the particular form. DRP investments are not subject to the minimum.

(b) Unit prices

The price of Units will vary as the market value of the assets in the Fund rises or falls. Unit prices are generally determined daily (on Business Days) based on the NAV of the Fund, divided by the number of Units on issue in accordance with the Constitution. The Constitution allows Unit prices to include an allowance for transaction costs (**Buy/Sell Spread**). In the case of an application price, the price is increased by an allowance for the estimated costs of the purchase of assets in the Fund (the Buy Spread). In the case of a redemption price, the price is reduced by an allowance for the estimated cost of the sale of assets in the Fund (the Sell Spread). For an initial transition period of 6 months following the Delisting, the redemption price will also be adjusted to include the Transition Fee.

(c) How to redeem

Unitholders may ask to withdraw part or all of their investment in the Fund at any time, subject to the minimum investment balance (\$10,000) and minimum redemption amount (\$10,000). Redemption requests are normally processed each Business Day. Redemption requests must be submitted before 12.00pm (Sydney time) on a Business Day to be considered for processing on that day.

Redemption proceeds are generally confirmed and paid within 5 Business Days of acceptance but may take longer in some circumstances (for example, up to 10 Business Days if withdrawals are processed

close to 30 June). However, the Constitution allows the Responsible Entity to make payment up to 90 days after acceptance of a redemption request (which may be extended in certain circumstances).⁵

To withdraw, in part or in full, Unitholders will need to complete a redemption form which is available on the Registry's website and follow the instructions in the redemption form.

The Responsible Entity retains the right to fully withdraw a Unitholder's investment in the Fund if it falls below the \$10,000 minimum investment balance. If the Fund becomes illiquid, Unitholders may not be able to withdraw their funds within the usual period upon request. The above redemption processes apply to Unitholders invested directly in the Fund. Indirect investors invested through an IDPS should refer to their IDPS operator's disclosure documents for redemption processes.

4.5. Product disclosure statement

Should the Resolutions be passed, and the Fund Delists, a new PDS will be issued. This PDS will make a new offer to subscribe for Units, provide information on the operation of the Fund as an open-ended, unlisted unit trust and information for determining whether it is an appropriate investment option for investors.

5. ADDITIONAL INFORMATION

5.1. No other additional information

Other than as set out in this Explanatory Memorandum, there is no other additional information that is known to the Directors that may reasonably be expected to be material to the making of a decision by Unitholders whether or not to vote in favour of the Resolutions.

⁵ Section 6.8 and 6.9 of the Constitution.

6. GLOSSARY

The following terms used in this Explanatory Memorandum have the meanings given to them below, unless the context otherwise requires.

Administrator	means the Fund’s administrator from time to time, being Apex Fund Services Pty Ltd as at the date of the Notice.
AMIT	means Attribution Managed Investment Trust.
AML/CTF	means the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth) and <i>Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007</i> (No. 1).
ASX	means Australian Securities Exchange Limited (ACN 000 943 377) and the securities exchange operated by it.
Board	means the board of directors of the Responsible Entity.
Business Day	means a day other than a Saturday or a Sunday on which banks are open for general business in Sydney, New South Wales.
Buy Spread	means the buy spread of 0.2% to cover transaction costs of the Fund.
Buy/Sell Spread	means the buy/sell spread of +0.20%/-0.20% to allow for transaction costs.
CGT	means Capital Gains Tax.
Corporations Act	means <i>Corporations Act 2001</i> (Cth).
Constitution	means the constitution of the Fund.
Delisting	means the de-listing of the Units from ASX and Delist and Delisted have corresponding meanings.
Delisting Conditions	are defined in Section 2.1 of the Explanatory Memorandum.
Delisting Date	means the date that the Units are removed from official quotation on ASX.
Delisting Proposal	means the proposal to Delist and transition the Fund from a listed managed investment trust to an open-ended, unlisted unit trust.
DRP	means the Fund’s distribution reinvestment plan.
Existing Units	means the Units on issue on the Delisting Date.
Explanatory Memorandum	means the explanatory memorandum for the Meeting.

Fund	means Forager Australian Shares Fund (ARSN 139 641 491) (ASX: FOR).
Hurdle	means the hurdle rate of 8% per annum, as set out in Section 1.3 of the Explanatory Memorandum.
IDPS	means an investor directed portfolio service.
Listing Rules	means the listing rules set by the ASX.
LIT	means listed investment trust.
Manager	means Forager Funds Management Pty Ltd (ACN 138 351 345).
Meeting	means the meeting of the Unitholders to consider the Resolutions.
NAV	means net asset value.
Net Percentage Outperformance	is defined in Section 1.4 of the Explanatory Memorandum.
Net Period Performance Fee Percentage	is defined in Section 1.4 of the Explanatory Memorandum.
Notice	means this notice of meeting issued by the responsible entity of the Fund for the Meeting included in Appendix 1.
Official List	means the official list of entities that ASX has admitted and not removed.
PDS	means the Fund's new product disclosure statement, which will be issued if the Delisting Proposal is approved.
Performance Fee	means the performance fee with respect to the Fund, as set out in Section 1.4 of the Explanatory Memorandum.
Period Performance Fee Percentage	is defined in Section 1.4 of the Explanatory Memorandum.
Prior Period Deficit	has the meaning given to that term in the Constitution, set out in Section 1.4 of the Explanatory Memorandum.
Proxy Form	means the proxy form accompanying the Notice.
Recoverable Expenses Cap	means the cap on the expenses for which the Manager is able to be reimbursed, which is currently set at 0.1% per annum of the Fund's net asset value, and will increase to 0.2% per annum if the Resolutions are passed.
Registry	means the Fund's registry from time to time, being Automic Pty Limited as at the date of the Notice.

Resolutions	means the resolutions set out in the Notice and Resolution means either one of them.
Responsible Entity	means The Trust Company (RE Services) Limited (ACN 003 278 831, AFSL 235150).
Sell Spread	means the sell spread of 0.2% to cover transaction costs of the Fund.
Suspension Date	means the date on which the Units are suspended from trading on the ASX.
Transition Fee	means the transition fee that will be applicable to certain redemptions following the Delisting as set out in Section 1.2 of the Explanatory Memorandum.
Transition Identification Form	means the form of that name that the Responsible Entity or Registry will provide to Unitholders shortly after the Meeting if the Resolutions passed.
Units	mean fully paid ordinary units in the capital of the Fund and Unit means any one of them.
Unitholder	means a registered holder of a Unit.

APPENDIX 1 - NOTICE OF MEETING

Notice is given by The Trust Company (RE Services) Limited (ACN 003 278 831, AFSL 235150) (**Responsible Entity**) in its capacity as responsible entity of Forager Australian Shares Fund (ARSN 139 641 491) (ASX: FOR) (**Fund**) that a meeting of the Unitholders of the Fund will be held **in person** at **4pm** (Sydney time) on **13 May 2024** at **Brookfield Place, Level 11 (Reception) 10 Carrington Street Sydney NSW 2000 (Meeting)**.

Unitholders can vote by proxy or in person.

The Explanatory Memorandum provides additional information on matters to be considered at the Meeting by the Fund's unitholders (**Unitholders**). The Explanatory Memorandum and the Proxy Form form part of this notice of meeting (**Notice**).

The Notice is dated 5 April 2024.

Important Information

This is an important document that should be read in its entirety.

This Notice is attached to an Explanatory Memorandum. The Explanatory Memorandum has been prepared to assist Unitholders in determining whether or not to vote in favour of the Resolutions set out in this Notice. This Notice and Explanatory Memorandum have been prepared without taking into account your particular investment objectives, financial situation and particular needs. You should assess whether the information contained in this Notice and Explanatory Memorandum is appropriate with respect to your own circumstances before making a decision to vote.

The Explanatory Memorandum should be read in conjunction with this Notice.

BUSINESS

The business of the meeting is to consider, and if thought fit to pass the following proposed resolutions (**Resolutions**):

Resolution 1: Delisting of the Fund

Conditional on Resolution 2 being passed by Unitholders by way of special resolution, to consider and, if thought fit, to pass the following resolution as a **special resolution**:

"That, conditional on Resolution 2 being passed, for the purposes of Listing Rule 17.11, and for all other purposes, Unitholders approve the Fund's removal from the Official List of the ASX on a date to be decided by ASX (being a date no earlier than one month after the date this resolution is passed), and that the directors of the Responsible Entity be authorised to do all things reasonably necessary to give effect to the delisting of the Fund from the ASX."

Resolution 1 is a special resolution. This means that Resolution 1 will be passed if more than 75% of the votes cast by Unitholders of the Fund entitled to vote on Resolution 1 and present at the Meeting (either in person or by proxy) are cast in favour of Resolution 1.

Resolution 2: Amendments to the Constitution

Conditional on Resolution 1 being passed by Unitholders by way of special resolution, to consider and, if thought fit, to pass the following resolution as a **special resolution**:

*"That, conditional on Resolution 1 being passed and for all other purposes, Unitholders approve that the constitution of the Forager Australian Shares Fund (**Constitution**) be amended as follows:*

(a) Inserting a new definition of 'Transition Fee' in clause 26.1 of the Constitution as follows:

Transition Fee means the following percentages applied to the net asset value per unit on the redemption dates:

Time since the Units cease to be officially quoted on ASX	Transition Fee applied
<i>Less than 1 month</i>	<i>6%</i>
<i>More than or equal to 1 month and less than 2 months</i>	<i>5%</i>
<i>More than or equal to 2 months and less than 3 months</i>	<i>4%</i>
<i>More than or equal to 3 months and less than 4 months</i>	<i>3%</i>
<i>More than or equal to 4 months and less than 5 months</i>	<i>2%</i>
<i>More than or equal to 5 months and less than 6 months</i>	<i>1%</i>
<i>More than or equal to 6 months</i>	<i>0%</i>

(b) *Inserting new subclauses in clause 15 as follows:*

"Transition Fee

15.12 *If at any time the units cease to be officially quoted, investors must pay the manager the applicable Transition Fee in respect of each unit the investor redeems at any point during the 6 months from which the units cease to be officially quoted and the investors agree that the applicable Transition Fee is deducted from the redemption proceeds.*

15.13 *The manager is not entitled to retain the Transition Fee, but rather, the Transition Fee becomes and on receipt forms and will be part of the assets of the trust and retained for the benefit of the existing investors."*

(c) *Deletion of clause 15.3 and Schedule 1 of the Constitution in respect of the Performance Fee;*

(d) *Making any consequential amendments to clause numberings as a result of the above constitutional amendments in (a) - (c).*

A copy of the Constitution, with the proposed amendments marked up, is annexed to this Notice. For the avoidance of doubt, Resolution 1 and Resolution 2 are inter-conditional, meaning that neither Resolution 1 nor Resolution 2 will take effect unless both Resolutions are passed.

VOTING INFORMATION

Voting On the Resolutions

The proposed resolutions will be decided on a poll at the Meeting. The Resolutions can only be passed if at least 75% of the votes cast by Unitholders entitled to vote either in-person or by proxy are in favour of each Resolution.

On a poll, each Unitholder has one vote for each of their Units in the Fund. You need not exercise all of your votes in the same way, nor need you cast all of your votes.

Voting results on the Resolutions that are put to the Meeting (including the relevant proxy votes) will be announced to ASX as soon as practicable after the Meeting.

Voting Exclusions

The Responsible Entity will disregard any votes cast by a person who is not entitled to vote because of section 253E of the Corporations Act. This section provides that the Responsible Entity and its associates are not entitled to vote their interest on a resolution at a meeting of the Unitholders if they have an interest in the resolution or matter other than as a member.

However, this does not apply to a vote cast in favour of a resolution by:

- (a) a person as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with directions given to the proxy or attorney to vote on the resolution as the Chairperson decides; or

- (b) the Chairperson of the Meeting as proxy or attorney for a person who is entitled to vote on the resolution, in accordance with a direction given to the Chairperson to vote on the resolution as the Chairperson decides; or
- (c) a holder acting solely in a nominee, trustee, custodial or other fiduciary capacity on behalf of a beneficiary provided the following conditions are met:
 - a. the beneficiary provides written confirmation to the holder that the beneficiary is not excluded from voting, and is not an associate of a person excluded from voting on the resolution; and
 - b. the holder votes on the resolution in accordance with directions given by the beneficiary to the holder to vote in that way.

Entitlement to Vote

The Responsible entity has determined that for the purposes of the Meeting units in the Fund (**Units**) will be taken to be held by the persons who held them as registered holders at 4pm (Sydney time) on 11 May 2024.

Accordingly, Unit transfers registered after that time will be disregarded in determining entitlement to attend and vote at the Meeting.

If your Units in the Fund are jointly held, only one of the joint holders is entitled to vote. If more than one holder votes in respect of jointly held Units, only the vote of the person named first in the register of Unitholders counts.

How to exercise your right to vote

Unitholders entitled to vote at the Meeting may vote:

- by attending the Meeting and voting **in person**;
- by **appointing a proxy** to participate and vote on their behalf, using the Proxy Form accompanying this Notice. A proxy may be an individual or body corporate; and
- by **appointing an attorney** to participate in the Meeting and vote on their behalf or, in the case of corporate Unitholders or proxies, a **corporate representative** to participate at the Meeting and vote on its behalf.

Identification required

Unitholders or their proxies, attorneys or representatives (including representatives of corporate proxies) wishing to vote in person should attend the Meeting and bring a form of personal identification (such as their driver's licence).

Proxies and representatives

A Proxy Form is attached to this Notice. This is to be used by Unitholders if they wish to appoint a

representative to vote in their place. All Unitholders are invited to attend the Meeting or, if they are unable to attend, sign and return the Proxy Form in accordance with the instructions outlined below and included on the Proxy Form. Lodgement of a Proxy Form will not preclude a Unitholder from attending and voting at the Meeting.

A Unitholder entitled to attend and vote at the Meeting is entitled to appoint not more than two proxies to attend and vote in their place. A proxy does not need to be a Unitholder of the Fund. If a Unitholder appoints two proxies, the Unitholder may specify the proportion or number of votes each proxy is entitled to exercise. If no proportion or number of votes is specified, each proxy may exercise half of the Unitholder's votes. If the specified proportion or number of votes exceeds that which the Unitholder is entitled to, each proxy may exercise half of the Unitholder's votes. Any fractions of votes brought about by the apportionment of votes to a proxy will be disregarded.

Unitholders who are a body corporate may appoint representatives to attend and vote at the Meeting under section 250D of the *Corporations Act 2001* (Cth) (**Corporations Act**). The Proxy Form must be signed by the Unitholder or their attorney duly authorised in writing or, if the Unitholder is a corporation, in a manner permitted by the Corporations Act.

The enclosed Proxy Form provides further details regarding the appointment of proxies and lodgement of Proxy Forms.

To be valid, a Proxy Form (and any power of attorney under which it is signed or any other authorisation) must be received at one of the addresses given below by 4pm on 11 May 2024. Any Proxy Form received after that time will not be valid.

By online voting:	https://investor.automic.com.au/#/loginsah
By email:	meetings@automicgroup.com.au
By fax:	+61 2 8583 3040
By post:	Automic GPO Box 5193 Sydney NSW 2001

Chairperson as proxy

The Responsible Entity will appoint a representative, who may be a member of its key management personnel to chair the Meeting.

Unitholders are entitled to appoint the Chairperson as their proxy if they cannot attend the meeting in person. The Chairperson intends to vote undirected proxies in favour of both Resolutions.

If a Proxy Form is received but a Unitholder fails to nominate the identity of their proxy, the Chairperson will automatically be the proxy and will vote on behalf of the Unitholder as directed in the Proxy Form. If the Proxy Form does not state how the votes ought to be cast, and the Chairperson is the proxy, the Chairperson will vote in favour of the Resolutions. If a Unitholder returns their Proxy

Form and the nominated proxy does not attend the Meeting, then the Unitholder's proxy will revert to the Chairperson and the Chairperson will vote in favour of the Resolution.

Submitting questions prior to the meeting

Unitholders, proxyholders, attorneys, and corporate representatives may also submit questions in advance of the meeting by emailing admin@foragerfunds.com by no later than 4pm (Sydney time) on 11 May 2024.

Unitholders should note that it may not be possible to respond to all questions.

By order of the Board of directors of The Trust Company (RE Services) Limited as responsible entity of Forager Australian Shares Fund (ARSN 139 641 491)



Vicki Riggio
Director

Forager Australian Shares Fund | ABN 41 292 001 898

The Trust Company (RE Services) Limited (ABN 45 003 278 831, AFSL 235 150), as responsible entity (RE) for the Forager Australian Services Fund ARSN 139 641 491

Your proxy voting instruction must be received by **04.00pm (AEST) on Saturday, 11 May 2024**, being **not later than 48 hours** before the commencement of the Meeting. Any Proxy Voting instructions received after that time will not be valid for the scheduled Meeting.

SUBMIT YOUR PROXY

Complete the form overleaf in accordance with the instructions set out below.

YOUR NAME AND ADDRESS

The name and address shown above is as it appears on the Fund's unit register. If this information is incorrect, and you have an Issuer Sponsored holding, you can update your address through the investor portal: <https://investor.automic.com.au/#/home> Unitholders sponsored by a broker should advise their broker of any changes.

STEP 1 – APPOINT A PROXY

If you wish to appoint someone other than the Chair of the Meeting as your proxy, please write the name of that Individual or body corporate. A proxy need not be a Unitholder of the Fund. Otherwise if you leave this box blank, the Chair of the Meeting will be appointed as your proxy by default.

DEFAULT TO THE CHAIR OF THE MEETING

Any directed proxies that are not voted on a poll at the Meeting will default to the Chair of the Meeting, who is required to vote these proxies as directed. Any undirected proxies that default to the Chair of the Meeting will be voted according to the instructions set out in this Proxy Voting Form, including where the Resolutions are connected directly or indirectly with the remuneration of KMP.

STEP 2 - VOTES ON ITEMS OF BUSINESS

You may direct your proxy how to vote by marking one of the boxes opposite each item of business. All your units will be voted in accordance with such a direction unless you indicate only a portion of voting rights are to be voted on any item by inserting the percentage or number of units you wish to vote in the appropriate box or boxes. If you do not mark any of the boxes on the items of business, your proxy may vote as he or she chooses. If you mark more than one box on an item your vote on that item will be invalid.

APPOINTMENT OF SECOND PROXY

You may appoint up to two proxies. If you appoint two proxies, you should complete two separate Proxy Voting Forms and specify the percentage or number each proxy may exercise. If you do not specify a percentage or number, each proxy may exercise half the votes. You must return both Proxy Voting Forms together. If you require an additional Proxy Voting Form, contact Automic Registry Services.

SIGNING INSTRUCTIONS

Individual: Where the holding is in one name, the Unitholder must sign.

Joint holding: Where the holding is in more than one name, all Unitholders should sign.

Power of attorney: If you have not already lodged the power of attorney with the registry, please attach a certified photocopy of the power of attorney to this Proxy Voting Form when you return it.

Companies: To be signed in accordance with your Constitution. Please sign in the appropriate box which indicates the office held by you.

Email Address: Please provide your email address in the space provided.

By providing your email address, you elect to receive all communications despatched by the Fund electronically (where legally permissible) such as a Notice of Meeting, Proxy Voting Form and Annual Report via email.

CORPORATE REPRESENTATIVES

If a representative of the corporation is to attend the Meeting the appropriate 'Appointment of Corporate Representative' should be produced prior to admission. A form may be obtained from the Fund's unit registry online at <https://automic.com.au>.

Lodging your Proxy Voting Form:

Online

Use your computer or smartphone to appoint a proxy at <https://investor.automic.com.au/#/loginsah> or scan the QR code below using your smartphone

Login & Click on 'Meetings'. Use the Holder Number as shown at the top of this Proxy Voting Form.



BY MAIL:

Automic
GPO Box 5193
Sydney NSW 2001

IN PERSON:

Automic
Level 5, 126 Phillip Street
Sydney NSW 2000

BY EMAIL:

meetings@automicgroup.com.au

BY FACSIMILE:

+61 2 8583 3040

All enquiries to Automic:

WEBSITE:

<https://automicgroup.com.au/>

PHONE:

1300 288 664 (Within Australia)
+61 2 9698 5414 (Overseas)

The Trust Company (RE Services) Limited[†]

ABN 45 003 278 831

Constitution for

Forager Australian Shares Fund

ARSN 139641491

[†]Fundhost Limited ceased to be responsible entity of the Fund under the Corporations Act and was replaced by The Trust Company (RE Services) Limited as the new responsible entity of the Fund on 17 October 2016.

[FASF constitution](#)

Constitution

Forager Australian Shares Fund

ARSN 139641491

The Trust Company (RE Services) Limited²

ABN 45 003 278 831

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²Fundhost Limited ceased to be responsible entity of the Fund under the Corporations Act and was replaced by The Trust Company (RE Services) Limited as the new responsible entity of the Fund on 17 October 2016.

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Recitals

- A. As holder of a financial services licence authorising it to operate a registered managed investment scheme, the **manager** intends to establish a managed investment scheme called the Forager Australian Shares Fund and act as responsible entity.
- B. The **trust** will be promoted to wholesale and retail **investors** as the **Corporations Act** defines this concept and will be registered under the Corporations Act.
- C. The trust will, in general terms, invest primarily in interests in international and domestic equities and some derivatives, currency and cash.
- D. The investment management is outsourced, to Forager Funds Management Pty Ltd (formerly Intelligent Investor Funds Pty Limited) ACN 138 351 345, an Australian based investment manager.
- E. This document as amended from time to time, governs the Forager Australian Shares Fund.

Operative provisions

1 How to interpret this document

- 1.1 Clause 26 contains definitions and interpretive provisions.
- 1.2 When a defined term is first used, it is in **bold** ~ look to clause 26 for its meaning.

2 What the trust is called

- 2.1 The manager determines the name of the trust and can change it from time to time.
- 2.2 If the manager stops being the manager, the new manager must change the name to a name without any material association with the manager or (if the investment manager asks) the investment manager, or their associates or businesses.

3 When the trust starts and ends

- 3.1 The manager declares that it holds the **assets** on trust for investors. The assets vest in the manager.
- 3.2 The trust starts when the manager's nominee gives the manager \$100 for **units**. The manager must issue 100 units in return.
- 3.3 The trust terminates on the first of:
 - (a) the date the manager tells investors it terminates; or
 - (b) any date the law requires.
- 3.4 The trust may otherwise be terminated if there are changes in the market such that the manager believes that the trust will be unable to achieve its investment objectives as set out in the **product disclosure statement** or law allows this to occur.
- 3.5 No units may be issued or redeemed after the 80th anniversary of the day the trust commenced if that issue or redemption would cause a contravention of the rule against perpetuities (if there is one) or any other rule of law or equity.
- 3.6 Following termination, the manager must realise the assets (this is called winding up). See clause 20 for the detail.

4 Investors

Nature of investor's interests

- 4.1 An investor does not have any interest in a particular asset, subject to the rights and obligations attaching to any **class**, only a beneficial interest in the assets as a whole. It follows that an investor:
 - (a) must not interfere with any rights or powers of the manager;
 - (b) must not even try to exercise a right in respect of, or lodge notice (for example a caveat) affecting, an asset, or otherwise even try to claim any interest in an asset, other than as this document contemplates; and
 - (c) cannot require an asset to be transferred to them.
- 4.2 Unless the manager agrees otherwise, investors registered jointly as investors are joint tenants, not tenants in common.

Classes

- 4.3 The manager may issue classes of units with such rights and obligations as it determines (for example, as to fee rebates, voting, transfers, distributions and rights on winding up, as are set out in a product disclosure statement), provided however that any issue of classes of units by the manager must not result in the rights of income and capital of any existing investor of the trust being materially diminished or expanded.
- 4.4 Subject to the **AMIT Laws**, the manager may determine that each class of units is to be treated as a separate **AMIT** for the purposes of the **Tax Act**.

Partly paid units

- 4.5 Subject to this document and the Corporations Act, the manager may determine (in such manner as it determines, for example by disclosure in any product disclosure statement) that any unit or class of units is to be partly paid.

Nature of units

- 4.6 The beneficial interest in the trust is divided into units. Subject to the rights and obligations attaching to any class, each unit confers an equal undivided interest. Units may be consolidated or divided as determined by the manager.
- 4.7 The manager may issue fractions of a unit. Where there is an issue or redemption of units so that there is a fraction, the manager may round the fraction up or down to the nearest whole unit as it determines. As far as is practicable, but subject to the Corporations Act, this document applies to fractions in the proportion which the fraction bears to a unit.

Transfer of units

- 4.8 The following transfer provisions apply while units are not **officially quoted**:
- (a) Subject to the rights and obligations attaching to any class, investors may transfer units using any form acceptable to the manager which complies with the Corporations Act;
 - (b) Transfers given to the manager for processing must be complete and properly stamped and comply with the Corporations Act;
 - (c) Transfers are not effective until registered by the manager; and
 - (d) The manager may refuse to register all or part of any transfer without giving reasons, but must tell the investor as the

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Corporations Act requires. If a transfer or transmission includes a fractional unit and the transferee or the transmittee already holds a fractional unit, both fractional units shall be treated as being consolidated into a unit and if the sum of those fractional units exceeds one unit, the excess is a fractional unit.

4.9 The following transfer provisions apply while units are officially quoted:

- (a) subject to this document and the **Listing Rules**, all transfers of units must be effected in accordance with the Listing Rules.
- (b) except as provided by the **ASX Settlement Operating Rules**, a transfer is not effective until registered by the manager.
- (c) subject to clause 4.9(d)(iii) and 4.11, the manager must not do anything which may prevent, delay or in any way interfere with, the registration of a transfer of units effected under clause 4.9(a).
- (d) in relation to units which are **CHES Approved Securities**:
 - (i) subject to clauses 4.9(d)(ii) and 4.9(d)(iii), the manager must not prevent, delay or in any way interfere with the registration of a proper **ASX Settlement** transfer;
 - (ii) the manager may apply a holding lock to specified **CHES Approved Securities** where permitted under the Listing Rules; and
 - (iii) the manager may refuse to register a transfer where permitted under the Listing Rules and must refuse to register a transfer if required under the Listing Rules.

Restricted Securities

- 4.10 If the Listing Rules so require, an investor may not transfer **Restricted Securities** during the applicable escrow period.
- 4.11 Except as permitted by the Listing Rules or **ASX**, the manager must refuse to register a transfer which would be in breach of clause 4.9(a).

What if an investor dies or becomes subject to a legal disability?

- 4.12 If an investor dies or becomes subject to a legal disability (such as bankruptcy or insanity), only the survivor (where the deceased was a joint holder) or the legal personal representative (otherwise) need be recognised by the manager as having any claim to the investor's units.

5 Becoming an investor

Promoting the trust and application forms

- 5.1 The manager may promote the trust any way it wishes but any offer of units to retail investors must comply with the Corporations Act.
- 5.2 A person becomes an investor, and units in the trust are issued, when their name is recorded as such by the manager.
- 5.3 By becoming an investor, they are telling the manager they have read, understood and agree to any terms of issue (for example, in the current product disclosure statement and any supplementary product disclosure statement).
- 5.4 The manager determines the other procedures for becoming an investor and may change them from time to time (for example, by requiring completion of an application form or the giving of certain information or material if the manager so requires). Such procedures do not need to be the same for all potential investors.
- 5.5 The manager may refuse to accept all or part of any application without giving reasons, but must tell the applicant.
- 5.6 Unit certifications (if any) and transaction confirmations must be completed and delivered as and by the time the Corporations Act requires.

Application money

- 5.7 Application money must be dealt with as the Corporations Act requires. The manager determines the other procedures for paying application money and may change them from time to time, for example by:
 - (a) requiring a bank cheque or funds transfer, or acceptable transfer of acceptable property, to accompany the application or be received by a particular time and
 - (b) setting a minimum application amount,and may change them from time to time, and procedures do not need to be the same for all potential investors.
- 5.8 Application money must be held and, where relevant, returned as the Corporations Act requires.

- 5.9 If application monies are paid by way of a transfer of property (such transfer must be able to be vested in the manager or a custodian appointed by them), then the manager can require some or all of the associated costs to be paid by the investor or can take these into account calculating the number of units in a particular class to be issued.
- 5.10 A unit issue is void if the relevant application money is not received or transfer fails.

Cooling off

- 5.11 Retail investors have cooling off rights as the Corporation Act contemplates.

Issue price of units

- 5.12 Subject to this clause 5, the **issue price** of a unit is:
- (a) subject to clauses 5.12(b) to 5.12(e), while units are not officially quoted, in accordance with the following formula:

$$\frac{\text{value of the net assets}}{\text{number of units on issue}} + \text{Spread}$$

- (b) subject to clauses 5.12(c) to 5.12(e), while units are officially quoted, equal to the weighted average **market price** of units during the 5 **business days** immediately prior to the date on which or as which the issue price is to be calculated;
- (c) in the case of pro rata offer (including a rights issue), in accordance with clause 5.15;
- (d) in the case of a placement of units while units are officially quoted and not suspended from quotation, in accordance with clause 5.20; and
- (e) in the case of reinvestment of income while units are officially quoted, in accordance with clauses 5.21 to 5.22.
- 5.13 Subject to the Listing Rules, the issue price may be rounded up or down up to 1% or 1 cent as the manager chooses.

Calculation time when units are not officially quoted

- 5.14 When the issue price is determined under clause 5.12(a), the trust is forward priced ~ that is, subject to the rights and obligations attaching to any class, each of these must be calculated by the manager using the most recently available information as at the next **time the trust is valued** after the **pricing cut off time**. However, the time is adjusted for reinvestments (see clause 9.21), and for unsuccessful payments and transfers (see clause 10.4).

Pro rata rights issues

- 5.15 Subject to the Corporations Act and the Listing Rules, the manager may offer units for subscription at a price determined by the manager to persons who are investors on a date determined by the manager, provided that:
- (a) subject to paragraph (b) of this paragraph, all investors are offered units in proportion to the value of the investor's units or, where the offer is made only to investors who hold units in a class, to the value of the investor's units in that class, at that date; and
 - (b) the manager may exclude an investor from the pro rata offer if it is not a contravention of paragraph 601FC(1)(d) of the Corporations Act,
- whether or not the right of entitlement is renounceable.
- 5.16 If the manager is making an offer of units to investors which is otherwise in compliance with clause 5.15, the manager is not required to offer units to persons whose address on the register of investors is outside Australia or New Zealand (or who holds units on behalf of a person outside Australia or New Zealand) in the circumstances permitted under the applicable **Relief** and the Listing Rules.

Terms of pro rata issues

- 5.17 Any offer made under clause 5.15 must specify the period during which it may be accepted. It must be made to investors in proportion to the value of their respective unit holdings on the date determined by the manager under clause 5.15. The manager may adjust any entitlement to accord with the Listing Rules and, in case of fractions, the manager must offer the next higher whole number of units. Any investor may renounce their entitlement in favour of some other person, unless the issue is expressed to be non-renounceable.

- 5.18 Any units offered for subscription under clause 5.15 which are not subscribed for within the period for acceptance set by the manager may be offered for subscription by the manager to any person. The issue price payable in relation to such further offer must not be less than that at which units were originally offered to investors.
- 5.19 If an underwriter has underwritten any offer for subscription of units under clause 5.15, the underwriter may take up any units not subscribed for by investors.

Placements

- 5.20 The manager may at any time issue units by way of a placement (whether to retail or wholesale investors) at a price and on terms determined by the manager, provided that the manager complies with the Listing Rules applicable to the issue and the conditions and restrictions under any applicable Relief.

Reinvestment

- 5.21 Subject to the Listing Rules, the issue price for each additional unit issued or transferred upon reinvestment is the price determined by the manager.
- 5.22 If the amount to be reinvested in additional units results in a fraction of a unit, the number of units to be issued will be rounded down to the nearest whole unit and any remaining amounts become the assets of the trust.

Minimum Holding

- 5.23 The manager may set and, on notice to investors it considers reasonable, change a minimum unit holding.

Suspension of issue

- 5.24 Subject to the Listing Rules, the manager can delay the issue of units (and must inform investors) for 90 days or such other longer or shorter period as appropriate in all of the circumstances if:
- (a) there is a circumstance outside its control which it considers to impact on its ability to properly or fairly calculate price, for so long as the circumstance continues (for example, if the assets or relevant currencies are subject to restrictions or if there is material market uncertainty);

- (b) an emergency or similar state of affairs occurs which, in the manager's reasonable opinion makes it impractical to issue units or which may prejudice the remaining investors;
- (c) there is a closure or material restriction on trading on any exchange on which assets may be traded;
- (d) a moratorium has been declared;
- (e) the acquisition of assets cannot be effected at prices which would be obtained if assets were acquired in an orderly fashion over a reasonable period in a stable market; or
- (f) the manager considers it is in the interests of the investors to delay issue of units.

5.25 If the manager delays issue of units:

- (a) under clause 5.24(a), (c) to (e), the issue price is the next calculated in accordance with clause 5.12 after the circumstances stop; and
- (b) under clause 5.24(b) and (f), the issue price is next calculated in accordance with clause 5.12 after the time or times it determines units will be issued.

Underwriting of issue

- 5.26 Subject to the Corporations Act, the manager may arrange for a person (including an associate of the manager) to underwrite the subscription of units on such terms as the manager determines.
- 5.27 The underwriter may take up any units not subscribed for.
- 5.28 The manager may issue units pursuant to clauses 5.26 to 5.28 at an issue price equal to the issue price at which the units in relation to the underwritten issue or offer were or would have been issued to persons other than the underwriter or underwriters.

6 Exiting the trust

Procedures

- 6.1 Unless the trust is not liquid, the manager determines the procedures for investors exiting the trust and may change them from time to time, for example by:
 - (a) requiring the investor to nominate an account for funds transfer and
 - (b) setting a minimum withdrawal amount,and procedures must treat investors of the same class equally and investors of different classes fairly.
- 6.2 The manager may pay cash or transfer assets or both. The manager can borrow to provide the cash.
- 6.3 If a transfer of assets is requested, the manager can require some or all of the associated costs to be paid by the investor or can deduct them from the withdrawal amount, and the value of the relevant assets must have been calculated within one month before the date of the proposed transfer.

Request for redemption

- 6.4 An investor may ask to exit the trust any time, but there is no obligation for the manager to satisfy the request (if it does not, it must tell the investor).
- 6.5 An investor may not withdraw a redemption request unless the manager agrees.

Compulsory redemption

- 6.6 The manager can determine to redeem units without a request in these seven circumstances and if it does so, the **exit price** is the next calculated after it so determines:
 - (a) if the investor has breached its obligations to the manager
 - (b) to satisfy any amount of money due to it (as trustee or in any other capacity related to the trust) by the investor
 - (c) to satisfy any amount of money it (as trustee or in any other capacity related to the trust) owes someone else relating to the investor (for example, to the Australian Tax Office);

- (d) if this document otherwise allows (for example, where a minimum holding is or will be breached);
- (e) where the manager suspects that law prohibits the person from legally being an investor; or
- (f) if the investor ceases to maintain a minimum holding as notified to the investor from time to time; or
- (g) such other circumstances as the manager determines in its absolute discretion.

Redemption

- 6.7 When the manager agrees that an investor can exit the trust, it redeems the investor's relevant units. Units can only be redeemed at the exit price. Subject to the Corporations Act, if the manager is not obliged to give effect to a redemption request, it may redeem some or all of the units which are the subject of the request.
- 6.8 If the manager so agrees, it must redeem the investor's units as soon as is practicable and in any event, subject to clause 6.9, within 90 days.
- 6.9 Except to the extent that cooling off rights might prohibit this, the manager can delay unit redemption (and must inform investors) for 90 days or such other longer or shorter period appropriate in all the circumstances if:
 - (a) there is a circumstance outside its control which it considers impacts on its ability to properly or fairly calculate price, for so long as the circumstance continues (for example, if the assets or relevant currencies are subject to restrictions or if there is material market uncertainty)
 - (b) it has determined to honour redemption requests in relation to a particular time the trust is valued and the total redemption moneys which would be payable at this time represent more than 20% of the value of the net assets of the trust, and in this case the manager can redeem the units at such future time, or at times over such period, as it determines. Payments to each investor must be in the proportion that their redemption moneys bear to all other redemption moneys which were payable at that time or
 - (c) an emergency or similar state of affairs occurs which, in the manager's reasonable opinion makes it impractical to redeem units or which may prejudice the remaining investors;
 - (d) there is a closure or material restriction on trading on any exchange on which assets may be traded;

- (e) a moratorium has been declared;
 - (f) the realisation of assets cannot be effected at prices which would be obtained if assets were realised in an orderly fashion over a reasonable period in a stable market;
 - (g) assets cannot be disposed of or withdrawn;
 - (h) the trust's cash reserves fall and remain below 5% for 10 consecutive business days;
 - (i) there is insufficient cash reserves available to meet redemptions and pay the operating expenses of the trust; or
 - (j) the manager considers it is in the interests of the investors to delay withdrawal of units.
- 6.10 If the manager delays unit redemption:
- (a) under clause 6.9(a), (c) to (i), the exit price is the next calculated in accordance with clause 6.15 after the circumstances stop and
 - (b) under clause 6.9(b) and (j), the exit price is the next calculated in accordance with clause 6.15 after the time or times it determines units will be redeemed.
- 6.11 Any redemption payment or transfer must be made as soon as is practicable after the redemption moneys or assets become available and in any event, subject to clause 6.9, within 90 days of payment or transfer becoming due.
- 6.12 The manager is not obliged to pay any part of the exit price out of its own money.

Monies owed can be deducted

- 6.13 The manager may deduct from any money payable to an investor, or adjust the value of assets to be transferred, for:
- (a) any money due to it (as trustee or in any other capacity related to the trust) by the investor or
 - (b) any money it (as trustee or in any other capacity related to the trust) owes someone else relating to the investor (for example, to the Australian Tax Office).

- 6.14 For any **partly paid units**, any amount not yet paid in relation to the unit (the **uncalled amount**) must be deducted from the exit price calculated below.

Exit price of units

- 6.15 Other than for cooling off, and subject to clause 20.3 and to the rights and obligations attaching to any class, the exit price is:

$$\frac{\text{value of the net assets}}{\text{number of units on issue}} - \text{Spread}$$

- 6.16 For the price to use when an investor is cooling off (that is, if cooling off rights apply), look to the Corporations Act (generally it is the issue price on the relevant day with certain adjustments and less any administration fees as contemplated by the Corporations Act and the terms of issue).
- 6.17 The trust is forward priced ~ that is, subject to the rights and obligations attaching to any class, each of the variables in the exit price formula must be calculated as at the next time the trust is valued after the pricing cut off time. However, the time is adjusted where unit redemption is delayed for some reason (see clause 6.10), the trust is illiquid (see clause 6.1), or for compulsory redemptions (see clause 6.6).
- 6.18 The exit price may be rounded up or down up to 1% or 1 cent as the manager chooses.

Where the trust is not liquid

- 6.19 If the trust is not liquid, the manager may make a withdrawal offer as the Corporations Act contemplates. Offers may be made any way the manager determines (for example, by e-mail or advertisement). Offers accepted by investors must be dealt with as the Corporations Act requires.
- 6.20 The exit price for a withdrawal offer is the next price calculated after the offer closes.

Consistency with the law

- 6.21 Any withdrawal must be consistent with Part 5C.6 of the Corporations Act where it applies. This clause applies in spite of anything else in this constitution.

Redemption while the trust is listed

- 6.22 While the trust is **listed**:
- (a) clauses 6.1 to 6.12 do not apply;
 - (b) subject to the Corporations Act and the Listing Rules, the manager may make a withdrawal offer under clause 6.19 and the exit price is to be calculated in accordance with clause 6.20; and
 - (c) subject to the Corporations Act and the Listing Rules, the manager may purchase units at a price determined in its discretion and cause the units to be cancelled.

Compulsory redemption of all fractions of units

- 6.23 To facilitate units being officially quoted, the manager can determine to redeem all fractions of units and, if it does so, any redeemed amounts become the assets of the trust. The manager may make this determination notwithstanding clause 14.3 and this determination is taken not to materially diminish the rights of any investors to the income and capital of the trust.

7 Calls on partly paid units

Calls on partly paid units

- 7.1 The manager may give at least 14 days notice to investors holding similarly partly paid units requiring payment of same or all of the unpaid amount on those units. The manager may revoke or postpone a call.
- 7.2 The form of notice and the procedures for the call is for the manager to decide.
- 7.3 The non receipt of a notice or accidentally not sending some notices does not invalidate the call.

Unpaid calls

- 7.4 If a call is not paid when due, the manager will give the investor a notice requiring payment by a certain date (at least 7 days in the future) of any part of the uncalled amount which is due for payment and not paid (**unpaid amount**) together with interest calculated below from the date the call was due if the manager requires this.
- 7.5 The interest rate is 5% above the 90 day bank bill rate offered by the bankers to the manager and is calculated on the daily balance unpaid and accrues daily from the date the call was due until full payment is received.
- 7.6 If the relevant notice is not complied with by the nominated date, the unit is forfeited to the manager to be held on trust for the defaulting investor, and the manager:
- (a) must as soon as practicable, subject to the Corporations Act (and the conditions of any applicable ASIC relief from it), offer to sell or dispose of the units of the defaulting investor
 - (b) must use its best endeavours to sell the unit as soon as is practicable, and in any case to sell within 90 days of the default by the investor
 - (c) may execute a transfer of the relevant units in favour of the purchaser or its nominee, and register the purchaser or its nominee as the holder of the unit, and the investor irrevocably authorises the manager and appoints the manager as its attorney to do so and
 - (d) must apply the proceeds of the sale:
 - (i) to the payment of costs and expenses of the forfeiture and disposal
 - (ii) then to unpaid interest under this constitution
 - (iii) then to any unpaid amount in respect of which the notice was given and
 - (iv) any balance is to be paid to the defaulting investor,within 5 business days of receipt by the manager of the proceed of sale.
- 7.7 Any forfeiture includes any distributions declared but not made and all future distributions.

Remaining liability

- 7.8 The investor whose unit was forfeited ceases to be an investor from the nominated date but remains liable to pay to the manager:
- (a) all unpaid amounts in respect of the forfeited units
 - (b) the costs and expenses of the forfeiture and disposal and
 - (c) interest on the unpaid calls at the rate determined above from the date of forfeiture,
- but their liability in respect of these matters ceases if and when the manager receives payment in full of all amounts owing in respect of the units.
- 7.9 The purchaser of a forfeited unit remains liable to pay the amount equal to the uncalled amount (if any) on the unit in accordance with this constitution.

Cancelling forfeiture

- 7.10 Subject to the Corporations Act, the manager may cancel, sell or forfeit before the units are disposed of or forfeited and cancelled, for an amount equal to the exit price.

Exit price for partly paid units

- 7.11 For so long as units are partly paid, the uncalled amount (including the unpaid amount, if any) must be deducted from the exit price calculated under clause 6.14.

8 Investments

- 8.1 The manager may invest in any asset it chooses, subject to what it tells investors from time to time (for example, in the trust's product disclosure statement or telling investors of any material change in investment policy in accordance with the Corporations Act).
- 8.2 Valuations must be at least as frequent as the Corporations Act requires.
- 8.3 Unless the manager determines otherwise, the value of an asset for the purpose of calculating the value of the net assets must be market value. If the manager values at other than market value, or where there is no market value, the valuation methods used by the manager must be capable of calculating an issue price and an exit price that is independently verifiable.

- 8.4 The assets must be clearly identified as property of the trust. Unless the ASIC has modified the Corporations Act (for example, by class order) and the conditions of relief are met, assets of the trust must be held separately from the manager's and any other managed investment scheme's assets.

9 Income attribution and distributions

Application of the AMIT Laws

- 9.1 Clauses 9.3 to 9.23 apply in a **financial year** for which the trust is an AMIT and the AMIT Laws apply.
- 9.2 Clauses 9.11 to 9.23 apply in any financial year for which the trust is not an AMIT for the full financial year and the AMIT Laws do not apply.

AMIT election

- 9.3 The manager may elect the trust to be an AMIT in accordance with the **Tax Act** in respect of a financial year for such election to apply to that financial year and all subsequent financial years, but the election is irrevocable once made.
- 9.4 The rights to income and capital of investors are clearly defined in this document, and the manager must ensure such rights remain clearly defined in every financial year for which the election in clause 9.3 remains effective.

AMIT attribution of income

- 9.5 The manager must for each financial year determine the **trust components** of the trust's income in accordance with the AMIT Laws by:
- (a) subject to any adjustment under clause 9.6, determining the trust's assessable income of different **tax** characters including but not limited to interest, unfranked dividends, franked dividends, franking credits, capital gains and other assessable income;
 - (b) determining the trust's tax deductions of different tax characters; and
 - (c) allocating the tax deductions amongst different tax characters of assessable income to determine the net amounts of different trust components on a reasonable basis.

- 9.6 If the manager in a particular financial year (**the discovery year**) becomes aware of an under-determination or over-determination (**under or over**) of any trust component in an earlier financial year, as contemplated under the AMIT Laws, then it must:
- (a) compare the amount actually determined for that earlier financial year with what the amount would have been if it were worked out on the basis of an objective application of the law to what the manager should have known in the discovery year, to determine the under or over amount of that earlier financial year; and
 - (b) include the under or over amount of that earlier financial year in the discovery year by adjusting the trust component of the relevant tax character as determined in clause 9.5 for the discovery year.
- 9.7 For each financial year, the manager must attribute the different trust components determined under clause 9.5, including any adjustment under clause 9.6 where relevant, to the investors of the trust and determine the **member components** for that financial year.
- 9.8 An amount of member components attributed to one investor need not be the same as an amount attributed to another, but any attribution must be done on a fair and reasonable basis, considering factors including but not limited to attributing based on the different tax characters of income from investments made for different classes of units, and attributing any gains realised to a particular investor in response to the unit redemption request by that investor,
- 9.9 Based on the member components determined in clause 9.7, and in accordance with clause 11.5, the manager shall provide an annual statement to each investor in accordance with the AMIT Laws showing the **determined member components** as relevant to that investor.
- 9.10 If an investor challenges the manager's determinations of determined member components as the AMIT Laws contemplate, then the manager must manage such challenge in a way consistent with the AMIT Laws.

AMIT and non-AMIT distributable income

- 9.11 Subject to clauses 9.12 and 9.13, unless the manager in its discretion determines otherwise, the manager must determine the **distributable income** of the trust for each financial year.

- 9.12 In each financial year for which the trust is an AMIT for the full financial year, distributable income is determined by the manager in accordance with accounting standards and accounting principles generally applicable to unit trusts such as the trust in Australia.
- 9.13 In each financial year for which the trust is not an AMIT for the full financial year, distributable income is an amount equal to the **section 95 income** plus amounts of income according to trust law concepts which are **exempt income** or **non-assessable non-exempt income**, plus any amount excluded by section 95 income by Division 115 Part 3-1 of the Tax Act, less any **notional amounts**. These amounts should be prepared in accordance with accounting standards and accounting principles generally applicable to unit trusts such as the trust in Australia.

Income distributions

- 9.14 Subject to the rights and obligations attaching to any class, for a **distribution period** ending other than on 30 June, the manager may determine that the distributable income in accordance with clause 9.12 (in financial year for which the trust is an AMIT) or clause 9.13 (in financial year for which the trust is not an AMIT) to which each investor is presently entitled is calculated as follows as the sum of "A" and "B" where:

"A" equals the amount included in distributable income during the relevant distribution period which in the opinion of the manager has arisen as a direct consequence of the disposal of assets by the trust due to the investor redeeming its units under clause 6 and

"B" is calculated by reference to the following formula:

$$\frac{\text{Investor's units} \times \text{distributable income}}{\text{total units}}$$

where:

Investor's units is the number of units held by the investor at the end of the distribution period

total units is the number of units held by all investors at the end of the distribution period and

distributable income is an estimate of the distributable income for the distribution period calculated as if the distribution period were a year of income less all amounts included (for any investor) under "A" above for that distribution period.

- 9.15 Subject to the rights and obligations attaching to any class, for a distribution period ending on 30 June, income distributions are calculated in the same way except:

distributable income is the amount (if any) by which the distributable income for the financial year exceeds the aggregate of: (a) the amounts calculated under "A" in clause 9.14 above for that financial year; and (b) the estimates of distributable income for the previous distribution periods of that financial year under "B" in clause 9.14 above.

- 9.16 The investors shall at the end of each distribution period be presently entitled to their share of distributable income to the extent that it has not previously been distributed and income distributions must be paid to an investor as soon as practicable after the **distribution calculation date**, but in any event within 2 months of the end of the financial year.

Other distributions

- 9.17 Subject to the rights and obligations attaching to any class, the manager may at any time distribute any amount of capital or income to investors or a class pro rata according to the number of units held as at a time decided by the manager (for example, to avoid the manager (as trustee) becoming assessable to pay tax).

Payment of distributions

- 9.18 Distributions may be in cash, by transfer of assets or by additional units, or a mix.

Separate accounts

- 9.19 The manager may keep separate accounts of different categories or sources of income, or deductions or credits for tax purposes, and may allocate income, deductions or credits from a particular category or source to particular investors or classes or both.

Reinvestment

- 9.20 The manager determines the procedures for reinvestment (for example it can require reinvestment) and may change them from time to time.
- 9.21 When units are not officially quoted, units issued for reinvested distributions are priced using the issue price next calculated after

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the end of the relevant distribution period (for clarity, this is the first net asset value price calculated which has the provision for distribution deducted).

Other matters

- 9.22 After a distribution is determined and is awaiting payment, the current investor remains entitled to it even if the units are transferred before it is paid.
- 9.23 The manager may classify any item as income or capital and make reserves or provisions.

10 Payments from the trust

- 10.1 The manager determines the procedures for payments to investors (for example it can pay by cheque or electronic payment) and may change them from time to time. If payment is made in accordance with the manager's procedures (including investor's instructions), an investor will have no recourse to the manager.
- 10.2 Only whole cents need be paid ~ any balance becomes an asset.
- 10.3 Payment to any one of joint investors discharges the manager from the obligation to pay.
- 10.4 When units are not officially quoted, unsuccessful payments can be reinvested. Units issued for reinvested payments are priced using the issue price next calculated.
- 10.5 The manager may deduct any relevant tax from payments made from the trust under the Tax Act, including any tax withheld in a financial year under the AMIT Laws in respect of member components attributed to an investor in that financial year or an earlier financial year in accordance with clauses 9.5 to 9.10.

11 Registers, records, audit and confirmations

- 11.1 The manager must keep the registers, books and records which the Corporations Act requires (for example, to prepare financial statements).
- 11.2 For each financial year, and if the Corporations Act requires (for example, for disclosing entities) for each half year, the manager must prepare financial statements for the trust as the Corporations Act requires.

- 11.3 The manager must appoint an auditor for the trust to perform such roles as the Corporations Act requires (for example, to prepare a report on the financial statements and the compliance plan).
- 11.4 The manager must give investors financial statements and relevant reports on them and transaction confirmations, as the Corporations Act requires.
- 11.5 The manager must give investors annual statements where required by the Tax Act.

12 Meetings

- 12.1 The manager may at any time convene a meeting of investors or investors of a class to consider any matter, including resolutions. It must convene a meeting if requisitioned or otherwise required to do so as the Corporations Act contemplates.

Notice

- 12.2 A meeting of investors or a class must be convened by notice sent to every investor entitled to attend and vote at the meeting as well as to other persons the Corporations Act requires. Notices must be resent for adjourned meetings if the Corporations Act requires.
- 12.3 Subject to the Corporations Act the form of the notice, the time and place of the meeting and the manner in which the meeting will be conducted (for example, the order of business and proxy mechanics) is determined by the manager.
- 12.4 For meetings, the manager must give at least the notice period which the Corporations Act requires for the business at that meeting.

Quorum

- 12.5 The quorum for a meeting of investors or a class is at least 2 investors or investors of the class present in person or by proxy together holding at least 10% of all units or units of that class, unless:
 - (a) the trust or class has only 1 investor who may vote on a resolution, in which case that 1 investor constitutes a quorum or
 - (b) there is any proposal to remove the manager, then the quorum is at least 2 investors present in person or by proxy

together holding at least 50% of all units that may be cast by members entitled to vote on a proposed resolution, and for so long as the trust is not listed.

- 12.6 If a quorum is not present within 15 minutes after the scheduled time for the meeting, the meeting is:
- (a) dissolved if it was convened by investors
 - (b) dissolved if it was to consider any proposal to remove the manager or
 - (c) adjourned to such place and time as the manager decides.
- 12.7 At any adjourned meeting, those investors or investors of the class present in person or by proxy constitute a quorum.

Other matters

- 12.8 The manager may appoint a person to chair a meeting of investors. A poll cannot be called by investors on the issue of appointment of the chair unless the manager agrees.
- 12.9 The decision of the chair on any matter relating to the conduct of the meeting (such as who can address the meeting) is final.
- 12.10 The chair has power to adjourn a meeting for any reason to such place and time as the chair thinks fit. A poll cannot be called by investors on the issue of adjournment unless the manager agrees.
- 12.11 A resolution binds all investors or investors of a class, whether or not they were present at the meeting.

Voting

- 12.12 Voting is by a show of hands, unless a poll is demanded.
- 12.13 Who can demand a poll, and when, is governed by the Corporations Act.
- 12.14 The value of a vote (on a show of hands or a poll) is governed by the Corporations Act.
- 12.15 The chair of the meeting has no casting vote.
- 12.16 The Corporations Act governs the number or, on a poll the value, of votes required to pass a resolution.

Voting for an investor

- 12.17 An investor which is not a body corporate may be represented at a meeting by proxy. Proxies are governed by the Corporations Act except that proxies may be accepted up to the start of the relevant business being considered, whether at the meeting or any adjournment.
- 12.18 A body corporate may be represented at a meeting by a person appointed in the manner provided in the Corporations Act.

Procedural irregularities

- 12.19 A meeting of investors or class of investors, any notice of meeting or any proceeding at a meeting is not invalidated because of the accidental omission to give notice of the meeting or the non-receipt of the notice or because of any procedural irregularity (including as defined by section 1322 of the Corporations Act).

Minutes

- 12.20 The minutes of a meeting of investors or class of investors signed by the chair of the meeting are conclusive evidence of the matters stated in them, unless the contrary is proved.

Non-physical meetings

- 12.21 Subject to the Corporations Act, the manager may hold meetings any way it determines (for example, phone hook-up, video conference, electronic voting, circular resolution or the necessary investors agreeing in writing (this includes e-mail and fax)).

13 Communications

- 13.1 Formal Communications between investors and the manager (and the other way) must be in writing (subject to the Corporations Act, this includes e-mail and fax).
- 13.2 Communications to an investor must be sent to the investor at the investor's physical or electronic address (cheques may be given to the investor or anyone the manager does not doubt to be authorised by the investor or sent to the investor's physical address).
- 13.3 Communications to the manager must be sent to the manager at the last advised physical or (if the manager allows) electronic address.

- 13.4 For joint investors, the address is that of the investor first named in the register.
- 13.5 Communications: delivered are taken to be received when delivered; by post, are taken to be received the next business day; by fax, are taken to be received 1 hour after receipt by the sender of confirmation of successful transmission; and by e-mail, are taken to be delivered 1 hour after sending provided that the sender does not doubt successful receipt. Proof of actual receipt is not required.
- 13.6 Communications to the manager must carry the actual, facsimile or electronic signature of the investor or someone they authorise, unless the manager does away with this requirement. The manager can rely on signatures without enquiry if it has no reason to doubt authenticity or genuineness.
- 13.7 Subject to the Corporations Act, a document may be sent to an investor electronically, or in place of sending it, an electronic link to it may be sent.

14 What the manager can do

General powers

- 14.1 The manager has all the powers in respect of the trust that are possible to confer on a trustee under the law and as though it was the absolute owner of the assets acting in its personal capacity.
- 14.2 Without limiting this, the manager can borrow or obtain financial accommodation (whether or not on security and including investing in derivatives or financial products with internal leveraging) and incur obligations and **liabilities** (including giving guarantees), and may invest in, dispose of or otherwise deal with assets and liabilities.
- 14.3 Any exercise of powers by the manager must not result in the rights of any investors to the income and capital of the trust being materially diminished or expanded.
- 14.4 In exercising its powers and carrying out its duties, the manager must treat investors who hold units of the same class equally and investors who hold units of a different class fairly.
- 14.5 The manager has power to do all such acts and things which it considers necessary, desirable or reasonably incidental to give effect to the trust being listed, including without limitation determining the final date for accepting redemptions prior to the trust being listed.

Delegates

- 14.6 The manager may authorise any person (including associates) to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to do anything in the manager's power (including to appoint its own agent or delegate).
- 14.7 The terms of appointment are for the manager except to the extent the Corporations Act (typically the related party provisions and the manager's Australian financial services licence) governs these.

15 Fees and expenses

Fees

- 15.1 The manager is entitled in respect of each application it accepts to a fee of up to 4% (excluding **GST**) of the application money. It can keep this or pay it to anyone it wishes (including paying it back to the investor in cash or in units or to their adviser). When calculating the number of units to be issued, any application fee must first be deducted from the value of the application money or property.
- 15.2 The manager is entitled to a management fee of up to 4% per annum (excluding GST) of the value of the assets, calculated as at the first time the trust is valued after the end of each month, accrued daily and payable monthly in arrears.
- ~~15.3 The manager is entitled to a performance fee as set out in Schedule 1 to this document as at the first time the trust is valued after 31 December and 30 June in each year and payable six-monthly in arrears.~~
- ~~15.4~~^{15.3}The manager is entitled in respect of each withdrawal to a fee of up to 4% of the withdrawal amount.
- ~~15.5~~^{15.4}The manager is entitled, subject to the Corporations Act and its proper performance in providing **Additional Fund Administration Services**, to take and retain for itself a remuneration fee out of assets for time spent by it and **Manager Personnel** in providing Additional Fund Administration Services on the terms set out in this clause ~~15.4~~^{15.5}:
- (a) the remuneration fee is to be calculated on the basis of a maximum hourly rate of \$1,000.00 (Australian dollars) per hour, adjusted quarterly to reflect any increase in the 'All groups CPI weighted average of eight capital cities' published by the Australian Bureau of Statistics, in respect of each quarter. For

the avoidance of doubt, such rates will not exceed its usual commercial rates;

- (b) the manager is entitled to charge and take the remuneration fee out of the assets, each calendar month;
- (c) the manager may notify the investors of its current hourly rates for the purposes of clause [15.415.5\(a\)](#), and the amounts charged to the assets under clause [15.415.5\(b\)](#) from time to time, but its rights to charge and take those amounts are not prejudiced by a failure to do so or a delay in doing so;
- (d) the manager's rights under clause [15.415.5](#) are in addition to:
 - (i) its rights to fees under this clause 15; and
 - (ii) its rights under this document and at law to be indemnified in connection with debts, liabilities and expenses incurred by it in the proper performance of its duties as responsible entity of the trust;
- (e) the manager may appoint, engage or otherwise contract with a person other than Manager Personnel to perform any Additional Fund Administration Services;
- (f) an appointment, engagement or other contract under clause [15.415.5\(e\)](#) may be sole, joint, several or joint and several and may include a power in turn for a person to delegate the performance of any Additional Fund Administration Services to another person;
- (g) subject to clause [15.415.5\(h\)](#), an appointment, engagement or other contract under clause [15.415.5\(e\)](#) may be on any terms that the manager determines in its absolute discretion, including in relation to remuneration and other compensation. Subject to this document, the manager is entitled to be indemnified out of the assets in respect of that remuneration and compensation;
- (h) an **Administration Services Delegate** may be an associate of the manager or an officer or employee of an associate of the manager. If and for so long as the trust is a registered managed investment scheme, the terms on which an associate is appointed, engaged or contracted must not contravene Chapter 2E of the Corporations Act (as modified by section 601LC of the Corporations Act);
- (i) to the extent permitted by law, the manager may waive or excuse on any terms it thinks fit any breach by any Administration Services Delegate of their obligations to the manager in connection with the trust; and

- (j) the appointment, engagement or other contracting of an Administration Services Delegate under clause ~~15.415.5~~(e) does not relieve the manager from the obligation to properly perform all of its duties and obligations, including to ensure that the services delegated are properly performed.

~~15.615.5~~The manager may accept lower fees than it is entitled to receive under this document or may defer payment: for any period; generally; for an investor; or for any type of class of investor. It can take interest on deferred fees at the rate the banker to the trust pays on the trust's deposits plus 5%. Where payment is deferred, then as relevant the fee accrues daily until paid.

Compliance committee

~~15.715.6~~The manager must appoint a compliance committee for the trust if the Corporations Act requires.

~~15.815.7~~If any member of the compliance committee incurs a liability in that capacity in good faith, then if the manager permits, they are entitled to be indemnified out of the assets for that liability to the extent permitted by the Corporations Act.

Expenses

~~15.915.8~~All expenses incurred by the manager in relation to the proper performance of its duties in respect of the trust are payable or reimbursable out of the assets and, if appropriate, such expenses may be attributed to a particular investor or class of investors. This includes (without limitation) trust and manager establishment, promotion and reporting (including product disclosure statements, advertising and promotional material and printing), licensing, custodian, registry, technology systems, audit, taxation advice, any relevant tax, insurance, external consultants, accounts, stationery, postage, hedging costs, bank charges, telegraphic transfers, providing a copy of this document to an investor and termination costs, compliance and compliance committee costs, the admission of the trust to the official list of ASX and compliance with the Listing Rules, the payment of fees and expenses to any investment managers of the trust or underlying funds that the trust invests in, including, without limitation performance fees, as well as unit holder meetings and legal proceedings.

Amendment

~~15.1015.9~~Subject always to clause 21, the manager may from time to time change any fee by notice to the relevant investors and as

necessary disclosing it in any product disclosure statement or supplementary product disclosure statement.

Corporations Act

15.10 So long as the Corporations Act requires, the manager's rights to fees and to expense reimbursement are only available in the proper performance of its duties.

Transition Fee

15.11 ~~If at any time the units cease to be officially quoted, investors must pay the manager the applicable Transition Fee in respect of each unit the investor redeems at any point during the 6 months from which the units cease to be officially quoted- and the investors agree that the applicable Transition Fee is deducted from the redemption proceeds.~~

~~15.11~~ 15.12 ~~The manager is not entitled to retain the Transition Fee, but rather, the Transition Fee becomes and on receipt forms and will be part of the assets of the trust and retained for the benefit of the existing investors.~~

16 GST

- 16.1 Consideration for supplies under or in connection with this document (including the supply of any goods, services, rights, benefits or things) do not include any amount referable to GST.
- 16.2 If the manager is or becomes liable to pay GST in respect of any supply then (in addition to any fee, other amount or consideration payable to the manager in respect of the supply), the manager is entitled to be paid an additional amount on account of GST.
- 16.3 The amount is calculated by multiplying the fee, amount or consideration for the part of the supply which is a taxable supply for GST purposes by the prevailing rate of GST.
- 16.4 The manager is entitled to be reimbursed or indemnified for such amount of GST out of the assets.

17 Liability of the manager

Limitation

- 17.1 Subject to clause 17.7, the manager enters into this deed in its capacity as responsible entity of the trust and not in its personal capacity. Subject always to any liability which the Corporations Act might impose on the manager, if the manager acts in good faith and without gross negligence it is not liable in equity, contract, tort or otherwise to investors for any loss suffered in any way relating to the trust.
- 17.2 Subject always to any liability which the Corporations Act might impose on the manager, the liability of the manager to any person other than an investor in respect of the trust is limited to the manager's actual indemnification from the assets for that liability.

Indemnities

- 17.3 The manager is entitled to be indemnified out of the assets for any liability including tax liability properly incurred by it in relation to the trust (including any liability incurred because of a delegate or agent).
- 17.4 This indemnity is in addition to any indemnity under law. It continues to apply after the manager retires or is removed as trustee.
- 17.5 So long as the Corporations Act requires, the manager's rights to indemnification are available only in respect of the proper performance of its duties.

Holding units

- 17.6 The manager and its associates may hold units in any capacity.

Other capacities

- 17.7 Subject to the Corporations Act, the manager may:
- (a) deal with itself (as trustee of the trust or in any other capacity), any associate or any investor
 - (b) be interested in any contract or transaction with itself (as trustee of the trust or in any other capacity), any associate or investor and

- (c) act in the same or a similar capacity in relation to any other trust or managed investment scheme,

and retain any benefit or benefits from doing so.

Manager may rely

- 17.8 The manager may take and may act (or not act as relevant) on any advice, information and documents which the manager has no reason to doubt as to authenticity, accuracy or genuineness, and subject always to any liability which the Corporations Act might impose on the manager, is not liable for so acting or not acting on such basis.

Limit on duties

- 17.9 Subject always to any liability which the Corporations Act might impose on the manager, all obligations of the manager which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law.

18 Change of manager

- 18.1 The manager may retire in the way the Corporations Act contemplates. The manager must retire when required by the Corporations Act. Investors have no right to remove the manager other than the right granted by the Corporations Act.
- 18.2 When the manager changes, the investors may choose a replacement as the Corporations Act contemplates.
- 18.3 Any proposed replacement must agree to be bound by this document as if it had originally been a party.
- 18.4 When the manager changes, the manager is released from all obligations in relation to the trust arising after the time it retires or is removed except those which the Corporations Act continue to impose.

19 Liability of investors

- 19.1 Subject to this document, an investor's liability is limited to the amount (if any) which remains unpaid for their units.
- 19.2 An investor need not indemnify the manager if there are not enough assets to meet the claim of any creditor of the manager.

In the absence of separate agreement with an investor, the recourse of the manager and any creditor is limited to the assets.

- 19.3 Joint investors and former joint investors are jointly and severally liable in respect of all payments required to be made by or for an investor or former investor.
- 19.4 Each investor indemnifies the manager for all liability incurred by the manager arising directly or indirectly from the investor's breach of its obligations to the manager.

20 Winding up

- 20.1 This clause applies once the trust has terminated.
- 20.2 Unless it decides to distribute some or all assets to investors, the manager must dispose of them.
- 20.3 After paying or making allowance for all actual and anticipated liabilities, subject to the rights and obligations attaching to any class, the net proceeds (or assets equal to their value) must be distributed pro rata to investors according to the number of units they held at termination. The manager may deduct relevant moneys under clauses 6.13 and 6.14. A partly paid unit must be counted as a fraction of a unit of which the numerator is the amount paid up in respect of the unit and of which the denominator is the total issue price for that unit as determined in accordance with clauses 5.12 to 5.14.
- 20.4 Assets (rather than cash) can be distributed to some investors or class and not others. Costs related to this are payable from the money payable to the investor unless the manager determines otherwise.
- 20.5 The manager may distribute proceeds of realisation in instalments.
- 20.6 Winding up must be completed as soon as is practicable.
- 20.7 Any obligation to redeem units ceases on termination. The manager may not exercise any discretion to redeem during winding up.
- 20.8 To assist the manager to wind up the trust, the following clauses survive termination: 4.8(c), 6.3, 8, 10-17 and 19-26.
- 20.9 If and to the extent that the ASIC's policy so requires, the manager must arrange for independent audit of the final accounts of the trust by an auditor.
- 20.10 Winding up must be consistent with Part 5C.9 of the Corporations Act. This clause applies despite anything else in this constitution.

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21 Amendments to this document

- 21.1 The manager may amend this document by supplemental deed.
- 21.2 When amendments take effect is governed by the Corporations Act.
- 21.3 If:
- (a) the Corporations Act requires or
 - (b) the manager considers that any relief from the Corporations Act made available by the ASIC a condition of which is that this document contain certain provisions should be complied with
- then those provisions are deemed to be incorporated as so required or for so long as the manager has that view and, to the extent of any inconsistency, prevail over any other provision of this document.
- 21.4 Approval of investors to any amendment under clause 21.1 or deeming under clause 21.3 is needed if the Corporations Act requires.

22 Complaints

- 22.1 If an investor submits a complaint to the manager relating to the trust (this date is C+O days), the manager must:
- (a) if the complaint is in writing, acknowledge it by C+14 days
 - (b) if the complaint is made verbally, acknowledge the complaint verbally at the time the complaint is made (i.e. C+0 days)
 - (c) properly consider the complaint, whether written or verbal, as soon as practicable and act in good faith to deal with the complaint by endeavouring to correct any error which is capable of being corrected without affecting the rights of third parties and
 - (d) in its discretion give any of the following remedies to the complainant:
 - (i) information and explanation regarding the circumstances giving rise to the complaint
 - (ii) an apology or

- (iii) compensation for loss incurred by the investor as a direct result of the breach (if any) and
- (e) tell the complainant by C+45 days progress, remedies (if any) and alternative avenues they can pursue (such as external resolution).

23 Listing Rules

- 23.1 While the trust is listed:
- (a) notwithstanding anything contained in this document, if the Listing Rules prohibit an act being done, the act shall not be done;
 - (b) nothing contained in this document prevents an act being done that the Listing Rules require to be done;
 - (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
 - (d) if the Listing Rules require this document to contain a provision and it does not contain such a provision, this document is deemed to contain that provision;
 - (e) if the Listing Rules require this document not to contain a provision and it contains such a provision, this document is deemed not to contain that provision; and
 - (f) if any provision of this document is or becomes inconsistent with the Listing Rules, this document is deemed not to contain that provision to the extent of the inconsistency.
- 23.2 In accordance with the Corporations Act and any applicable Relief for so long as it applies to the trust, a change in the text of this document because of the operation of clause 23.1 is not a modification of, or the repeal and replacement of, the constitution for the purposes of subsections 601GC(1) and (2) of the Corporations Act.

24 Restricted Securities

- 24.1 Clause 24.2 only operates to the extent that it is not inconsistent with the Corporations Act.

- 24.2 During a breach of the Listing Rules or of a restriction agreement relating to units which are Restricted Securities, the investor who holds the units which are Restricted Securities is not entitled to any distribution from the trust, nor any voting rights, in respect of those units.

25 Small holdings

- 25.1 Subject to the provisions of this clause 25, the manager may in its discretion from time to time sell or redeem any units held by an investor which comprise less than a marketable parcel as provided in the Listing Rules without request by the investor.
- 25.2 The manager may only sell or redeem units under this clause 25 on one occasion in any 12 month period.
- 25.3 The manager must notify the investor in writing of its intention to sell or redeem units under this clause 25.
- 25.4 The manager will not sell or redeem the relevant units:
- (a) before the expiry of 6 weeks from the date of the notice given under clause 25.3; or
 - (b) if, within the 6 weeks allowed by clause 25.4(a), the investor advises the manager that the investor wishes to retain the units.
- 25.5 The power to sell lapses following the announcement of a takeover, but the procedure may be started again after the close of the offers made under the takeover.
- 25.6 The manager or the purchaser of the units must pay the costs of the sale as the manager decides.
- 25.7 The proceeds of the sale or redemption will not be sent to the investor until the manager has received the certificate (if any) relating to the units, or is satisfied that the certificate has been lost or destroyed.
- 25.8 The manager is entitled to execute on behalf of an investor any transfer of units under this clause 25.

26 Interpretation of this document

Definitions

26.1 In this document these words and phrases have the following meaning unless the contrary intention appears:

Additional Fund Administration Services means the actions and activities in connection with the management and administration of the trust which are described in Schedule 12 and that the manager reasonably determines are not normal or routine in nature.

Administration Services Delegate means a person appointed, engaged or otherwise contracted by the manager as contemplated by clause 15.415.5(e).

AMIT means a managed investment trust that is an attribution managed investment trust in accordance with the AMIT Laws.

AMIT Laws means those provisions of the Tax Act governing attribution managed investment trusts, and include any Australian Taxation Office tax rulings or published guidelines relating to those laws.

assets: all the property, rights and income of the trust, but not application money or property in respect of which units have not yet been issued.

ASX: ASX Limited.

ASX Settlement: ASX Settlement Pty Limited.

ASX Settlement Operating Rules: the ASX Settlement Operating Rules and any other rules of ASX Settlement which apply while the units are CHESS Approved Securities, each as amended or replaced from time to time.

business day: means

- ◆ while units are not officially quoted, a day other than a Saturday or a Sunday on which banks are open for general banking business in Sydney; or
- ◆ while units are officially quoted, a day on which ASX is open for trading.

CHESS: the clearing house electronic sub-register system as defined in the ASX Settlement Operating Rules.

CHESS Approved Securities: securities approved under the ASX Settlement Operating Rules to participate in CHESS.

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class: means a class of units of the trust created under clause 4.3.

Corporations Act: the *Corporations Act 2001 (Cth)*, as amended from time to time.

distributable income: has the meaning given to it in clause 9.

distribution calculation date: the last day of each financial year and such other days as the manager determines.

distribution period:

- ◆ for the first distribution period, the period from the establishment of the trust to the next distribution calculation date
- ◆ for the last distribution period, the period from the day after the preceding distribution calculation date to the date of distribution on winding up of the trust and
- ◆ in all other circumstances, the period from the day after the preceding distribution calculation date to the next occurring distribution calculation date.

exempt income: has the meaning in the Tax Act.

exit price: the price of units calculated in accordance with clauses 6.15 to 6.18.

financial year:

- ◆ for the first financial year, the period from the establishment of the trust to the next 30 June
- ◆ for the last financial year, the period from 1 July before the date the trust terminates to the date of distribution on winding up of the trust and
- ◆ in all other circumstances, the 12 month period ending on 30 June in each year.

GST: a goods and services tax, value added tax or consumption tax.

investor: the person registered as the holder of a unit (including persons jointly registered).

issue price: the price of units calculated in accordance with clauses 5.12 to 5.22.

liabilities: all present liabilities of the trust including any provision which the manager decides should be taken into account in determining the liabilities of the trust, but does not include:

- ◆ any amount representing investors' capital
- ◆ undistributed profits
- ◆ interest attributable to investors accruing on investors' capital
- ◆ capital reserves
- ◆ or any other amount representing the value of rights attaching to units, whether or not redeemable

regardless of whether characterised as equity or debt in the accounts of the trust.

listed: admitted to the official list of ASX.

Listing Rules: the Listing Rules of ASX and any other rules of ASX which are applicable while the trust is admitted to the official list of ASX, each as amended or replaced from time to time, except to the extent of any express written waiver by ASX.

manager: the trustee of the trust from time to time, but after registration of the trust under the Corporations Act, the entity entered on the ASIC's register as the responsible entity.

Manager Personnel means at any time, officers and employees of the manager at that time and persons who, although not officers or employees of the manager, operate under the direction or control of the manager in their day-to-day activities at that time, including persons seconded to the manager who are associates of the manager or officers or employees of associates of the manager.

market price: of a unit in respect of any business day means:

- (a) the last sale price per unit recorded on the ASX on that business day (whether or not a sale was recorded on that business day); or
- (b) if the manager believes that the calculation in paragraph (a) does not provide a fair reflection of the market price of a unit on that business day, the mid-point of the bid and offer prices per unit recorded on the ASX at the close of trading on that business day (whether or not a sale is recorded on that business day); or
- (c) if the manager does not believe that the calculation in paragraph (a) or (b) provides a fair reflection of the market price of a unit on that business day, the price determined by an independent expert whose identity and instructions are to be determined by the manager.

non-assessable non-exempt income: has the meaning in the Tax Act.

notional amounts: means those amounts such as foreign tax credits and franking credits which give rise to assessable income but do not result in the receipt of any cash or property.

officially quoted: admitted for quotation by ASX under the Listing Rules, including the situation where any such quotation is suspended for a continuous period not exceeding 60 days.

partly paid units: a unit in respect of which a portion of its issue price remains unpaid.

pricing cut off time: the time or times the manager determines that applications or redemption requests for investors or any group or class of investors must be received to obtain a unit price calculated at a particular time.

product disclosure statement: a document complying with Part 7.9 of the Corporations Act or any other unregulated offer document issued by the responsible entity with respect to the trust from time to time.

Relief: a class order, an exemption, declaration, modification or other instrument granted or issued by ASIC in connection with the manager or the trust and includes any amended or substituted class order, exemption, declaration, modification or other instrument.

Restricted Securities: has the same meaning as in the Listing Rules.

section 95 income: means "net income" as defined by section 95 of the Tax Act or, if repealed or replaced, any concept enacted to replace this definition.

spread:

- ◆ when calculating the issue price of a unit, the manager's estimate of the total cost of acquiring the assets (including costs associated with brokerage, stamp duty or other costs) and
- ◆ when calculating the exit price of a unit, the manager's estimate of the total cost of selling the assets (including costs associated with brokerage, stamp duty or other costs),

but, subject to the Corporations Act, the manager may (for a particular application or request for redemption or group or generally) deem these to be less.

tax: all kinds of taxes, duties, imposts, deductions and charges imposed by a government including GST or any amount recovered from the manager by way of reimbursement of GST or any amount included either expressly or impliedly in an

amount paid or payable by the manager on account of GST, together with interest and penalties.

Tax Act means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth) and the *Taxation Administration Act 1953* (Cth), as appropriate.

time the trust is valued: a time at which the manager calculates value of the net assets.

Transition Fee means the following percentages applied to the net asset value per unit on the redemption dates:

<u>Time since the units cease to be officially quoted on ASX</u>	<u>Transition Fee applied</u>
<u>Less than 1 month</u>	<u>6%</u>
<u>More than or equal to 1 month but less than 2 months</u>	<u>5%</u>
<u>More than or equal to 2 months but less than 3 months</u>	<u>4%</u>
<u>More than or equal to 3 months but less than 4 months</u>	<u>3%</u>
<u>More than or equal to 4 months but less than 5 months</u>	<u>2%</u>
<u>More than or equal to 5 months but less than 6 months</u>	<u>1%</u>
<u>More than or equal to 6 months</u>	<u>0%</u>

trust: means the managed investment scheme established by this document.

uncalled amount: has the meaning given to it in clause 6.14.

unit: an undivided share in the beneficial interest in the trust as provided in this document and, subject to this document, where the Corporations Act or the rights attaching to a class require, includes a reference to a class.

unpaid amount: has the meaning given to it in clause 7.4 of this document.

value of the net assets: the value of the assets less the liabilities.

Interpretation

26.2 Unless the contrary intention applies, in this document:

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- (a) terms defined in the Corporations Act are used with their defined meaning
- (b) a reference to this document or another instrument includes any variation or replacement of any of them
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them
- (d) the singular includes the plural and vice versa
- (e) person includes a firm, a body corporate, an unincorporated association or an authority
- (f) amend includes delete or replace
- (g) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, any persons taking by novation) and assigns
- (h) the words "**including**" or "**includes**", "**for example**" or "**such as**" when introducing a list of items do not exclude a reference to other items whether of the same class or genus or not
- (i) a reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it
- (j) a reference to a year (other than a financial year) means a calendar year and
- (k) a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually.

Investor information

- 26.3 Investors must give all information that the manager reasonably requests to perform its functions.

Rounding

- 26.4 Any excess application or other money or property which results from rounding becomes an asset of the trust.

Headings

- 26.5 Headings are for convenience, not for interpretation.

Governing law

- 26.6 This document must be interpreted in accordance with New South Wales laws. The parties submit to the non-exclusive jurisdiction of the courts there.

Severability

- 26.7 If the whole or any part of any part of this document is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction.
- 26.8 The remainder of this document has full force and effect and its validity or enforceability in any other jurisdiction is not affected.
- 26.9 This clause has no effect if the severance alters the basic nature of the trust or is contrary to public policy.

Other documents

- 26.10 A document does not become part of this document by reason only of that document referring to this document or vice versa, or any electronic link between them.

Constitution legally binding

- 26.11 This document binds the manager and each present and future investor and any person claiming through any of them in accordance with its terms (as amended from time to time) as if each of them had been a party to this document.

Excluded obligations

- 26.12 Except as required by the Corporations Act, all restrictions on the exercise of the manager's powers or the obligations of the manager which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including without limitation any such restriction or obligation of the manager in its capacity as responsible entity of the trust arising under any statute.

EXECUTED as a deed.

Signed sealed and delivered

The Trust Company (RE Services)
Limited³

by a director and secretary/director:

Signature of director

Signature of director

Name of director (please print)

Name of director (please print)

³Fundhost Limited ceased to be responsible entity of the Fund under the Corporations Act and was replaced by The Trust Company (RE Services) Limited as the new responsible entity of the Fund on 17 October 2016.

Schedule 1 ~ performance fee calculations

Period ends are 30 June and 31 December of each year.

Obtain appropriate year-end price

1. Calculate period end unit price in the usual way (this takes into account various fee and expense accruals including performance fee accrual) (all period end prices are pre distribution or add back distribution for current period). The unit price is the value of the net assets divided by the number of units on issue as calculated in accordance with the manager's unit pricing policy.
2. Express the performance fee accrual (if any) in amount per unit (as a positive value)
3. Add the figure determined by paragraph 1 and the figure determined by paragraph 2. This is the period end unit price pre performance fee ("P1")

Calculate the performance for the period

4. Obtain prior period end unit price ("P0")
5. Calculate unit price performance. Performance = $(P1/P0 - 1) \times 100$ expressed as a percentage

Calculate the performance fee payable

6. Calculate the Hurdle Return. Hurdle Return = $\text{days in period} / 365 \times 8\%$, expressed as a percentage

Calculate the current period performance fee ("F"). $F = (\text{Performance} - \text{Hurdle Return}) \times \text{average net asset value for the period} \times 10\%$ (note that this value may be negative).

7. If there is a Prior Period Deficit, subtract the deficit from F calculated above to obtain the Net Performance Fee (NPF).
1. If NPF is greater than zero, the performance fee is payable. If NPF is less than zero, the deficit is carried forward to the next period (Prior Period Deficit).

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Schedule 12 ~ Additional Fund Administration Services

Additional Fund Administration Services means actions and activities in connection with the management and administration of the trust including actions and activities in connection with:

- (a) the trust itself, including:
 - (i) the establishment and formation of the trust;
 - (ii) any structural or strategic changes to the trust;
 - (iii) registering or deregistering the trust as a managed investment scheme;
 - (iv) the preparation, verification, registration, production, printing, distribution and promotion of a disclosure document relating to the trust, including any supplementary or replacement disclosure document relating to the trust;
 - (v) any form of equity raising and debt refinancing associated with the trust;
 - (vi) obtaining and maintaining a rating from any ratings agency;
 - (vii) the retirement, removal or replacement of the manager; and
 - (viii) the termination or winding up of the trust and the associated taking of accounts, discharging of liabilities and expenses and distribution of asset;
- (b) this constitution and any other document to which the manager is a party in its capacity as the responsible entity of the trust (**Fund Documents**), including:
 - (i) reviewing, negotiating, settling and executing Fund Documents;
 - (ii) dealing with or considering any request for any amendment, restatement, waiver or consent under a Fund Document or the termination of a Fund Document;
 - (iii) investigating circumstances which the manager reasonably believes may be a default or breach by any person of a Fund Document; and
 - (iv) the actual or contemplated enforcement of, or the preservation or consideration of any right or power under, any Fund Document;
- (c) the assets, including:
 - (i) the actual, attempted or proposed acquisition, investment, disposal or other dealing in, of or with assets which are, were or are to become assets of the trust;

- (ii) taking out and maintaining all insurances in relation to the trust and the asset which the manager reasonably believes are appropriate; and
- (iii) the receipt, collection, management, maintenance, custody, holding, supervision, insurance, repair, valuation and distribution of assets;
- (d) the liabilities, including:
 - (i) raising and complying with the terms of financial accommodation of any kind, including all dealings with the providers of that accommodation;
 - (ii) appointing or engaging, negotiating with and instructing advisers and experts; and
 - (iii) appointing or engaging, negotiating with and instructing third parties to perform any of the activities described in this definition;
- (e) accounting, compliance, recordkeeping and taxation, including:
 - (i) complying with all obligations and requirements under tax laws, including the keeping of taxation records, the preparation of taxation returns, taxation statements, invoices and documents relating to the trust, any taxation audit, and the management of the tax affairs of the trust;
 - (ii) preparing and maintaining the books, records and accounts of the trust;
 - (iii) the preparation and audit of the taxation returns and accounts of the trust;
 - (iv) the establishment and maintenance of the compliance committee and the preparation, implementation, amendment and audit of the compliance plan; and
 - (v) liaising with compliance plan auditors in relation to any breaches, incidents or events which have occurred in respect of the trust;
- (f) dealing with investors, including:
 - (i) offering the trust and dealing with applications and redemption requests;
 - (ii) facilitating, convening and holding meetings of investors and implementing resolutions of investors;
 - (iii) corresponding and communicating with investors;
 - (iv) maintaining and operating any register of the trust; and
 - (v) establishing and administering complaints handling procedures and obtaining and maintaining membership of an external dispute resolution scheme;
- (g) other dealings, including:
 - (i) complying with all applicable laws;

- (ii) dealings with any securities exchange;
 - (iii) dealings with regulators, taxation authorities and other governmental agencies, whether in the ordinary course or in relation to requests, requirements, complaints, investigations, enquiries or disputes;
 - (iv) dealings with service providers of the trust, including work performed by the manager in respect of potentially reportable breaches caused by service providers and completing ad-hoc monitoring visits of service providers of the trust as a result of systemic incidents or performance issues reported;
 - (v) initiating, prosecuting, defending and compromising any court, arbitration, mediation or other dispute resolution action, claim or proceedings concerning the manager (in that capacity), the trust or the assets, whether commenced or to be commenced by the manager or not; and
 - (vi) approaching any court of competent jurisdiction to seek opinion, advice or direction on any question in connection with the management or administration of the trust or the assets or in connection with the interpretation of a Fund Document; and
- (h) all matters incidental to any of the above.

Corporations Act compliance

Subject	Sections	Clauses
consideration paid	601GA(1)(a)	5.12 to 5.13
powers	601GA(1)(b)	8.1
complaints	601GA(1)(c)	22
winding up	601GA(1)(d) & 601NA-NF	20
fees & expenses	601GA(2)	15
powers	601GA(3)	14
withdrawal	601GA(4), 601KA(1) & 601KA(2)	6
enforceability	601GB	26.11